

# UTAH STATE BULLETIN

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

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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## EDITOR'S NOTES

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There was a typographical error in the publication of the notice of effective date for: Rule R414-22, file number 52462, "Administrative Sanction Procedures and Regulations."

The correct effective date should be 02/14/2020.

*If you have any questions about the issues addressed in this editor's note, please contact the Office of Administrative Rules by telephone at (801) 957-7110, or by email at [rulesonline@utah.gov](mailto:rulesonline@utah.gov)*

**End of the Editor's Notes Section**



# EXECUTIVE DOCUMENTS

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

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

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## EXECUTIVE ORDER

Declaring a State of Emergency Due to Infectious Disease COVID-19 Novel Coronavirus

**WHEREAS**, On January 21, 2020, the Utah Department of Health activated its Department Operations Center in response to the evolving the global outbreak of novel coronavirus;

**WHEREAS**, The Utah Department of Health recognizes COVID-19 as a threat to the health and safety of the residents of Utah;

**WHEREAS**, Although no confirmed cases have been diagnosed in the state, the Utah Department of Health, local health departments, and health and medical partners have activated response plans and protocols to prepare for the likely arrival of the virus in Utah;

**WHEREAS**, These partners have also worked to identify, contact, and test individuals in the State of Utah who have been potentially exposed to COVID-19 in coordination with the United States Centers for Disease Control and Prevention (CDC);

**WHEREAS**, Proactively implementing mitigation measures to slow the spread of the virus is in the best interests of the state of Utah and its people;

**WHEREAS**, COVID-19, a respiratory disease that can result in serious illness or death, is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person;

**WHEREAS**, The CDC identifies the potential public health threat posed by COVID-19 both globally and in the United States as "high," and has advised that person-to-person spread of COVID-19 will continue to occur globally, including within the United States;

**WHEREAS**, On January 31, 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency for COVID-19, beginning on January 27, 2020;

**WHEREAS**, As of March 6, 2020, the CDC indicates there are over 100,000 confirmed cases of COVID-19 worldwide, with over 200 of those cases in the United States;

**WHEREAS**, On February 28, 2020, the State Emergency Operations Center raised its activation level to Level 3 - Elevated Action and the Utah Division of Emergency Management and Department of Health activated a Joint Information System for public information;

**WHEREAS**, The Utah Department of Public Safety, Division of Emergency Management, State Emergency Operations Center, is coordinating resources across state government to support the Utah Department of Health and local officials in alleviating the impacts to people, property, and infrastructure, and is assessing the magnitude and long-term effects of the incident with the Utah Department of Health;

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**WHEREAS**, The State of Utah has implemented the Utah COVID-19 Community Task Force to coordinate the response to the incident throughout the entire state and among all levels of government;

**WHEREAS**, the circumstances of this outbreak may exceed the capacity of the services, personnel, equipment, supplies and facilities of any single city, county, or city and county, and require the combined forces of a mutual aid region or regions to combat; and

**WHEREAS**, these conditions do create a “State of Emergency” within the intent of the Disaster Response and Recovery Act found in Title 53, Chapter 2a of the Utah Code Annotated 1953, as amended:

**NOW, THEREFORE**, I, Gary R. Herbert, Governor of the State of Utah, declare a “State of Emergency” due to the aforesaid circumstances requiring aid, assistance, and relief available from State resources and hereby order:

The continued execution of the State Emergency Operations Plan;

Assistance from State government to political subdivisions as needed and coordinated by the Utah Department of Health, the Utah Department of Public Safety, and other state agencies as necessary;

The continued dissemination of timely and accurate information by state agencies to the public that will slow the spread of COVID-19, prevent unnecessary confusion and alarm, and mitigate impacts to the economy;

The continued outreach and assistance to the populations most vulnerable to COVID-19; and

Coordination with local authorities and the private sector to maximize access to appropriate medical care while preserving critical services for those most in need.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 6th day of March, 2020.

(State Seal)

**Gary R. Herbert**  
Governor

ATTEST:

**Spencer J. Cox**  
Lieutenant Governor

2020/001/EO

**End of the Executive Documents Section**



## NOTICES OF PROPOSED RULES

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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 February 15, 2020, 12:00 a.m., and March 02, 2020, 11:59 p.m. are included in this, the March 15, 2020, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least April 14, 2020. 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 July 13, 2020, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

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**The Proposed Rules Begin on the Following Page**

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R430-90	Filing No.	52592

**Agency Information**

<b>1. Department:</b>	Health		
<b>Agency:</b>	Family Health and Preparedness, Child Care Licensing		
<b>Building:</b>	Highland		
<b>Street address:</b>	3760 South Highland Drive		
<b>City, state:</b>	Salt Lake City, UT 84114		
<b>Mailing address:</b>	PO Box 142003		
<b>City, state, zip:</b>	Salt Lake City, UT 84114		
<b>Contact person(s):</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Simon Bolivar	801-803-4618	sbolivar@utah.gov	

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

**General Information**

<b>2. Rule or section catchline:</b>	Licensed Family Child Care
<b>3. Purpose of the new rule or reason for the change:</b>	These amendments were already collected and discussed during the previous year but were accidentally omitted on the latest filing of the proposed rule changes. These changes are necessary to make sure processes for all child care providers are consistent.
<b>4. Summary of the new rule or change:</b>	The proposed amendments are a better and simplified language for the current background check process already included and implemented for all other facility types. They are numerals one through eight under section eight of the background check process accidentally omitted, clarification about the fire extinguisher, and the number of children participating in disaster drills which was also missed in the previous submission.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>	
<b>A) State budget:</b>	The Division of Family Health and Preparedness, Child Care Licensing (Division) does not anticipate any

additional costs or savings due to the proposed rule changes because the program's current practice follows the proposed rule changes.

**B) Local governments:**

These proposed amendments are not expected to have any fiscal impacts on local governments' revenues or expenditures because there are no licensed family child care providers operated by local governments to whom these changes will affect.

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

The Division does not expect any additional costs associated with the proposed rule amendments because all child care providers already operate following the proposed rule changes.

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

The Division does not anticipate any additional costs or savings due to the proposed rule changes because all family providers operate as small business.

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

The Division does not anticipate any additional costs or savings due to the proposed rule changes because all family providers operate as small business.

**F) Compliance costs for affected persons:**

The Division does not anticipate any additional costs due to the proposed rule changes because all child care providers already operate following the proposed rule changes.

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

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

These rule changes clarify requirements, simplify processes, and remove the requirement that child care providers pay for and have a background clearance run on each employee annually because now the process is automated. There is no fiscal cost to businesses from any of these changes.

**B) Name and title of department head commenting on the fiscal impacts:**

Joseph K, Miner, MD, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Title 26, Chapter 39		
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 04/14/2020

**10. This rule change MAY become effective on:** 04/21/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	02/27/2020
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**R430. Health, Family Health and Preparedness, Child Care Licensing.**

**R430-90. Licensed Family Child Care.**

**R430-90-4. License Application, Renewal, Changes, and Variances.**

- (1) An applicant for a new child care license shall submit to the Department:
  - (a) an online application;
  - (b) a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;
  - (c) a copy of a current local health department kitchen clearance for a facility providing food service or a statement from the local health department that a kitchen inspection is not required;
  - (d) a copy of a current local business license or a statement from the city that a business license is not required;
  - (e) a copy of a completed Department health and safety plan form;
  - (f) CCL background checks for all covered individuals as required in R430-90-8;
  - (g) new provider training completion no more than six months before the date of the application;
  - (h) all required fees, which are nonrefundable; and

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(i) a signed Affidavit of Lawful Presence form provided by the Department.

(2) The applicant shall pass a Department's inspection of the facility before a new license or a renewal is issued.

(3) If the local fire authority states that a fire inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall verify compliance with the following:

(a) address numbers and/or letters shall be readable from the street;

(b) exit doors shall operate properly and shall be well maintained;

(c) obstructions in exits, aisles, corridors, and stairways shall be removed;

(d) there shall be at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than 5 feet above the floor;

(e) there shall be working smoke detectors that are properly installed on each level of the building; and

(f) boiler, mechanical, and electrical panel rooms shall not be used for storage.

(4) If the local health department states that a kitchen inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall verify compliance with the following:

(a) the refrigerator shall be clean, in good repair, and working at or below 41 degrees Fahrenheit;

(b) there shall be a working thermometer in the refrigerator;

(c) there shall be a working stem thermometer available to check cook and hot hold temperatures;

(d) cooks shall have a current food handler's permit available on-site for review by the Department;

(e) reusable food holders, utensils, and food preparation surfaces shall be washed, rinsed, and sanitized with an approved sanitizer before each use;

(f) chemicals shall be stored away from food and food service items;

(g) food shall be properly stored, kept to the proper temperature, and in good condition; and

(h) there shall be a working handwashing sink in the kitchen.

(5) If the applicant does not complete the application process within 6 months of first submitting any portion of the application, the Department may deny the application and to be licensed, the applicant shall reapply. This includes resubmitting all required documentation, repaying licensing fees, and passing another inspection of the facility.

(6) The Department may deny an application for a license if, within the 5 years preceding the application date, the applicant held a license or certificate that was:

(a) closed under an immediate closure;

(b) revoked;

(c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;

(d) voluntarily closed after an inspection of the facility found rule violations that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or

(e) voluntarily closed having unpaid fees or civil money penalties issued by the Department.

(7) Each child care license expires at midnight on the last day of the month shown on the license, unless the license was

previously revoked by the Department, or voluntarily closed by the provider.

(8) Within 30 to 90 days before a current license expires, the provider shall submit for renewal:

(a) an online renewal request,

(b) applicable renewal fees,

(c) any previous unpaid fees,

(d) a copy of a current business license,

(e) a copy of a current fire inspection report, and

(f) a copy of a current kitchen inspection report.

(9) A provider who fails to renew their license by the expiration date may have an additional 30 days to complete the renewal process if they pay a late fee.

(10) The Department may not renew a license for a provider who is no longer caring for children.

(11) The provider shall submit a complete application for a new license at least 30 days before a change of the child care facility's location.

(12) The provider shall submit a complete application to amend an existing license at least 30 days before any of the following changes:

(a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where child care is provided;

(b) a change in the name of the program;

(c) a change in the regulation category of the program;

(d) a change in the name of the provider; or

(e) a transfer of business ownership to a spouse or to any other household member.

(13) The Department may amend a license after verifying that the applicant is in compliance with all applicable rules and required fees have been paid. The expiration date of the amended license remains the same as the previous license.

(14) A license is not assignable or transferable and shall only be amended by the Department.

(15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, they may apply for a variance to that rule by submitting a request to the Department.

(16) The Department may:

(a) require additional information before acting on the variance request, and

(b) impose health and safety requirements as a condition of granting a variance.

(17) The provider shall comply with the existing rule until a variance is approved.

(18) If a variance is approved, the provider shall keep a copy of the written approval on-site for review by parents and the Department.

(19) The Department may grant variances for up to 12 months.

(20) The Department may revoke a variance if:

(a) the provider is not meeting the intent of the rule as stated in their approved variance;

(b) the provider fails to comply with the conditions of the variance; or

(c) a change in statute, rule, or case law affects the basis for the variance.

**R430-90-8. Background Checks.**

(1) Before a new covered individual becomes involved with child care in the program, the provider shall use the CCL provider portal search to:

(a) verify that the individual has a current CCL background check, and

(b) associate that individual with their facility.

(2) Before a new covered individual who does not show in the CCL provider portal search becomes involved with child care in the program, the provider shall:

(a) have the individual submit an online background check form and fingerprints for individuals age 18 years and older.

(b) authorize the individual's background check through the CCL provider's portal.

(c) pay all required fees, and

(d) receive written notice from CCL that the individual passed the background check.

(3) A covered individual without a current background check will not show in the CCL provider portal search. The Department may not consider a covered individual's background check current when the covered individual has:

(a) failed to pass a CCL background check;

(b) moved outside of Utah; or

(c) not been associated with an active, CCL approved child care facility for the past 180 days.

(4) Within 10 working days from when a child who resides in the facility turns 12 years old, the provider shall:

(a) ensure that an online background check form is submitted,

(b) authorize the child's background check through the CCL provider's portal, and

(c) pay all required fees.

(5) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.

(6) If fingerprints are submitted through Live Scan (electronically), the agency taking the fingerprints shall follow the Department's guidelines.

(7) The following background findings may deny a covered individual from being involved with child care:

(a) LIS supported findings,

(b) the individual's name appears on the Utah or national sex offender registry,

(c) any felony convictions, or

(d) for any of the reasons listed under R381-100-8(8).

(8) The following convictions, regardless of severity, may result in a background check denial:

(a) unlawful sale or furnishing alcohol to minors;

(b) sexual enticing of a minor;

(c) cruelty to animals, including dogfighting;

(d) bestiality;

(e) lewdness, including lewdness involving a child;

(f) voyeurism;

(g) providing dangerous weapons to a minor;

(h) a parent providing a firearm to a violent minor;

(i) a parent knowing of a minor's possession of a dangerous weapon;

(j) sales of firearms to juveniles;

(k) pornographic material or performance;

(l) sexual solicitation;

(m) prostitution and related crimes;

(n) contributing to the delinquency of a minor;

(o) any crime against a person;

(p) a sexual exploitation act;

(q) leaving a child unattended in a vehicle; and

(r) driving under the influence (DUI) while a child is present in the vehicle.

(9) A covered individual shall not be denied if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred 10 or more years before the CCL background check was conducted.

(10) The Department may rely on the criminal background check findings as conclusive evidence of the arrest warrant, arrest, charge, or conviction; and the Department may revoke, suspend, or deny a license or employment based on that evidence.

(11) If the provider has a background check denial, the Department may suspend or deny their license until the reason for the denial is resolved.

(12) If a covered individual fails to pass a CCL background check, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the denial is resolved.

(13) If a covered individual is denied a license or employment based upon the criminal background check and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information as provided in Utah Code, Sections 77-18-10 through 77-18-14 and 77-18a-1.

(14) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information System (LIS):

(a) the individual cannot appeal the supported finding to the Department of Health, and

(b) the covered individual may appeal the finding to the Department of Human Services and follow the process established by the Department of Human Services.

(15) Within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding, the provider and the covered individual shall notify the Department. Failure to notify the Department within 48 hours may result in disciplinary action, including revocation of the license.

[9](16) The Executive Director of the Department of Health may overturn a background check denial when the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

#### **R430-90-14. Emergency Preparedness and Response.**

(1) The provider shall post the home's street address and emergency numbers, including ambulance, fire, police, and poison control, near a telephone in the home or in an area clearly visible to anyone needing the information.

(2) The provider shall keep first-aid supplies in the home, including at least antiseptic, band-aids, and tweezers.

(3) The provider shall conduct fire evacuation drills quarterly. Drills shall include a complete exit of all children, staff, and volunteers from the home.

(4) The provider shall document each fire drill, including:

(a) the date and time of the drill,

(b) the number of children participating,

(c) the total time to complete the evacuation, and

(d) any problems encountered.

(5) The provider shall conduct drills for disasters other than fires at least once every 12 months.

(6) A provider shall document each disaster drill, including:

(a) the type of disaster, such as earthquake, flood, prolonged power outage, or tornado;

(b) the date and time of the drill;

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- (c) any problems encountered[-]; and
- (d) the number of children participating.

(7) The provider shall vary the days and times on which fire and other disaster drills are held.

(8) The provider shall keep documentation of the previous 12 months of quarterly fire drills and annual disaster drills on-site for review by the Department.

(9) In case of an emergency or disaster, the provider and all employees shall follow procedures as outlined in the facility's health and safety plan unless otherwise instructed by emergency personnel.

(10) If the provider must leave the premises due to an emergency, the provider may use an emergency substitute who was not named in the facility's health and safety plan.

(11) The emergency substitute:

- (a) shall be at least 18 years old;
- (b) is not required to have a CCL background check; and
- (c) is not required to meet the training, first aid, and CPR requirements of this rule.

(12) Before the provider may leave the children in the care of the emergency substitute, the provider shall first obtain a signed, written statement from the individual that they:

- (a) have not been convicted of a felony or misdemeanor;
- (b) do not have a substantiated background finding; and
- (c) are not being investigated for abuse or neglect by any federal, state, or local government agency.

(13) The emergency substitute's written background statement shall be submitted to the Department for review within 5 working days after the occurrence.

(14) During the term of the emergency, the emergency substitute may be counted in the caregiver-to-child ratio.

(15) The provider shall make reasonable efforts to minimize the time that the emergency substitute has unsupervised contact with the children in care, and the amount of time shall not be more than 24 hours per emergency incident.

(16) The provider shall give parents a verbal report of every minor incident, accident, or injury involving their child on the day of the occurrence.

(17) The provider shall give parents a written report of every serious incident, accident, or injury involving their child:

- (a) The caregivers involved, the provider, and the person picking up the child shall sign the report on the day of occurrence.
- (b) If school-age children sign themselves out of the facility, a copy of the report shall be sent to the parent on the day following the occurrence.

(18) If a child is injured and the injury appears serious but not life-threatening, the child's parent shall be contacted immediately.

(19) In the case of a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb:

- (a) emergency personnel shall be called immediately;
- (b) after emergency personnel are called, then the parent shall be contacted;

(c) if the parent cannot be reached, staff shall try to contact the child's emergency contact person.

(20) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:

- (a) submit a completed accident report form to the Department within the next business day of the incident; or
- (b) contact the Department within the next business day and submit a completed accident report form within 5 business days of the incident.

(21) The provider shall keep a six-week record of every serious incident, accident, and injury report on-site for review by the Department.

**KEY:** child care facilities, licensed family child care  
**Date of Enactment or Last Substantive Amendment:** ~~August 10, 2018~~ 2020

**Notice of Continuation:** May 9, 2018

**Authorizing, and Implemented or Interpreted Law:** 26-39

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R495-810	Filing No.	52591

**Agency Information**

<b>1. Department:</b>	Human Services		
<b>Agency:</b>	Administration		
<b>Building:</b>	MASOB		
<b>Street address:</b>	195 N 1950 W		
<b>City, state:</b>	SALT LAKE CITY, UT 84116		
<b>Mailing address:</b>	195 N 1950 W		
<b>City, state, zip:</b>	SALT LAKE CITY, UT 84116		
<b>Contact person(s):</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Jonah Shaw	801-538-4219	jshaw@utah.gov	
Sonia Sweeney	801-538-8241	ssweeney@utah.gov	
Please address questions regarding information on this notice to the agency.			

**General Information**

<b>2. Rule or section catchline:</b>
Government Records Access and Management Act
<b>3. Purpose of the new rule or reason for the change:</b>
This amendment is to ensure Department of Human Services' (DHS) rule reflects that fees are as established in DHS's fee schedule, that the collection and waiver of fees is permissive consistent with the statute. It will also update the formatting and numeration with the current rulewriting manual.
<b>4. Summary of the new rule or change:</b>
Clarification in regards to when Government Records Access Management Act (GRAMA) requests and appeals are received has been added to clarify the calculation of the legislature time frames. Section R495-810-2 is being amended to refer the public to DHS's fee schedule and to align with the permissive language established in Title

63G, Chapter 2, primarily Subsection 203(4) and (8) related to fee waivers and past due and estimated fees. Further language and formatting changes have been made to meet the standards set forth in the current rulewriting manual.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
At this time, any fiscal impact to the state budget is considered inestimable. The adjustments to the language within this rule are clarifying in nature and do not alter the GRAMA fee schedule. It does, however, adjust the language to ensure that DHS is not mandated to waive or collect fees. Currently, there is no way to calculate how many requests would fall under the provisions of this rule and would not be waived in accordance with Subsection 63G-2-203(4), thus, any fiscal benefit associated with this amendment is considered inestimable.
<b>B) Local governments:</b>
Any impact to the local governments is considered inestimable. The language set forth in this amendment is done in accordance with our fee schedule and statutory guidelines. Currently, there is no way to calculate how many requests would fall under the provisions of this rule and would not be waived in accordance with Subsection 63G-2-203(4), thus, any fiscal cost associated with this amendment is considered inestimable.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
Any impact to small businesses is considered inestimable. The language set forth in this amendment is done in accordance with our fee schedule and statutory guidelines. Currently, there is no way to calculate how many requests would fall under the provisions of this rule and would not be waived in accordance with Subsection 63G-2-203(4), thus, any fiscal cost associated with this amendment is considered inestimable.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
Any impact to non-small businesses is considered inestimable. The language set forth in this amendment is done in accordance with our fee schedule and statutory guidelines. Currently, there is no way to calculate how many requests would fall under the provisions of this rule and would not be waived in accordance with Subsection 63G-2-203(4), thus, any fiscal cost associated with this amendment is considered inestimable.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b>

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

Any impact to persons other than small businesses, non-small businesses, state, or local government entities is considered inestimable. The language set forth in this amendment is done in accordance with our fee schedule and statutory guidelines. Currently, there is no way to calculate how many requests would fall under the provisions of this rule and would not be waived in accordance with Subsection 63G-2-203(4), thus, any fiscal cost associated with this amendment is considered inestimable.

**F) Compliance costs for affected persons:**

Currently, there is no way to calculate how many requests would fall under the provisions of this rule and would not be waived in accordance with Subsection 63G-2-203(4), thus, any compliance costs associated with this amendment would be considered inestimable.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Net Benefits	Fiscal \$0	\$0	\$0
<b>H) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Human Services, Ann Williamson, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
After conducting a thorough analysis, it has been determined that this proposed rule change may result in an inestimable fiscal impact.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Ann Williamson, Executive Director			

**Citation Information**

<b>7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>		
Section 63G-2-203	Section 62A-1-111	

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	04/14/2020

<b>10. This rule change MAY become effective on:</b>	04/21/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Ann Williamson, Executive Director	<b>Date:</b>	02/24/2020
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**R495. Human Services, Administration.**

**R495-810. Government Records Access and Management Act.**  
**R495-810-1. Access to Department of Human Services Records.**

(1)[A-] Authority. This rule is authorized by Section 63G-2-204(2) and Section 62A-1-111.

(2)[B-] Definitions. Words used in this rule are defined in Section 63G-2-103.

(3)[C-] Requests for Access. Requests for records shall be submitted to any Department of Human Services office. If the record requested is maintained in that office, that office's designated GRAMA Officer will respond to the request. If the record is not maintained in the office where the request is filed, the request will be sent immediately to the appropriate Department of Human Services office.

(4) GRAMA requests and GRAMA appeals received after regular business hours of Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding state-recognized holidays, will be deemed received the following business day.

**R495-810-2. Fees [Schedule for Records Copies].**

(1)[A- ~~Fee Rates.~~] A schedule of fees that may be charged in response to a records request may be obtained by contacting the records officer. The fee schedule is also available in the annual appropriations bill.

[~~1. Fees for copies are based on the number of records to be copied and are as follows:~~

- ~~a. paper: \$.25 per side of sheet;~~
- ~~b. audio tape: \$5.00 per tape; and~~
- ~~c. video tape: \$15.00 per tape.~~

~~2. For records which require compiling and reporting in another format, a fee of \$25.00 per hour may be charged, or \$50.00 per hour if the request requires programmer/analyst assistance, however no charge may be made for the first quarter hour of staff time.~~

~~3. Mailing. The fee for mailing is the actual cost of postage.~~

~~B. Payment Waiver.]~~

(2)[+.] Fees for providing a record may be waived under certain circumstances described in Subsection 63G-2-203(4). A request for a fee waiver shall be made in writing to the records officer. ~~The Department of Human Services shall fulfill a record request without charge in accordance with Section 63G-2-203(4).~~

~~2. The Department shall require payment of future estimated fees before beginning to process a request when fees are expected to exceed \$50 or the requester has not paid fees from previous requests.]~~

**R495-810-3. Records Modification and Clarification.**

(1)[A-] Hearings. Administrative Hearings regarding denied requests to amend records shall be conducted informally in accordance with ~~Administrative~~ Rule R497-100.

**KEY: government documents**

**Date of Enactment or Last Substantive Amendment: ~~December 11, 2007~~ 2020**

**Notice of Continuation: December 13, 2016**

**Authorizing, and Implemented or Interpreted Law: 63G-2-204**



**NOTICE OF PROPOSED RULE**

<b>TYPE OF RULE:</b> Amendment			
<b>Utah Admin. Code Ref (R no.):</b>	<b>R501-12</b>	<b>Filing No.</b>	<b>52595</b>

**Agency Information**

<b>1. Department:</b>	Human Services		
<b>Agency:</b>	Administration, Services, Licensing	Administrative	
<b>Building:</b>	MASOB		
<b>Street address:</b>	195 N 1950 W		
<b>City, state, zip:</b>	SALT LAKE CITY, UT, 84116		
<b>Mailing address:</b>	195 N 1950 W		
<b>City, state, zip:</b>	SALT LAKE CITY, UT, 84116		
<b>Contact person(s):</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Jonah Shaw	801-538-4219	jshaw@utah.gov	
Janice Weinman	385-321-5586	jweinman@utah.gov	
Elisabeth Kitchens	385-303-2953	ehkitchens@utah.gov	

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

**General Information**

<b>2. Rule or section catchline:</b>
Foster Care Services
<b>3. Purpose of the new rule or reason for the change:</b>
This rule amendment is set to meet federal requirements and clean up language that has been noted as difficult to comprehend. Adjustments to meet the standards set forth in the rule writing manual are also included.
<b>4. Summary of the new rule or change:</b>
This proposed amendment is in response to the Families First Prevention Services Act to assist our sister agency Division of Child and Family Services (DCFS) in meeting their obligations to align with model foster care standards and add clarifying language regarding kinship and agency requirements. This amendment also modifies preexisting language and formatting to be more in line with the rulewriting manual.

**Fiscal Information**

**6. Aggregate anticipated cost or savings to:**

**A) State budget:**

There is no estimable impact on state government. By complying with federal standards, DCFS will be eligible to collect federal funding.

**B) Local government:**

There is no anticipated cost to local governments through this rule amendment.

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

In regards to Child Placing Foster Agencies, model foster care standards are already in place throughout Utah. With these federal requirements mostly in practice, the impact is not measurable.

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

Non-small businesses will not be impacted through these changes.

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

Most of the model foster care standards are already in place in Utah, but the federal requirements for locks on hot tubs, carbon monoxide detectors, and other safety devices will require existing and prospective foster parents to spend between \$0 and \$40 to comply with the new rule requirements. This is a one time purchase for these providers.

**F) Compliance costs for affected persons:**

As noted in Other persons above, the model foster care standards are mostly in place throughout the state, but with the federal requirement to have a lock for hot tubs, a carbon monoxide detector on site, along with various other safety devices, this could create an inestimable compliance cost for the affected persons. The cost is considered inestimable due to not knowing exactly how many existing and prospective foster parents would not meet these standards.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>
State Government	\$0	\$0	\$0

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Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Human Services, Ann Williamson, has reviewed and approved this fiscal analysis.			
<b>7. A) Comments by the department head on the fiscal impact the rule may have on businesses:</b>			
After conducting a thorough analysis, it was determined that these proposed rule amendments will not result in a significant fiscal impact to small businesses.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Ann Williamson, Executive Director			

**Citation Information**

<b>8. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>		
Subsection 62A-2-101(19)		

**Public Notice Information**

<b>10. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	04/14/2020

<b>11. This rule change MAY become effective on:</b>	04/21/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 11, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Ann Williamson, Executive Director	<b>Date:</b>	02/28/2020
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**R501. Human Services, Administration, Administrative Services, Licensing.**

**R501-12. Foster Care Services.**

**R501-12-1. Authority.**

This Rule is authorized by Sections 62A-2-101 et seq.

**R501-12-2. Purpose Statement.**

(1) This Rule establishes standards for the licensure of foster parents for children in the custody of DHS, inclusive of its [D]divisions.

(2) This Rule establishes standards that must be utilized by child-placing foster agencies for the certification of foster parents to provide care for foster children.

(3) This Rule establishes compliance standards for licensed and certified foster parents.

**R501-12-3. Definitions.**

As used in this Rule:

(1) "Agency" means a child-placing foster agency licensed by the DHS Office of Licensing to certify foster parents. "Agency" refers to the owners, directors and managers.

(2) "Child" is defined in Section 62A-2-101. ~~means a person under 18 years of age or a person under 21 years of age who remains subject to the continuing jurisdiction of the Juvenile Court or whose placement in the home is initiated and facilitated by DCFS.~~

(3) "Child Care" is defined in Section 26-39-102.

(4) "DCFS" means the DHS Division of Child and Family Services.

(5) "DHS" means the Utah Department of Human Services including all divisions, offices and institutions.

(6) "Direct Access" is defined in Section 62A-2-101.

(7) "DJJS" means the DHS Division of Juvenile Justice Services.

(8) "Foster Care" means the temporary provision of family based care for a foster child by a foster parent.

(9) "Foster Child" means a person under 21 years of age who remains subject to the continuing jurisdiction of the Juvenile Court or whose placement in the home was facilitated by a division of the Department of Human Services.

(10) "Foster Parent" means a substitute parent licensed by the DHS Office of Licensing or certified by a licensed child-placing foster [a] Agency, and includes the spouse of the primary applicant. Foster parents may also be referred to by other titles, including [but not limited to] proctor foster parents, professional foster parents, resource families, or kinship caregivers.

(11) "Hazardous Material" means any substance that if ingested, inhaled, ignited, used, or touched may cause significant injury, illness, or death. These substances include [but are not limited to]:

- (a) pesticides;
- (b) gasoline;
- (c) bleach, including bleach based cleansers;
- (d) compressed air;
- (e) ammonia, including ammonia based cleansers;
- (f) chemical drain openers;
- (g) hair relaxers [and] or permanents;
- (h) kerosene;
- (i) spray paint;
- (j) paint thinner;
- (k) automotive fluids;
- (l) toxic glues (excludes non-toxic glues);
- (m) oven cleaners;
- (n) matches [and] lighters [and] lighter fluid;
- (o) cleaning aerosols;
- (p) medications; and
- (q) ultra and concentrated detergent capsules.

(12) "Home Study" [is] means the same as a placement adoptive evaluation as outlined in Section 78B-6-128 and is the written assessment of an applicant's ability to:

(a) comply with [all] applicable statutes and administrative rules related to providing foster care;

(b) meet the physical and emotional needs of a foster child [in foster care]; and

(c) actively engage in achieving the custodial [a] Agency's identified outcomes for [foster children] a foster child.

(13) "Human Services Program" is defined in Section 62A-2-101.

(14) "Incidental Care" is defined in Section 62A-2-120.

(a) Foster parents shall utilize reasonable and prudent judgment in selecting a provider of incidental care of a foster child. [and]

(b) [i]ncidental care is permitted only in DHS licensed homes, not those certified by child placing agencies.

(15) "Medication" means any over-the-counter or prescription drug, vitamin, or supplement in any form.

(16) "Office" is defined in 62A-2-101(30)

(17) "Poverty Guidelines" means the current US Department of Health and Human Services listing of poverty levels as

determined by the number of members of a family (see <http://www.direct.ed.gov/RepayCalc/poverty.html> <https://aspe.hhs.gov/poverty-guidelines>).

(18) For purposes of this rule: "Reside" means living in the home for any cumulative thirty days of the past 12 months.

(a) for purposes of background screening, please refer to "reside" definition listed in Section R501-14-2.

(19) "Respite Care" means the short term provision of family based care for a foster child by a foster parent in order to provide relief to another parent.

(20) "Siblings" means children with a common parent or grandparent, regardless of whether their legal relationship has been severed, including biological siblings, half-siblings, step-siblings, adopted siblings, and cousins.

(21) "Sick" means to have a fever, to be experiencing ongoing or severe diarrhea, unexplained lethargy, respiratory distress, ongoing or severe vomiting, or pain or other symptoms that are ongoing or severe enough to impair a child's ability to participate in normal activity.

#### **R501-12-4. Initial Application, Renewal, and Reapplication Process.**

(1) Initial [A] application for [L] licensure or [C] certification [and]

[A] an individual or legally married couple age [21] 18 or over may apply for licensure or certification to be a foster parent. [The applicant shall provide:]

(a) 2 Applicant shall provide a completed [Application Forms: A completed] Office [of Licensing] or Agency foster care application that lists each member of the applicant's household and shall include: [must be submitted, including acknowledgment of:]

(i) an acknowledgement of responsibility to maintain [all current and past] clients' confidentiality;

(ii) a signed Office of Licensing Provider Code of Conduct form as required in Rule R501-1-11; [and]

(iii) an [verification] acknowledgement that the applicant [has] have [has] read and understands [and] Rule R501-12 Foster Care Services; and

[ (b) Background Screening: a completed background screening application for each member of the household who is 18 years of age or older, including any supplemental documentation that the application requires;]

(d) [Financial Viability: a] A written statement of household income and expenses, together with consecutive current pay stubs or income tax forms [and];

(i) The Office [of Licensing] or Agency may consider poverty guidelines when evaluating the dependence of a foster parent on foster payments for their own expenses.

(ii) The Office [of Licensing] or Agency may require supporting documentation of household income and expenses [in order] to verify the foster parent is financially stable and will not be dependent on foster care reimbursement. [for their own expenses.]

(e) 2 Training [and]

(i) Applicant shall provide [V] verification of successful completion of [a] Agency approved pre-service training by each applicant within the past 24 months, and

(ii) Verification of current cardiopulmonary resuscitation (CPR) [and] first aid training for each prospective foster parent. [Examples of:] A [a]ccepted training includes [but are not limited to:] Heart Savers, American Red Cross, and American Heart Association Friends and Family.

(2) 3 Medical Assessment [and]

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(a) Each applicant shall authorize ~~their current licensed physician, physician's assistant or nurse practitioner~~ a licensed health care professional to complete a physical exam within the previous 12 months and send a signed medical reference report directly to the Office ~~of Licensing~~ or Agency. A ~~M~~ medical reference report[s] must assess the current ability of the individual to be a foster parent.

(b) A professional mental health examination of a prospective or current foster parent may be required by the Office ~~of Licensing~~ or the Agency if there are concerns regarding the individual's mental status which may impair functioning as a foster parent. These concerns may be based upon any information gathered during the licensing ~~of~~ or certifying and monitoring process.

(i) The type of professional mental health examination required shall be determined by the Office ~~of Licensing~~ or Agency based on the nature of the presenting concerns.

(ii) Determination of need and type of examination will be made collaboratively involving the licensor, Agency or Office ~~of Licensing~~ administration, and clinical staff from within the ~~Department of Human Services~~ DHS or Agency.

(iii) The prospective or current foster parent shall authorize the release of examination information to the Office ~~of Licensing~~ or Agency, including a signed report that assesses the ability of the individual to parent vulnerable foster children full time as a foster parent.

~~(e)iv~~ Medical and mental health examinations shall be paid for by the prospective or current foster parent.

~~(d)c~~ The Agency or the Office ~~of Licensing~~ may, in the exercise of their professional judgment, deny, suspend or revoke an application or license if a medical reference report or other examination reveals reasonable concerns regarding an applicant's ability to provide foster care services, or if the required examination is not completed and provided to the Agency of the Office ~~of Licensing~~.

~~(3)4~~ References:

(a) At the time of initial application or as requested thereafter, the applicant ~~(s)~~ shall submit the names, mailing address, email addresses, and phone numbers of no more than four individuals who will be contacted by the ~~a~~ Agency or the Office ~~of Licensing~~ and asked to provide a reference letter. These individuals shall be knowledgeable regarding the ability of the applicant ~~(s)~~ to provide a safe environment and to nurture foster children. ~~No more than one~~ One reference ~~may~~ must be a relative of the applicant and three must be non-relatives. Only the four original reference individuals submitted will be considered.

(b) A minimum of three out of the four individuals including one relative and two non-relatives must submit reference letters directly to the Agency or the Office ~~of Licensing~~. A minimum of three reference letters received must be acceptable to the Agency or the Office ~~of Licensing~~.

(c) The Agency or the Office ~~of Licensing~~ may, in the exercise of their professional judgment, deny an application if a reference reveals reasonable concerns regarding an applicant's ability to provide foster care services.

~~(4)5~~ Background ~~S~~ screening:

(a) Each applicant and ~~all~~ persons 18 years of age or older residing in the home shall submit a background screening application as part of the initial application. A background screening application is also required at the point any new individual over the age of 18 moves into the home. A foster parent shall not be licensed or certified unless the background screening applications of ~~all~~ persons 18 years of age or older who reside in the home are approved by the Office ~~of Licensing~~ in compliance with Section 62A-2-120 and Rule R501-14.

~~(b) A background screening approval shall not be transferred from one Agency to another Agency.~~

~~(e)lb~~ A foster parent shall not permit any person without an Office approved background screening clearance to have unsupervised direct access to a foster child unless:

(i) the person is a provider of "Incidental Care" as defined in Section 62A-2-120 and Subsection R501-12-3 ~~(154)~~; or

(ii) the person's access is driven by child-centered normalcy needs that are guided by reasonable and prudent parenting as described in Sections 62A-4a-211 through 62A-4a-212 and is not a foster parent-centered delegation of parental responsibility.

~~(d)c~~ A foster parent shall immediately notify the Office ~~of Licensing~~ or Agency if any person in the home is charged with or under investigation for any criminal offense, or allegation of abuse, neglect, or exploitation of any child or vulnerable adult.

(i) A pending Child Protective Services, Adult Protective Services or Law Enforcement investigation of any person in the home shall result in a license suspension until resolved to the satisfaction of the Office.

~~(e)d~~ Pursuant to Subsection 62A-4a-1003(2), the Office ~~of Licensing~~ shall review and evaluate information from the Division of Child and Family Services Management Information System for the purpose of licensing and ~~for the purpose of~~ monitoring ~~all~~ individuals who reside in the foster ~~parents'~~ home. When, in the professional judgment of the Office ~~of Licensing~~, a supported or substantiated finding against any individual who resides in the foster ~~parents'~~ home may pose a risk of harm to a foster child, the Office ~~of Licensing~~ may issue a safety plan, place parameters on the license or issue a ~~sanction on the license of~~ notice of agency action to the foster parent or Agency.

~~(5)6~~ Home Study:

(a) The Office ~~of Licensing~~ or Agency is not required to perform a home study until after the background screening applications of ~~all~~ persons 18 years of age or older who reside in the foster home are approved.

(b) A narrative home study shall be completed by an adoption service provider as described in Subsection 78B-6-128(2)(c) and may be used for adoptive purposes.

(c) The home study shall include background and current information of each caregiver ~~but not be limited to~~:

(i) ~~background and current information of each caregiver, including but not limited to~~ information regarding family of origin, discipline used by parents, family history or presence of abuse or neglect, current or historical use ~~of~~ or abuse of alcohol or illegal substances by anyone in the household, education, employment, relationship with extended family, mental and physical health history based on doctor's examination completed within ~~two years~~ 12 months, mental health history for household members and applicants' stress reduction techniques, values, and interests;

(ii) marital or relationship information, including ~~but not limited to~~ areas of conflict, communication, how problems are resolved, and how responsibilities are shared;

(iii) family demographic ~~all~~ information, including ~~but not limited to~~ ages, ethnicity, languages spoken, dates of birth, gender, relationships, and history of adoption;

(iv) family characteristics including ~~but not limited to~~ functioning, cohesion, interests, work/life balance, family activities, ethnicity, culture, and values;

(v) child care and supervision arrangements;

(vi) written description of in ~~person~~ home interviews conducted with the applicants, applicants' children, and others residing in the home;

(vii) written description of the physical characteristics of the home, including neighborhood and school information, sufficient space and facilities to meet the needs of foster children and ensure their basic health and safety;

(viii) motivation for doing foster care, including assessment of interest in adoption vs. foster care only;

(ix) assessment of understanding and expectations of a foster child~~[ren in foster care]~~;

(x) previous experience caring for a child~~[ren]~~;

(xi) current and planned methods of discipline, use of privileges, family rules;

(xii) previous experience with a child~~[ren]~~ with special needs or trauma histories;

(xiii) description of the reference response regarding the character and suitability of the applicants;

(xiv) assessment of informal and formal~~[supports]~~;

(xv) assessment of willingness and ability to access support and resources;

(xvi) finances, including bankruptcies;

(xvii) applicant strengths and weaknesses;

(xviii) applicant history of any ~~[and all]~~ previous applications, home studies, ~~[or]~~ licenses~~[r]~~ or certifications related to providing foster care;

(xix) assessment of ability to actively engage in achieving the custodial agency's identified outcomes for foster children; and

(xx) recommendations for the applicant's suitability for placement of a foster child~~[ren]~~, to include: child matching, capacity, training, and support needs; and

(xxi) query results of the home address on the Utah Sex Offender Registry and address how potential threats will be mitigated.

~~[(6)8]~~ Foster ~~[P]~~parent ~~[A]~~annual ~~[R]~~renewals~~[Application]~~

~~(a)~~ A foster parent who wishes to remain authorized to provide foster care services shall submit renewal paper work at least 30 days and no longer than 90 days prior to the license or certification expiration.~~[Background screening approvals and renewal activities have to be completed prior to license expiration. Foster parent shall provide or otherwise submit to the following annually:]~~

~~[(a)]b~~ Renewal applications shall ~~[which]~~ address~~[es all]~~ updates and changes to the initial application~~[Requirements]~~ to include:

(i) an acknowledgment of responsibility to maintain confidentiality for current and past clients;

(ii) a signed ~~[acknowledgement of]~~ Office of Licensing Provider Code of Conduct form as required in Rule R501-1-11;

(iii) ~~[verification]~~ an acknowledgment that the applicant~~(s)~~ has~~[ve]~~ read and understands Rule R501-12 Foster Care Services;

(iv) health statement including new medical reference form if there has been significant health changes over the past year;

(v) proof of current CPR~~[r]~~ and first aid certification;

~~(vi) background screening as outlined in Subsection R501-12-4(7); and applications for each adult 18 years of age or older residing in the home or any substitute care providers not identified as incidental caregivers. A foster parent shall not be licensed or certified unless the background screening applications of all persons 18 years of age or older who reside in the home are approved by the Office of Licensing in compliance with Section 62A-2-120 and R501-14.]~~

(vii) financial statement outlining changes to household income, job status, and expenses, including any foreclosures ~~[and]~~ or bankruptcies.

(A) The Office ~~[of Licensing]~~ or Agency may consider poverty guidelines when evaluating the dependence of a foster parent on foster payments for their own expenses.

(B) The Office ~~[of Licensing]~~ or Agency may require supporting documentation of household income and expenses in order to verify the foster parent will not be dependent on foster care reimbursement.~~[for their own expenses.]~~

~~[(b)]c~~ The home study shall be updated in writing annually after a home visit and safety inspection and shall be completed by an adoptions service provider as described in Subsection 78B-6-128(2)(c) as a means to assess the family's experience over the past year as a foster family and shall include:

(i) any changes to required home study information; and

(ii) interviews with any members of the home~~[r]~~; and

~~[(iii)]~~ references or other requested information needed to update the home study.

~~[(7)9]~~ Reapplication~~[r]~~

~~(a)~~ A previously licensed or certified foster home is subject to the same requirements as an initial application, with the following ~~[exceptions:]~~ additional requirements:

~~[(a)]i~~ Each applicant shall disclose ~~[all]~~ previous foster care licenses and certifications, including those outside~~[the State]~~ of Utah.

~~[(b)]ii~~ Previously licensed ~~[homes]~~ applicants shall request a written reference from the ~~[DCFS region, or out of state equivalent]~~, custodial agency where they last held a foster care license to be sent directly to the Office ~~[of Licensing]~~ or Agency. Previously certified ~~[homes]~~ applicants shall request a written reference letter from the last ~~[a]~~ Agency where they were certified, and every ~~[a]~~ Agency they have been certified by within the past ~~[3]~~ three years, to be sent directly to the Office ~~[of Licensing]~~ or Agency.

~~[(e)]iii~~ Each applicant shall sign a release[s] of information for any ~~[a]~~ Agency where the~~[y]~~ foster parent previously provided certified or licensed foster care.

~~[(d)]10~~ Reapplication of previously licensed or certified ~~[homes]~~ applicants may utilize an update of the previous home study as long as the home study was created by the same ~~[a]~~ Agency currently relicensing or recertifying the home.

~~(a)~~ The Office or Agency may add an update to the existing home study from another Agency if the Agency provides it directly and it is completed on an Office approved template that addresses and updates general provider requirements. The update may reference applicable portions of the original study as an attachment.

~~(b)~~ The Office or DCFS may request new reference letters or additional information if needed to update the home study.

~~[(e)]c~~ If 12 months or less since lapse of any license or certification, non-agency references ~~[will]~~ shall be waived.

~~[(f)]d~~ If 12 months or less since lapse of any license or certification, physician's statement shall be waived. Personal ~~[H]~~ health statement is still required.

~~[(g)]e~~ If 24 months or less since lapse of any license or certification, initial training requirements ~~[will]~~ shall be waived as long as there is not a change in licensing~~[r]~~ or certifying ~~[a]~~ Agency. A change in ~~[a]~~ Agency requires new initial training.

~~[(8)]~~ Approval or Denial:

~~[(a)]11~~ The decision to approve or deny the applicant to provide foster services shall be made on the basis of facts, health and safety factors, and the professional judgment of the Agency or the Office~~[of Licensing]~~.

~~[(b)]a~~ No person may be denied a foster care license or certification on the basis of the religion, race, color, or national origin of any individual.

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(e)b The approval of a license or certification is not a guarantee that a foster child will be placed or retained in the foster parent's home.

(e)c Except for kinship providers, [F]foster parents shall not be licensed or certified to provide foster or respite care services in the same home in which they are providing child care or another licensed or certified Department of Health or Department of Human Services program.

(e)d In order to promote health and safety, the Office[~~of Licensing~~] or Agency may issue a license or certification that includes additional restrictions unique to the circumstances of the license.

(f)e If a license or certification is denied, an applicant may not reapply for a minimum of 90 days from the date of denial.

(9)12 Initial license expiration dates must coincide with background screening clearance dates by:

(i)a allowing the applicants to resubmit clearances in order to receive a full year's license; or

(ii)b setting the initial license expiration date no more than one year from the date of the earliest initial completed background clearance.

**R501-12-5. Foster Parent Requirements.**

(1) Foster parents shall:

(a) be in good health and emotionally stable;

(b) be able to provide for the physical, social, mental health, and emotional needs of the foster child;

(c) be responsible persons who are ~~21~~18 years of age or older;

(d) be able to communicate with the child, DHS, health care providers and other service providers;

(e) have at least one functionally literate applicant in the home able to read medication labels and other critical information;

(f)~~(4)~~ provide documentation of legal residential status;

(g)~~(5)~~ have the ability to help the foster child thrive;

(h)~~(4)~~ not be dependent on foster care reimbursement for their own expenses, outside of those expenses directly associated with providing foster care services;

(i)~~(5)~~ provide updated medical, social, financial, or other family information when requested by the Office[~~of Licensing~~] or Agency;

(j)~~(4)~~ follow ~~all~~ federal, state and local laws and ordinances; and

(k)~~(4)~~ not engage in conduct that poses a substantial risk of harm to any person or that is illegal or grounds for denying a license under Section 62A-2-112.

(2) DHS employees shall not be licensed or certified as foster parents for children in the custody of their respective ~~D~~divisions, unless they qualify as a "relative" to the child in accordance with ~~Utah Code Ann.~~Section 78A-6-307. An employee may provide foster services for children in the custody of a different ~~D~~division only with the prior written approval of both ~~D~~divisions' ~~D~~directors in accordance with DHS conflict of interest policy.

(3) Foster parents shall cooperate with the Office[~~of Licensing~~], Agency, courts, and law enforcement officials.

(4) Each foster parent shall read, acknowledge, and comply with the Office of Licensing Provider Code of Conduct.

(a) ~~A-F~~Foster parents shall not abuse, neglect, or maltreat a child through any act or omission.

(b) ~~A-F~~Foster parents shall not encourage or fail to deter the acts or omissions of another that abuse, neglect, or maltreat a child.

(5) No more than two children under the age of two, including children who are members of the household and foster children, shall reside in a foster home.

(6) No more than two non-ambulatory children, including children who are members of the household and foster children, shall reside in a foster home.

(7) Except as provided by Section 62A-2-116.5 and Subsection R501-12-5-(8), no more than four foster children shall reside in a licensed foster home and no more than three foster children shall reside in a certified foster home.

(i)a The capacity limits of foster homes may be exceeded under the conditions outlined in Section 62A-2-116.5. Foster homes, as defined in Subsection 62A-2-101(19), shall remain in continual compliance with ~~all~~foster care rules established by the Office[~~of Licensing~~].

(8) Foster parents may provide respite care in their home as long as they remain in compliance with licensing rules in regards to each child placed for foster and respite care. Foster parents may provide respite care when the additional foster child~~(ren)~~ exceed their licensed capacity only as follows:

(a) Respite care is limited to a maximum of 10 days within any 30 day period.

(i) For a foster child~~ren~~ who ~~are~~is not part of a sibling~~s~~ group, each day of respite for each individual foster child counts as one day of respite care.

(ii) For a foster child~~ren~~ who ~~are~~is part of a sibling~~s~~ group, each day of respite for a sibling group receiving respite in the same foster home at the same time counts as one day of respite care.

(b) There must be ~~foster home must have~~no licensing sanctions currently imposed, including corrective action plans or conditional licenses.

(c) Total number of foster and respite children in a home at one time shall not exceed six unless ~~all~~but one or two of the children are part of a single sibling group.

9) Respite care can be provided by an unlicensed caregiver only for kinship providers as approved by DCFS as a means to maintain familiar connections.

a) Unlicensed kinship respite caregivers are still subject to licensure background screening requirements and a DCFS staff walk-through of the home for safety approval.

10)(9) A foster parent shall report ~~all~~major changes or events to the Office [~~of Licensing~~] or Agency within one business day.

(a) A major change ~~in the lives of foster parents~~includes, ~~but is not limited to~~:

(i) the death or serious illness of a member of the foster parent's household;

(ii) change in marital status;

(iii) loss of employment;

(iv) change in household composition, such as the birth or adoption of a child, addition of household members, or tenants;

(v) allegations of abuse or neglect of any child or vulnerable adult against any member of the foster parent's household; or

(vi) anything defined as a "critical incident" in Rule R501-1.

~~b)(40)~~ The Office [~~of Licensing~~] or Agency may evaluate major changes to determine necessary actions which may include an update to the home study; implementation of a safety plan; amendments to the license certification; request for new references or examinations; or ~~a~~Agency action in the form of a penalty.

(11) A foster parent shall report any potential change in address in advance to the Office or Agency.

- (a) Licenses and certifications are site specific.
- (b) An adjoining dwelling with a separate address that is not accessible from the foster home is not considered part of the foster home site.
- (c) A foster child shall not be moved into a home that is not licensed or certified to provide foster care except as allowed in R501-1 provisions for relocation of a license.
- (d) Foster providers must reside at the license location.
- (e) In the event of a separation or divorce, a provider who no longer resides at the licensed location shall be removed from the license certificate and must apply for a separate initial license and meet ~~[all]~~licensing requirements in the new residence in order to become licensed at the new location.
- (i) The provider remaining in the home shall demonstrate the ability to continue to meet the financial and ~~[all]~~other foster care licensure requirements and an update to the home study shall be completed.

(12) Foster parents shall offer nutritious, balanced meals that meet each foster child's individual needs.

**R501-12-6. Physical Aspects of Home.**

- (1) ~~[All]~~iIndoor and outdoor areas of the home shall be maintained to ensure a safe physical environment.
- (2) The home shall be free from health and fire hazards.
- (3) The home shall have a working smoke detector and a working carbon monoxide detector on each separated level and at least one of each is required to be in close proximity to sleeping areas.
- (4) The home shall have at least one approved, fully charged fire extinguisher readily accessible to the main living area. An approved fire extinguisher shall be a minimum of 2A:10BC five point, rated multi-purpose, dry chemical fire extinguisher.
- (5) The home shall have at least one toilet, sink and tub or shower.
  - (a) Each bathroom shall have a lock sufficient to preserve the privacy of the occupant.
  - (6) The home shall have sufficient bedroom space to provide for the following:
    - (a) a bedroom shall not be shared by children of the opposite sex unless each child sharing the room is under two years of age;
    - (b) a foster parent's bedroom may only be shared with foster children who are under the age of two years and foster parents must not bed-share with foster children;
    - (c) a foster parent's bedroom shall not be considered in calculating the allowable bedroom space for foster children;
    - (d) a foster child shall not share a bedroom with other adults in the home;
    - (e) each foster child ~~[in foster care]~~ must have an individual bed~~[/]~~ or crib, mattress, and linens that meet the child's needs and are comparable to other similarly utilized sleeping accommodations in the household;
    - (f) weighted blankets may only be used for foster children if therapeutically recommended in writing or approved in writing by the child's caseworker;
    - (~~[f]~~g) a minimum of 40 square feet per child, excluding adjoining bathrooms and storage space;
    - (~~[g]~~h) no more than four children are housed in a single bedroom that houses at least one foster child;
    - (~~[h]~~i) bedrooms used for foster children shall be comparable to other similarly utilized bedrooms in the home, including ~~[but not limited to]~~access, location, space, finishings, and furnishings;~~[and]~~

~~(~~[i]~~j)~~ bedrooms used by foster children shall have a source of natural light and shall be equipped with a screened window that opens and provides egress to the outdoors~~[.]; and~~

~~(~~[7]~~k)~~ ~~[C]~~closet or dresser space shall be provided within the bedroom for the foster child's personal possessions and for a reasonable degree of privacy.

(8) The home shall have space or access to common areas for recreational activities.

~~[-----]~~~~(9) Foster parents shall offer nutritious, balanced meals that meet each foster child's individual needs.]~~

~~(~~[4]~~9)~~ The home shall have adequate lighting, ventilation and be maintained at a reasonable temperature when occupied by a foster child. The age and needs of the foster child and other residents may be considered. Generally, reasonable temperatures range between 65~~[.]~~and 82 degrees Fahrenheit.

~~(~~[4]~~10)~~ The home shall have a properly operating kitchen with working refrigerator, cooking appliances, adequate supply of safe drinking water and functional indoor plumbing.

~~(~~[4]~~11)~~ ~~[Hazards on the property shall be abated. These areas include but are not limited to fall hazards of 3 feet or greater (steep grades, cliffs, open pits, window wells, stairwells, elevated porches, retaining walls, etc), drowning hazards (swimming pools, hot tubs, water features, ponds or streams, etc), burn hazards (fireplaces, eandles, radiators, water, etc), unstable heavy items (televisions, bookshelves, etc), high voltage boosters, or dangerous traffic conditions. These hazards shall be mitigated through the use of protective hardware, fences, banisters, railings, grates, natural barriers, or other licensor approved methods.]~~Hazards on the property shall be abated and mitigated through the use of protective hardware, fences, banisters, railings, grates, natural barriers, or other licensor approved methods.

(a) Fall hazards of 3 feet or greater including steep grades, cliffs, open pits, window wells, stairwells, elevated porches, retaining walls.

(b) Drowning hazards including swimming pools, hot tubs, water features, ponds or streams.

(c) Burn hazards including fireplaces, candles, radiators, water temperature.

(d) Unstable heavy items to include televisions, bookshelves.

(e) High voltage boosters, or dangerous traffic conditions.

~~(~~[4]~~12)~~ The home and its contents shall be maintained in a clean and safe condition. Food, clothing, supplies, furniture, and equipment shall be of sufficient quantity, variety, and quality to meet the foster child~~(ren)~~'s needs.

(13) The home shall be free from rodent and insect infestation.

~~(~~[4]~~13)~~ ~~[Exits:—]~~There shall be at least two exits on each accessible floor of the home. Each exit shall be accessible and adequately sized for emergency personnel. Multiple-level homes shall have a functional, automatic fire suppression system or an escape ladder, stairway, or other exterior egress to ground level accessible from each of the upper levels.

(15) Foster parents shall have and use child safety devices appropriate to the needs of the foster child, including ~~[but not limited to]~~safety gates and electrical outlet covers.

(16) Home address is clearly visible and location is accessible.

(17) Water and sewage disposal systems other than public systems must be approved by the appropriate authorities.

(18) Home shall have proper trash and recycling disposal.

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~~(19)~~~~(18)~~ Swimming pools will be secured in order to prevent unsupervised access and comply with applicable community ordinances.

~~(20)~~ Hot tubs and spas shall have locked covers

~~(21)~~~~(19)~~ Foster providers ~~[with placements made in the home]~~ shall ensure that ~~[all]~~ physical aspects of the home outlined in this section remain in continual compliance for the duration of the child's placement in the home ~~[are compliant at all times]~~.

~~(22)~~~~(20)~~ Foster providers with no placements made in the home shall demonstrate the ability to comply upon request.

**R501-12-7. Safety.**

(1) A foster parent and their guests shall not smoke any substance in the foster home or vehicle when a foster child is present or residing in the home. ~~[All]~~~~[s]~~ smoking materials shall be inaccessible to foster children.

(2) Foster parents shall provide training to children regarding response to fire warnings and other instructions for life safety upon the initial placement of a foster child and annually thereafter. This includes an evacuation plan that also anticipates the evacuation of a foster child who is non-ambulatory or who has a disability.

(3) The home shall have a telephone on-site during ~~[all]~~ times that a foster child is present. This may be a land line or a mobile phone, but must be able to receive and make calls and be recognized by the 911 system. Telephone numbers for emergency assistance, poison control, emergency evacuation plan and the address of the home shall be posted next to the telephone or in a central location visible to the foster child.

(4) The home shall have a fully supplied first aid kit such as recommended by the American Red Cross.

(5) Foster parents shall inform the Office ~~[of Licensing]~~ or the Agency if they possess or use a firearm or other weapon.

(6) Firearms, ammunition, and other weapons shall be inaccessible to foster children. Foster parents shall not provide a weapon to a foster child or permit a foster child to possess a weapon except as outlined in Sections 76-10-509 through 76-10-509.7.

(a) Foster parents do not have the authority of a parent or guardian under Section 76-10-509.

(b) Firearms may be stored together with ammunition only in a locked container commercially manufactured for the secure storage of firearms.

(c) Firearms not stored in a locked container commercially manufactured for the secure storage of firearms shall be unloaded and securely locked. Ammunition for these firearms shall be kept securely locked in a separate location.

(i) The locked storage for firearms and ammunition shall not be accessible through the same keys or combinations.

(ii) Keys and combinations utilized to open locked storage for firearms and ammunition shall not be accessible to a foster child.

(d) Firearms may be stored in display cases only if unloaded and rendered inoperable through the effective use of trigger locks, bolts removed, or other disabling methods.

(e) This does not restrict an individual's rights regarding concealed weapons pursuant to UC 53-5-704.

(7) Foster parents who have alcoholic beverages in their home shall not consume in excess and shall ensure that the beverages are closely monitored and inaccessible to foster children ~~[at all times]~~.

(8) Hazardous materials shall be stored securely and remain locked when not in active use, and closely monitored while in active use.

~~(i)~~~~a~~ Hazardous materials shall be stored in the manufacturer's original packaging together with the manufacturer's directions and warnings~~[;]~~ or [

~~(ii)~~ a container that complies with the manufacturer's directions and warnings and is clearly labeled with the contents, manufacturer's directions and warnings.

(9) Flammable substances, including ~~[but not limited to]~~ gasoline and kerosene, shall be locked in a ventilated storage area separate from living areas. This requirement does not include substances contained within the storage tanks of equipment, including ~~[but not limited to]~~ automobiles, lawnmowers, ATV's, boats and snow blowers.

(10) General, common use, household items ~~[(excluding those identified as hazardous materials)]~~ shall be stored responsibly in consideration of the age, behavior, history, and cognitive and physical ability of each foster child in the home. The foster parent is responsible for consulting with the caseworker and child and family team regarding individual restrictions. General, common use, household items include ~~[but are not limited to]~~ the following:

- (a) oral hygiene products;
- (b) hair and cosmetic products;
- (c) facial and skin hygiene products;
- (d) cutlery;
- (e) laundry and dish detergent, ~~[(excluding concentrated~~

pods)];

- (f) cleaning wipes;
- (g) rubbing alcohol;
- (h) nail polish remover;
- (i) laundry stain remover;
- (j) propane attached to a grill;
- (k) air fresheners and deodorizers; and
- (l) spray furniture polish.

(11) Foster parents shall comply with ~~[all]~~ laws regarding the care and number of animals on their property.

(12) Foster parents shall ensure that the foster child has the safety equipment, supervision, and training necessary for the foster child to safely participate in an activity that has an inherent risk of bodily harm, injury, or death.

(a) These activities include ~~[but are not limited to]~~ participation in rock climbing, swimming, hunting, target practice, camping, hiking, use of recreational vehicles, and sports.

(b) Every precaution must be taken to participate in the respective activity as safely as possible. This includes, ~~[but is not limited to]~~ wearing DOT~~[']~~ or Snell approved helmets when riding off-highway vehicles, ~~[(OHV)]~~, completing OHV education, personal watercraft or boating education, wearing Coast Guard approved lifejackets, and completing hunter's education.

(c) Foster parents shall follow any applicable statute pertaining to minors operating OHV's, personal watercraft, boats, and firearms.

(d) Foster parents shall not permit a foster child any access to firearms without first obtaining the written approval of the foster child's caseworker.

(13) Foster parents shall comply with any written safety plan required by the Office ~~[of Licensing]~~ or Agency which establishes additional safety requirements to protect the foster child from hazardous conditions on the foster parent's property. A safety plan shall not waive any requirement of ~~[this]~~ Rule R501-12.

(14) Verification of compliance with the Utah Department of Health's recommended immunization schedules shall be provided for each individual residing in the home who is not a foster child.



(a) Recommended influenza immunizations are optional unless a foster child in the home has an immunocompromised condition.

(b) If compliance of ~~[all]~~ residents in the home cannot be verified, the license shall be restricted to only placements of foster children who are over the age of 2 months and who are immunized in accordance with the Utah Department of Health's recommendations for their age.

(i) Foster parents must disclose if any individual residing in the home is not in compliance with the Utah Department of Health's recommended immunization schedules to the child placing ~~[a]~~ Agency prior to accepting a placement.

(ii) Newborn infants must reach the required age and receive their first dose of required vaccinations to be considered appropriately immunized for their age.

(15) Foster parents shall not accept the placement of a foster child into their home in violation of any license conditions or parameters.

#### **R501-12-8. Emergency Plans.**

(1) Foster parents shall have a written plan of action for emergencies and disaster to include the following:

(a) evacuation with a pre-arranged site for relocation;

(b) transportation and relocation of foster children when necessary;

(c) supervision of foster children after evacuation or relocation; and

(d) notification of appropriate authorities.

(2) Foster parents shall have a written plan for medical emergencies, including arrangements for medical transportation, treatment and care.

(3) Foster parents shall immediately report any serious illness, injury, or death of a foster child to the appropriate ~~[D]~~ division or Agency and the Office ~~[of Licensing]~~.

#### **R501-12-9. Infectious Disease.**

(1) In the event of an infectious or communicable disease outbreak, foster parents shall follow specific instructions given by the local health department.

#### **R501-12-10. Medication and Medical Emergencies.**

(1) Foster parents shall ensure that prescribed medication is administered according to the written directions of the foster child's health provider.

(a) Foster parents shall ensure that the foster child actually consumes the medication.

(b) Foster parents shall report any severe or unexpected side effects or reactions to the foster child's health provider.

(2) Medication shall only be given to the foster child for whom it was prescribed.

(3) Medication shall not be discontinued without the approval of the foster child's health provider.

(4) Non-prescription medications may be administered by foster parents according to manufacturer's instructions unless otherwise directed by the foster child's health provider.

(5) Medications shall not be administered or carried by the foster child unless approved in writing by the foster child's health provider.

(6) Medication shall not be used for behavior management or restraint unless prescribed in writing by the foster child's health provider and after notification to the ~~[D]~~ division or Agency worker.

(7) Medication shall remain locked at ~~[all]~~ times they are not in immediate, active use.

(a) Foster parents shall not leave medications in active use unattended and shall not abuse or misuse prescription or non-prescription drugs or medications.

(b) If a foster child requires immediate access to their ~~[child's]~~ medication, including ~~[but not limited to]~~ a foster child with asthma or diabetes, foster parents may carry a single dose of medication for active use on the foster parent's person.

(8) Medications shall remain in the original pharmacy or manufacturer's packaging.

(a) Foster parents shall not repackage medications or divide doses into alternative containers.

(b) Foster parents should partner with the pharmacy regarding any needed divisions of medication.

(9) Foster parents shall promptly take a foster child who has a medical emergency, who is sick, or who is injured, for an assessment by a medical practitioner.

(10) Foster parents shall comply with the treatment orders of the foster child's health provider.

(11) When a foster child is no longer placed in the foster parent's home, ~~[all]~~ unused medications shall be transferred to the caseworker or Agency.

#### **R501-12-11. Transportation.**

(1) Drivers of vehicles carrying a foster child ~~[(~~can~~)]~~ shall have a valid, current driver's license and valid, current vehicle insurance, and comply with ~~[all]~~ traffic regulations.

(2) Transportation of foster children shall be provided in an enclosed, registered vehicle that has functional seatbelts. Foster parents shall ensure that foster children properly utilize seatbelts and other safety equipment, including age and size appropriate car ~~[r]~~ or booster seats. Recreational vehicles, including motorcycles, shall not be used for transportation.

(3) Emergency contact information, including ~~[but not limited to]~~ caseworker and Agency information, shall be provided and accessible in each vehicle used to transport foster children.

(4) Each vehicle shall be equipped with a first aid kit.

#### **R501-12-12. Behavior Management.**

(1) Foster parents shall provide supervision appropriate to the age and needs of each foster child.

(2) Foster parents shall not use, nor permit the use of corporal punishment including ~~[but not limited to]~~ physical, mechanical, or chemical restraint, physical force, infliction of bodily harm or pain, deprivation of meals, rest or visits with family, or humiliating or frightening methods to discipline, coerce, punish, or retaliate against a child.

(3) Foster parents shall only use behavior management techniques appropriate for the child's age, behavior, needs, developmental level, and past experiences.

(4) Foster parents shall use the least restrictive method of behavior management available to control a situation.

(5) Foster parents shall only use behavior management techniques that are positive, consistent, and that promote self-control, self-esteem, and independence.

(6) Foster parents shall not use physical work assignments or activities that inflict pain as behavior management techniques. A physical work assignment or activity that results in minor sore muscles does not violate this subsection.

(7) Foster parents shall not abuse, threaten, ridicule, intimidate, or degrade a child.

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(8) Foster parents shall not deny a child medical care, nutrition, hydration, clothing, bedding, sleep, or toilet and bathing facilities.

(9) Passive physical restraint shall be applied only by individuals who are trained in accordance with the non-violent intervention strategies of a state, regional, or nationally recognized behavior management program. Documentation of passive physical restraint training certification shall be submitted to the Office of Licensing or Agency with the initial and each renewal application.

**R501-12-13. Foster Child's Rights in Foster Care.**

(1) Foster parents shall not violate a foster child's right to:

- (a) eat nutritious meals with the family;
- (b) eat the same food as the family, except when the foster child is provided with alternative food ordered by the foster child's physician;
- (c) participate in family and school activities;
- (d) privacy, including ~~but not limited to~~ maintaining the confidentiality of information about the foster child and not retaining copies of the foster child's records once the foster child is no longer placed there;
- (e) be informed of the foster child's responsibilities, including household tasks, privileges, and rules of conduct;
- (f) be protected from discrimination based upon the foster child's race, color, national origin, culture, religion, sex, sexual orientation, age, political affiliation, or disability;
- (g) be protected from harm or acts of violence, including ~~but not limited to~~ protection from physical, verbal, sexual, or emotional abuse, neglect, maltreatment, exploitation including source funding, or inhumane treatment;
- (h) be treated with courtesy and dignity, including ~~but not limited to~~ reasonable personal privacy and self-expression;
- (i) communicate with and visit the foster child's family, attorney, physician, and clergy, except as restricted by court order;
- (j) have clean clothes and personal hygiene needs met;
- (k) participate in their own cultural traditions;~~and~~
- (l) receive prompt medical care when sick or injured~~[-]; and~~
- (m) be free from media content that is likely harmful level, and past experiences.

**R501-12-14. Additional Child Placing Agency Considerations.**

(1) The Agency shall comply with ~~all Office of Licensing~~ rules and laws that relate to the~~the~~ child ~~placing~~ ~~foster~~ license to include Rule R501-2, Section R501-1-11 regarding incident reporting, Rule R501-14 regarding background screenings and Section 62A-4a-7 regarding the Interstate Compact for the Placement of Children (ICPC) for agencies taking placements from out of state.

~~\_\_\_\_\_~~ (2) The Agency shall comply with ~~Background Screening Rules, R501-14.~~

~~(3)~~2) The Agency shall recruit, train, certify, and supervise foster parents.

~~(4)~~3) The Agency shall not certify a home which is licensed or certified or applying to be licensed or certified with any other Agency.

~~(5)~~4) Agency owners, directors, managers, and members of the governing body shall not be certified to provide foster care services for children placed with or by the Agency.

~~(6)~~5) The Agency shall verify completion of ~~all of~~ a foster parent's training requirements, including ~~but not limited to~~ CPR~~[-]~~ or First Aid training and training regarding the requirements of Rule

R501-12, prior to issuing an initial or renewal certification and prior to placing a foster child in the home.

~~(7)~~6) The Agency shall train each foster parent regarding the Agency's policies and procedures prior to placing a foster child in the home.

~~(8)~~7) The Agency shall provide the ~~the~~ department with identifying information of ~~all~~ certified foster homes via the DHS~~[-]~~ or DCFS Provider website located on the Human Services DHS~~[-]~~ or DCFS Employee website and shall report their list of homes annually and upon request.

~~(9)~~8) The Agency shall maintain documentation of the initial and annual home studies of the foster parent's home in compliance with Section 78B-6-128.

~~(10)~~9) The Agency must have a written agreement with the foster parent~~(s)~~ which includes:

- (a) the expectations and responsibilities of the Agency, staff, foster parents and limitations of authority;
- (b) the services to be provided to and by the foster parent;
- (c) the provision of medical, remedial, treatment, and other specialized services to ~~the~~ a foster child;
- (d) the financial arrangements for a foster child~~ren~~ placed in the home;
- (e) the authority foster parents can exercise over a foster child~~ren~~ placed in the home; and
- (f) actions which require staff or DHS authorizations.

~~(11)~~10) The Agency shall monitor and keep detailed documentation regarding foster parents' compliance with Rule R501-12.

~~(12)~~11) The Agency shall document ~~all~~ announced and unannounced visits to the foster home, including an initial safety inspection and a minimum of one unannounced safety inspection annually in addition to any announced or unannounced visits to the foster home.

(a) Each safety inspection completed by the Agency shall be documented on the DHS Home Inspection Checklist, or a similar form that contains all of the DHS form contents.

(b) The Agency shall coordinate with the Office when checklist items are not compliant or noted rule violations to determine which actions should be taken.

(i) Actions on provider certifications shall be documented in provider file and shall include, request for remediation with assigned time frames, request corrective action plan from provider, suspend certification or revoke certification.

(ii) Multiple violations of the same rule shall escalate the level of Agency action to be taken toward the license and provider certification.

(iii) Failure of the Agency to take action when a violation is alleged or noted may result in an action on the Agency license by the Office.

(c) The Agency shall maintain ~~all~~ completed checklists and compliance monitoring documentation in the provider files.

~~(13)~~12) The Agency shall investigate ~~all~~ complaints and alleged violations of this rule. The Agency shall provide documentation to the Office~~of Licensing~~ of any investigations into complaints and alleged violations of Rule R501-12.

~~(14)~~13) The Agency shall provide written notification to each foster parent that informs the foster parent of the rights and responsibilities assumed by a foster parent who signs as the responsible adult for a foster child to receive a driver license, as described in Section 53-3-211.

(a) The Agency shall maintain documentation in the foster parent's file, signed and dated by the foster parent, acknowledging receipt of a copy of this written notification.

(14) The Agency shall have and comply with written policies and procedures regarding the denial, suspension, and revocation of a foster parent's certification to provide foster care services, which must include written notification of the foster parent's appeal process.

(15) The Agency shall provide documentation to the Office ~~of Licensing~~ and DCFS of any denial, suspension, revocation or other Agency-initiated termination of a foster parent's certification. Documentation shall be provided within two weeks of the action.

(16) The Agency shall not grant any variance to ~~this~~ Rule R501-12 or any other regulation without the prior written consent of the Director of the Office ~~of Licensing~~.

(17) The Agency shall certify foster parent~~(s)~~ for a specific time period that does not exceed one year prior to placing any foster children in the home. Documentation of certification dates shall be made available to the Office ~~of Licensing~~ as requested.

(18) The Agency shall provide ongoing supervision of certified foster parents to ensure the quality of care they provide.

(19) The Agency shall participate with the foster child's legal guardian and the foster home to obtain, coordinate, and supervise care and services necessary to meet the needs of each foster child in their care.

(20) The Agency shall not take placement of a child whose needs exceed the scope or ability of the program to reasonably manage

(21) The Agency shall outline in policies and procedures which behaviors and presenting issues would be reason for discharge or exclusion from the program.

(22) The Agency shall document how the placement of the child is appropriate and commensurate with presenting needs and which services are available to address the child's needs.

(23) The Agency shall conduct or coordinate monthly visits to the child in the placement or school.

(24) The Agency shall maintain responsibility as the guardian of the child for the child's behavior in the program, school and community and maintain responsibility for transitioning a child and 18-21 year olds who remain in custody or on variance, into safe and appropriate placements upon planned or unplanned discharge from the program in accordance with Subsection R501-2-6(D)(7) and ICPC disruption plan requirements.

(a) Sending a child to homeless shelters, refusal to pick up from detention or offering one way plane or bus tickets are not appropriate or responsible program transition actions unless supported by therapeutic or parental recommendation.

(25) The Agency shall provide and receive approval from the school district of certified homes with a youth education coordinating form in compliance with the requirements of Section 62A-2-108.1.

(a) Youth Education Coordinating forms are located on the Office website [www.hslic.utah.gov](http://www.hslic.utah.gov)

(26) The Agency shall provide accurate and truthful written references for any previously certified home that requests such reference to work with foster children in another Agency or setting.

(27) The Agency shall follow DHS contract requirements and request guidance from the Office of Quality and Design and the Office in the event of conflicting requirements.

### **R501-12-15. Additional DCFS Kinship and Specified Home Licensure Considerations.**

(1) An applicant may be licensed for the placement of a specific foster child or sibling group.

(a) A kinship specific applicant must be 18 years of age or older and may be cohabitating or legally married in accordance with Section 62A-4a-209 and Subsection 78A-6-307(19).

(2) The home study shall be conducted by an approved DCFS kinship home study specialist; an Agency contracted by DCFS to perform home studies; or by the Office ~~of Licensing~~.

(3) A minimum of three reference letters shall be sent out and a minimum of two of those reference letters received must be acceptable to the Agency or the Office ~~of Licensing~~ and one must be completed by a relative.

(4) The home study safety inspection and background screening approvals shall be successfully completed prior to the placement of the foster child in the home unless the placement is made on an emergency basis as authorized by Section 62A-4a-209.

(5) The Office shall grant a kinship~~[f]~~ specific probationary license upon receipt and approval of a completed kinship~~[f]~~ or specific packet submitted by DCFS.

(a) The kinship~~[f]~~ specific probationary license shall be issued for no more than five months until full compliance can be achieved in order to receive an initial license for the remainder of the licensing year.

(b) An initial license may be issued at any time that compliance with probationary terms is met.

(c) A probationary license whose terms are not met prior to the expiration of that license shall be extended in corrective or penalty status.

(d) Initial license expiration dates shall be determined per Subsection R501-12-4~~(9)~~.

(6) A kinship~~[f]~~ specific home license may not be utilized for the placement of any foster child other than the foster child, or relatives to that foster child, who is designated on the license, and may not be utilized for general respite care.

(7) If a kinship~~[f]~~ specific home desires to provide general foster care services, they shall submit the following [will close their specific license and submit to the requirements of a general foster care license.]

(a) Obtain written approval from their DCFS kinship support worker to become a general foster provider. If DCFS does not support this license change, no further Licensing action shall be taken.

(i) Provide the written approval to the Office and DCFS contracted foster parent recruitment and training agency.

(b) Close their Specific License and submit to the requirements of an initial foster care license to include:

(i) complete initial foster care application; and

(ii) complete foster care pre-service training series with the exception session #1, if completed within the last 2 years.

(c) The Office shall complete a home study update on an Office approved template that addresses general provider requirements and replace or redact child-specific personally identifying information in the child-specific study.

(i) The home study update may reference the original study as an attachment, but must address content requirements for general foster care.

(ii) New reference letters may be requested if determined necessary by the Office or DCFS.

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(8) The Office [of Licensing] recognizes the importance of preserving family and cultural connections for foster children in foster care. In accordance with Section 62A-2-117.5 and the Indian Child Welfare Act, 25 U.S.C. Secs. 1901-1963, the Office [of Licensing] may issue a waiver of any rule in regards to a kinship[?] specific home that does not impact the health and safety of the specific foster child or sibling group. This requires prior written approval by the Director of the Office [of Licensing].

**R501-12-16. Compliance.**

Any active license on the effective date of this rule shall be given 30 days to achieve compliance with this rule.

**KEY:** licensing, human services, foster care, certified foster care  
**Date of Enactment or Last Substantive Amendment:** ~~July 1, 2018~~ 2020  
**Notice of Continuation:** October 4, 2017  
**Authorizing, and Implemented or Interpreted Law:** 62A-2-101 et seq.

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R590-277-4	Filing No. 52585	

**Agency Information**

<b>1. Department:</b>	Insurance		
<b>Agency:</b>	Administration		
<b>Room no.:</b>	3110		
<b>Building:</b>	State Office Building		
<b>Street address:</b>	450 N. State St.		
<b>City, state, zip:</b>	Salt Lake City, UT 84114		
<b>Mailing address:</b>	PO Box 146901		
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6901		
<b>Contact person(s):</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Steve Gooch	801-538-3803	sgooch@utah.gov	

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

**General Information**

<b>2. Rule or section catchline:</b>
Prohibited Policy Provisions
<b>3. Purpose of the new rule or reason for the change:</b>
The rule is being amended to allow an insurer to exclude from coverage losses that come as a direct result of an insured driving under the influence.

<b>4. Summary of the new rule or change:</b>
This rule adds a subsection that allows insurers to exclude from coverage losses that come as a direct result of an insured driving under the influence. The subsection sets forth the parameters for such exclusions.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget. The amendment simply allows insurers to use an additional exclusion in their contracts.
<b>B) Local governments:</b>
There is no anticipated cost or savings to local governments. The amendment simply allows insurers to use an additional exclusion in their contracts.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The amendment simply allows insurers to use an additional exclusion in their contracts.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
An insurer that chooses to exclude from coverage losses related to a person driving under the influence may see a positive fiscal impact. However, the Insurance Department (Department) is aware of only one insurer that expects to use this exclusion, and the insurer did not have any losses that would be affected by this change in the past five years.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
An individual who operates a vehicle while under the influence of alcohol or drugs may be denied coverage for any losses sustained as a result of an accident that occurs while operating the vehicle.
<b>F) Compliance costs for affected persons:</b>
There are no compliance costs for any affected persons. An insurer may elect to submit a filing to the Department to change their forms to apply the exclusion, but there is no cost to submit a filing to the Department. The insurer will likely have minimal administrative costs due to creating the filing, but the Department cannot estimate what those costs will be.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The Commissioner of the Insurance Department, Todd E. Kiser, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Todd E. Kiser, Commissioner			

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Subsection 31A-2-201(3)(a)	Section 31A-2-202	Subsection 31A-23a-402(8)
Subsection 31A-23a-412	Section 31A-45-103	

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	04/14/2020
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<b>10. This rule change MAY become effective on:</b>	04/21/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	02/20/2020
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**R590. Insurance Administration.**

**R590-277. Managed Care Health Benefit Plan Policy Standards.**

**R590-277-4. Prohibited Policy Provisions.**

(1) A health benefit plan may not impose any preexisting condition limitation or exclusion provisions.

(2) Limitations or exclusions. Unless otherwise required by law, a policy may not limit or exclude coverage or benefits by type of illness, accident, treatment, or medical condition, except as follows:

- (a) abortion;
- (b) acupuncture and acupressure services;
- (c) administrative charges for completing insurance forms, duplication services, interest, finance charges, or other administrative charges;

NOTICES OF PROPOSED RULES

(d) administrative exams and services;  
 (e) applied behavioral analysis therapy, except as required by Section 31A-22-642;  
 (f) aviation;  
 (g) axillary hyperhidrosis;  
 (h) benefits provided under:  
 (i) Medicare or other governmental program, except Medicaid;  
 (ii) state or federal worker's compensation; or  
 (iii) employer's liability or occupational disease law;  
 (i) fitness training, exercise equipment, or membership fees to a spa or health club;  
 (j) charges for appointments scheduled and not kept;  
 (k) chiropractic care;  
 (l) complementary and alternative medicine;  
 (m) corrective lenses, and examination for the prescription or fitting thereof, except lens implant following cataract surgery and as required by Rule R590-266;  
 (n) cosmetic surgery; reversal, revision, repair, complications, or treatment related to a non-covered cosmetic surgery. This exclusion does not apply to reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved party; or reconstructive surgery because of congenital disease or anomaly of a covered dependent child that has resulted in a functional defect;  
 (o) custodial care;  
 (p) dental care or treatment;  
 (q) dietary products, except as required by Rule R590-194;  
 (r) educational and nutritional training, except as required by Rule R590-200;  
 (s) experimental or investigational services;  
 (t) expenses before coverage begins or after coverage ends;  
 (u) felony, riot or insurrection, when it has been determined the covered person was a voluntary participant;  
 (v) foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet, including orthotics. The exclusion of routine foot care does not apply to cutting or removal of corns, calluses, or nails when provided to a person who has a systemic disease, such as diabetes with peripheral neuropathy or circulatory insufficiency, of such severity that unskilled performance of the procedure would be hazardous;  
 (w) gastric or intestinal bypass services including lap banding, gastric stapling, and other similar procedures to facilitate weight loss; the reversal, or revision of such procedures; or services required for the treatment of complications from such procedures;  
 (x) gender reassignment, except as required by Section 1557 of the Patient Protection and Affordable Care Act;  
 (y) gene therapy;  
 (z) genetic testing;  
 (aa) hearing aids, and examination for the prescription or fitting thereof;  
 (bb)(i) except as provided in Subsection R590-277-4(2)(cc), a loss directly related to the insured's voluntary participation in an activity where the insured:  
 (A) is found guilty of an illegal activity in a criminal proceeding; or  
 (B) is found liable for the activity in a civil proceeding.  
 (ii) A guilty finding includes a plea of guilty, a no contest plea, and a plea in abeyance;  
 (cc)(i) a loss directly related to the insured or dependent violating:  
 (A) Section 41-6a-502; or

(B) a law that prohibits operating a motor vehicle, in a state other than Utah, while exceeding the legal limit of concentration of alcohol, drugs, or a combination of both in the blood;  
(ii) Violations of Subsection R590-277-4(2)(cc)(i) shall be established:  
(A) in a criminal proceeding in which the insured or dependent is found guilty, enters a no contest plea or a plea in abeyance, or enters into a diversion agreement; or  
(B) a managed care organization's request for an independent review where the findings support a decision to deny coverage based on the exclusions of Subsection R590-277-4(2)(cc)(i);  
(iii) For purposes of Subsection R590-277-4(2)(cc):  
(A) An independent review means a process that:  
(I) is conducted by an independent entity designated by the managed care organization;  
(II) renders an independent and impartial decision on a decision to deny coverage based on the exclusion in Subsection R590-277-4(2)(cc)(i); and  
(III) is paid for by the insurer.  
(B) The independent review entity may not have a material professional, familial, or financial conflict of interest with:  
(I) the managed care organization;  
(II) an officer, director, or management employee of the managed care organization;  
(III) the enrollee;  
(IV) the enrollee's health care provider;  
(V) the health care provider's medical group or independent practice association; or  
(VI) a health care facility where services were provided;  
(iv) this exclusion does not apply to an insured or dependent who is under 18 years of age;  
(dd) infertility services;  
(~~ee~~) mental health and substance use disorder services, except as required by Section 31A-22-625 and Rule R590-266;  
(~~ff~~) injury as a result of a motor vehicle, to the extent the covered person is required by law to have no-fault coverage. [~~The exclusion applies only to charges~~] up to the minimum coverage required by law, whether or not such coverage is in effect;  
(~~gg~~) nuclear release;  
(~~hh~~) refractive eye surgery;  
(~~ii~~) rehabilitation or habilitative therapy services, such as physical, speech, and occupational, except as required to correct an impairment caused by a covered accident or illness, or as required by Rule R590-266;  
(~~jj~~) respite care;  
(~~kk~~) rest cures;  
(~~ll~~) service in the armed forces or units auxiliary to it;  
(~~mm~~) services that are not medically necessary;  
(~~nn~~) services performed by the covered person's parent, spouse, sibling or child, including a step or in-law relationship;  
(~~oo~~) services for which no charge is normally made in the absence of insurance;  
(~~pp~~) services in connection with a prearranged surrogacy agreement, except for services for the baby, where the covered person relinquishes a baby and receives payment or other compensation arising out of such services [~~This exclusion does not apply to services for the baby~~];  
(~~qq~~) sexual dysfunction procedures, equipment and drugs;  
(~~rr~~) shipping and handling;  
(~~ss~~) telephone/electronic consultations;  
(~~tt~~) territorial limitations outside the United States;

(~~tt~~uu) terrorism, including acts of terrorism;  
 (~~uu~~vv) transplants, except as required by Rule R590-266;  
 (~~vv~~ww) transportation, except medically necessary ambulance services;  
 (~~ww~~xx) war or act of war, whether declared or undeclared;  
 or  
 (~~xx~~yy) others that in the opinion of the commissioner are not inequitable, misleading, deceptive, obscure, unjust, unfair or unfairly discriminatory to the policyholder, beneficiary, or covered person under the policy.

**KEY:** insurance, health insurance  
**Date of Enactment or Last Substantive Amendment:** [~~August 20, 2019~~2020  
**Authorizing, and Implemented or Interpreted Law:** 31A-45-103; 31A-2-201(3)(a); 31A-23a-402(8); 31A-23a-412; 31A-2-202

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R994-508	Filing No.	52589

**Agency Information**

<b>1. Department:</b>	Workforce Services		
<b>Agency:</b>	Unemployment Insurance		
<b>Building:</b>	Olene Walker Building		
<b>Street address:</b>	140 East 300 South		
<b>City, state:</b>	Salt Lake City, Utah		
<b>Mailing address:</b>	PO Box 45244		
<b>City, state, zip:</b>	Salt Lake City, UT 84145-0244		
<b>Contact person(s):</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Amanda B. McPeck	801-517-4709	ampeck@utah.gov	
Please address questions regarding information on this notice to the agency.			

**General Information**

<b>2. Rule or section catchline:</b>
Appeal Procedures
<b>3. Purpose of the new rule or reason for the change:</b>
This amendment modifies the requirements for filing an appeal by mail to the Workforce Appeals Board. It makes the process consistent with the requirements for filing an appeal of an initial Department of Workforce Services (Department) determination. The amendment also clarifies where an appeal may be filed or delivered, in keeping with current Department practice and policy.

<b>4. Summary of the new rule or change:</b>
This amendment modifies the requirements for filing an appeal by mail to the Workforce Appeals Board and clarifies that the date of filing will be the date of the postmark, consistent with the requirements for filing an appeal of an initial Department determination. The amendment also clarifies that an appeal may be filed or delivered to any Department office, rather than the Appeals Unit or Board office specifically.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have any fiscal impact on state government revenues or expenditures because the amendment does not provide new services.
<b>B) Local governments:</b>
This rule change is not expected to have any fiscal impact on local governments' revenues or expenditures because this rule change does not affect local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have any fiscal impact on small businesses' revenues or expenditures because the Department is merely changing this rule to make filing requirements consistent at both the initial appeal and Board appeal levels, and to reflect current practice.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because the Department is merely changing this rule to make filing requirements consistent at both the initial appeal and Board appeal levels, and to reflect current practice.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
This rule change is not expected to have any fiscal impact on other persons' revenues or expenditures because the Department is merely changing this rule to make filing requirements consistent at both the initial appeal and Board appeal levels, and to reflect current practice.

**F) Compliance costs for affected persons:**

There are no compliance costs associated with this change. There are no fees associated with this change.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Workforce Services, Jon Pierpont, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

After conducting a thorough analysis, it was determined that this rule change will not result in a fiscal impact to businesses.

**B) Name and title of department head commenting on the fiscal impacts:**

Jon Pierpont, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Subsection 35A-4-508(2)	Subsection 35A-4-508(5)	Subsection 35A-4-508(6)
Section 35A-4-406	Section 35A-4-103	

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 4/14/2020

**10. This rule change MAY become effective on:** 4/21/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Jon Pierpont, Executive Director	<b>Date:</b>	02/24/2020
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**R994. Workforce Services, Unemployment Insurance.**

**R994-508. Appeal Procedures.**

**R994-508-101. Right to Appeal an Initial Department Determination.**

(1) An interested party has the right to appeal an initial Department determination on unemployment benefits or unemployment [tax liability-(contributions)] by filing an appeal with the Appeals Unit or at any Department employment center[~~DWS Employment Center~~].

(2) The appeal must be in writing and either sent through the U.S. Mail, faxed, [or]delivered to the Department[Appeals Unit], or submitted electronically through the Department's website.

(3) The appeal must be signed by an interested party unless it can be shown that the [interested]party has conveyed, in writing, the authority to another person or is physically or mentally incapable of



acting on ~~the party's~~<sup>[his or her]</sup> own behalf. ~~Providing the correct Personal Identification Number (PIN) when filing an appeal through the Department's website will be considered a signed appeal.]~~

(4) The appeal should give the date of the determination being appealed, the social security number of any claimant involved, the employer number, a statement of the reason for the appeal, and any ~~and all~~ information which supports the appeal. The failure of an appellant to provide the information in this subsection will not preclude the acceptance of an appeal.

(5) The scope of the appeal is not limited to the issues stated in the appeal.

(6) If the claimant is receiving benefits at the time the appeal is filed, payments will continue pending the written decision of the Administrative Law Judge (ALJ) even if the claimant is willing to waive payment. If benefits are denied as a result of the appeal, an overpayment will be established.

(7) Providing the correct Personal Identification Number (PIN) when filing an appeal through the Department's website will be considered a signed appeal.

#### **R994-508-102. Time Limits for Filing an Appeal from an Initial Department Determination.**

(1) The time permitted for an appeal is ~~15~~<sup>[fifteen]</sup> calendar days from the date on the Department decision unless otherwise specified on the decision.

(2) In computing the period of time allowed for filing a ~~timely~~<sup>[an]</sup> appeal, the date as it appears in the determination is not included. The last day of the appeal period is included in the computation unless it is a Saturday, Sunday, or legal holiday when Department offices are closed. If the last day permitted for filing an appeal falls on a Saturday, Sunday, or legal holiday, the time permitted for filing a timely appeal will be extended to the next day when Department offices are open.

(3) An appeal sent through the U.S. Mail is considered filed on the date shown by the postmark.

(a) If the postmark date cannot be established because it is illegible, erroneous, or omitted, the appeal will be considered filed on the date it was mailed if the sender can establish that date by competent evidence and can show that it was mailed ~~before~~<sup>[prior to]</sup> the date of actual receipt.

(b) If the date of mailing cannot be established by competent evidence, the appeal will be considered filed on the date it is actually received by the ~~Department~~<sup>[Appeals Unit]</sup> as shown by the ~~Department's~~<sup>[Appeals Unit's]</sup> date stamp on the document or other credible evidence such as a written notation of the date of receipt.

(c) "Mailed" in this subsection means taken to the post office or placed in a receptacle which is designated for pick up by an employee who has the responsibility of delivering it to the post office.

#### **R994-508-302. Time Limit for Filing an Appeal to the Board.**

(1) The appeal from a decision of an ALJ must be filed within 30 calendar days from the date the decision was issued by the ALJ. This time limit applies regardless of whether the decision of the ALJ was sent through the U.S. Mail or personally delivered to the party. "Delivered to the party" means personally handed, faxed, or sent electronically to the party. No additional time for mailing is allowed.

(2) In computing the period of time allowed for filing a timely appeal, the date as it appears in the ALJ's decision is not included. The last day of the appeal period is included in the computation unless it is a Saturday, Sunday, or legal holiday when ~~the~~

~~offices of the~~ Department offices are closed. If the last day permitted for filing an appeal falls on a Saturday, Sunday, or legal holiday, the time permitted for filing a timely appeal will be extended to the next day when ~~the~~ Department offices are open.

(3) An appeal sent through the U.S. Mail is considered filed on the date shown by the postmark.

(a) If the postmark date cannot be established because it is illegible, erroneous, or omitted, the appeal will be considered filed on the date it was mailed if the sender can establish that date by competent evidence and can show that it was mailed before the date of actual receipt.

(b) If the date of mailing cannot be established by competent evidence, the appeal will be considered filed on the date it is actually received by the Department as shown by the Department's date stamp on the document or other credible evidence such as a written notation of the date of receipt.

(c) "Mailed" in this subsection means taken to the post office or placed in a receptacle which is designated for pick up by an employee who has the responsibility of delivering it to the post office.~~[The date of receipt of an appeal to the Board is the date the appeal is actually received by the Board, as shown by the Department's date stamp on the document or other credible evidence such as a written or electronic notation of the date of receipt, and not the post mark date from the post office.]~~

(4) If the appeal is faxed to the Board, the date of filing~~[receipt]~~ is the date recorded on the fax.

(5) If the appeal is submitted electronically, the date of filing is the date recorded by the electronic system.

(6)[4] Appeals to the Board which appear to be untimely pursuant to Subsections R994-508-302(1) through (5) will be handled in the same way as untimely appeals to the ALJ in ~~rules~~ Sections R994-508-103 and R994-508-104.

#### **R994-508-303. Procedure for Filing an Appeal to the Board.**

(1) An appeal to the Board from a decision of an ALJ must be in writing and include:

(a) the name and signature of the party filing the appeal ~~Accessing the Department's website for the purpose of filing an appeal and providing a correct PIN will be considered a signed appeal];~~

(b) the name and social security number of the claimant in cases involving claims for unemployment benefits;

(c) the grounds for appeal; and

(d) the date when the appeal was mailed or sent to the ~~Department~~<sup>[Board]</sup>.

(2) The appeal must be mailed, faxed, delivered to, or filed electronically with the ~~Department~~<sup>[Board]</sup>.

(3) An appeal which does not state adequate grounds, or specify alleged errors in the decision of the ALJ, may be summarily dismissed.

(4) Accessing the Department's website to file an appeal and providing a correct PIN will be considered a signed appeal.

#### **KEY: unemployment compensation, appellate procedures**

**Date of Enactment or Last Substantive Amendment: April 21, 2020~~[May 30, 2017]~~**

**Notice of Continuation: March 29, 2018**

**Authorizing, and Implemented or Interpreted Law: 35A-4-508(2); 35A-4-508(5); 35A-4-508(6); 35A-4-406; 35A-4-103**

**End of the Notices of Proposed Rules Section**



## NOTICES OF CHANGES IN PROPOSED RULES

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

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends April 14, 2020.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through July 13, 2020, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective 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. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

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**The Changes in Proposed Rules Begin on the Following Page**

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R986-100-113	Filing No. 52521

**Agency Information**

<b>1. Department:</b>	Workforce Services	
<b>Agency:</b>	Employment Development	
<b>Building:</b>	Olene Walker Building	
<b>Street address:</b>	140 East 300 South	
<b>City, state, zip:</b>	Salt Lake City, Utah 84111	
<b>Mailing address:</b>	PO Box 45244	
<b>City, state, zip:</b>	Salt Lake City, UT 84145-0244	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amanda B. McPeck	801-517-4709	ampeck@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>	Employment Support Programs
<b>3. Change in Proposed Rule:</b>	Changes FILING Name, Publication date of prior filing: Employment Support Programs, Filing No. 52521, Published 02/15/2020
<b>4. Reason for this change:</b>	Provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah.
<b>5. Summary of this change:</b>	Provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah.

**Fiscal Information**

<b>6. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This change in proposed rule is not expected to have any fiscal impact on state revenues or expenditures because it provides only technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for

Utah. There are no additional state employees or resources needed to oversee the proposed rule amendment because the changes reflect existing Department policy.

**B) Local government:**

This change in proposed rule is not expected to have any fiscal impact on local governments' revenues or expenditures because it provides only technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah.

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

This change in proposed rule is not expected to have any fiscal impact on small businesses' revenues or expenditures because it provides only technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah. Further the program does not interact directly or indirectly with small businesses.

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

This change in proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because it provides only technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah. Also, the program does not interact directly or indirectly with non-small businesses.

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

This change in proposed rule is not expected to have any fiscal impact on other persons' revenues or expenditures because it provides only technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah.

**F) Compliance costs for affected persons:**

The original proposed rule amendment and the change in proposed rule are not expected to cause any compliance costs for affected persons because the proposed amendment and rule changes do not create any new administrative fees and are consistent with existing Department policy.

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

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Workforce Services, Jon Pierpont, has reviewed and approved this fiscal analysis.			
<b>7. A) Comments by the department head on the fiscal impact the rule may have on businesses:</b>			
After a thorough analysis, it was determined that these proposed rule changes will not result in a fiscal impact to businesses.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Jon Pierpont, Executive Director			

**Citation Information**

**8. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution**

<b>citations (required):</b>		
Section 35A-3-101 et seq.	Section 35A-3-301 et seq.	Section 35A-3-401 et seq.

**Public Notice Information**

**10. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	4/14/2020
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<b>11. This rule change MAY become effective on:</b>	4/21/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 11, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Jon Pierpont, Executive Director	<b>Date:</b>	03/02/2020
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**R986. Workforce Services, Employment Development.**

**R986-100. Employment Support Programs.**

**R986-100-113. A Client Must Inform the Department of All Material Changes.**

(1) A material change is any change which might affect eligibility.

(2) Households receiving assistance must report all material changes to the Department as follows.[:]

(a) [h]Households receiving SNAP must report a change in the household's gross income if the income exceeds 130% of the federal poverty level. The change must be reported within ten days from the end of the calendar month in which the change occurred. Changes reported by the tenth of the month following the month when the change occurred are considered timely.[:and]

(b) [h]Households receiving GA, WTE, FEP, FEPTP, AA and RRP that do not meet the requirements of paragraph (2)(a) must report the following changes within ten days of the change occurring:

(i) if the household's gross income exceeds 185% of the adjusted standard needs budget;

(ii) a change of address;

(iii) if any eligible child leaves the household and the household receives FEP, FEPTP or AA;

NOTICES OF CHANGES IN PROPOSED RULES

(iv) if a parent, step-parent, spouse, or former spouse moves into the household or if a marriage or adoption occurs with or between the already reported household members;

(v) if a child becomes eligible for foster care or subsidized adoption financial assistance;

(vi) a change in student status of a child in the household;

(vii) if a client receiving TCA is no longer employed or is working less than an average of 30 hours per week;

(viii) if there is a change in disability status of a GA client; ~~and~~ or

(ix) if a GA client becomes employed.

(3) Households that do not meet the requirements of paragraph (2)(a) of this section will be assigned a review month. In addition to the ten-day reporting requirements listed in paragraph (2)(b) of this section, the household must report, by the last day of the review month, all material changes that have occurred since the last review, or the date of application if it is the first review. The household is also required to accurately complete all review forms and reports as requested by the Department.

(4) Most changes which result in an increase of assistance will become effective the month following the month in which the report of the change was made. If verification is necessary, verification

and changes will be made in the month following the month in which verification was received. If the change is to add a person to the household, the person will be added effective on the date reported, provided necessary verification is received within 30 days of the change. If verification is received after 30 days, the increase will be made effective the date verification was received.

(5) For the purposes of this ~~sub~~section, "the Department" means any state office or outreach location of the Department of Workforce Services that accepts and processes applications for the programs listed in Section R986-100-102 and the divisions of the Department of Workforce Services that determine eligibility for those programs, including submitting information using the Department's eligibility customer case system available on the Department's website.

**KEY: employment support procedures, hearing procedures, public assistance, SNAP**

**Date of Enactment or Last Substantive Amendment: 2020**

**Notice of Continuation: September 2, 2015**

**Authorizing, and Implemented or Interpreted Law: 35A-3-101 et seq.; 35A-3-301 et seq.; 35A-3-401 et seq.**

**End of the Notices of Changes in Proposed Rules Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text (~~example~~). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R68-32	Filing No. 52593

### Agency Information

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Plant Industry	
<b>Street address:</b>	350 N Redwood Road	
<b>City, state, zip:</b>	Salt Lake City, UT 84115	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state, zip:</b>	Salt Lake City, UT 84114	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-538-6023	ambermbrown@utah.gov
Andrew Rigby	385-285-6347	adrigby@utah.gov
Kelly Pehrson	385-538-7102	kwpehrson@utah.gov

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

### General Information

<b>2. Rule or section catchline:</b>
Sale and Transfer of Industrial Hemp Waste to Medical Cannabis Cultivators
<b>3. Effective Date:</b>
02/28/2020
<b>4. Purpose of the new rule or reason for the change:</b>
This new rule provides guidelines governing the sale of industrial hemp waste to medical cannabis cultivators, which was allowed in recently passed legislation.
<b>5. Summary of the new rule or change:</b>
This new rule provides guidelines governing the sale of industrial hemp waste to medical cannabis cultivators, including related to department pre-approval of sales, sale requirements, and record keeping and transportation requirements.
<b>6. Regular rulemaking would:</b>
cause an imminent peril to the public health, safety, or welfare;

	cause an imminent budget reduction because of budget restraints or federal requirements; or
X	place the agency in violation of federal or state law.
<b>Specific reason and justification:</b>	
Emergency rulemaking is necessary to allow for the recently statutorily prescribed sale of industrial hemp waste to medical cannabis cultivators to take place as soon as possible.	

**Fiscal Information**

<b>7. Aggregate anticipated cost or savings to:</b>	
<b>A) State budget:</b>	
There is no anticipated cost or savings to the state budget because sales would occur under existing licenses of industrial hemp processors and cultivators and medical cannabis cultivators. No additional inspections will be required. Industrial hemp waste will be tested in the same way as other cannabis products and testing fees cover the cost of testing.	
<b>B) Local governments:</b>	
There is no anticipated cost or savings to local governments because local governments are not industrial hemp or cannabis cultivators or processors and do not participate in the sale or regulation of the sale of industrial hemp waste.	
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):	
There are no anticipated additional costs or to small businesses (industrial hemp cultivators and processors and cannabis cultivators) because the testing and licensing required would be the same as for other cannabis products. Those who are able to sell industrial hemp waste will benefit from the sale although it is difficult to know at the outset of this program how many sales will occur.	
<b>D) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):	
There are no anticipated cost or benefits to persons other than small businesses, non-small businesses, or state or local government entities because other persons are not regulated as industrial hemp cultivators or processors or cannabis cultivators and do not participate in the sale of industrial hemp waste under this program.	
<b>8. Compliance costs for affected persons:</b>	
Compliance costs would not change for cannabis cultivators as the industrial hemp waste products would be subject to the same testing requirements as other cannabis products. Industrial hemp cultivators and	

processors would be subject to the same licensing requirements as prior to the new rule.
<b>9. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>
This rule is necessary to allow for the sale of industrial hemp waste into the medical cannabis marketplace to cultivators as allowed under recently passed legislation. The rule is not associated with an anticipated fiscal impact on businesses.
<b>B) Name and title of department head commenting on the fiscal impacts:</b>
Kelly Pehrson, Interim Commissioner

**Citation Information**

<b>10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>			
Subsection 4-2-103(1)(i)	Subsection 4-41a-603(3)	Title 4, Chapter 41a	
Section 4-41a-102			

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Kelly Pehrson, Interim Commissioner	<b>Date:</b>	02/28/2020
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**R68. Agriculture and Food, Plant Industry.**  
**R68-32. Sale and Transfer of Industrial Hemp Waste to Medical Cannabis Cultivators.**

**R68-32-1. Authority and Purpose.**  
 1) Pursuant to Section 4-41a, 4-41a-102, and Subsections 4-2-103(1)(i) and 4-41a-603(3), this rule establishes the procedures governing the sale of industrial hemp waste by an industrial hemp cultivator or processing facility to a cannabis cultivation facility, including procedures for sale approval, extraction, transportation, recordkeeping, testing, and inspection and recall.

**R68-32-2. Definitions.**  
 1) "Batch" means a quantity of:  
 a) cannabis extract produced on a particular date and time, following clean up until the next clean up during which the same lots of cannabis are used;  
 b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis extract is used; or  
 c) cannabis flower from a single strain and growing cycle packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.  
 2) "Cannabinoid" means any:  
 a) naturally occurring derivative of cannabigerolic acid (CAS 25555-57-1); or  
 b) any chemical compound that is both structurally and chemically similar to a derivative of cannabigerolic acid.  
 3) "Cannabis" means any part of the marijuana plant.



- 4) "Cannabis cultivation facility" means a person that:
  - a) possesses cannabis;
  - b)i) grows or intends to grow cannabis; or
  - ii) acquires or intends to acquire industrial hemp waste from a holder of an industrial hemp cultivator license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or an industrial hemp processor; and
  - c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.
- 5) "Cannabis product" means a product that:
  - a) is intended for human use; and
  - b) contains cannabis or tetrahydrocannabinol.
- 6) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for which testing was performed.
- 7) "Department" means the Utah Department of Agriculture and Food.
- 8) "Final product" means a reasonably homogenous cannabis product in its final packaged form created using the same standard operating procedures and the same formulation.
- 9) "Industrial hemp waste" means:
  - a) a cannabinoid extract derived from industrial hemp with greater than 0.3% THC by mass; or
  - b) industrial hemp biomass with a THC concentration of less than 0.3% by dry weight.
- 10) "Industrial hemp" means any part of the cannabis plant, whether growing or not, with a concentration of less than .3% tetrahydrocannabinol by dry weight.
- 11) "Inventory Control System" means the system described in Section 4-41a-103.
- 12) "Lot" means the quantity of:
  - a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or
  - b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.

**R68-32-3. Sale of Industrial Hemp Waste-Requirements.**

- 1) Industrial hemp waste may be sold by an industrial hemp cultivator or industrial hemp processing facility to a cannabis cultivation facility if:
  - a) the industrial hemp waste is derived from industrial hemp biomass that has been certified as industrial hemp by a state department of agriculture or the U.S. Department of Agriculture;
  - b) the industrial hemp cultivator or industrial hemp processing facility has records to substantiate the certification; and
  - c) the records are available for inspection by the department.
- 2) If an industrial hemp cultivator or industrial hemp processing facility intends to sell industrial hemp waste that is derived from industrial hemp biomass that was purchased out of state:
  - a) the out of state seller shall provide proof that the biomass was certified as industrial hemp by a state department of agriculture or the U.S. Department of Agriculture to the industrial hemp cultivator or industrial hemp processing facility; and
  - b) the industrial hemp cultivator or industrial hemp processing facility shall keep record of the certification.

**R68-32-4. Sale of Industrial Hemp Waste-Notification and Approval.**

- 1) Prior to the sale of industrial hemp waste by an industrial hemp cultivator or industrial hemp processing facility to a cannabis

cultivation facility, the industrial hemp cultivator or processing facility shall:

- a) starting April 1, 2020, notify the department of the potential sale in writing within 10 days of the sale; and
- b) provide the department with a certificate of analysis showing that the biomass from which the industrial hemp waste was derived was certified industrial hemp by a state department of agriculture or the U.S. Department of Agriculture.
- 2) The department will approve the sale following review of the records of the industrial hemp cultivator or industrial hemp processing facility to ensure compliance with this Rule.
- 3) Upon approval of the sale, the department will issue a certificate to the industrial hemp cultivator or industrial hemp processing facility allowing the sale to proceed.
- 4) No industrial hemp waste may be sold by an industrial hemp cultivator or industrial hemp processing facility unless they have a license in good standing with the department.

**R68-32-5. Industrial Hemp Waste Extraction.**

- 1) Extraction of cannabinoid extract by an industrial hemp processing facility to be sold under this rule shall take place in Utah.
- 2) The industrial hemp processing facility shall keep records of the extraction, including:
  - a) how much industrial hemp biomass was processed by the industrial hemp processing facility;
  - b) how much cannabinoid extract was extracted during processing; and
  - c) proof that the extraction took place in Utah.
- 3) The industrial hemp processing facility shall make any extraction records available for inspection by the department.
- 3) A cannabis cultivation facility shall not take possession of cannabinoid extract that qualifies as industrial hemp waste without verifying that it has been extracted in Utah.

**R68-32-6. Transportation.**

- 1) Only an agent of a cannabis cultivation facility may transport industrial hemp waste.
- 2) A printed transport manifest shall accompany every transport of industrial hemp waste.
- 3) The manifest shall contain the following information:
  - a) the industrial hemp cultivator or industrial hemp processing facility address and license number of the departure location;
  - b) physical address and license number of the receiving location;
  - c) amount of industrial hemp waste that is being transported;
  - d) date and time of departure;
  - e) estimated date and time of arrival; and
  - f) name and signature of each agent accompanying the industrial hemp waste.
- 4) The transport manifest may not be voided or changed after departing from the original industrial hemp cultivator or industrial hemp processing facility.
- 5) The receiving cannabis cultivation facility shall ensure they are given a copy of the transport manifest.
- 6) The receiving cannabis cultivation facility shall ensure that the industrial hemp waste received is as described in the transport manifest and shall record the amounts received into the inventory control system.
- 7) The receiving cannabis cultivation facility shall document at the time of receipt any differences between the quantity

NOTICES OF 120-DAY (EMERGENCY) RULES

specified in the transport manifest and the quantities received in the inventory control system.

8) During transport, the industrial hemp waste shall be:

- a) shielded from the public view;
- b) in a secure container; and
- c) temperature controlled if perishable.

9) A cannabis cultivation facility shall contact the department within 24 hours if a vehicle transporting industrial hemp waste is involved in an accident that involves product loss.

**R68-32-7. Recordkeeping Requirements.**

1) A cannabis cultivation facility shall ensure that each lot or batch of industrial hemp waste previously purchased from an industrial hemp cultivator or industrial hemp processing facility has a unique identification number in the inventory control system.

2) Following purchase of industrial hemp waste from an industrial hemp cultivator or industrial hemp processing facility, a cannabis cultivation facility shall ensure that each lot or batch of industrial hemp waste has a unique identification number in the inventory control system.

3) By November 1, 2020 an industrial hemp cultivator shall ensure that each lot of industrial hemp waste sold to a cannabis cultivation facility shall have a unique identification number in the inventory control system.

4) By November 1, 2020, an industrial hemp processing facility shall ensure that each batch or lot of industrial hemp waste that is sold to a cannabis cultivation facility shall have a unique identification number in the inventory controls system.

5) A cannabis cultivation facility shall maintain a record of each purchase of industrial hemp waste, including:

- a) a copy of the certification that the industrial hemp waste is derived from certified industrial hemp; and
- b) If applicable, a copy of the record documenting that the extraction of the cannabinoid extract that qualifies as industrial hemp waste took place Utah.

6) Records shall be available for inspection by the department.

**R68-32-8. Testing Requirements.**

1) Each lot or batch of industrial hemp waste purchased by a cannabis cultivation facility shall be tested by an independent cannabis laboratory pursuant to the requirements of R68-29-3:

- a) when the cannabis cultivation facility takes possession of the industrial hemp waste; and
- b) when the industrial hemp waste is processed into its final product form.

2) Testing shall be documented on a certificate of analysis and recorded in the inventory control system.

3) Industrial hemp waste is subject to the same testing requirements as other cannabis product.

**R68-32-9. Inspection and Recall.**

1) The department has the right to conduct a random inspection of industrial hemp processing facilities, industrial hemp

cultivators, and medical cannabis cultivators that are subject to this rule, including an audit of:

- a) the records of an industrial hemp processing facility that has sold industrial hemp waste;
- b) the records of an industrial hemp cultivator that has sold industrial hemp waste; and
- c) the records of a cannabis cultivation facility that has purchased industrial hemp waste;
- d) to ensure compliance with Utah state law, rules, and this rule.

2) Inspection may take place at any time during normal business hours.

3) A product that is identified as out of compliance may be subject to recall and destruction by the department.

**R68-32-10. Violations.**

1) Violations of this rule include:

- a) sale or transfer industrial hemp waste material without notifying the department;

b) sale of industrial hemp biomass that with a THC level greater than 0.3% by dry weight;

c) a medical cannabis facility allowing industrial hemp waste into the facility without entering it into the inventory control system;

d) a medical cannabis facility allowing industrial hemp waste product into the facility without testing;

e) a facility not keeping and maintaining all records required by this rule;

f) a facility denying the department access to the records;

g) transporting industrial hemp waste to a facility without a manifest; and

h) anyone other than a cannabis cultivation agent transporting industrial hemp waste to a cannabis cultivation facility.

- 2) The department shall assess fines of:
  - a) \$3,000-\$5,000 for public safety violations;
  - b) \$1,000-\$5,000 for regulatory violations; and
  - c) \$500-\$5,000 for licensing violations.

3) The department shall calculate fines based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

4) The department may enhance or reduce the penalty based on the seriousness of the violation.

**KEY: industrial hemp waste, industrial hemp processing facility, cannabis cultivation facility**

**Date of Enactment or Last Substantive Amendment: February 28, 2020**

**Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(i); 4-41a; 4-41a-102; 4-41a-603(3)**

**End of the Notices of 120-Day (Emergency) 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 <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

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

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R58-12	Filing No. 50123

### Agency Information

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Animal Industry	
<b>Street address:</b>	350 N Redwood Road	
<b>City, state, zip:</b>	Salt Lake City, UT 84115	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state, zip:</b>	Salt Lake City, UT 84114	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-538-6023	ambermbrown@utah.gov
Leann Hunting	801-538-7166	leannhunting@utah.gov
Noel McSpadden	801-538-7117	NMcSpaddenjr@utah.gov

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

### General Information

<b>2. Rule catchline:</b>
Record Keeping and Carcass Identification at Meat Exempt (Custom Cut) Establishments
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>

Promulgated under the authority of Section 4-32-109 that allows the Department of Agriculture and Food to make rules to enforce the Utah Meat and Poultry Products Inspection and Licensing Act.

### 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received.

### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is still required because it provides guidelines to ensure that proper records are kept of carcasses slaughtered at meat exempt (custom cut) establishments and that such carcasses are properly identified with "NOT FOR SALE" tags affixed to each quarter of the carcass. Therefore, this rule should be continued.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Kelly Pehrson, Interim Commissioner	<b>Date:</b>	02/24/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R152-1	Filing No. 50235

### Agency Information

<b>1. Department:</b>	Commerce
<b>Agency:</b>	Consumer Protection
<b>Building:</b>	Heber Wells
<b>Street address:</b>	160 E 300 S

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

<b>City, state, zip:</b>	Salt Lake City, UT 84114	
<b>Mailing address:</b>	PO Box 146704	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6704	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Daniel Larsen	801-530-6145	dblarsen@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
Division of Consumer Protection Buyer Beware List Rule
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is enacted pursuant to Subsection 13-2-5(1), which authorizes the director of the Division of Consumer Protection (Division) to issue rules to administer and enforce the chapters listed in Section 13-2-1.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Division is not aware of any comments supporting or opposing the rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule should be continued because it assists the Division in its administration and enforcement of the chapters listed in Section 13-2-1, and is an important tool the Division may use to carry out some of its core functions. These functions include assisting industry in attempting to correct unfair business practices between competitors, and providing consumer information and education to the public. See Subsections 13-2-5(4) and (5).
A number of the statutes administered and enforced by the Division include among their purposes promoting public awareness of deceptive practices and suppliers who commit deceptive practices. See Subsections 13-2-8(3)(a) (creating a consumer protection education fund); 13-11-7(1)(c) (directing the Division to inform consumers and suppliers of the acts that violate the law); 13-22-3(6) (allowing the Division to provide public education on the chapter's requirements); 13-34-102(3) (directing the Division to protect students from deceptively promoted schools). This rule furthers those purposes by making available in a single location a list of suppliers that have engaged in deceptive acts and practices. It also makes available an explanation of the conduct that led to a

supplier's placement on the buyer beware list, which assists other suppliers in their compliance efforts, and makes the public aware of deceptive practices that it should avoid.

Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Daniel O'Bannon, Division Director	<b>Date:</b>	02/25/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-459</b>	<b>Filing No. 50246</b>

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, Utah 84114-4200	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, Utah 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
Teacher Supplies and Materials Appropriation
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized under Utah Constitution, Article X, Section 3, which gives general control and supervision of the public school system to the Board, by Subsection 53E-3-501(1)(b) which directs the Board to establish rules and minimum standards for school programs, and by state legislation which provides a designated appropriation for teacher supplies and materials.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There were no written comments received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule continues to be necessary because the purpose of this rule is to distribute money through local education agencies (LEAs) to classroom teachers for school materials, supplies, field trips, and purposes or equipment that protect the health of teachers in instructional or lab settings or in conjunction with field trips. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	02/18/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R380-40</b>	<b>Filing No. 50878</b>
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**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	430	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Marc Babitz, MD	801-538-6111	MBABITZ@UTAH.GOV

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

**General Information**

<b>2. Rule catchline:</b>
Local Health Department Minimum Performance Standards

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

This rule is promulgated as required by Subsection 26A-1-106(1)(c). The minimum performance standards apply to all local health department services, regardless of funding sources.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Department of Health (Department) received one comment regarding this rule in the last five years from Nate Selin, Health Officer Central Utah Health Department. Mr. Selin commented that the performance measures were good and he recommended no changes be made.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Under Subsection 26A-1-106(1)(c), the Department is required to establish by rule a minimum performance standards for basic programs of public health administration, personal health, laboratory services, health resources, and other preventive health programs not in conflict with state law as it finds necessary or desirable for the protection of the public health. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	02/24/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R384-300</b>	<b>Filing No. 50906</b>
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**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Disease Control and Prevention, Health Promotion	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 142102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Allyn Nakashima	801-538-6119	anakashima@utah.gov
Kathy Paras	801-538-6242	kparas@utah.gov

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

**General Information**

**2. Rule catchline:**  
Parkinson's Disease Reporting Rule

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

The Parkinson's Disease Reporting Rule, Rule R384-300, is adopted under authority Sections 26-1-30 and 26-5-3. The Utah State Legislature designated Parkinson's Disease as a reportable disease in 2015 and appropriated \$200,000 to create a computerized registry entitled, Utah Parkinson's Disease Registry (UPDR.org). After the initial appropriation, starting in 2016, the Utah Legislature approved an on-going appropriation of \$100,000 to continue to support the UPDR. Administered by the Department of Neurology at the University of Utah, the Utah Department of Health (Department) retains all ownership and all rights to the records in the UPDR.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Department is not aware of any opposition to this rule by any groups or individuals.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Parkinson's Disease (PD) is a common neurodegenerative disease that affects 1 in 100 persons over the age of 65 years. PD is a progressive, ultimately fatal condition, which may be more common in Utah than in other states. The growth rate of the over-65 segment of the population in Utah is more than 30%.

The purpose of the Utah Parkinson's Disease Registry (Registry) is to develop a central database of accurate historical and current information for research and public health purposes. The continuation of the Parkinson's Disease Reporting Rule and the funding to support the Registry will provide for screening and collection of patient data that may be useful in detecting the incidence, prevalence and possible risk factors concerning PD and related movement disorders. The information gained will help increase understanding of this disease and aid in planning for early diagnosis; developing health education for patients and providers; providing the information that the Department and other service providing agencies need to better understand the needs of PD patients and their care givers; and providing information on treatments as these are developed for this devastating disease.

Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	02/18/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R414-33D</b>	<b>Filing No. 50986</b>
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**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 North 1460 West	
<b>City, state, zip:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov

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

**General Information**

**2. Rule catchline:**  
Targeted Case Management for Individuals with Serious Mental Illness

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Section 26-18-3 requires the Department of Health (Department) to implement the Medicaid program through administrative rules. In addition, Section 26-1-5 grants the Department the authority to adopt, amend, or rescind rules as necessary.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Department did not receive any written or oral comments regarding this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The Department will continue this rule because it implements targeted case management for individuals with serious mental illness, as described in the Medicaid provider manual and in the Medicaid State Plan.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	02/27/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R606-6</b>	<b>Filing No. 51491</b>
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**Agency Information**

<b>1. Department:</b>	Labor Commission	
<b>Agency:</b>	Antidiscrimination and Labor, Antidiscrimination	
<b>Room no.:</b>	3rd Floor	
<b>Building:</b>	Heber M. Wells	
<b>Street address:</b>	160 East 300 South	
<b>City, state, zip:</b>	Salt Lake City UT 84111	
<b>Mailing address:</b>	PO Box 146600	
<b>City, state, zip:</b>	Salt Lake City UT 84114-6600	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kendra Shirey	801-530-6800	shirey@utah.gov
Chris Hill	801-530-6800	chill@utah.gov

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

**General Information**

<b>2. Rule catchline:</b>
Regulation of Practice and Procedure on Employer Reports and Records

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Section 43A-5-104 gives the Labor Commission (Commission) jurisdiction over the subject of employment practices and discrimination made unlawful by Title 34A, Chapter 5. It also gives the Commission authority to adopt, publish, amend, and rescind rules, consistent with and for the enforcement of Title 34A, Chapter 5.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments have been received during and since the last five-year review of this rule from interested persons supporting or opposing the rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The Commission continues to have jurisdiction over discrimination in employment. This rule establishes the procedures for employers to follow in keeping personnel records in order to defend a claim of discrimination. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Jaceson R Maughan, Commissioner	<b>Date:</b>	02/18/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R708-51</b>	<b>Filing No. 51894</b>
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**Agency Information**

<b>1. Department:</b>	Public Safety	
<b>Agency:</b>	Driver License	
<b>Room no.:</b>	3rd floor	
<b>Building:</b>	Calvin Rampton Complex	
<b>Street address:</b>	4501 S 2700 W	
<b>City, state, zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 1445001	
<b>City, state, zip:</b>	Salt Lake City, UT 84114	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kim Gibb	801-965-4018	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov

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

**General Information**

<b>2. Rule catchline:</b>
Mobility Vehicle Permit

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

This rule is authorized under Section 41-6a-1118, which states that the Driver License Division (Division) shall make rules to establish procedures for certification of a mobility vehicle to include vehicle requirements, acceptable documentation for applicant's identity and Utah resident status, and procedures to examine and issue a permit to operate a mobility vehicle.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Division has not received any written comments regarding this rule during and since the last five-year review of this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees**

**with comments in opposition to this rule, if any:**

This rule is required under Section 41-6a-1118 and is necessary to outline the procedures for certification of a mobility vehicle, outline safety requirements for mobility vehicles, and procedures for the Division to examine applicants of a mobility vehicle and issue a permit to operate a mobility vehicle on public highways. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Christopher Caras, Division Director	<b>Date:</b>	02/25/2020
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**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

**EXTENSIONS** are governed by Subsection 63G-3-305(6).

NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Utah Admin. Code Ref (R no.):	R765-609	Filing No. 52002

### Agency Information

<b>1. Department:</b>	Regents (Board of)	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Regents Building, The Gateway	
<b>Street address:</b>	60 S 400 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84101-1284	
<b>Mailing address:</b>	PO Box 45202	
<b>City, state, zip:</b>	Salt Lake City, UT 84145-0202	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Geoff Landward	801-321-7136	glandward@ushe.edu
Please address questions regarding information on this notice to the agency.		

### General Information

<b>2. Rule catchline:</b>
Regents' Scholarship
<b>3. Reason for requesting the extension and the new deadline date:</b>
Due to time constraints because of the 2020 General Session, the Board requests more time to review this rule. The new deadline is 06/24/2020.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	David R. Woolstenhulme, Commissioner	<b>Date:</b>	02/25/2020
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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Utah Admin. Code Ref (R no.):	R765-611	Filing No. 51993

### Agency Information

<b>1. Department:</b>	Regents (Board of)	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Regents Building, The Gateway	
<b>Street address:</b>	60 S 400 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84101-1284	
<b>Mailing address:</b>	PO Box 45202	
<b>City, state, zip:</b>	Salt Lake City, UT 84145-0202	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Geoff Landward	801-321-7136	glandward@ushe.edu
Please address questions regarding information on this notice to the agency.		

### General Information

<b>2. Rule catchline:</b>
Veterans Tuition Gap Program
<b>3. Reason for requesting the extension and the new deadline date:</b>
Due to time constraints because of the 2020 General Session, the Board requests more time to review this rule. The new deadline is 06/24/2020.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	David R. Woolstenhulme, Commissioner	<b>Date:</b>	02/25/2020
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**End of the Notices of Five-Year Review Extensions Section**

## NOTICES OF RULE EFFECTIVE DATES

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

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

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

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### Administrative Services

#### Finance

No. 52480 (Amendment): R25-7. Travel-Related Reimbursements for State Employees  
Published: 02/01/2020  
Effective: 03/10/2020

No. 52503 (New Rule): R25-21. Medical Cannabis Payment Provider Standard  
Published: 02/01/2020  
Effective: 03/10/2020

### Commerce

#### Occupational and Professional Licensing

No. 52481 (Amendment): R156-69. Dentist and Dental Hygienist Practice Act Rule  
Published: 02/01/2020  
Effective: 03/10/2020

### Environmental Quality

#### Air Quality

No. 52414 (Amendment): R307-110. Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County.  
Published: 01/01/2020  
Effective: 03/05/2020

No. 52415 (Amendment): R307-110. Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County  
Published: 01/01/2020  
Effective: 03/05/2020

No. 52316 (Amendment): R307-401. Permit: New and Modified Sources  
Published: 12/15/2019  
Effective: 03/05/2020

### Health

#### Child Care Center Licensing Committee

No. 52369 (Amendment): R381-60. Hourly Child Care Centers  
Published: 12/15/2019  
Effective: 02/25/2020

No. 52378 (Amendment): R381-70. Out of School Time Child Care Programs  
Published: 12/15/2019  
Effective: 02/25/2020

No. 52371 (Amendment): R381-100. Child Care Centers  
Published: 12/15/2019  
Effective: 02/25/2020

#### Disease Control and Prevention, Environmental Services

No. 52333 (Amendment): R392-302. Design, Construction and Operation of Public Pools  
Published: 12/01/2019  
Effective: 02/26/2020

#### Health Care Financing, Coverage and Reimbursement Policy

No. 52389 (Amendment): R414-49. Dental, Oral and Maxillofacial Surgeons and Orthodontia  
Published: 12/15/2019  
Effective: 03/01/2020

No. 52461 (Amendment): R414-312. Adult Expansion Medicaid  
Published: 01/01/2020  
Effective: 02/18/2020

Family Health and Preparedness, Child Care Licensing  
No. 52372 (Amendment): R430-8. Exemptions From Child Care Licensing  
Published: 12/15/2019  
Effective: 02/25/2020

NOTICES OF RULE EFFECTIVE DATES

Family Health and Preparedness, Licensing  
No. 52375 (Amendment): R432-35. Background Screening  
-- Health Facilities.  
Published: 12/15/2019  
Effective: 03/01/2020

Insurance

Administration  
No. 52500 (Amendment): R590-102. Insurance  
Department Fee Payment Rule  
Published: 02/01/2020  
Effective: 03/10/2020

No. 52490 (Amendment): R590-160. Agency Review  
Published: 02/01/2020  
Effective: 03/10/2020

No. 52489 (New Rule): R590-284. Corporate Governance  
Annual Disclosure Rule  
Published: 02/01/2020  
Effective: 03/10/2020

Natural Resources

Parks and Recreation  
No. 52363 (Amendment): R651-601. Definitions as Used in  
These Rules  
Published: 01/15/2020  
Effective: 02/24/2020

No. 52410 (Amendment): R651-601-20. Primary  
Jurisdiction Zone (PJZ)  
Published: 01/15/2020  
Effective: 02/24/2020

No. 52413 (Amendment): R651-614. Fishing, Hunting and  
Trapping.  
Published: 01/15/2020  
Effective: 02/24/2020

No. 52364 (Amendment): R651-620. Protection of  
Resources Park System Property  
Published: 01/15/2020  
Effective: 02/24/2020

Transportation

Operations, Construction  
No. 52484 (New Rule): R916-5. Health Reform -- Health  
Insurance Coverage in State Contracts -- Implementation  
Published: 02/01/2020  
Effective: 03/10/2020

Workforce Services

Administration  
No. 52463 (Repeal): R982-700. Employment Opportunities  
Website  
Published: 01/01/2020  
Effective: 02/18/2020

**End of the Notices of Rule Effective Dates Section**