

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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Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals.
 2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

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EXECUTIVE DOCUMENTS

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

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

DIRECTIVE TO THE STATE OF UTAH

The Governor's Coronavirus Directive for Utah
"Stay Safe, Stay Home"

Updated April 17, 2020

I would like to thank all Utahns who continue to do their part to slow the spread of novel coronavirus disease 2019 (COVID-19). Utahns have increased their efforts since I originally issued this Directive on March 27, 2020, and these efforts continue to make a difference. It is important that we maintain these enhanced protective measures for our own safety and the safety of everyone around us.

I expect each Utah resident and business to follow these directives. These directives are necessary to keep Utah residents safe during the worldwide COVID-19 pandemic. These safety requirements will certainly result in disruptions to our lives, and that cannot be avoided. Those disruptions are a critical part of keeping ourselves safe.

Following these directives now will avoid significant hardship later.

These directives establish minimum statewide standards. In consultation with the State, local authorities may impose more stringent directives and orders to address the unique circumstances in different areas of Utah.

These directives are not to be confused with a shelter-in-place order.

The following directives are effective immediately and shall remain in place until 11:59 p.m. on May 1, 2020.

I. Directives for Individuals

Each individual in the state of Utah is hereby directed to engage in the following measures to reduce the spread of COVID-19:

1. **Health orders and guidelines.** Follow orders, guidelines, and standards promulgated by the Utah Department of Health and applicable local health departments.
2. **Self-isolation after exposure to COVID-19.** Self-isolate for 14 days after:
 - a. traveling out of state; or
 - b. being exposed to an individual presenting symptoms of illness consistent with COVID-19.
3. **Social and physical distancing.**
 - a. Stay at home as much as possible.
 - b. Work from home as much as possible.
 - c. Maintain a six-foot distance from individuals who are not members of the same household or residence when outside or in public.
 - d. Socialize remotely by phone or video chat.
 - e. Do not shake hands with other individuals.
 - f. Do not pay in-person social visits to hospitals, nursing homes, or other residential care facilities.

- g. Do not pay in-person social visits to friends or family.
- h. Do not attend any in-person gathering of any number of people who are not of the same household or residence.

4. **Hygiene.**

- a. Wear a cloth face covering that covers the nose and mouth in any place of public accommodation, including retail establishments and grocery stores, and whenever social distancing is not possible.
- b. Wash hands frequently with soap and water for at least 20 seconds.
- c. Use hand sanitizer frequently.
- d. Avoid touching your face.
- e. Cover coughs or sneezes by coughing or sneezing into the sleeve or elbow, but not into hands.
- f. Clean high-touch surfaces regularly, including buttons, door handles, counters, and light switches.

5. **Children.**

- a. Do not arrange or allow your child to participate in in-person playdates or similar activities.
- b. Do not allow your child on public playground equipment.

6. **Outdoor activities and recreation.**

- a. Maintain a six-foot distance from individuals who are not members of the same household or residence when engaging in outdoor activities or recreation, including walking, hiking, running, biking, driving for pleasure, hunting, and fishing.
- b. Avoid high-touch surfaces.
- c. Do not engage in close-contact or team sports.
- d. Do not congregate at trailheads, parks, or other outdoor spaces.

7. **Travel.**

- a. Limit travel only to essential travel.
- b. "Essential travel" means travel to:
 - i. safely relocate from an unsafe home or residence, including by an individual who has suffered or is at risk of domestic violence or for whom the safety, sanitation, or essential operations of the home or residence cannot be maintained;
 - ii. work if you cannot work remotely;
 - iii. care for a family member or friend in the same household or another household, including transporting family members or friends;
 - iv. transport a child according to existing parenting time schedules or other visitation schedules;
 - v. seek emergency or protective services;
 - vi. obtain the following supplies and services:
 - A. medication and medical services;
 - B. food and other grocery items, including delivery or carry-out services, and alcoholic or non-alcoholic beverages;
 - C. gasoline and other motor-vehicle fuels;
 - D. supplies required to work from home;
 - E. products needed to maintain the safety, sanitation, and essential operation of homes and residences, businesses, and personally owned vehicles, including automobiles and bicycles; and
 - F. laundromat and dry cleaning services;
 - vii. donate blood;
 - viii. care for pets, including travel to a veterinarian;
 - ix. engage in recreational and outdoor activities close to home; and
 - x. return to a home or place of residence.

8. **Homeless individuals.** Notwithstanding any other provision of this Directive, except as required by the Utah Department of Health or a local health department to maintain public health, a law-abiding individual experiencing homelessness may:

- a. move between emergency shelters, drop-in centers, and encampments; and
- b. remain in an encampment of ten or fewer members without being subject to disbandment by state or local government.

II. Directives for For-Profit and Nonprofit Organizations

Each business, including for-profit and nonprofit organizations, in the state of Utah is hereby directed to engage in the following measures to reduce the spread of COVID-19:

- 1. **Proactive response.** Proactively implement policies and best practices to:
 - a. reduce disease transmission among employees and volunteers;
 - b. maintain a healthy work environment; and
 - c. maintain critical operations while complying with state and local orders, directives, and recommendations.

2. **Remote work.**

- a. Require employees and volunteers to work remotely from home except to perform work that cannot be done from home.
- b. Utilize video conferencing and virtual meeting services.

3. **Non-remote work.**

- a. Require employees and volunteers who present symptoms of illness consistent with COVID-19 to stay home.

- b. Do not require a positive COVID-19 test result or healthcare provider's note for an employee or a volunteer who stays home due to illness.
 - c. Enhance social distancing in the workplace by grouping employees and volunteers into cohorts of no more than ten individuals that have limited contact with other cohorts.
 - d. Enable employees and volunteers to follow the directives in Part I, Directives for Individuals, including by providing employees with hand soap, hand sanitizer, or sanitizing wipes.
 - e. Minimize face-to-face contact with high-risk employees and high-risk volunteers.
 - f. Implement flexible work hours.
4. **High-risk individuals.** Take measures to accommodate high-risk individuals.

III. Application

- 1. Except as otherwise lawfully required, nothing in this Directive should be interpreted to prohibit the following persons from fulfilling their duties and responsibilities:
 - a. healthcare professionals;
 - b. law enforcement officers and other first responders;
 - c. faith leaders and faith workers; and
 - d. charitable and social services organizations.
- 2. Part I, Subsection (2)(a) does not apply to an individual who travels out of state pursuant to the individual's regular and ordinary duties as an employee of a transportation business or entity.

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 17th day of April, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

THIRD SPECIAL SESSION

(EDITOR'S NOTE: The Utah State Legislature called itself into a third special session under the provisions of Utah State Constitution Article VI, Section 2. The joint proclamation calling the session is available at this address: <https://le.utah.gov/session/2020S3/Proclamation.pdf>.)

PROCLAMATION

WHEREAS, since the adjournment of the 2020 General Session of the Sixty-third Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

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

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the laws of the State of Utah, do by this Proclamation call the Sixty-third Legislature of the State of Utah into a Fourth Special Session at the Utah State Capitol, in Salt Lake City, Utah, on the 23rd day of April 2020, at or after 1 pm, to consider the following:

1. appropriating certain federal funds accepted by the Legislature in S.J.R. 301 during the Third Special Session of the Sixty-third Legislature of the State of Utah;
2. extending the deadline for payment of the renewal fee for a bar establishment license;
3. making changes to the sales and use tax exemption for sales of fuel to a rail carrier for use in a locomotive engine and enacting related provisions; and
4. creating a program to provide scholarships for students with disabilities to help cover certain costs to attend qualifying private schools, are creating related corporate and individual tax credits for certain donations to the scholarship program.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 21st day of April 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/4/S

EXECUTIVE ORDER

Wildland Fire Management

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

WHEREAS, Winter was mild with average snowpack;

WHEREAS, Current Spring precipitation in Utah is contributing to high fuel loads of wildland vegetation; and

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

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

WHEREAS; COVID-19 has exhausted State and Local resources and will increase the complexity of wildfire response;

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

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

It is found, determined and declared that a "State of Emergency" exists Statewide due to the threat to public safety, property, critical infrastructure, natural resources and the environment, effective for the month of May 2020, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 1st day of May 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/017/EO

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between April 02, 2020, 12:00 a.m., and April 15, 2020, 11:59 p.m. are included in this, the May 01, 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 June 01, 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 August 29, 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.

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R25-22	Filing No. 52655	

Agency Information

1. Department:	Administrative Services		
Agency:	Finance		
Building:	Taylorsville State Office Building		
Street address:	4315 S 2700 W Floor 3		
City, state:	Taylorsville, UT 84127-2128		
Mailing address:	PO Box 141031		
City, state, zip:	Salt Lake City, UT 84114-1031		
Contact person(s):			
Name:	Phone:	Email:	
John Reidhead	801-957-7734	jreidhead@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R25-22. Financial Institution Validation for Access to Medical Inventory Control System
3. Purpose of the new rule or reason for the change:
This rule is enacted under the authority of Subection 4-41a-103(6)(a) which establishes the process for the Division of Finance (Division) to validate financial institutions requesting access to the inventory of a medical cannabis establishment or medical cannabis pharmacy.
4. Summary of the new rule or change:
This rule establishes a process for a validated financial institution to request access to medical cannabis production and cannabis pharmacy's inventory control system. (EDITOR'S NOTE: A corresponding 120-day (emergency) Rule R25-22 that is effective as of 04/10/2020 is under ID No. 52665 in this issue, May 1, 2020, of the Bulletin.)

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule will cost the Division \$3,000 in the first year and estimates a cost of \$2,500 per year thereafter. To determine the cost to the Division, employee's hourly rates and the estimates of hours each would spend was used to

determine the cost to the Division. This amount is higher the first year because most financial institutions will request access up front than in future years.

B) Local governments:

There is no anticipated costs to local governments. This rule only affects state budgets, and will not impact local governments.

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

There is no anticipated costs to small businesses. This rule only applies to state budgets, and will not impact small businesses.

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

Financial Institutions wishing to participate in the medical cannabis industry will incur a nominal, but inestimable, cost to draft a letter and assemble already existing documents to present to the Division.

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

This proposed rule applies only to financial institutions requesting access to any cannabis establishment's inventory. Financial Institutions will incur a small, but incalculable, cost to assemble existing reports, and draft a self-certification letter.

F) Compliance costs for affected persons:

There are no other affected persons aside from the Division and financial institutions wishing to participate.

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	(\$3,000)	(\$2,500)	(\$2,500)
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	(\$3,000)	(\$2,500)	(\$2,500)
Net Fiscal Benefits	(\$3,000)	(\$2,500)	(\$2,500)

H) Department head approval of regulatory impact analysis:

I have reviewed the regulatory impact table, and agree with the described fiscal impacts associated with this rule.

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

I have reviewed this rule and agree with the impact described in Sections 5C - 5F as associated with this rule.

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

Tani Pack Downing, 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 4-41a-103(6)(a)		
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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: 06/01/2020

10. This rule change MAY become effective on: 06/08/2020

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

Agency head or designee, and title:	John Reidhead, Division Director	Date:	04/07/2020
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R25. Administrative Services, Finance.

R25-22. Financial Institution Validation for Access to Medical Cannabis Inventory Control System.

R25-22-1. Purpose and Authority.

(1) Purpose. This rule establishes the process to validate a financial institution in order to provide access to the inventory control system of a medical cannabis production establishment or medical cannabis pharmacy.

(2) Authority. This rule is enacted in accordance with Subsection 4-41a-103(6)(a).

R25-22-2. Definitions.

(1) Terms used in this rule are defined in Sections 4-41a-102 and 26-61a-102.

(2) In addition:

(a) "Utah MRB" means any cannabis production establishment, medical cannabis pharmacy, or home delivery medical cannabis pharmacy licensed in accordance with the Utah Medical Cannabis Act.

(b) "Financial Institution" means any federal or state chartered and regulated depository financial institution.

R25-22-3. Process for Validation of a Financial Institution.

(1) A Financial Institution requesting access to the medical cannabis inventory control system in accordance with this rule must have an established account with a Utah MRB before access may be granted.

(a) The Utah MRB must verify its account status with the requesting Financial Institution with the Division of Finance.

(b) A Financial Institution may become validated in accordance with this rule, but not be granted access until an account is established with a Utah MRB.

(2) A Financial Institution requesting validation in accordance with this rule must submit documentation required in Section R25-22-4 to the Division of Finance.

(3) The Division of Finance will review submitted documentation for:

(a) completeness;

(b) self-certification of intent to comply with relevant laws in accordance with Subsection R25-22-4(1); and

(c) compliance with relevant data security requirements in accordance with Subsections R25-22-4(2), (3) and (4).

(4) A list of validated Financial Institutions will be maintained by the Division of Finance and shared with the Utah Department of Agriculture and Food and the Utah Department of Health in accordance with Section R25-22-5.

R25-22-4. Documents Required for Validation of Financial Institutions.

(1) A Financial Institution must provide a letter self-certifying that the access desired will be used only in accordance with Subsections 4-41a-103(6)(a)(i) through 4-41a-103(6)(a)(iii). The self-certification must stipulate that the financial institution will comply with the following regulations:

(a) Know Your Customer (KYC) in accordance with the Federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, 31 U.S.C. 5318 Sec. 326;

(b) Suspicious Activity Report (SAR) and Currency Transaction Report (CTR) filings in accordance with the Federal Bank Secrecy Act of 1970, 31 U.S.C 5311 et seq., as amended; and

(c) Due diligence in accordance with the Federal Department of Treasury, Financial Crimes Enforcement Network (FinCEN) guidance given in FIN-2014-G001, "BSA Expectations Regarding Marijuana-Related Businesses," Issued February 14, 2014, incorporated by reference.

(2) A Financial Institution must provide self-certification and supporting documentation that Automated Clearing House (ACH) transactions are compliant with National Automated Clearing House Association (NACHA) Rules and Operating Guidelines, incorporated by reference.

(3) A Financial Institution must provide documentation demonstrating compliance with the Gramm-Leach-Bliley Act (GLBA) of 1999, 15 U.S.C. 6801, et seq.

(4) A Financial Institution must provide a current American Institute of Certified Public Accountants (AICPA) SOC 2 Reporting on an Examination of Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy - Type 2 report, incorporated by reference.

R25-22-5. Validated Financial Institutions.

(1) A validated Financial Institution must submit documentation required in Section R25-22-4 to the Division of Finance on an annual basis, as directed by the Division of Finance.

(2) A Financial Institution must notify the Division of Finance within 30 days of any change in information reported for compliance to this rule. If required, time to cure non-compliance will be assigned by the Division of Finance upon notification.

(3) Failure to comply with Subsection R25-22-5(2) will result in automatic removal from the approved Financial Institution list.

(4) A Financial Institution that is removed from the approved Financial Institution list may appeal to the Director of the Division of Finance for reinstatement subject to Rule R25-2.

KEY: marijuana, medical cannabis, financial institution, inventory control system

Date of Enactment or Last Substantive Amendment: 2020 Authorizing, and Implemented or Interpreted Law: 4-41a-103(6)(a)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R70-101	Filing No. 52653	No.

Agency Information

1. Department:	Agriculture and Food		
Agency:	Regulatory Services		
Street address:	350 N Redwood Road		
City, state:	Salt Lake City, UT 84116		
Mailing address:	PO Box 146500		
City, state, zip:	Salt Lake City, UT 84114-6500		
Contact person(s):			
Name:	Phone:	Email:	
Amber Brown	385-245-5222	ambermbrown@utah.gov	
Travis Waller	801-538-7150	twaller@utah.gov	
Michelle Jack	801-538-7151	mjack@utah.gov	

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

General Information

2. Rule or section catchline:
R70-101. Bedding, Upholstered Furniture, and Quilted Clothing
3. Purpose of the new rule or reason for the change:
These changes are necessary for compliance with H.B. 290 which passed during the 2020 General Session limiting the use of the word "license."
4. Summary of the new rule or change:
The changes amend the use of the word "license" to "permit" or "registration" and also make technical and conforming changes, as well as regulate the use of the word "recycled" on products.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
These changes do not create an anticipated costs or savings to the state budget because they are technical changes and do not require any additional inspection, or testing on the part of the Department of Agriculture and Food (Department).

B) Local governments:			
These changes do not create anticipated costs or savings to local governments because they do not regulate bedding, upholstered furniture, or quilted clothing products.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
These changes do not create any additional costs for small businesses. No fees charged by the Department are affected by these changes.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
These changes do not create any additional costs for non-small businesses because no fees charged by the Department are affected by the changes.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
These changes do not create any additional costs or savings for others because they are technical and conforming changes only.			
F) Compliance costs for affected persons:			
There are no compliance costs for affected persons related to these rule changes as they are technical and confirming changes and have no effect on any fees charged by the Department.			
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
Total Fiscal Cost	\$0	\$0	\$0

Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

Kelly Pehrson, the Deputy Commissioner of the Utah Department of Agriculture and Food, has reviewed and approved this fiscal impact analysis.

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

These rule changes are necessary to bring the bedding, upholstered furniture, and quilted clothing rule into compliance with state law and should not have a fiscal impact on businesses.

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

Kelly Pehrson, Deputy 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):

Section 4-10-103		
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Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references :

	First Incorporation
Official Title of Materials Incorporated (from title page)	Rules and Regulations under the Textile Fiber Products Identification Act, Fur Products Labeling Act, and Wool Products Labeling Act found in 16 CFR parts 300, 301, and 303
Publisher	US Printing Office

NOTICES OF PROPOSED RULES

Date Issued	Part 300- July 15, 1941; Part 301 July 8, 1952; Part 303-June 2, 1959
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	Second Incorporation
Official Title of Materials Incorporated (from title page)	Global Recycling Standard
Publisher	Textile Exchange
Date Issued	July 1, 2017
Issue, or version	4.0

	Third Incorporation
Official Title of Materials Incorporated (from title page)	Standard Performance Specification for Feather and Down Fillings for Textile Products
Publisher	ASTM International
Date Issued	2014
Issue, or version	D4522-14

	Fourth Incorporation
Official Title of Materials Incorporated (from title page)	USA-2000 Labeling Standards-Down and Feather Products (Jan. 2009) Bedding and Apparel
Publisher	IDFL
Date Issued	September 25, 2013

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:	06/01/2020
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10. This rule change MAY become effective on:	06/08/2020
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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

Agency head or designee, and title:	Kelly Pehrson, Deputy Commissioner	Date:	04/06/2020
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R70. Agriculture and Food, Regulatory Services.

R70-101. Bedding, Upholstered Furniture and Quilted Clothing.

R70-101-1. Authority and Purpose.

Pursuant to Section 4-10-103, this rule establishes the standards, practices, and procedures for the manufacture, repair, sale, and distribution of bedding, upholstered furniture, quilted clothing products, and filling materials.

R70-101-2. Definitions.

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

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

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

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

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

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

7) "Person" means an individual, partnership, association, firm, auctioneer, trust, limited liability company, or corporation, and any agent[s], ~~and~~ or employee[s] of the ~~an~~ forgoing.

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

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

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

11) "Sterilization Permit Number" means the number issued by a state to be used on any filling material[s] or on the label for bedding, upholstered furniture, or quilted clothing to identify the sterilizing facility, person, or company.

12) "Sterilize" means a process used to make wool, feathers, down, shoddy, or hair free from bacteria or any other living microorganism[s].

13) "Sterilizer" means a person who sterilizes wool, feathers, down, shoddy, or hair.

14) "Uniform Registry Number or URN" means the number issued by a state to be used on the law label of bedding, furniture, or

filling material[s] to identify the manufacturing facility, person, or company.

R70-101-3. Application of Rule.

1) This rule shall apply to ~~all~~ any person[s] engaged in the business of manufacturing, retailing, wholesaling, processing, repairing, sterilizing, and selling items of bedding, upholstered furniture, quilted clothing and filling material[s], regardless of their point of origin.

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

1) Any person who advertises, solicits, or contracts to manufacture or repair bedding, upholstered furniture, ~~quilted clothing,~~ or filling material[s] shall secure a ~~license~~ permit from the department before the product is offered for sale in Utah.

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

~~2) Any person who advertises, solicits, or contracts to manufacture quilted clothing shall secure a permit from the department before the product is offered for sale in Utah.~~

~~[2]3) Any person seeking a license permit shall provide the following to the department:~~

- a) a completed registration ~~[application]-~~form[?];
- b) a sample of the identification label that will be used[?]; and
- c) a sample tag;

~~[i]d) a wholesale bedding, upholstered furniture dealer[s], upholstery supply dealer, and quilted clothing manufacturer[s-are] is exempted from providing a sample tag to the department.~~

~~[3]4) A ~~licensing~~registration fee will be assessed annually. This fee shall be paid before January 1 or a late fee will be assessed. ~~[A]Each~~ fee[s-are] is listed in the department's fee schedule approved by the legislature.~~

R70-101-5. Sterilization Permit Requirements for Sterilizers.

1) Any person[?] who advertises, solicits, or contracts as a sterilizer shall secure a sterilization permit from the department.

a) This permit must be obtained before ~~[such]~~sterilized product[s are]is offered for sale in Utah.

2) Any person seeking a sterilization permit shall provide to the department a sterilization permit application completed by a department authorized third party inspector.

3) A permit fee will be assessed annually. This fee shall be paid before January 1 or a late fee will be assessed. ~~[A]Each~~ fee[s-are] is listed in the department's fee schedule approved by the legislature.

4) ~~[Inspections]~~The inspection for a sterilization permit[s] shall be conducted every three years.

~~[a]5) [Copies]A copy of the inspection report[s] shall be submitted to the department with the renewal form for that year.~~

R70-101-6. Revocation of ~~License or~~Permit.

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

2) A suspension or revocation shall be in accordance with section 4-1-~~[5]106.~~

R70-101-7. Sanitation Requirements.

1) The premises, delivery equipment, machinery, and any appliance[s], article, and device[s] shall at all times be kept free from refuse, dirt, contamination, or insects.

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

- a) contains any ~~[bugs]~~insect, vermin or filth[?];
- b) is not clean[?]; or
- c) contains burlap or other material that has been used for baling.

3) Bedding, quilted clothing, and filling material[s] shall be stored four inches off the floor.

4) New and used products shall be stored separately.

R70-101-8. Sterilization Requirements for New Fill Material.

1) ~~[A]Any~~ wool, feathers, down, shoddy, and hair shall be cleaned and sterilized before being used as new filling material.

2) Methods for Sterilization

a[?]) Pressure Steam[?]. The material shall be subjected to treatment by steam at 15 PSI (.104 mPA) for 30 minutes or 20 PSI (.0138 mPA) for 20 minutes.[

~~---]i) The gauge for registering steam pressure must be visible from the outside of the room or chamber.~~

b[?]) Streaming Steam[?]. Two applications of streaming steam maintained for a period of one hour each, applied at intervals of not less than six nor more than 24 hours, may be used.[

~~---]i) Valved outlets shall be provided near the bottom and the top of the room or chamber when streaming steam is employed.~~

c[?]) Heat[?]. ~~[a]A~~ temperature of 235 degrees F held for a period of ~~[2]two~~ hours, within a closed container is considered satisfactory for proper sterilization.

d[?]) Other methods as may be approved by the department upon petition.

R70-101-9. Manufacturing, Wholesale, Sterilizers, and Supply Dealer Labeling Requirements for Quilted Clothing.

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

2) Articles of plumage-filled clothing shall meet the following label requirements[?].

a) Any label stating the contents of Down, Goose Down, or Duck Down shall also state the minimum percentage of Down, Goose Down, or Duck Down that is contained in the article. The down label is a qualified general label and shall include in parentheses the minimum percentage of down in the product which must be 75% or greater.

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

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

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

e) Quill ~~[F]~~feathers are not permitted unless disclosed.

f) Other ~~[P]~~plumage ~~[P]~~products which do not meet the requirements for any of the ~~[above]~~listed categories from R70-101-9(2) must be labeled accurately with each component listed separately in order of predominance.

3) The sterilization permit number [~~{}~~"PER. NO. { }]" shall be listed on the textile label.

~~[a]4) [m]Manufacturers of quilted clothing shall have a five year[s] compliance period, starting January 1, 2017, for the inclusion of the sterilization permit number on the textile label.~~

NOTICES OF PROPOSED RULES

[4]5) The form of identification used on a label[s] and a tag[s] shall be the same as those supplied to the department with the registration application.

R70-101-10. Filling Material.

1) ~~[A]Each~~ term[s] ~~and~~ or definition[s] of a filling material[s] shall be ~~those~~ the term[s] that ha[ve]s been submitted and approved by the International Association of Bedding Law Officials (IABFLO), except as otherwise required by this rule.

2) Notwithstanding R70-101-10(1), the term "recycled" may be used if the manufacturing facility:

a) is Global Recycled Standard (GRS) certified. The GRS is incorporated by reference.

b) provides proof of GRS certification to the department on the registration form; and

c) provides for each lot or batch of filling material a copy of the certificate or the certification number on the invoice to the retailer;

3) the manufacturing facility shall provide a copy of the certificate or the certification numbers for each batch or lot to the department upon request.

[2]4) ~~[A]Plu~~mage material[s] shall follow the standards as set forth in the "USA-2000 Labeling Standards- Down and Feather Products" and ASTM D-4522, which are incorporated by reference.

[3]5) ~~A[ny]~~ other filling material[s] shall be clean.

[4]6) "Imperfect, irregular foam" means any foam product[s] ~~which~~ that shows a major imperfection[s] or that falls below the foam manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the foam.

[5]7) "Imperfect, irregular fibers" shall mean any fiber[s] that ha[ve]s an imperfection[s] or that falls below the fiber manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the fiber.

[6]8) The terms "Prime", "Super", "Northern," and similar terms shall not be used unless the fill can be proved to be of superior quality and meet the terms of the qualifying statement.

R70-101-11. Generic Names, Grades, Descriptive Terms, and Definitions of Filling Material.

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

a) true generic name[s];

b) grade[s]; ed

c) description terms[s]; or

d) definition[s] of the filling material ~~which~~ that ha[s] ~~ve~~ been approved by the department.

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

a) Federal fiber tolerance standards are applicable, except as pertains to a plume product[s].

b) Blends may be described in accordance with ~~section 10 of this rule~~ R70-101-10.

3) When a different filling material[s] ~~are~~ is used in ~~various~~ different parts of the garment, the areas of the garment shall be named, followed by the name of the filling material used in that area.

R70-101-12. Manufacturer Identification and Law Label Requirements [F]for Bedding and Upholstered Furniture.

1) The form of identification used on a label[s] and tag[s] shall be the same as those supplied to the department with the

registration ~~application~~.

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

[3] The law label for a newly manufactured product[s] shall meet the following requirements:

a) white on all sides of the label[s];

b) made of material that cannot be easily torn[s];

c) printed in black ink;

d) printed in English[s];

e) printed clearly and legibly[s]; and

f) firmly attached to the article.

4) ~~[A]R~~required information shall be printed on one side of the label with the opposite side remaining blank.

5) Each law label shall state the following:

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

b) the phrase "ALL NEW MATERIAL" shall appear in the next section in bold, capital letters no less than 1/8 inch in height, followed by the phrase "CONSISTING OF", no case or height requirements, followed by the filling contents in bold capital letters no less than 1/8 inch in height[s];

c) the words "CONTENTS STERILIZED" in bold capital letters no less than 1/8 inch in height[s];

d) the URN issued by the state in which the firm is first registered shall appear next[s];

e) the [S]sterilization [P]permit [N]number of the sterilization facility from which the material was obtained, in bold capital letters no less than 1/8 inch in height[s];

f) the phrase, "Certification is made by the manufacturer that the materials in this article are described in accordance with law" shall appear in the next section of the tag[s]; and

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

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

a) A [P]product[s] that ~~are~~ is offered for sale in a box[es] or in some other packaging ~~which~~ that makes ~~the~~ a law label[s] inaccessible shall reproduce a legible facsimile of the law label on the outer container or covering.

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

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

9) Every firm doing business under more than one state-issued URN or permit shall obtain a ~~license or~~ permit for each number used on a product[s] that ~~are~~ is offered for sale in Utah.

R70-101-13. Second Hand Law Tags and Tagging Requirements.

1) A [F]tag[s] for second hand material[s] shall be:

a) a minimum of 2 two inches by 3 three inches[s];

b) yellow on both sides of the tag[s];

c) made of material that cannot be easily torn[s];

d) printed in English[s];

e) printed in black ink[s];

- f) printed clearly and legibly^[7]; and
 - g) firmly attached to the article.
- 2) ~~All~~ Required information shall be printed on one side of the tag with the opposite side remaining blank.
- 3) A ~~S~~ second hand tag shall contain the following information:
- a) the phrase "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" shall appear in bold at the top of the label in capital letters, no less than 1/8 inch in height^[7];
 - b) the phrase, "THIS ARTICLE CONTAINS SECOND HAND MATERIAL CONSISTING OF CONTENTS UNKNOWN" shall appear in the next section of the tag. The words "~~second hand material~~ SECONDHAND MATERIAL" and "~~contents unknown~~ CONTENTS UNKNOWN" shall be in capital letters, size not less than 1/8 inches in height^[7];
 - c) the phrase, "Certification is made that the materials in this article are described in accordance with law" shall appear in the next section of the tag^[7]; and
 - d) the store name and complete corporate address shall appear next.
- 4) The tag shall be easily accessible to the consumer for examination.
- 5) No mark, label, printed matter, illustration, sticker, or any other device shall be placed upon the tag.

R70-101-14. Second Hand Tag and Tagging Requirements for Repaired, Reupholstered, and Renovated Products.

- 1) A ~~F~~ tag^[s] for a repaired, reupholstered, and renovated product^[s] shall be:
- a) a minimum of ~~2~~ two inches by ~~3~~ three inches^[7];
 - b) yellow on both sides of the tag^[7];
 - c) made of material that cannot be easily torn^[7];
 - d) have the required information printed on one side of the tag with the opposite side remaining blank^[7];
 - e) printed in English^[7];
 - f) printed in black ink^[7];
 - g) printed clearly and legibly^[7]; and
 - h) firmly attached to the article.
- 2) A ~~S~~ second hand tag shall contain the following information:
- a) the phrase, "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" shall appear in bold at the top of the label in capital letters, no less than 1/8 inch in height^[7];
 - b) the phrase, "THIS ARTICLE IS NOT FOR SALE OWNER'S MATERIAL" shall appear next in bold in capital letters, no less than 1/8 inch in height^[7];
 - c) the phrase, "CERTIFICATION IS MADE THAT THIS ARTICLE CONTAINS THE SAME MATERIAL IT DID WHEN RECEIVED FROM THE OWNER AND THAT ADDED MATERIALS ARE DESCRIBED IN THE ACCORDANCE WITH LAW, AND CONSIST OF THE FOLLOWING:" followed by a description of the filling material^[7];
 - d) a description of the work that was done on the product^[7];
 - e) the URN number^[7];
 - f) the name and address of the renovator or repairer^[7]; and
 - g) the date of pick-up, owner's name, and address.

R70-101-15. Used Mattresses.

- 1) A ~~r~~ retailer^[s] selling a customer returned^[s], refurbished, or used mattress^[es] shall follow the second hand law tag requirements

as set out in R70-101-13.

- 2) In addition, a retailer^[s] must also display on ~~such~~ the mattress^[es] a tag stating "USED" in bold capital letters.
- 3) The ~~Used~~ USED tag shall be:
 - a) a minimum ~~3~~ three inches by ~~6~~ six inches^[7];
 - b) yellow on both sides of the tag^[7];
 - c) the font shall be a minimum of one inch in height^[7];
 - d) printed in black ink^[7]; and
 - e) printed in English.
- 4) ~~All~~ Required information shall be printed on one side of the tag with the opposite side remaining blank.
- 5) The USED tag shall be clearly visible to the consumer at all times.

R70-101-16. Variance.

- 1) The department may issue a variance^[s] on label^[ing] and tag^[ging] requirements.
- 2) A ~~R~~ request^[s] for a variance must be made to the department in writing and must contain the following information:
 - a) ~~For what~~ the product ~~[you are requesting]~~ associated with the variance request^[7];
 - b) where ~~[you are going to be using]~~ the variance will be used^[7];
 - c) an explanation of the need for a variance^[7];
 - d) a description of how the variance will be used in practice^[7]; and
 - e) an example of the label or tag that will be used in place of the required label or tag.
- 3) Approval of a variance^[s] will be given from the department in writing.
- 4) A ~~H~~ variance^[s] shall be subject to a period of review.

R70-101-17. Making or Selling Material or Parts.

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

R70-101-18. Retailer Responsibilities.

- 1) A ~~R~~ retailers shall:
 - a) ensure that any article of bedding, upholstered furniture, quilted clothing, or filling material ~~[they sell]~~ sold is labeled and tagged correctly^[7];
 - b) comply with the department's laws and rules governing false and misleading advertisement^[7]; and
 - c) ensure that ~~[all]~~ the manufacturer^[s] from whom ~~[they]~~ a retailer purchases a product^[s] ~~hold~~ has a valid [license] permit with the department.
- 2) A ~~R~~ retailer^[s] shall provide the identity of the manufacturer or wholesaler of an^[y] article of bedding, upholstered furniture, quilted clothing, or filling material sold upon request of the department.
- 3) A retailer may register in lieu of the manufacturer or wholesaler if the manufacturer or wholesaler is not registered.
- 4) A retailer shall ensure that bedding or filling material using the term "recycled":
 - a) is from a GRS certified facility; and
 - b) has a certificate or certification number.

R70-101-19. Violation of This Rule.

- 1) Each improperly labeled or tagged article of bedding,

NOTICES OF PROPOSED RULES

upholstered furniture, quilted clothing, or filling material made or sold shall be a separate violation of this rule.

2) No person shall be in violation if ~~he has~~ that person received, from the ~~person by whom the articles were manufactured or from whom they were received~~ manufacturer or supplier of the article, a guarantee in good faith that the article~~s are~~ is not contrary to the provisions of these rules in the form prescribed by the ~~Federal~~ Textile Fiber Products Identification Act, 15 USC 70, ~~Federal~~ Wool Products Labeling Act, 15 USC 68, and ~~the~~ related Federal Trade Commission ~~R~~ rules and ~~R~~ regulations.

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

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

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

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

7) No person shall use the term "recycled" for bedding or filling material unless they meet the requirements of R701-101-10(2).

R70-101-20. Products Not Intended for Use Subject to ~~F~~this Rule.

1) The Commissioner may exclude from this rule a textile fiber product~~s which~~ that:

a) ~~Have~~ has an insignificant or inconsequential textile fiber content~~s~~; or

b) ~~F~~if the disclosure of the textile fiber content is not necessary for the protection of the consumer.

KEY: inspections, labeling, quality control, registration
Date of Enactment or Last Substantive Amendment: 2020~~January 26, 2017~~
Notice of Continuation: March 12, 2020
Authorizing, and Implemented or Interpreted Law: 4-10-103

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R70-580	Filing No. 52663	

Agency Information

1. Department:	Agriculture and Food		
Agency:	Regulatory Services		
Street address:	350 N Redwood Road		
City, state:	Salt Lake City, UT 84116		
Mailing address:	PO Box 146500		
City, state, zip:	Salt Lake City, UT 84114-6500		
Contact person(s):			
Name:	Phone:	Email:	

Amber Brown	385-245-5222	ambermbrown@utah.gov
Travis Waller	801-538-7150	twaller@utah.gov
Kelly Pehrson	801-538-7102	Kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:
R70-580. Kratom Product Registration and Labeling
3. Purpose of the new rule or reason for the change:
As directed by Section 4-45-107, this new rule governs the registration of kratom product and kratom processors in this state, as well as provides guidelines for labeling and testing of kratom products for safety and transparency.
4. Summary of the new rule or change:
This rule sets guidelines for the Department of Agriculture and Food (Department) regulation of kratom products to ensure that those sold are safe for consumers. It governs registration of kratom products and processors, testing requirements, labeling requirements, and limitations regarding product ingredients, appearance, and flavor.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There will be costs for the state budget to administer the kratom product registration and compliance program. The Department employs one full time coordinator for this program. The Department will utilize current food establishment and weights and measures inspectors to inspect kratom establishments at least once a year. Because this is a new program, the Department does not yet know how many establishments or products will be registered. The program will generate revenue from the kratom product registration fee (\$200 per product) and processing fee (\$40), as well as fees collected when kratom processors register as food establishments (\$50 to \$400 depending on the size of the facility). It is difficult to know how many products or processors will register as it is a new program, however, the Department anticipates that the fees collected will be equal to or greater than the costs to administer the program. Because it is impossible to estimate how many products or registrations will be registered or require inspection, the Department is not able to fill out the regulatory impact table at this time.
B) Local governments:

The department does not anticipate that local governments will see costs or savings associated with this rule because they do not act as kratom processors or regulate kratom production.

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

There will be costs to small businesses to register kratom products (\$200 plus a \$40 processing fee) and register as food establishments (\$50 to \$400 depending on the size of the facility). The Department will try to reduce the costs to businesses by allowing businesses that are registered with the Division of Weights and Measures to use their current registration as their food establishment registration. Because it is impossible to know how many businesses will need to register, the Department is not able to fill out the regulatory impact table at this time.

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

There may be costs to businesses employing more than 50 people similar to costs to small businesses, including the cost to register kratom products (\$200 plus a \$40 processing fee) and the costs for businesses to register as food establishments (\$50 to \$400 depending on the size of the facility). The Department is unable to estimate how many products or establishments will register because this is a new program and it is unclear how many kratom products are currently sold in Utah.

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 Department does not anticipate that others will be affected by this new rule outside of kratom processors and the Department.

F) Compliance costs for affected persons:

The compliance costs for affected persons will be the costs to register kratom products (\$200 and a \$40 processing fee) and the costs for kratom processors to register as a food establishment (\$50 - \$400 depending on the size of the facility).

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

H) Department head approval of regulatory impact analysis:

The Deputy Commissioner of the Utah Department of Agriculture and Food, Kelly Pehrson, has reviewed and approves the regulatory impact analysis.

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

This rule will have a limited fiscal impact on businesses, which is required to allow for the Department to administer the new kratom program and ensure that kratom product sold in Utah is safe for consumers.

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

Kelly Pehrson, Deputy 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):

Section 4-45-107

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the

following title of materials incorporated by references :	
	First Incorporation
Official Title of Materials Incorporated (from title page)	Official Title USP Chemical Tests 561, Articles of Botanical Origin
Publisher	US Pharmacopeia
Date Issued	April 2015
Issue, or version	USP38-NF33

B) This rule adds, updates, or removes the following title of materials incorporated by references :	
	Second Incorporation
Official Title of Materials Incorporated (from title page)	USP Chemical Tests 232, Elemental Impurities-Limits
Publisher	US Pharmacopeia
Date Issued	July 2015
Issue, or version	USP 39

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:	06/01/2020

10. This rule change MAY become effective on:	06/08/2020
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

Agency head or designee, and title:	Kelly Pehrson, Deputy Commissioner	Date:	04/10/2020
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R70. Agriculture and Food, Regulatory Services.
R70-580. Kratom Product Registration and Labeling.
R70-580-1. Authority and Purpose.

Pursuant to Section 4-45-107, this rule establishes the requirements for labeling and registration of products made from and containing kratom.

R70-580-2. Definitions.

1) "Certificate of Analysis (COA)" means a certificate from a third-party laboratory describing the results of the laboratory's testing of a sample.

2) "End Consumer" means an individual who does not resell the purchased kratom product.

3) "Food" means a raw, cooked, or processed edible substance, ice, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

4) "Label" means the display of all written, printed, or graphic matter upon the immediate container of a kratom product or a statement by the kratom processor directly related to and accompanying the kratom product bearing the label.

5) "Third-party Laboratory" means a laboratory that has no direct interest in a processor of kratom product that is capable of performing mandated testing utilizing validated methods.

6) "Approved Kratom Delivery Form" means a kratom product in raw leaf, capsule, tablet, powder, liquid tincture, tea bag, concentrated, or extract forms. Any form that is combustible or intended to be used for vaporization is not an approved kratom delivery form. Any form that is intended to be added to food is not an approved kratom delivery form.

7) "Kratom Type" means the specified strain of *Mitragyna speciosa*.

8) "Kratom Processor" means any kratom product manufacturer, distributor, or retailer who offers a kratom product for sale or resale to consumers in the state.

9) "Kratom Product" means a product manufactured or processed from kratom raw materials acquired by a kratom processor that is certified to be compliant with provisions of Title 4, Chapter 4, U.C.A., the Kratom Consumer Protection Act.

10) "Kratom Retailer" means a kratom processor who sells a kratom product to an end consumer.

R70-580-3. Product Registration.

1) A kratom product distributed or available for distribution that is intended to be offered for sale to consumers in Utah, including on internet or social media platforms, shall be:

a) in an approved kratom delivery form; and

b) registered with the department annually by the kratom processor.

2) A product that contains the same kratom ingredients in the same kratom delivery form but a different container, package, or volume shall be included in a single registration.

3) Application for registration shall be made on a form provided by the department that includes the following information:

a) the name and address of the kratom processor and the name and address of the person whose name will appear on the label, if other than the kratom processor;

b) the name of the kratom product included in the registration;

c) the kratom type and recommended usage, including directions for use or serving size for the kratom product;

d) the approved kratom delivery form;

e) the weights or volumes, as appropriate, of the package of kratom product offered for sale for the recommended usage and for the entire package;

f) a complete copy of the label that will appear on the kratom product or the document that can be reached via scannable bar code, QR code or web address, pursuant to Subsection R70-580-6 (7); and

g) a certificate of analysis for the kratom product from a third-party laboratory that shall obtain and keep the International Organization for Standardization (ISO) 17025:2017 accreditation.

h) A third-party laboratory may test kratom product prior to obtaining ISO 17025:2017 accreditation provided the third-party laboratory:

i) adopts and follows minimum good laboratory practices which satisfy the OECD Principles of Good Laboratory Practice and Compliance Monitoring published by the Organization for Economic Co-operation and Development; and

ii) becomes ISO 17025:2017 accredited within 18 months.

i) If a kratom processor uses an out-of-state laboratory they shall include a copy of the laboratory accreditation with the registration.

4) A non-refundable registration fee, as set forth in the fee schedule approved by the legislature, shall be paid to the department with the submission of a registration application.

5) A separate registration fee shall be required for each kratom product manufactured or processed from raw materials with the same specifications, same name, and same kratom delivery form.

6) The department may deny registration for an incomplete application.

7) The department shall deny or withdraw registration for a kratom product that:

a) violates Title 4, Chapter 4, U.C.A., the Kratom Consumer Protection Act;

b) is adulterated with foreign materials that would be injurious to a consumer;

c) makes a material change in the alkaloid content of the kratom product; or

d) if there is any reasonable basis to suspect that the kratom product is unsafe or that ingredients violate state law or rules.

8) A new registration application is required for the following:

a) a change in the kratom product ingredients or processes that materially alters the product;

b) a change to the recommended usage; and

c) a change of name for the product.

9) Other changes shall not require a new registration application but the registrant shall submit copies of all label changes to the department as soon as they are effective.

10) The kratom processor registering the kratom product is responsible for the accuracy and completeness of the information submitted.

11) A registration is renewable for up to a one-year period with an annual renewal fee per kratom product that shall be paid on or before June 30th of each year.

12) A kratom product that has been discontinued shall continue to be registered in Utah until the kratom product is no longer available for distribution.

13) A late fee shall be assessed for a renewal of a kratom product registration submitted after June 30th and shall be paid before the registration renewal is issued.

R70-580-4. Establishment Registration.

1) Pursuant to Subsection 4-45-104(5), a kratom processor shall register as a food establishment under Section 4-5-301.

2) A kratom processor may be registered in another state that meets or exceeds the requirements in Section 4-5-301, if they provide the department with a copy of the registration from the federal or state regulatory agency.

3) A kratom processor shall be subject to all statutes, rules, regulations, policies, and procedures for food establishments specific to the form of the kratom product offered for sale in Utah.

R70-580-5. Certificate of Analysis.

1) At a minimum, the certificate of analysis for a kratom product shall include the following test results:

a) the contents of mitragynine and 7-hydroxymitragynine in the kratom product certifying compliance with Section R70-580-5;

b) synthetic alkaloid content, including synthetic mitragynine, synthetic hydroxymitragynine, or any other synthetically derived compound of the kratom plant;

c) results of a full panel of testing consistent with the U.S. Pharmacopeia standard 561, Articles of Botanical Origin, and 232, Elements of Impurities, as of April 2020, which are hereby incorporated by reference;

d) at a minimum, test results that indicate:

i) that the kratom product tests as absent, negative, undetected, non-detected, or <1.0 cfu/g for pathogens Salmonella and E. Coli;

ii) that the kratom product tests as absent, negative, undetected, non-detected, or < 1.0 ppm for heavy metals Lead and Arsenic;

iii) that the kratom product tests as absent, negative, undetected, non-detected or <0.41 ppm for heavy metal Cadmium; and

iv) that the kratom product tests as absent, negative, undetected, non-detected, or <0.3 ppm for heavy metal Mercury;

d) testing that indicates that the kratom product does not contain:

i) cannabis, spice, cocaine, alcohol, fentanyl, caffeine, or benzodiazepines; and

e) certification that the manufacturer has not added any substance to the kratom product that is listed in Title 58, Chapter 37, U.C.A., the Utah Controlled Substances Act.

2) The certificate of analysis shall show that the registered kratom product is compliant with current state and federal guidelines for food safety.

3) Testing shall be performed on finished kratom product as identified by lot or batch number.

4) The certificate of analysis shall also include the following information:

a) the lot or batch identification number of the tested product;

b) the date received;

c) the date of testing completion;

d) the method of analysis for each test conducted;

e) a photo of the kratom product that was tested;

f) the name and address of the kratom processor that manufactured the product; and

g) the name and address of the laboratory that completed the testing.

NOTICES OF PROPOSED RULES

5) The lot or batch number on the certificate of analysis shall match the lot or batch number on the kratom product and shall be conspicuously placed on the container or label of the kratom product.

6) Upon receipt of an adverse or non-compliant test result, the kratom processor shall be required to produce a new certificate of analysis from an independent third-party laboratory on the reported product to affirm compliance.

7) Failure to submit a new certificate of analysis shall be cause for withdrawal or denial of a product registration.

R70-580-6. Label Requirements.

1) A kratom product shall be labeled pursuant to 21 CFR 101.1, 21 CFR 101.2, 21 CFR 101.3, 21 CFR 101.4, 21 CFR 101.5, 21 CFR 101.7, 21 CFR 101.9(j)(13), 21 CFR 101.9(j)(17), 21 CFR 101.15, and 21 CFR 101.36.

2) The label shall contain the factual basis upon which the kratom processor represents the product as a kratom product.

3) The label shall identify kratom product by batch or lot number for each container that shall match the batch and lot number on the certificate of analysis.

4) A kratom product shall not contain claims that the product is intended to diagnose, treat, cure, or prevent any medical condition or disease on the label.

5) Each kratom product label, if the product is intended to be sold as a dietary supplement, shall include the following text pursuant to 21 CFR 101.93 (c), prominently displayed:

This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.

6) A kratom product shall meet the standards in 21 U.S.C. 9, the Food Drug and Cosmetic Act, other applicable federal laws and regulations, and all applicable state laws and regulations relating to the labeling of food and cosmetics.

7) If there is not sufficient room on the kratom product label, the kratom product shall display on the label a scannable bar code, QR code, or web address linked to a document containing the information required in Sections (1) through (6).

8) No other information, illustration, or depiction shall appear on the label.

R70-580-7. Product Appearance and Flavor.

1) A kratom processor may not produce a kratom product that is designed to mimic a candy product.

2) A kratom processor may not produce a product that includes a candy-like flavor or another flavor the facility knows or should know appeals to children.

3) A kratom processor may not shape a kratom product in any way that appeals to children.

4) A kratom product shall be packaged in child-resistant packaging, pursuant to 16 CFR 1700.

R70-580-8. Inspection and Testing.

1) The department shall conduct randomized inspection of the kratom product distributed or available for distribution in the state for compliance with this rule.

2) The department shall periodically sample, analyze, and test a kratom product distributed within Utah for compliance with registration and labeling requirements and the certificate of analysis.

3) The department may conduct inspection of any kratom product distributed or available for distribution if there is any

reasonable basis to suspect that the kratom product is unsafe or that ingredients violate state law or rules.

4) The test results from the department inspection samples shall be the official sample results.

5) Upon request, a kratom processor shall provide documentation certifying that any batch of kratom raw materials acquired pursuant to a compliant specification purchase that is used to process or manufacture a kratom product is compliant with Section R70-580-5.

R70-580-9. Retailer Responsibilities.

1) A retailer shall:

a) ensure that kratom product is labeled correctly; and
b) ensure that kratom product offered for sale is properly registered with the department.

2) A retailer shall provide the identity of the processor of a kratom product sold by the retailer upon request of the department.

3) A retailer shall register a kratom product in lieu of the kratom processor if the product is not registered.

R70-580-10. Violation.

1) Each improperly labeled kratom product shall be a separate violation of this rule.

2) A kratom product shall be considered misbranded if it does not meet the labeling requirements of this rule.

3) It is a violation to distribute or market a kratom product that is not registered with the department.

4) Each unit manufactured or processed from a batch of raw material or on a single retail invoice shall be considered a separate violation of this rule for an unregistered product marketed for sale.

5) It is a violation:

a) to prepare, distribute, sell, or offer for sale a kratom product that violates Subsection 4-45-104 (1);

b) to prepare, distribute, sell, or offer for sale a kratom product that is not in an approved kratom delivery form, including adding or processing kratom into another form of food;

c) to prepare, distribute, sell, or offer for sale a kratom product that would be potentially harmful to consumers;

d) for a kratom processor to fail to register as a food establishment pursuant to Section 4-5-301 or Subsection R70-580-4(2);

e) for a kratom processor to distribute, sell, or offer for sale a kratom product to an individual under 18 years of age; and

f) for a kratom processor to improperly sample, test, falsify a certificate of analysis, or knowingly submits a falsified certificate of analysis for a kratom product.

R70-580-11. Penalties.

Any violation of or failure to comply with any provision of this rule or any specific requirements, may be grounds for issuance of citations, fines, revocation of registration, or denial of future registration pursuant to Section 4-2-303 and 4-2-304.

KEY: kratom, kratom product registration, kratom processor
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 4-45-107

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R277-306	Filing No.	52652
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Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111-3272	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-306. Educator Preparation Programs for School Psychologists, Audiologists, Speech-Language Pathologists, Speech-Language Technicians, and Counselors
3. Purpose of the new rule or reason for the change:
Following a recent public hearing, the State Board of Education made the rule effective on January 14, 2020 but directed staff to bring the rule back for review with specific language for on-going maintenance of school social worker licensing.
4. Summary of the new rule or change:
Section R277-306-7 regarding school social worker preparation programs was added to this rule, with corresponding changes in the rule title and purpose section. The amendments establish standards for school social worker preparation programs.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have material fiscal impacts on state government revenues or expenditures. It outlines the requirements for an institution of higher education to offer a school social worker preparation program. The University of Utah and Utah State University are the only institutions in the state that offer these types of programs. Both programs meet all requirements set forth in the proposed rule change. Therefore, there is no expected fiscal impact for this rule.

B) Local governments:
This rule change is not expected to have material fiscal impacts on local governments' revenues or expenditures. It outlines the requirements for an institution of higher education to offer a school social worker preparation program. The University of Utah and Utah State University are the only institutions in the state that offer these types of programs. Both programs meet all requirements set forth in the proposed rule change. Therefore, there is no expected fiscal impact for this rule.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have material fiscal impacts on small businesses' revenues or expenditures. It outlines the requirements for an institution of higher education to offer a school social worker preparation program. The University of Utah and Utah State University are the only institutions in the state that offer these types of programs. Both programs meet all requirements set forth in the proposed rule change. Therefore, there is no expected fiscal impact for this rule.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
This rule change is not expected to have material fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It outlines the requirements for an institution of higher education to offer a school social worker preparation program. The University of Utah and Utah State University are the only institutions in the state that offer these types of programs. Both programs meet all requirements set forth in the proposed rule change. Therefore, there is no expected fiscal impact for this rule.
F) Compliance costs for affected persons:
There were no compliance costs for affected persons.

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

Regulatory Impact Table			
Fiscal Cost	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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Superintendent of Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education

agencies and will not have a fiscal impact on small businesses either.

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

Sydnee Dickson, State Superintendent

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):

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53E-6-201(3)(a)
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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: 06/01/2020

10. This rule change MAY become effective on: 06/08/2020

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

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	03/30/2020
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R277. Education, Administration.

R277-306. Educator Preparation Programs for School Psychologists, Audiologists, Speech-Language Pathologists, Speech-Language Technicians, [and] Counselors, and School Social Workers.

R277-306-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-6-201(3)(a), which allows the Board to establish criteria for obtaining educator licenses.

(2) The purpose of this rule is to establish standards for educator preparation programs for:

- (a) School Psychologists;
- (b) Audiologists;
- (c) Speech-Language Pathologists;
- (d) Speech-Language Technicians; ~~and~~
- (e) School Counselors[-]; and
- (f) School Social Workers.

R277-306-2. School Psychologist Preparation Programs.

(1) A Utah institution of higher education may seek approval by the Board for a school psychologist preparation program if the program:

(a) results in a masters degree or higher in school psychology;

(b) meets the 2010 Standards for Graduate Preparation of School Psychologists created by the National Association of School Psychologists (NASP);

(c) prepares candidates to provide comprehensive and integrated services across the ten general domains of school psychology as defined in the 2010 Model for Comprehensive and Integrated School Psychological Services;

(d) prepares candidates to follow the 2010 Principles for Professional Ethics created by NASP; and

(e) includes school-based clinical experiences for a candidate to observe, practice skills, and reflect on practices that:

- (i) are significant in number, depth, breadth, and duration; and
- (ii) are progressively more complex.

(2) For a program applicant accepted after January 1, 2020, a school psychologist preparation program shall require multiple opportunities for a program applicant to successfully demonstrate the application of knowledge and skills gained through the program in a school-based setting in each of the following:

(a) administering varied models and methods of assessment and data collection for:

- (i) identifying strengths and needs of students;
- (ii) developing effective services and programs for students; and
- (iii) measuring progress and outcomes for students;
- (b) implementing varied models and strategies of consultation, collaboration, and communication with individuals, families, groups, and systems;
- (c) implementing varied strategies that promote social-emotional functioning and mental health in students; and collecting and analyzing data for evaluation and support of effective practices at the individual, group, and systems levels.

(3) An individual that holds the Nationally Certified School Psychologist (NCSP) credential issued by NASP meets the out of state licensing requirement for a professional school psychologist license area of concentration detailed in Subsection R277-301-5(3)(c)(ii).

R277-306-3. School Audiologist Preparation Program.

(1) A Utah institution of higher education may seek approval by the Board for a school audiologist preparation program if the program:

- (a) is accredited by the Council on Academic Accreditation in Audiology and Speech-Language Pathology; and
- (b) prepares candidates to provide comprehensive and

integrated services in a school setting as detailed in the 2018 Scope of Practice in Audiology created by the American Speech-Language-Hearing Association;

(2) An individual that completes a program accredited by the Council on Academic Accreditation in Audiology and Speech-Language Pathology outside of Utah qualifies for an associate license with an associate school audiologist license area of concentration detailed in Subsections R277-301-4(5) and (6).

(3) An individual that holds a current Certificate of Clinical Competence in Audiology (CCC-A) issued by the American Speech-Language-Hearing Association meets the out of state licensing requirement for a professional audiologist license area of concentration detailed in Subsection R277-301-5(3)(c)(ii).

R277-306-4. Speech-Language Pathologist (SLP) Preparation Program.

(1) A Utah institution of higher education may seek approval by the Board for a speech-language pathologist (SLP) preparation program if the program:

(a) is accredited by the Council on Academic Accreditation in Audiology and Speech-Language Pathology; and

(b) prepares candidates to provide comprehensive and integrated services in a school setting as detailed in the 2016 Scope of Practice in Speech-Language Pathology created by the American Speech-Language-Hearing Association.

(2) An individual that completes a program accredited by the Council on Academic Accreditation in Audiology and Speech-Language Pathology outside of Utah qualifies for an associate license with a speech-language pathologist license area of concentration detailed in Subsections R277-301-4(5) and (6).

(3) An individual that holds a current Certificate of Clinical Competence in Speech-Language Pathology (CCC-SLP) issued by the American Speech-Language-Hearing Association meets the out of state licensing requirements for a professional speech-language pathologist license area of concentration detailed in Subsection R277-301-5(3)(c)(ii).

R277-306-5. Speech-Language Technician (SLT) Preparation Program.

(1) The Superintendent shall create and administer an SLT preparation program that:

(a) requires applicants to hold a bachelor's degree in communication disorders or the equivalent;

(b) requires significant clinical experiences under the supervision of an individual holding a professional speech-language pathologist license area of concentration; and

(c) prepares candidate to provide services in a school setting as detailed in the Utah State Board of Education Handbook for Speech-Language Technicians Working in Utah Public Schools.

(2) The Superintendent shall periodically review and revise the handbook for SLTs referenced above.

R277-~~5~~306-6. School Counselor Preparation Programs.

(1) A Utah institution of higher education may seek approval by the Board for a school counselor preparation program if the program:

(a) prepares candidates to meet the Utah Education School Counselor Standards detailed in Rule R277-530;

(b) aligns with the 2016 Council for Accreditation of Counseling & Related Educational Program Standards; and

(c) requires candidates to complete the requirements for the College and Career Readiness Certificate.

NOTICES OF PROPOSED RULES

(2) For a program applicant accepted after January 1, 2020, a school counselor preparation program shall require multiple opportunities for a program applicant to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:

(a) collaborating with learners, families, colleagues, and community members to build or implement a shared vision and supportive professional culture focused on student growth and success;

(b) delivering a sequential school counseling curriculum aligned with the Utah Model for College and Career Readiness School Counseling Program;

(c) leading individuals and groups of students and their parents or guardians through the development of educational and career plans;

(d) counseling individuals and small groups of students with identified needs and concerns;

(e) developing or maintaining a crisis prevention/youth protection response plan; and

(f) collecting and analyzing data for the purpose of accountability and program evaluation.

R277-306-7. School Social Worker Preparation Programs.

(1) A Utah institution of higher education may seek approval by the Board for a school social worker preparation program if the program:

(a) results in a masters of social work degree;

(b) is accredited by the Council of Social Work Education;

(c) includes school-based clinical experiences for a candidate to observe, practice skills, and reflect on practice that:

(i) are significant in number, depth, breadth, and duration; and

(ii) are progressively more complex;

(d) requires demonstration of competency in:

(i) knowledge of the role of a school social worker in furthering the educational mission of an LEA;

(ii) applying theoretical social work concepts and practical skills to the k-12 educational setting, including:

(A) social, emotional, family, and community assessment;

(B) individual, group, and family counseling;

(C) casework; and

(D) crisis intervention;

(iii) knowledge and application of rules regarding data and record keeping that apply to data available in a school, including:

(A) the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g; and

(B) Title 53E, Chapter 9, Student Privacy and Data Protection;

(iv) knowledge of laws regarding disabilities and their application to school social worker practices and the school setting, including:

(A) the IDEA; and

(B) the Americans with Disabilities Act of 1990, 42 U.S.C. 12101;

(v) utilizing information from assessments in an educational setting to develop student focused programs and interventions;

(vi) implementation of evidence-based curriculum in response to current social and emotional aspects of education; and

(vii) providing and advocating for services that support the social and emotional aspects of education;

(e) requires multiple opportunities for a program applicant

admitted after January 1, 2020 to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following areas:

(i) utilizing information from assessments in the development of student-focused and system-focused programs and interventions in a school setting;

(ii) counseling individuals and small groups of students with identified needs and concerns;

(iii) implementing varied models and strategies of consultation, collaboration, and communication with teachers, individuals, and families; and

(iv) developing or updating a crisis prevention/youth protection response plan.

(2) An individual holding a licensed certified social worker "CSW" license or licensed clinical social worker "LCSW" license through the Division of Occupational and Professional Licensing in accordance with Rule R156-60a qualifies for an associate educator license with an associate school social worker license area of concentration detailed in Section R277-301-4 if the individual, no more than one calendar year prior to the application:

(a) completes a criminal background check, including review of any criminal offenses and clearance in accordance with Rule R277-214; and

(b) completes the educator ethics review described in Rule R277-302.

(3)(a) The Superintendent shall work with Utah universities and LEAs to create and administer a non-degree professional license preparation program for individuals described in Subsection (2) that meets all the requirements of Subsections (1)(c) through (1)(e) above.

KEY: preparation, psychologists, audiologists, speech-language pathologists, speech-language technicians, counselors

Date of Enactment or Last Substantive Amendment: 2020 [January 14, 2020]

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-6-201

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R357-28	Filing No. 52670	

Agency Information

1. Department:	Governor		
Agency:	Economic Development		
Building:	World Trade Center		
Street address:	60 E South Temple		
City, state:	Salt Lake City, UT 84111		
Mailing address:	60 E. South Temple		
City, state, zip:	Salt Lake City, UT 84111		
Contact person(s):			
Name:	Phone:	Email:	
Dane Ishihara	801-538-8864	dishihara@utah.gov	

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

General Information

2. Rule or section catchline:

R357-28. Talent Ready Connections Program

3. Purpose of the new rule or reason for the change:

H.B. 68, passed by the Legislature during the 2020 General Session, created the Professional and Technical Workforce Development Programs. The new statutory language permits the office to promulgate rules to administer the program. The purpose of this rule filing is to clarify the standards for participation in the program.

4. Summary of the new rule or change:

This rule will codify the Professional and Technical Workforce Development Programs by establishing definitions, methods for selecting partners, requiring a contract, contract modification requirements, funding distributions, reporting and cooperation requirements, and coordinator duties. The program will provide a support system for youth apprenticeships and work-based learning programs tailored to the specific needs of high demand industries.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

There is no aggregate anticipated cost or savings to the state budget. The rule is merely creating the requirements for the Professional and Technical Workforce Development Programs that were created by the passing of H.B. 68 (2020).

B) Local governments:

There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.

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

There is no aggregate anticipated cost or savings to small businesses because this proposed amendment does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation. Participation in the program is optional.

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

There is no aggregate anticipated cost or savings to non-small businesses because this proposed amendment does not create new obligations for non-small businesses nor does it increase the costs associated with any existing obligation.

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

There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons because participation in the program is optional.

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

H) Department head approval of regulatory impact analysis:

The Executive Director of the Governor's Office of Economic Development, Val Hale, has reviewed and approved this fiscal analysis.

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

This new rule implements H.B. 68 (2020) which created the Professional and Technical Workforce Development Programs. The purpose of this rule filing is to clarify the standards for participation in the program. The program will provide a support system for youth apprenticeship and work-based learning programs tailored to the specific needs of high demand industries.

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

Val Hale, 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):

Section	63N-12-507	
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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: 06/01/2020

10. This rule change MAY become effective on: 06/08/2020

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

Agency head or designee, and title:	Val Hale, Executive Director	Date:	04/15/2020
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R357. Governor, Economic Development.

R357-28. Talent Ready Connections Program.

R357-28-101. Title.

This rule is known as the "Talent Ready Connections Program Rule."

R357-28-102. Purpose.

(1) Within the Center the Talent Ready Connections Program is created to support a system of youth apprenticeships and work based learning opportunities tailored to the specific workforce needs of high demand industries.

R357-28-103. Definitions.

As used under Title 63N, Chapter 12, and this rule:

(1) "Coordinator" means a full-time employee who has been authorized by the center under Subsection 63N-12-507 (5).

(2) "Educational Administration" means any institutional administration percentage costs associated with a program under Title 63N, Chapter 12, Part 5, Talent Ready Center and this rule.

(3) "Education Partner" means a public high school, technical college, or institution of higher education that partners with a participating employer and has received a TRC grant.

(4) "GOED" means the Governor's Office of Economic Development.

(5) "High demand Industry" means an industry in which there are hard to fill jobs with a lack of skilled labor employees or a large number of skilled labor positions.

(6) "TRC" means the Talent Ready Connections Program.

(7) "TRC grant" means the competitive grants awarded and administered under Title 63N, Chapter 12, Part 5, Talent Ready Center and this rule.

R357-28-104. Authority.

This rule is adopted by the office under Section 63N-12-507.

R357-28-105 Method for Selecting Education Partners.

(1) Subject to available funds the center will accept proposals for TRC grants on a rolling basis.

(2) Proposals shall be submitted in a form and manner specified by the center.

(3) The center will evaluate grant proposals and recommended grant amounts prior to board review.

R357-28-106. Grant Amount, Award, and Required Contract.

(1) The center will have the discretion to limit the maximum amount of funding that may be awarded for each TRC grant.

(2) Upon award of a TRC grant, and prior to disbursement of any funds, an education partner shall enter into a contract with GOED governing the use of TRC grant funding.

(3) Unless addressed in the terms and conditions of the contract an education partner shall maintain eligibility status for TRC participation until:

(a) the partnership is complete;

(b) scope of work requirements have been met;

(c) final disbursement of funding has been made; and

(d) all reporting requirements have been met.

(4) Any misrepresentation to the center may result in:

(a) forfeiture of TRC grant funding;

(b) repayment of all or a portion of funding received; and

- (c) disqualification from continued funding.
- (5) The center reserves the right to audit the use of any TRC grant funding.
- (6) TRC grant funding may not be used to provide a primary benefit to a participating employer's operations outside the state.

R357-28-107. Contract Modifications.

- (1) An education partner may request a modification to the terms of a contract.
- (2) The center may deny a modification request for any reason.
- (3) The center shall have discretion to agree to reasonable, non-substantive changes that may include:
 - (a) changes to timelines within the scope of work;
 - (b) corrections to clerical errors in the proposal materials; and
 - (c) technical changes to conditions that do not alter the budget, participating employer's eligibility status, or violate any state or federal law.
- (4) Substantive changes must be approved by the center in consultation with the board.
- (5) All approved changes shall be made in writing and through an amendment modifying the terms of the contract.
- (6) At the discretion of the center an education partner's refusal or failure to sign contract within 90 days of receipt of contract may constitute a rejection of the TRC grant and a waiver of any rights and benefits.

R357-28-108. Funding Distribution.

- (1) The center shall reimburse the education partner for no more than the total amount specified in the contract.
- (2) Payment will only be made for those costs authorized and approved by the center in accordance with the terms and conditions provided in the contract and as reasonably requested.
- (3) After execution of the contract between an education partner and GOED an education partner may receive:
 - (a) up to fifty percent of the total grant amount or as specified in the contract; and
 - (b) the remaining funds after the education partner provides sufficient evidence of expenditures as outlined in the contract.
- (4) Failure to successfully complete the scope of work requirements may result in:
 - (a) repayment of all or part of the grant funding received;
 - (b) termination of the contract; and
 - (c) disqualification of continued funding.

R357-28-109. Reporting and Cooperation Requirements.

- (1) The education partner shall report to the center annually and on a regular basis as reasonably requested by the center.
- (2) At a minimum, the education partner shall provide documentation of the following:
 - (a) the number of participants in the program;
 - (b) the number of participants who have completed each phase offered by the program;
 - (c) the number of participants who have been hired by a business participating in the program; and
 - (d) any additional data as required and outlined in the terms of the contract.

- (3) An education partner shall submit to any audit requested to verify reported data including a third-party audit at the request of the center.

R357-28-110. Coordinator Duties and Responsibilities.

- (1) A coordinator shall:
 - (a) oversee youth apprenticeship program expansion for dedicated CTE region;
 - (b) coordinate with potential participating employers;
 - (c) understand both registered and non-registered apprenticeship efforts in the area;
 - (d) hold and convene working group meetings for each partnership;
 - (e) prepare marketing materials for featured programs;
 - (f) coordinate student outreach efforts between industry and education partners;
 - (g) apply for funding opportunities where available;
 - (h) learn best practices from other states;
 - (i) facilitate MOU discussions for local partnerships;
 - (j) organize training and marketing events;
 - (k) develop strong relationships with education and industry partners; and
 - (l) any other duties as determined by the center.
- (2) A coordinator is responsible for the following interactions with the center:
 - (a) weekly calls with TRC program manager at GOED;
 - (b) monthly group conversations or training sessions with other TRC coordinators;
 - (c) yearly tracking report due at end of fiscal year;
 - (d) collaboration on program replication and expansion;
 - (e) involving TRC program manager in prospective partnership discussions;
 - (f) shared marketing effort;
 - (g) using established messaging for program and shared marketing material when applicable; and
 - (h) sharing success stories and events with the center.

KEY: Talent Ready Utah, apprenticeships, work based-learning
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 63N-12-507

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R364-2	Filing No. 52660	

Agency Information

1. Department:	Governor		
Agency:	Criminal and Juvenile Justice (State Commission on), Indigent Defense Commission		
Street address:	370 E South Temple, Suite 500		
City, state:	Salt Lake City, UT 84111		
Mailing address:	370 E South Temple, Suite 500		
City, state, zip:	Salt Lake City, UT 84111		
Contact person(s):			
Name:	Phone:	Email:	

NOTICES OF PROPOSED RULES

Joanna Landau	801-209-5440	jlandau@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R364-2. Indigent Defense Commission Complaint Rule
3. Purpose of the new rule or reason for the change:
The purpose of this rule is to establish standards and procedures to receive and resolve complaints regarding the provision of indigent defense services by an indigent defense system.
4. Summary of the new rule or change:
A complainant may file a written complaint regarding the provision of indigent defense services by an indigent defense system. The rule establishes a review process comprised of an office review by the director and an appeal review by the Indigent Defense Commission.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule has no aggregate anticipated cost or savings to state budget because it does not require additional personnel or other resources that would have a fiscal impact on the state budget.
B) Local governments:
This rule has no aggregate anticipated cost or savings to local governments because it does not have a fiscal impact on local government budgets.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule has no aggregate anticipated cost or savings to small businesses because it does not have a fiscal impact on small businesses' operations or budgets.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule has no aggregate anticipated cost or saving to non-small businesses because it does not have a fiscal impact on non-small businesses' operations or budgets.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

This rule has no aggregate anticipated cost or saving to persons other than small businesses, non-small businesses, state, or local government entities because it does not have a fiscal impact on such persons' operations or budgets.

F) Compliance costs for affected persons:

This rule has no aggregate anticipated cost or saving to compliance costs for affected persons because it does not have a fiscal impact on such persons' operations or budgets.

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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Director of the Indigent Defense Commission, Joanna Landau, has reviewed and approved this fiscal analysis.			

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

The proposed rule has no fiscal impact on businesses.

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

Joanna Landau, 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 78B-22-404(1)(f)	Subsection 63G-4-201(2)
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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:	06/01/2020
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10. This rule change MAY become effective on:	06/08/2020
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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

Agency head or designee, and title:	Joanna Landau, Director	Date:	04/10/2020
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R364. Governor, Criminal and Juvenile Justice (State Commission on), Indigent Defense Commission.

R364-2. Indigent Defense Commission Complaint Rule.

R364-2-1. Authority.

This rule is authorized by Subsections 78B-22-404(1)(f) and 63G-4-201(2).

R364-2-2. Purpose.

The purpose of this rule is to establish standards and procedures to receive and resolve complaints regarding the provision

of indigent defense services by an indigent defense system.

R364-2-3. Definitions.

(1) Definitions used in this rule are found in Section 78B-22-102.

(2) In addition, "complainant" means a person who files a complaint with the office or an appeal with the commission.

R364-2-4. Office Review.

(1)(a) A complainant may file a written complaint regarding the provision of indigent defense services by an indigent defense system.

(b) The office does not have authority to review the conduct of a judge, court commissioner, or indigent defense service provider.

(2) A complaint shall be emailed to the office at fdc@utah.gov and include:

(a) a fully completed indigent defense form that can be found on the commission's website; and

(b) sufficient facts to demonstrate that an indigent defense system violated:

(i) the duties of an indigent defense system contained in Title 78B, Chapter 22, the Indigent Defense Act; or

(ii) a term and condition of a contract or funding award agreement between the indigent defense system and the commission.

(2) Once a complaint is received by the office, the director shall review the complaint to determine if the complainant contains sufficient information to open an investigation.

(3) If the director determines there is insufficient information to open an investigation, the director shall notify the complainant that the matter has been closed.

(4) If the director opens an investigation, the director may contact interested parties to seek additional information.

(5) Once the director has completed the investigation, the director shall issue written findings to an interested party.

R364-2-5. Commission Review.

(1)(a) A complainant may appeal the findings of the director to the commission.

(b) An appeal shall:

(i) be emailed to the office at fdc@utah.gov within 30 days from the day of the director's findings; and

(ii) contain a detailed, written, description of the reason for the appeal.

(2) The commission may seek additional data, documentation, and information.

(3) When the commission has concluded its review of the director's findings, the commission shall send a written decision to an interested party.

(4) The commission's decision is final and cannot be further appealed.

KEY: indigent defense system, complaint procedures

Date of Enactment or Last Substantive Amendment: 2020

Authorizing, Implemented, or Interpreted Law: 78B-22-404

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-409	Filing No. 52617	

Agency Information

1. Department:	Health	
Agency:	Administration	
Building:	Martha Hughes Cannon Building	
Street address:	288 N 1460 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 141000	
City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R380-409. State Central Patient Portal
3. Purpose of the new rule or reason for the change:
Section 26-61a-601 of the Utah Medical Cannabis Act requires the Utah Department of Health (Department) to establish rules related to the state central patient portal.
4. Summary of the new rule or change:
This rule filing establishes standards related to the state central patient portal's facilitation of an electronic medical cannabis order to a home delivery medical cannabis pharmacy.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
Section R380-409-2 is written such that the Department's cost of facilitating electronic medical cannabis orders will be minimal because it will be limited to including links to individual websites established by home delivery medical cannabis pharmacies where cardholders may view available inventory and order medical cannabis products and medical cannabis devices, or educational material related to the use of medical cannabis. The Department will not be responsible for setting up a website where cardholders will view, order, and make electronic payment for product ordered online. Each home delivery medical cannabis pharmacy is responsible to set up a website for online ordering.
B) Local governments:
This proposed rule will not result in a fiscal impact to the local governments' budget because this rule does not establish requirements for enforcement by local agencies.

C) Small businesses ("small business" means a business employing 1-49 persons):
Section R380-409-2 states that the state central patient portal website will include links to individual websites established by home delivery medical cannabis pharmacies where cardholders may view available inventory and order medical cannabis products and medical cannabis devices, or educational material related to the use of medical cannabis. This means that each home delivery medical cannabis pharmacy is responsible to set up a website for online ordering. The cost impact to a home delivery medical cannabis pharmacy for setting up an online ordering website is estimated to be between \$50,000 and \$500,000 depending on the platform and requirements. To calculate this fiscal impact, the Department took the average of the range, which is \$275,000, multiplied it by the 14 pharmacies (assuming that each medical cannabis pharmacy sets up an online ordering website), and calculated the total small business fiscal impact at \$3,850,000. The basis for setting the number of medical cannabis pharmacies at 14 is that Utah Code Subsection 26-61a-305(1) requires that the Department issue 14 medical cannabis pharmacies. The Department assumes that all 14 licensed pharmacies will set up a website for online ordering. There will be an ongoing cost to pharmacies for maintaining the online ordering websites but this amount is inestimable at this time.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This proposed rule will not result in a fiscal impact to the non-small businesses because this rule does not establish new requirements for non-small businesses.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
This proposed rule will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities because this rule does not establish requirements for these persons.
F) Compliance costs for affected persons:
This proposed rule will not result in a fiscal impact to affected persons because this rule does not establish requirements for these persons.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)
Regulatory Impact Table

Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	(\$3,850,000)	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	(\$3,850,000)	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	(\$3,850,000)	\$0	\$0
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:			
This proposed rule will have minimal effect on the Department. Pharmacies providing home delivery will see that largest fiscal impact. The cost to medical cannabis pharmacies is estimated to be \$3,850,000. The fiscal impact of this rule will depend on the platform each individual pharmacy chooses to utilize. That is decided solely by the pharmacy.			
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 61a	Subsection 26-61a-601(3)	

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: 06/01/2020

B) A public hearing (optional) will be held:

On:	At:	At:
05/18/2020	01:00 PM	288 N 1460 W, Room 125, Salt Lake City, UT meet.google.com/kex-wdum-ohv 1 513-796-6543 PIN: 251 553 837#

10. This rule change MAY become effective on: 06/08/2020

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

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration.

R380-409. State Central Patient Portal.

R380-409-1. Authority and Purpose.

Pursuant to Subsection 26-61a-601(3), Utah Medical Cannabis Act, State central patient portal; this rule establishes standards related to the state central patient portal's facilitation of an electronic medical cannabis order, to a home delivery medical cannabis pharmacy.

R380-409-2. Facilitation of Online Orders.

To facilitate an online order, the state central patient portal website shall include links to individual websites established by

NOTICES OF PROPOSED RULES

home delivery medical cannabis pharmacies, where a cardholder may view available inventory and order medical cannabis product and a medical cannabis device, or educational material related to the use of medical cannabis.

KEY: medial cannabis, medical cannabis patient portal, medical cannabis online orders, marijuana

Date of Enactment or Last Substantive Amendment: 2020

Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a; 26-61a-601.

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-410	Filing No. 52618	

Agency Information

1. Department:	Health		
Agency:	Administrtion		
Building:	Martha Hughes Cannon Building		
Street address:	288 N 1460 W		
City, state:	Salt Lake City, UT		
Mailing address:	PO Box 141000		
City, state, zip:	Salt Lake City, UT 84114-1000		
Contact person(s):			
Name:	Phone:	Email:	
Richard Oborn	801-538-6504	medicalcannabis@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R380-410. Agreement with a Tribe
3. Purpose of the new rule or reason for the change:
Section 26-61a-108, Utah Medical Cannabis Act is vague and requires the Utah Department of Health (Department) establish rules related to operation of state medical cannabis pharmacies on tribal lands.
4. Summary of the new rule or change:
This proposed rule defines and clarifies the requirements to enter into an agreement between the and a federally recognized Indian tribe or Indian band to operate a medical cannabis pharmacy on tribal lands located within Utah boundaries.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:																				
This proposed rule will not result in a fiscal impact to the state budget because this rule does not establish requirements for the Department.																				
B) Local governments:																				
This proposed rule will not result in a fiscal impact to the local governments' revenues or expenditures because this rule does not establish requirements for enforcement by local agencies.																				
C) Small businesses ("small business" means a business employing 1-49 persons):																				
This proposed rule will not result in a fiscal impact to small businesses because this rule does not establish requirements for small businesses.																				
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):																				
This proposed rule will not result in a fiscal impact to the non-small businesses because this rule does not establish new requirements for non-small businesses.																				
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):																				
This proposed rule will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities because this rule does not establish requirements for these persons.																				
F) Compliance costs for affected persons:																				
This proposed rule will not result in a fiscal impact to affected persons because this rule does not establish requirements for these persons.																				
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)																				
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Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
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Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head 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:			
There is no fiscal impact to business as a result of this rule.			
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 61a	Section 26-61-108	26 U.S.C. 1603 (14)
18 U.S.C. 1151		

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:	06/01/2020	
B) A public hearing (optional) will be held:		
On:	At:	At:
05/18/2020	02:00 PM	288 N 1460 W, Room 125, Salt Lake City, UT meet.google.com/kex-wdum-ohv 1 513-796-6543 PIN: 251 553 837#

10. This rule change MAY become effective on:	06/08/2020
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

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration.

R380-410. Agreement with a Tribe.

R380-410-1. Introduction and Authority.

This rule defines and clarifies the requirements to enter into an agreement pursuant to Section 26-61a-108 to operate a medical cannabis pharmacy on a tribal land located within Utah boundaries. This rule is authorized under Section 26-61a-108.

R380-410-2. Definitions.

(1) "Agreement with a Tribe" means a formal compact, or Memorandum of Understanding, between this state and a Tribe.

(2) "Tribal governing body and authority" means the person, or persons, acting in an official capacity as specifically authorized by the Tribe to enter into the Agreement.

(3) "Tribal land" mean Indian Country as defined in 18 U.S. Code 1151, United States Code, Indians, Indian country defined.

(4) "Tribe" means Indian Tribe as defined in 25 U.S.C. Sec. 1603(14). The Bureau of Indian Affairs (BIA) Federal Register identifies the following tribes as federally recognized in Utah:

- (a) Confederated Tribes of the Goshute Reservation;
- (b) Navajo Nation;
- (c) Northwestern Band of Shoshone Nation;
- (d) Paiute Indian Tribe of Utah;
- (e) San Juan Southern Paiute;
- (f) Skull Valley Band of Goshute;
- (g) Ute Indian Tribe; and

NOTICES OF PROPOSED RULES

(h) Ute Mountain Ute Tribe.

R380-410-3. Participating Tribes.

Only a Tribe, as defined in federal law, can enter into an agreement with the Governor.

R380-410-4. Agreement Requirements.

An agreement shall address the following matters, as set out in federal law:

- (1) tribal sovereignty;
- (2) tribal jurisdiction; and
- (3) tribal ordinance or resolution.

KEY: medical cannabis, marijuana, tribe agreement, tribes
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 26-61a; 26-61-108; 26 U.S.C. 1603(14); 18 U.S.C. 1151

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-411	Filing No. 52619	

Agency Information

1. Department:	Health		
Agency:	Administration		
Building:	Martha Hughes Cannon Building		
Street address:	288 N 1460 W		
City, state:	Salt Lake City, UT		
Mailing address:	PO Box 141000		
City, state, zip:	Salt Lake City, UT 84114-1000		
Contact person(s):			
Name:	Phone:	Email:	
Richard Oborn	801-538-6504	medicalcannabis@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R380-411. Administrative Hearing Procedures
3. Purpose of the new rule or reason for the change:
Sections 26-1-24 and 63G-4-102 authorize the Utah Department of Health (Department) to establish rules related to administrative adjudicative procedures for actions taken by the Department pursuant to the Utah Medical Cannabis Act.
4. Summary of the new rule or change:
This rule filing defines terms and establishes procedures related to administrative adjudicative proceedings.

Fiscal Information

5. Aggregate anticipated cost or savings to:																
A) State budget:																
This proposed rule will not result in a fiscal impact to the state budget because this rule does not establish requirements for the Department.																
B) Local governments:																
This proposed rule will not result in a fiscal impact to the local governments' revenues or expenditures because this rule does not establish requirements for enforcement by local agencies.																
C) Small businesses ("small business" means a business employing 1-49 persons):																
This proposed rule will not result in a fiscal impact to small businesses because this rule does not establish requirements for small businesses.																
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):																
This proposed rule will not result in a fiscal impact to the non-small businesses because this rule does not establish new requirements for non-small businesses.																
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):																
This proposed rule will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities because this rule does not establish requirements for these persons.																
F) Compliance costs for affected persons:																
This proposed rule will not result in a fiscal impact to affected persons because this rule does not establish requirements for these persons.																
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)																
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Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head 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:

There is no fiscal impact to business as a result of this rule.

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 61a	Section 26-1-24	Section 63G-4-102
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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: 06/01/2020

B) A public hearing (optional) will be held:

On:	At:	At:
05/18/2020	01:00 PM	288 N 1460 W, Room 125, Salt Lake City, UT meet.google.com/kex-wdum-ohv 1 513-796-6543 PIN: 251 553 837#

10. This rule change MAY become effective on: 06/08/2020

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Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration.

R380-411. Administrative Hearing Procedures.

R380-411-1. Introduction and Authority.

(1) This rule establishes the administrative hearing procedures for the Center for Medical Cannabis.

(2) This rule is authorized by Section 26-1-24 and Section 63G-4-102.

R380-411-2. Definitions.

(1) The definitions in Section R380-400-2 and Section 63G-4-103 apply to this rule.

(2) The following definitions also apply:

(a) "Action" means a denial, termination, suspension, or reduction of a license, or card, or issued, pursuant to Title 26, Chapter 61a, Utah Medical Cannabis Act; or the imposition of a penalty, or fine, authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act. An action does not include an issuance of a license to operate a medical cannabis pharmacy, pursuant to Title 63G, Chapter 6a, Utah Procurement Code.

(b) "Agency" means the Center for Medical Cannabis within the Utah Department of Health.

(c) "Aggrieved person" means any person affected by the agency's action.

(d) "Applicant" means any person who has applied for a medical cannabis card or a registration, or license, other than a medical

cannabis pharmacy license, pursuant to Title 26, Chapter 61a, Utah Medical Cannabis Act.

(e) "Ex Parte" communication means direct or indirect communication in connection with an issue of fact, or law, between the hearing officer and one party only.

(f) "Presiding Officer" means the agency head, or designee, as approved by the Executive Director; to conduct administrative a hearing pursuant to this rule.

(g) "Medical record" means a record that contains medical data submitted by an applicant.

(h) "Order" means a ruling by a hearing officer that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons.

R380-411-3. Administrative Adjudicative Procedures.

(1) Except as provided in this rule, or as otherwise designated by rule, or statute, or converted, pursuant to Subsection 63G-4-202(3), all adjudicative proceedings conducted pursuant to this rule are informal proceedings.

(2) The agency head shall serve as the presiding officer for an informal hearing, except that the agency head may designate a presiding officer, as approved by the executive director.

(3) Closure of an application submitted to the agency, due to the applicant's failure to complete the application, or to provide required information, is not an action under this rule.

(4) Any provision of this rule does not apply to an action that is governed by another statute that conflicts with the procedures in this rule.

R380-411-4. Commencement of Proceedings, Response.

(1) If a person is aggrieved by an action of the agency, the person may file a request for agency action and hearing within the shortest of 30 calendar days, of either receiving the initial agency determination, or the agency's mailing, or electronic notification via email, of the initial agency determination. The person shall request an agency action, and hearing, by submitting the request on a form created by the Center.

(2) If the informal adjudicative proceeding is commenced by a notice of agency action, each party in the action, except the Center, shall file a response to the allegations contained in the notice of agency action, and state whether a hearing is requested.

(3) Pursuant to this rule and Section 63G-4-201, if the informal adjudicative proceeding is commenced by a request for agency action, the Agency must consider the request, and grant or deny it, or set the request for further proceedings.

(4) If a medical issue is in dispute, each request shall include supporting medical documentation. The Agency shall schedule a hearing only when it receives sufficient medical records, and may dismiss a request for agency action, or strike the party's response, to a notice of agency action if it does not receive supporting medical documentation in a timely manner.

(5) Notice of Agency Action:

(a) An agency shall provide a written notice of action to each aggrieved person. Such action includes, but is not limited to:

(i) denial of an application for a medical cannabis card, or a QMP, PMP, pharmacy agent, or courier agent registration card;

(ii) suspension, or revocation, of a medical cannabis card or a QMP, PMP, pharmacy agent, or courier agent registration card;

(iii) suspension, or revocation, of a medical cannabis pharmacy license, or a home delivery medical cannabis pharmacy license; and

(iv) imposition of a penalty, or fine, authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(b) The notice must include:

(i) a statement of the action the agency intends to take;

(ii) the date the intended action becomes effective;

(iii) the reason for the intended action;

(iv) the specific regulation that support the action, or the change in federal law, state law, or Department rule which requires the action;

(v) the right to submit a response, and request an administrative hearing;

(vi) the right to represent oneself, the right to legal counsel, or the right to use another representative at the hearing; and

(vii) if applicable, an explanation of the circumstance under which the license, or card, will continue, or may be reinstated, pursuant to this rule.

(c) The agency shall mail the notice, or electronically notify the person at the email address on file with the EVS; at least 10 calendar days before the date of the intended action.

(6) The agency may issue an order on an emergency basis pursuant to Section 63G-4-502. The aggrieved party may request an administrative hearing, pursuant to this rule.

R380-411-5. Hearing and a Request for a Hearing.

(1) The Center shall conduct an informal hearing for all issues, except those specifically designated as a formal hearing pursuant to this rule. The presiding officer may convert the proceeding to a formal hearing, if an aggrieved person requests a hearing that meets the criteria pursuant to Section 63G-4-202. If a hearing under this rule is converted to a formal hearing, pursuant to Section 63G-4-202, the formal hearing shall be conducted pursuant to these rules; except as otherwise provided in Sections 63G-4-204 through 63G-4-208, or other applicable statutes.

(2) An aggrieved person shall request a hearing by submitting the request on a Center "Request for Hearing/Agency Action" form and mailing it to the Center. The request must explain why the aggrieved person is seeking agency relief.

(3) A Request for Hearing/Agency Action, or a Response, and Request for Hearing that response, which an aggrieved person sends via mail is deemed filed on the date of the postmark. If the postmark date is illegible, erroneous, or omitted, the request is deemed filed on the date that the agency receives it; unless the sender can demonstrate through competent evidence of the mailing date.

(4) Failure to submit a timely response, and request for a hearing, constitutes a waiver of an individual's due process rights.

(5) The Agency shall conduct a hearing in connection with an agency action, if the aggrieved person requests a hearing and there is a disputed issue of fact. If there is no disputed issue of fact, the presiding officer may deny a request for a hearing, and issue a recommended decision without a hearing, based on the record. There is no disputed issue of fact, if the aggrieved person submits facts that do not conflict with the facts that the agency relies upon in taking action or seeking relief. In the recommended decision, the presiding officer shall specifically set out all material, and relevant facts, that are not in dispute.

(6) The Agency may dismiss a request for a hearing, if the aggrieved person:

(a) withdraws the request in writing;

(b) verbally withdraws the hearing request at a settlement conference, or prehearing conference;

(c) fails to appear, or participate, in a scheduled proceeding without good cause;

(d) prolongs the hearing process without good cause;

(e) cannot be located, or agency mail is returned without a forwarding address; or

(f) does not respond to any correspondence from the presiding officer, or fails to provide medical records that the agency requests.

(7) If the aggrieved person objects to the hearing denial, the person may raise that objection as grounds for relief, in a request for reconsideration.

R380-411-6. Notice of Hearing.

(1) The Agency shall notify the aggrieved person, or representative, in writing of the date, time, and place of the hearing, at least 10 calendar days before the date of the hearing; unless each party agrees to an alternative time frame. Any aggrieved person must inform the Agency of a current address, email address, and telephone number.

R380-411-7. Prehearing Procedures.

(1) The Agency shall conduct a Settlement Conference between the Agency, and the aggrieved party, within 30 calendar days from the date it receives a request for a hearing, or agency action. If a settlement cannot be reached, including a withdrawal, dismissal or granting of the request for action, the Agency shall notify the presiding officer to set a date for the administrative hearing.

(2) The presiding officer may elect to conduct a preliminary conference to:

(a) formulate or simplify the issues;

(b) obtain admissions of fact, and documents that will avoid unnecessary proof;

(c) arrange for the exchange of proposed exhibits or prepared expert testimony;

(d) outline procedures for the hearing; or

(e) to agree to other matters that may expedite the orderly conduct of the hearing or settlement.

(3) The presiding officer may require each party to submit a prehearing position statement setting forth the position of the party.

(4) The party may enter into a written stipulation resolving all, or part, of the adjudicative action during the preliminary conference, or at any time during the process.

(5) Ex parte communication with the presiding officer are prohibited. If a party attempts ex parte communication, the presiding officer shall inform the offender that any communication that the hearing officer receives off the record, will become part of the record, and furnished to each party. Ex parte communication does not apply to communication on the status of the hearing, and uncontested procedural matters.

(6) The Agency shall allow the aggrieved person, or a representative, to examine each document and record relevant to the adjudicative proceeding; at least three days before the hearing.

(7) The presiding officer may require each party to file a signed prehearing disclosure form, at least 10 calendar days before the scheduled hearing that identifies:

(a) any fact witness;

(b) any expert witness;

(c) any exhibit and report that each party intends to offer into evidence at the hearing.

(8) Each party shall supplement the disclosure form with information that shall become available after filing the original form.

R380-411-8. Conduct of Hearing.

(1) The Agency shall conduct a hearing pursuant to Section 63G-4-203 for an informal adjudicative proceeding.

(2) The agency head shall appoint an impartial presiding officer to conduct a hearing. Previous involvement in the initial determination of the action precludes an officer from appointment.

(3) A telephonic hearing will be held at the discretion of the presiding officer.

(4) The presiding officer shall take testimony under oath or affirmation.

(5) Each party has the right to:

(a) present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence;

(b) introduce exhibits;

(c) impeach any witness, regardless of which party first called the witness to testify; and

(d) rebut the evidence against the party.

(6) Each party may admit any relevant evidence and use hearsay evidence to supplement, or explain other evidence, as may be required for full disclosure of each fact relevant to the disposition of the hearing. Hearsay, however, is not sufficient by itself to support a finding, unless admissible over objection in civil actions. The presiding officer shall give effect to the rules of privilege recognized by law, and may exclude irrelevant, immaterial, and unduly repetitious evidence.

(7) The presiding officer shall control the evidence, to obtain full disclosure of the relevant facts, and to safeguard the rights of each party. The presiding officer may determine the order in which he receives the evidence.

(8) The presiding officer shall maintain order, and may recess the hearing to regain order if a person engages in disrespectful, disorderly, or disruptive conduct. The presiding officer may remove any person, including a participant, from the hearing to maintain order. If a person shows persistent disregard for order and procedure, the presiding officer may:

(a) restrict the person's participation in the hearing;

(b) strike pleadings or evidence; or

(c) issue an order of default.

(9) If a party desires to employ a court reporter to make a record of the hearing, it must file an original transcript of the hearing with the hearing officer, at no cost to the agency.

(10) The party who initiates the hearing process through a request for agency action, has the burden of proof as the moving party.

(11) When a party possesses but fails to introduce certain evidence, the presiding officer may infer that the evidence does not support the party's position.

(12) The presiding officer may issue an order of default against any party that fails to obey an order entered by the hearing officer.

R380-411-9. Record.

(1) The presiding officer shall make a complete record of each hearing. A hearing record is the sole property of the Center.

(2) Any proceedings other than a hearing may be recorded at the discretion of the hearing officer.

(3) If a party requests a copy of the recording of a hearing, that party may transcribe the recording at the party's sole cost.

R380-411-10. Proposed Decision and Final Agency Review.

(1) At the conclusion of the hearing, the presiding officer shall take the matter under advisement, and submit a recommended decision to the Agency Head. The recommended decision is based on the testimony and evidence entered at the hearing, Agency policy and procedure, and legal precedent.

(2) The recommended decision must contain findings of fact and conclusions of law.

NOTICES OF PROPOSED RULES

- (3) The Agency or the director's designee may:
(a) adopt the recommended decision, or any portion of the decision;
(b) reject the recommended decision, or any portion of the decision, and make an independent determination based upon the record; or
(c) remand the matter to the presiding officer to take additional evidence; and the presiding officer thereafter shall submit to the Agency director or the director's designee, a new recommended decision.
(4) The agency head or their designee's decision constitutes final administrative action, and is subject to judicial review.
(5) The Agency shall send a copy of the final administrative action to each party, or representative, and notify them of their right to judicial review.
(6) Each party shall comply with a final decision from the director reversing the agency's decision, within 10 calendar days.

R380-411-11 Amending Administrative Orders.

- (1) The Agency may amend an order if the presiding officer determines that the order contains a clerical error.
(2) The Agency shall notify each party its intent to amend the order by serving a notice of agency action signed by the hearing officer.
(3) The Agency Director shall review the amended order and the Agency Director or the Agency Director's designee shall issue a final agency amended order.
(4) The Agency shall provide a copy of the final amended order to each party.

R380-411-12. Reconsideration.

A party to the proceeding may move for reconsideration of the final administrative order pursuant to Section 63G-4-301.

R380-411-13. Judicial Review.

A party to the proceeding may obtain judicial review pursuant to Section 63G-4-102, and Sections 63G-4-400 through 63G-4-400.

R380-411-14. Declaratory Orders.

- (1) The Agency may issue a declaratory order pursuant to Rule R380-1.
(2) If the Agency does not issue a declaratory order within 60 days after receipt of the request, the petition is denied.
(3) The Agency may not issue a declaratory order if an adjudicative proceeding that involves the each party and the same issue is pending before the agency, or a federal, or state court.

KEY: medical cannabis, medical cannabis hearing, marijuana
Dave of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 63G-4-102; 26-1-24; 26-61a

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R414-60-5	Filing No. 52668	No.

Agency Information

1. Department:	Health
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Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 North 1460 West	
Mailing address:	PO Box 143102	
City, state, zip:	Salt Lake City, UT 84114-3102	
Contact person(s):		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R414-60-5. Limitations
3. Purpose of the new rule or reason for the change:
The primary purpose of this change is to modify the prescription refill tolerance to 85%, to allow a four-day early fill allowance for controlled substances. The secondary purpose is to update and clarify language in the text.
4. Summary of the new rule or change:
This amendment modifies the prescription refill tolerance for controlled substances to 85%. It also makes other technical changes.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no impact to the state budget as prescription refills fall within appropriations set forth by the Legislature.
B) Local governments:
There is no impact on local governments because they neither fund nor provide prescriptions to members under the Medicaid program.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no impact on small businesses as prescription refills fall within appropriations set forth by the Legislature.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no impact on non-small businesses as prescription refills fall within appropriations set forth by the Legislature.

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

There is no impact on Medicaid providers and Medicaid members as prescription refills fall within appropriations set forth by the Legislature.

F) Compliance costs for affected persons:

There are no compliance costs for a single Medicaid provider or for a Medicaid member, as prescription refills fall within appropriations set forth by the Legislature.

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

H) Department head 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:

Businesses will not see revenue nor cost as prescription refills fall within appropriations set forth by the Legislature.

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):

Section 26-1-5	Section 26-18-3
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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: 06/01/2020

10. This rule change MAY become effective on: 06/08/2020

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

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/14/2020
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R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-60. Medicaid Policy for Pharmacy Program.

R414-60-5. Limitations.

(1) Medicaid may place limitations on~~Limitations may be placed on~~ drugs in accordance with 42 U.S.C. 1396r-8 or in consultation with the Drug Utilization Review (DUR) Board. Medicaid includes these limitations~~Limitations are included~~ in the Pharmacy

NOTICES OF PROPOSED RULES

Services Provider Manual and its attachments^[7]. These limitations are incorporated by reference in Section R414-1-5^[7] and may include the following:

- (a) ~~[Q]~~ quantity limits or cumulative limits for a drug or drug class for a specified period of time;
- (b) ~~[T]~~ therapeutic duplication limits may be placed on drugs within the same or similar therapeutic categories;
- (c) ~~[S]~~ step therapy, including documentation of therapeutic failure with one drug before another drug may be used; or
- (d) ~~[P]~~ prior authorization.
- (2) A pharmacy may dispense a~~[A]~~ covered outpatient drug that requires prior authorization ~~[may be dispensed]~~ for up to a 72-hour supply without obtaining prior authorization during a medical emergency.
 - (3) Drugs listed as non-preferred on the Preferred Drug List may require prior authorization as authorized by Section 26-18-2.4.
 - (4) Drugs may be restricted and are reimbursable only when dispensed by an individual pharmacy or pharmacies.
 - (5) Medicaid does not cover drugs not eligible for Federal Medical Assistance Percentages funds.
 - (6) Medicaid does not cover outpatient drugs included in the Medicare Prescription Drug Benefit-Part D for full-benefit dual eligible beneficiaries.
 - (7) Medicaid does not cover drugs ~~[Drugs]~~ provided to ~~[clients]~~ a member during an inpatient hospital stay~~[s are not covered]~~, neither as an outpatient pharmacy benefit nor separately payable from the Medicaid payment for the inpatient hospital services.
 - (8) Medicaid covers prescription cough and cold preparations meeting the definition of a covered outpatient drug^[7].
 - (9) Medicaid will pay for no more than a one-month supply of a covered outpatient drug per dispensing, except for the following:
 - (a) Medicaid may cover ~~[M]~~ medications ~~[included]~~ on the Utah Medicaid Three-Month Supply Medication List, attachment to the Pharmacy Services Provider Manual, ~~[may be covered]~~ for up to a three-month supply per dispensing^[7];
 - (b) Medicaid may cover ~~[P]~~ prenatal vitamins for a pregnant ~~[women]~~ woman, multiple vitamins with or without fluoride for ~~[children]~~ a child who is zero through five years of age, and fluoride supplements ~~[may be covered]~~ for up to a three-month supply per dispensing^[7];
 - (c) Medicaid may cover contraceptives for up to a three-month supply per dispensing^[7]; and
 - (d) Medicaid may cover long-acting injectable antipsychotic drugs in accordance with Section R414-60-12 for up to a three-month supply per dispensing.
 - (10) Medicaid will pay for a prescription refill only when 80% of the previous prescription has been exhausted, with the exception of ~~[narcotic analgesics]~~ controlled substances. Medicaid will pay for a prescription refill for ~~[narcotic analgesics]~~ controlled substances after ~~[400]~~ 85% of the previous prescription has been exhausted.
 - (11) Medicaid does not cover the following drugs:
 - (a) ~~[D]~~ drugs for weight loss;
 - (b) ~~[D]~~ drugs to promote fertility;
 - (c) ~~[D]~~ drugs for the treatment of sexual dysfunction;
 - (d) ~~[D]~~ drugs for cosmetic purposes;
 - (e) ~~[V]~~ vitamins; except for prenatal vitamins for a pregnant ~~[women]~~ woman, vitamin drops for ~~[children]~~ a child who is zero through five years of age, and fluoride supplements;
 - (f) ~~[O]~~ over-the-counter drugs not included ~~[in]~~ on the Utah Medicaid Over-the-Counter Drug List, attachment to the Pharmacy Services Provider Manual;
 - (g) ~~[D]~~ drugs for which the manufacturer requires, as a

condition of sale, that associated tests and monitoring services are purchased exclusively from the manufacturer or its designee;

- (h) ~~[D]~~ drugs given by a hospital to a patient at discharge;
- (i) ~~[B]~~ breast milk, breast milk substitutes, baby food, or medical foods. Prescription metabolic products for congenital errors of metabolism are covered through the Durable Medical Equipment benefit; and
- (j) ~~[D]~~ drugs available only through single-source distribution programs, unless the distributor is enrolled with Medicaid as a pharmacy provider.
- (12) Opioid claims used for the treatment of non-cancer pain are subject to the following limitations or restrictions set forth by the ~~[department]~~ Division of Medicaid and Health Financing (DMHF) ~~[such as]~~:
 - (a) ~~[I]~~ initial fill limits;
 - (b) ~~[M]~~ monthly limits;
 - (c) ~~[Q]~~ quantity limits;
 - (d) ~~[A]~~ additional limits ~~[in]~~ for a child ~~[ren and]~~ or pregnant ~~[women]~~ woman;
 - (e) ~~[M]~~ morphine ~~[M]~~ milligram ~~[E]~~ equivalents (MME) and cumulative ~~[M]~~ morphine ~~[E]~~ equivalents ~~[D]~~ daily (MED) limits; or
 - (f) ~~[C]~~ concurrent use of opioids with high-risk drugs as defined by ~~[the Division of Medicaid and Health Financing]~~ DMHF.
- (13) Antipsychotic medications prescribed to a Medicaid member^[s] who ~~[are]~~ is 19 years of age or younger are limited as follows:
 - (a) ~~[N]~~ no use of multiple antipsychotic drugs;
 - (b) ~~[N]~~ no off-label use;
 - (c) ~~[N]~~ no use outside established age guidelines; and
 - (d) ~~[N]~~ no doses higher than FDA recommendations.
- (14) Exceptions may be granted as appropriate through the prior authorization process.

KEY: Medicaid
Date of Enactment or Last Substantive Amendment: ~~[January 1,~~ 2020
Notice of Continuation: April 28, 2017
Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R426-8	Filing No. 52667	

Agency Information

1. Department:	Health
Agency:	Family Health and Preparedness, Emergency Medical Services
Room no.:	416
Building:	Highland Office
Street address:	3760 S. Highland Drive
City, state:	Salt Lake City, UT 84116
Mailing address:	PO Box 142102
City, state, zip:	Salt Lake City, UT 84114-2102
Contact person(s):	

Name:	Phone:	Email:
Guy Dansie	801-560-1544	gdansie@utah.gov

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

General Information

2. Rule or section catchline:
R426-8. Emergency Medical Services Ground Ambulance Rates and Charges
3. Purpose of the new rule or reason for the change:
Section 26-8a-403 mandates the department to set of ground ambulance rates. This is performed annually and made effective on the first day of the new fiscal year.
4. Summary of the new rule or change:
The rule amendments increase the ground ambulance rates by 14%. This includes the mileage rate for patient transportation. Rates are determined based on analysis of fiscal data collected from all ground ambulance providers.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
No anticipated costs or saving to the state budget. The amendments do not affect costs or revenues since the state does not provide ground ambulance services.
B) Local governments:
80 local governments including counties, cities, towns, and special service districts provide ground ambulance services based licensed issued by the Utah Department of Health (Department).
Anticipated revenues for local governments that provide ground ambulance services will have a net increase of 4.3% based on a gross rate increase of 14%. The net revenue increase is based on a statewide estimate of allowable billing charges compared to actual revenue collections. Factors that reduce billable charges to collected revenues include fixed payer amounts for Medicare, Medicaid, and Veterans, non-payments, negotiated payments, and private insurance payments. Mileage rates are included as part of the 14% increase to compensate increased market vehicle costs. Financial data is obtained directly from all ground ambulance providers. Local government operated ground ambulance patient transports total is estimated at 84,956 based on the previous reported calendar year.
Increased rates will require additional costs for local governments to the State EMS Medicaid fund of an

additional estimate of \$5 per transport. 84,956 (total estimated transports) X \$5 (EMS Medicaid assessment rate increase) = \$424,680 (estimated local government costs).

Gross revenues for local governments are estimated from past annual fiscal reports and billing data. A projected gross revenue total of \$6,079,072 was calculated using the proposed increased to ambulance rates.

Net revenues for local governments are calculated as follows: \$6,079,072 (gross revenue estimate) - \$424,680 (Medicaid assessment increase) = \$5,654,392 (net revenue for local governments).

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

One small business operates an ambulance service in Utah based on licenses issued by the Department.

Anticipated revenues for small businesses that provide ground ambulance services will have a net increase of 4.3% based on a gross rate increase of 14%. The net revenue increase is based on a statewide estimate of allowable billing charges compared to actual revenue collections. Factors that reduce billable charges to collected revenues include fixed payer amounts for Medicare, Medicaid, and Veterans, non-payments, negotiated payments, and private insurance payments. Mileage rates are included as part of the 14% increase to compensate increased market vehicle costs. Financial data is obtained directly from all ground ambulance providers. Small business operated ground ambulance patient transports total is estimated at 480 based on the previous reported calendar year.

Increased rates will require additional costs for small businesses to the State EMS Medicaid fund of an additional estimate of \$5 per transport. 480 (total estimated transports) X \$5 (EMS Medicaid assessment rate increase) = \$2,400 (estimated local government costs).

Gross revenues for small businesses are estimated from past annual fiscal reports and billing data. A projected gross revenue total of \$32,653 was calculated using the proposed increased to ambulance rates.

Net revenues for small businesses are calculated as follows: \$32,653 (gross revenue estimate) - \$2,400 (Medicaid assessment increase) = \$30,253 (net revenue for small businesses).

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

Eight non-small businesses including one for profit and seven non-profit provide ground ambulance services based licensed issued by the Department.

Anticipated revenues for non-small businesses that provide ground ambulance services will have a net increase of 4.3% based on a gross rate increase of 14%. The net revenue increase is based on a statewide estimate of allowable billing charges compared to actual revenue collections. Factors that reduce billable charges to collected revenues include fixed payer amounts for Medicare, Medicaid, and Veterans, non-payments, negotiated payments, and private insurance payments. Mileage rates are included as part of the 14% increase to compensate increased market vehicle costs. Financial data is obtained directly from all ground ambulance providers. Non-small business operated ground ambulance patient transports total is estimated at 54,605 based on the previous reported calendar year.

Increased rates will require additional costs for non-small businesses to the State EMS Medicaid fund of an additional estimate of \$5 per transport. 54,605 (total estimated transports) X \$5 (EMS Medicaid assessment rate increase) = \$273,025 (estimated non-small business costs).

Gross revenues for non-small businesses are estimated from past annual fiscal reports and billing data. A projected gross revenue total of \$4,024,355 was calculated using the proposed increased to ambulance rates.

Net revenues for non-small businesses are calculated as follows: \$4,024,355 (gross revenue estimate) - \$273,025 (Medicaid assessment increase) = \$3,751,330 (net revenue for non-small businesses).

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

There may be indirect costs or benefits due to increasing federal Medicaid funding due to the increase in base rates created by proposed rule amendments. Other affected persons will have an additional estimated aggregated cost of \$9,435,955. This cost is estimated due to the increased payment for ground ambulance transport rates and fees created by the proposed rule amendments.

F) Compliance costs for affected persons:

Compliance cost remain unchanged.

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	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0

Local Governments	\$424,680	\$424,680	\$424,680
Small Businesses	\$2,400	\$2,400	\$2,400
Non-Small Businesses	\$273,025	\$273,025	\$273,025
Other Persons	\$9,435,955	\$9,435,955	\$9,435,955
Total Fiscal Cost	\$10,136,060	\$10,136,060	\$10,136,060
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$6,079,072	\$6,079,072	\$6,079,072
Small Businesses	\$32,653	\$32,653	\$32,653
Non-Small Businesses	\$4,024,355	\$4,024,355	\$4,024,355
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$10,136,080	\$10,136,680	\$10,136,680
Net Fiscal Benefits	\$0	\$0	\$0

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:

Businesses providing ground ambulance services will experience an increase in revenue due to the increase in rates.

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):

Section 26-8a-403		
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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: 06/01/2020

10. This rule change MAY become effective on: 06/08/2020

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

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/13/2020
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R426. Health, Family Health and Preparedness, Emergency Medical Services.

R426-8. Emergency Medical Services Ground Ambulance Rates and Charges.

R426-8-100. Authority and Purpose.

(1) This rule is established ~~under~~ pursuant to Title 26, Chapter 8a~~[-]~~, Utah Emergency Medical Services System Act.

(2) ~~[The purpose of t]~~ This rule ~~is to provide for the establishment~~ establishes ~~[of]~~ maximum ambulance ~~[transportation and]~~ rates ~~[to be charged by]~~ and charges for Utah licensed ground ambulance providers. ~~[in the State of Utah.]~~

R426-8-200. Ground Ambulance Transportation Revenues, Rates, and Charges.

(1) A ~~[E]~~ licensed ground ambulance provider[s] shall not charge more than the rate[s] described pursuant to R426-8-200(6)(7)(8)(9)(10) ~~[in this rule. In addition, the net]~~

(2) Net income and subsidies ~~for~~ a licensed ground ambulance provider[s, including subsidies of any type,] shall not exceed ten percent of gross revenue.

~~(a)~~(3) A ~~[E]~~ licensed ground ambulance provider[s] may ~~[change] lower a rate[rates]~~ at their discretion. ~~[provided that the rates do not exceed the maximums specified in this rule.]~~

~~(b)~~(4) A licensed ground ambulance provider ~~[may] shall~~ not charge a ~~[transportation fee] base rate for transportation~~ ~~[for] to~~ a patient[s] who ~~[are] is~~ not transported.

~~(2)~~(5) ~~[The initial regulated rates established in this rule shall be adjusted]~~ The Department may adjust each rate annually based on financial data ~~[as delineated by the Department to be submitted as detailed under R426-8-200(10)]~~ received from licensed ground ambulance providers. ~~[This data shall then be used as the basis for the annual rate adjustment.]~~

~~(3)~~(6) ~~Ground ambulance~~ ~~[Base Rates for ground]~~ base rates for patient transport ~~[of a patient]~~ to a hospital or patient receiving facility are as follows:

(a) EMT ground ambulance license level ~~[Ground Ambulance]~~ - ~~[\$795.00]~~ \$906.00 per transport;

(b) Advanced EMT ground ambulance license level ~~[Ground Ambulance]~~ - ~~[\$1,049.00]~~ \$1,196.00 per transport;

(c) Advanced EMT ground ambulance license level ~~[Ground Ambulance]~~, who ~~[was]~~ prior to June 30, 2016 ~~was~~ licensed as an EMT-IA ground licensed ambulance provider - ~~[\$1,292.00]~~ \$1,473.00 per transport;

(d) Paramedic ~~[Ground Ambulance]~~ ground ambulance license level - ~~[\$1,535.00]~~ \$1,750.00 per transport; and

(e) ~~[Ground Ambulance with]~~ Any EMT or AEMT level licensed ground ambulance provider with a ~~[P]~~ paramedic on-board - ~~[\$1,535.00]~~ \$1,750.00 per transport if:

(i) a designated Emergency Medical Service dispatch center dispatches a licensed paramedic provider to treat the individual;

(ii) the licensed paramedic provider has initiated advanced life support;

(iii) on-line medical control directs that a paramedic remain with the patient during transport; and

(iv) ~~[a]~~ the licensed ground ambulance provider ~~[who interfaces with a licensed paramedic rescue service and]~~ has ~~[an inter- local or equivalent]~~ a reimbursement for paramedic services agreement ~~[in place, dealing with reimbursing the]~~ with a paramedic ~~[ground ambulance]~~ licensed provider for ~~[services]~~ the service provided. ~~[up to a maximum of \$486.00 per transport.]~~

~~(4)~~(7) A mileage rate ~~[Mileage rates]~~ may be charged ~~[at a rate of]~~ up to a maximum of ~~[\$31.65]~~ \$36.10 per mile ~~[or fraction thereof, and]~~ computed from the ~~[point of patient pick-up]~~ location of the patient upon ambulance arrival to the ~~[point of patient delivery]~~ destination hospital or patient receiving facility. A fuel ~~[Fuel]~~ fluctuation surcharge[s] of \$0.25 per mile may be added when the diesel fuel price exceeds ~~[prices exceed]~~ \$5.10 per gallon, or the gasoline price exceeds ~~[prices exceed]~~ \$4.25 per gallon as invoiced.

~~(5)~~(8) A surcharge of \$1.50 per mile may be assessed if an ambulance is required to travel ten or more miles on unpaved roads.

~~(6)~~(9) If more than one patient is transported from ~~[the same point of origin]~~ from the location of the patients to the same ~~[point of delivery in the same ambulance]~~ destination hospital or patient receiving facility, ~~[the]~~ a charge ~~[charges]~~ ~~[to] shall~~ be assessed to each ~~[individual will be determined]~~ patient as follows:

(a) ~~[Each patient will be assessed t]~~ The transportation base rate; and

(b) ~~[T]~~ the mileage rate ~~[will be computed as specified, the sum to be]~~ divided equally between the total number of patients.

~~(7)~~ A round trip may be billed as two one-way trips. A licensed ground ambulance provider shall provide 15 minutes of time at no charge at both point of pickup and point of delivery, and may charge \$22.05 per quarter hour or fraction thereof thereafter. On round trips, 30 minutes at no charge will be allowed from the time the ambulance reaches the point of delivery until starting the return trip. At the expiration of the 30 minutes, the ambulance service may charge \$22.05 per quarter hour or fraction thereof thereafter.]

(10) A licensed ground ambulance provider may charge separately for a round trip if the following conditions apply:

(a) no charge is billed to the patient for at least 30 minutes at the hospital or a patient receiving facility at the half-way point of the trip; and

(b) no more than \$22.05 per quarter hour is charged for time over 30 minutes.

NOTICES OF PROPOSED RULES

~~(8)~~(11) A ~~L~~Licensed ground ambulance provider may charge for supplies, providing supplies, medications, and administering medications on a response if:

- (a) supplies are ~~shall be~~ priced fairly and competitively with a similar product~~s~~ in the local area;
- (b) the individual does not refuse ~~the service~~services; and
- (c) the licensed ground ambulance personnel assess or treats the individual.

~~(9)~~(12) ~~In the event of a temporary escalation of costs, a~~ A licensed ground ambulance provider may petition the Department for ~~permission to make~~ a temporary service-specific surcharge ~~when there is a temporary escalation of costs. The petition shall specify the surcharge amount and [of the proposed surcharge, the reason for the surcharge, and provide sufficient financial data to clearly demonstrate the need for the proposed surcharge. Since this is intended to only provide temporary relief, the petition shall also include a recommended time limit]~~ financial justification. The Department will make a final decision on the proposed surcharge within 30 days of receipt of the petition.

~~(10)~~(13) ~~The~~ A licensed ground ambulance provider shall ~~file with the Department within 6 months of the end of each licensed provider's fiscal year,~~ submit a fiscal report in accordance with the instructions, guidelines and review criteria as specified by the Department.

(a) A fiscal report shall be submitted within six months of the end of their fiscal year.

(b) The Department shall provide guidance and a template for a fiscal report. Guidance will be posted on the Department's website.

(c) The Department shall provide a summary of fiscal reports ~~[received during the previous state fiscal year]~~ to the EMS Committee prior to adjusting a maximum base rate~~s~~ for a licensed ground ambulance provider~~s~~.

~~(11)~~(14) The Department ~~shall~~ may review a licensed ground ambulance provider's fiscal report~~s~~ for compliance ~~[to Department established standards. The Department]~~ The Department may perform financial audits ~~[as part of the review]~~ to ensure compliance to reporting requirements.

~~(12)~~(15) ~~All~~ Each licensed ground ambulance provider~~s~~ shall submit a written total number of billed patient transports for each calendar year to the Department for calculating Medicaid assessments.

(a) A written patient transport number shall be submitted within 90 days after the end of the calendar year.

(b) The submission shall include a written justification when patient a transport number is ~~numbers are~~ not in agreement with patient care ~~[reports]~~ data submitted to the Department ~~[as described in]~~ pursuant to Rule R426-7. A written justification ~~Written justifications~~ shall include a description of each data reporting error~~s~~, and a plan to correct future data submission.

(c) Any submitted ~~Submitted~~ patient transport number~~s~~ ~~[and justifications for patient transport numbers]~~ not in agreement with patient care report data may be evaluated, corrected, or audited by the Department.

KEY: emergency medical services, rates
Date of Enactment or Last Substantive Amendment: 2020 ~~July 1, 2019~~
Notice of Continuation: November 10, 2015
Authorizing, and Implemented or Interpreted Law: 26-8a

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Repeal			
Utah Admin. Code Ref (R no.):	R433-1	Filing No. 52662	

Agency Information

1. Department:	Health		
Agency:	Family Health and Preparedness, Maternal and Infant Health		
Street address:	3760 S. Highland Drive		
City, state:	Salt Lake City, UT 84106		
Mailing address:	PO Box 142002		
City, state, zip:	Salt Lake City, UT 84114-2002		
Contact person(s):			
Name:	Phone:	Email:	
Heather Sarin	801-273-2856	hsarin@utah.gov	
Laurie Baksh	801-273-2857	lbaksh@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R433-1. Very Low Birth Weight Infant Reporting
3. Purpose of the new rule or reason for the change:
Based on feedback from stakeholders who report very low birth weight data, the decision was made to repeal this rule. The feedback included various data collection challenges including the cumbersome nature of collecting and reporting the data which resulted in a reduction in compliance with the rule. There was also minimal utility of the data as well. The section on establishing reporting of care capabilities will be added to the Perinatal Services Section under Section R432-100-18.
4. Summary of the new rule or change:
Hospitals will not have to enter the very low birth weight data going forward. This will save hospitals time and resources.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There were no fiscal savings or costs associated with this rule, so the repeal will not have an impact.

B) Local governments:			
This will not have fiscal impact on local governments. They were not involved with this rule.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
This will not have fiscal impact on small businesses. They were not involved with this rule.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
All Utah hospitals, including those that employ over 50 people, will not have to report this data going forward. There were no fiscal savings or costs associated with this rule, so the repeal will not have an impact			
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):			
All Utah hospitals will not have to report this data going forward. There were no fiscal savings or costs associated with this rule, so the repeal will not have an impact.			
F) Compliance costs for affected persons:			
There will not be any compliance costs associated with the repeal of this rule. There were no fiscal savings or costs associated with this rule, so the repeal will not have an impact.			
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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			

State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head 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:

Repealing this rule will not have a fiscal impact on businesses.

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 63G, Chapter 3	Subsections 26-1-30(2)(c), (d), (e), and (p)	Subsections 26-10-1(a) and (b)
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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: 06/01/2020

10. This rule change MAY become effective on: 06/08/2020

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

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	02/13/2020
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R433. Health, Family Health and Preparedness, Maternal and Child Health.

[R433-1. Very Low Birth Weight Infant Reporting.

R433-1-1. Purpose and Authority.

~~This rule establishes reporting and records access requirements for certain morbidities of Very Low Birth Weight infants. It establishes reporting of newborn care capabilities by Utah hospitals. Sections 26-1-30 (2)(b), (c), (d), (e), and (p) provide authority for this rule.~~

R433-1-2. Definitions.

~~As used in this rule:~~

~~(1) "Very Low Birth Weight" (VLBW) means the birth weight of an infant born weighing greater than 400 grams and less than 1500 grams.~~

~~(2) "Neonatal Intensive Care Unit" (NICU) is a designated unit within a hospital, which specializes in the care of ill or premature newborn infants.~~

~~(3) "Nursery" means a designated unit within a hospital, which unit specializes in the care of newborn infants.~~

~~(4) "Health care provider" means an individual or group of individuals who provide care for women and/or infants during the prenatal, perinatal and/or neonatal period.~~

~~(5) "Vermont Oxford Network" (VON) is a non-profit voluntary collaboration of health care professionals dedicated to improving the quality and safety of medical care for newborn infants and their families.~~

~~(6) "Hospital" is a general acute hospital licensed under Title 26, Chapter 21 that cares for a VLBW infant.~~

~~(7) "Department" means Utah Department of Health (UDOH), UDOH employed staff, or UDOH designated contractor.~~

~~(8) "Major morbidities" include: Chronic Lung Disease, Nosocomial Infection and organism and site, Grade III or IV Intraventricular Hemorrhage, Cystic Periventricular Leukomalacia, Grade III, IV or V Retinopathy of Prematurity (ROP), ROP surgery, Avastin following ROP surgery, Necrotizing Enterocolitis, Patent Ductus Arteriosus (PDA) surgery, PDA medication, Major Birth Defect and type, all as defined by the Vermont Oxford Network 2014 Manual of Operations: Part 2, Data Definitions and Infant Data Forms, Release 18.0, Published November 2013, which is adopted and incorporated by reference.~~

~~(9) "Maternal risk factors" include: Ethnicity of Mother, Race of Mother, Prenatal Care, Antenatal Steroids, Antenatal Magnesium Sulfate, Chorioamnionitis, Maternal Hypertension, Chronic or Pregnancy Induced, Multiple Gestation, all as defined by the Vermont Oxford Network 2014 Manual of Operations: Part 2, Data~~

~~Definitions and Infant Data Forms, Release 18.0, Published November 2013.~~

~~(10) "Guidelines for Perinatal Care" means the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists. Guidelines for Perinatal Care (7th ed.), October 2012 (ISBN 13: 9781581107340, ISBN: 158110734X), which are adopted and incorporated by reference.~~

R433-1-3. Reporting of VLBW Maternal and Infant Data by Hospital Facilities.

~~Each hospital that admits a VLBW infant shall report to the Department within 40 days of discharge or death, if the infant dies in the hospital, the following:~~

- ~~(1) child's name;~~
- ~~(2) child's date of birth;~~
- ~~(3) mother's name;~~
- ~~(4) mother's date of birth;~~
- ~~(5) mother's zip code;~~
- ~~(6) delivery hospital;~~
- ~~(7) maternal risk factors;~~
- ~~(8) major morbidities for the child;~~
- ~~(9) age of infant at admission; in hours if the infant is less than 24 hours old and in days if the child is older than 24 hours;~~
- ~~(10) infant's discharge status (e.g., transported to other facility, discharged to home, death)~~
- ~~(11) age of child at discharge; in hours if the infant is less than 24 hours old and in days if the child is older than 24 hours;~~
- ~~(12) if transported to another hospital, the name of the hospital.~~

R433-1-4. Reporting of Capacity to Care for VLBW Infants, as Outlined by the 7th Edition of the Guidelines for Perinatal Care, to the Department.

~~Each hospital with a NICU or a Nursery that admits or cares for VLBW infants shall report as requested by the Department its capability to treat VLBW infants. The hospital shall submit its report within 30 days of the Department request. The Department's request shall be in the form of a survey based on the Guidelines for Perinatal Care and may be made no more than once in a calendar year. The medical director and nursing director of the NICU or nursery shall jointly complete the survey. Medical directors and nursing directors are encouraged to report significant changes in capability more frequently.~~

R433-1-5. Record Abstraction.

~~A hospital or health care provider that treats an infant born VLBW shall, as provided in Utah Code, Title 26, Chapter 25, allow personnel from the Department or its agents to abstract information from the hospital's or health care provider's files on the mother and infant regarding issues related to the care and treatment of the VLBW infant.~~

R433-1-6. Confidentiality.

~~(1) Information that the Department holds under this rule is confidential under the provisions of Title 26, Chapter 3. Because of the public interest needs to foster health care systems improvements, the Department exercises its discretion under Section 26-3-8 and shall not release information collected under this rule to any person pursuant to the provisions of Subsections 26-3-7(1) or (8).~~

~~(2) Information produced or collected by a facility is confidential and privileged under the provisions of Title 26, Chapter 25.~~

R433-1-8. Liability.

~~As provided in 26-25-1, facilities that report, and those individuals submitting the report, as required by this rule, information covered by this rule may not be held liable for reporting the information to the Department.~~

R433-1-9. Penalties.

~~Pursuant to Section 26-23-6, a person that willfully violates any provision of this rule may be assessed an administrative civil money penalty not to exceed \$10,000 per violation.~~

~~KEY: very low birth weight infant, very low birth weight infant reporting, very low birth weight infant treatment capability~~

~~Date of Enactment or Last Substantive Amendment: February 12, 2015~~

~~Authorizing, and Implemented or Interpreted Law: 26-1-30(2)(c), (d), (e), and (p); 26-10-1(a) and (b)~~

corrected. Section R590-160-11 has been updated to reflect the Department's current language.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

There is no anticipated cost or savings to the state budget. The changes are clerical in nature and don't add or remove any requirements to this rule.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are clerical in nature and don't add or remove any requirements to this rule.

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

There is no anticipated cost or savings to small businesses. The changes are clerical in nature and don't add or remove any requirements to this rule.

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

There is no anticipated cost or savings to non-small businesses. The changes are clerical in nature and don't add or remove any requirements to this rule.

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

There is no anticipated cost or savings to any other persons. The changes are clerical in nature and don't add or remove any requirements to this rule.

F) Compliance costs for affected persons:

There are no compliance costs for any affected persons.

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

Regulatory Impact Table

Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R590-160	Filing No. 52647	

Agency Information

1. Department:	Insurance		
Agency:	Administration		
Room no.:	3110		
Building:	State Office Building		
Street address:	450 N State St.		
City, state, zip:	Salt Lake City, UT 84114		
Mailing address:	PO Box 146901		
City, state, zip:	Salt Lake City, UT 84114-6901		
Contact person(s):			
Name:	Phone:	Email:	
Steve Gooch	801-538-3803	sgooch@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R590-160. Adjudicative Proceedings
3. Purpose of the new rule or reason for the change:
The rule is being amended to make it comply with Administrative Rules' Rulewriting Manual for Utah.
4. Summary of the new rule or change:
The changes are largely stylistic to improve readability and clarity. The words "Section", "Subsection", and "Rule" have been added in multiple areas as appropriate. Capitalization, punctuation, and number usage have been

NOTICES OF PROPOSED RULES

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Commissioner of the Insurance Department, Todd E. Kiser, 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 proposed rule amendment will not result in a fiscal impact to businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
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):			
Section 31A-2-201	Section 63G-4-102	Section 63G-4-203	Section 63G-4-203

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:	06/01/2020

10. This rule change MAY become effective on:	06/08/2020
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

Agency head or designee, and title:	Steve Gooch, Public Information Officer I	Date:	04/03/2020
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R590. Insurance, Administration.

R590-160. Adjudicative Proceedings.

R590-160-1. Authority.

This rule is promulgated by the commissioner pursuant to Subsections 31A-2-201(3)(a), 63G-4-102(6), 63G-4-203(1), and applicable provisions of Title 63G, Chapter 4, Administrative Procedures Act.

R590-160-2. Purpose.

(1) This rule establishes procedures governing the designation and conduct of an adjudicative proceeding[s] before the presiding officer.

(2) A ~~P~~ public hearing[s] pursuant to Section 63G-3-302 ~~are~~ is not governed by this rule.

R590-160-3. Definitions.

In addition to the definitions in Sections 31A-1-301 and 63G-4-103, the following definitions shall apply for the purpose of this rule:

(1) "Complainant" means the Department in any action against a licensee or other person alleged to have committed a violation of statute, rule, or order of the commissioner.

(2) "Department" means the Utah Insurance Department.

(3) "Existing ~~D~~ disability" means:

(a) any suspension, revocation or limitation of a license or certificate of authority; or

(b) any limitation on a right to apply to the commissioner for a license or certificate of authority.

(4) "Intervenor" means any person, not a party, permitted to intervene in a proceeding pursuant to Section 63G-4-207.

(5) "Licensee" means any person who has been issued a license or certificate under Title 31A, Insurance Code.

(6) "Petitioner" means any person, other than the Department, who commences an adjudicative proceeding and seeks agency action.

(7) "Pleading" means any paper or document filed, in written or electronic form, in an adjudicative proceeding.

(8) "Presiding officer" means the commissioner or a presiding officer appointed by the commissioner.

(9) "Respondent" means any person against whom an adjudicative proceeding is initiated.

R590-160-4. Designations of Proceedings.

(1) Any of the following proceedings may be commenced as an informal adjudicative proceeding:

(a) the Department's initial decision on an application for a license or a certificate of authority;

(b) the Department's decision on a petition to remove an existing disability;

(c) the Department's decision to disapprove a rate;

(d) the Department's decision to disapprove a form;

(e) when it appears to the Department that the matter may have no issues;

(f) when it appears to the Department that the matter involves technical or minor violations of law; or

(g) a proceeding[s] for the purpose of entering stipulated findings of fact, conclusions of law and orders.

(2) A complainant may commence an informal or formal adjudicative proceeding pursuant to this rule.

(3) Any petitioner may commence a formal adjudicative proceeding pursuant to this rule.

(4) The presiding officer shall conduct any informal or formal adjudicative proceeding.

(5) Any time before a final order is issued, the presiding officer may, sua sponte or upon motion of any party, convert any adjudicative proceeding from a formal to an informal adjudicative proceeding or from an informal to a formal adjudicative proceeding, provided the conversion is in the public interest and does not unfairly prejudice the rights of any party.

R590-160-5. Rules Applicable to ~~Each~~ Each Proceeding[s].

(1) Liberal Construction. These rules shall be liberally construed to secure just, speedy, and economical determination of ~~any~~ any issue[s].

(2) Deviation from Rules. The presiding officer may permit a deviation from these rules if strict compliance is found to be impracticable or unnecessary or for other good cause.

(3) Computation of Time. The time within which any act shall be completed shall be computed by excluding the first day and including the last day unless the last day is a Saturday, Sunday, or a legal holiday, and then the last day is excluded and the period runs until the end of the next day that is not a Saturday, Sunday, or a legal holiday.

(4) Parties.

(a) A party to a proceeding is:

(i) any person authorized by statute or agency rule to participate in the adjudicative proceeding pursuant to Subsections 63G-4-201(1)(a) or (b);

(ii) a complainant;

(iii) a petitioner;

(iv) a respondent; or

(v) an intervenor.

(b) Any participant in a proceeding shall be named in the caption as Petitioner, Complainant, Respondent, or Intervenor.

(5) Appearances, Representation, and Pro Hac Vice.

(a) Making an Appearance. Any party enters an appearance by filing an initial written response to a notice of agency action at the beginning of the adjudicative proceeding, providing the party's name, address, email, telephone number, and the party's position or interest in the proceeding.

(b) Representation of Parties.

(i) An attorney who is an active member of the Utah State Bar may represent any party.

(ii) An individual who is a party to an adjudicative proceeding may represent himself or herself.

(iii) An officer duly authorized by corporate resolution may represent a corporation that is duly registered with the Department of Commerce, Division of Corporations and Commercial Code, as required by law.

(iv) A general partner may represent a partnership.

(v) An authorized member or manager may represent a limited liability company that is duly registered with the Department of Commerce, Division of Corporations and Commercial Code, as required by law.

(vi) The legal, registered owner of a business conducted under an assumed name, dba, shall be considered the legal party in interest and that business may not be represented except through the legal party in interest.

(c) Pro Hac Vice.

(i) An attorney licensed to practice in a jurisdiction outside of Utah may represent any party in a particular matter before the presiding officer without being admitted pro hac vice in Utah.

(ii) ~~(A)~~ An attorney, pro hac vice attorney, or other authorized representative pursuant to Subsection R590-160-5(5)(b), if previous appearance has not been entered, shall file a Notice of Appearance with the presiding officer no later than five days before any hearing at which the attorney or other authorized representative shall appear.

~~(B)~~ The Notice of Appearance shall contain:

~~(A)~~ the name, address, telephone number, fax number, email address, each bar identification number~~(s)~~, and each state~~(s)~~ of admission of the pro hac vice attorney, if applicable;

~~(B)~~ the name and docket number of the case in which the applicant is appearing as the attorney of record;

~~(C)~~ a statement whether, in any state, the applicant is currently suspended or disbarred from the practice of law, or has been disciplined within the prior five years, or is the subject of any pending disciplinary proceeding; and

~~(D)~~ the name, address, ~~bar~~ bar identification number, telephone number, fax number, and email of a member of the Utah State Bar to serve as associate counsel.

(iii) The presiding officer may require Utah counsel to appear at any hearing.

(6) A Pleading[s].

(a) ~~An Allowable Pleading[s-Allowed]~~. ~~[P]A~~ pleading[s] shall consist of any petition[s], complaint[s], request[s] for hearing, responsive pleading[s], motion[s], stipulation[s], affidavit[s], memorandum~~(a)~~, order[s], or document[s] in a proceeding.

(b) Docket Number. Upon the commencement of an adjudicative proceeding, the commissioner shall assign a docket number to the proceeding.

(c) Title. ~~[P]Each~~ pleading[s] shall be titled in substantially the following form:

(i) Centered heading: BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH;

(ii) Left side, identification of parties;

(iii) Right side, identification of type of pleading;

(iv) Right side, docket number.

(d) Content of a Pleading[s]. Any pleading shall identify the proceeding[s] by title and docket number, if known, and shall contain a clear and concise statement of the matter relied upon as a basis for the pleading, together with an appropriate request for relief when relief is sought.

NOTICES OF PROPOSED RULES

(e) Amendment to a Pleading.

(i) The presiding officer may allow any pleading to be amended or corrected.

(ii) Any amendment to any pleading shall be consistent with the Utah Rules of Civil Procedure.

(f) Signing of a Pleading.

(i) Any pleading shall be signed and dated by the party or by the party's attorney or other authorized representative and shall show the signer's address, telephone number, and email.

(ii) The signature is a certification by the signer that the signer has read the pleading and that, to the best of the signer's knowledge and belief, there are good grounds to support it.

(g) Motions.

(i) A proceeding seeking an order to secure compliance may not be initiated by motion except for a Motion for Order to Show Cause.

(ii)(A) Any motion, other than one made orally at a hearing, shall be in writing and shall be filed and served on ~~[all parties]~~ each party as provided in this rule.

(B) The presiding officer may use discretion to decide any motion with or without a hearing.

(C) If either party desires a hearing on its motion, ~~[the]~~ any pleading[s] in support or in opposition shall state that a hearing is requested and shall provide the reasons therefor.

(D) The filing of an affidavit[s] or declaration[s] in support of ~~[the]~~ a motion[s] or in opposition thereto may be permitted or required by the presiding officer.

(E) An oral ~~[Oral]~~ motion[s] may be allowed at a hearing at the discretion of the presiding officer.

(iii) Any motion shall be filed and served at least ten days prior to the date set for the hearing.

(7) Filing and Service.

(a) Any pleading shall be considered filed on the date it is received by the Department.

(b) Unless filed and served electronically pursuant to Section R590-160-~~[5.5]6~~, ~~[the]~~ a pleading shall be filed with the Department and a copy served upon ~~[all]~~ each other party[ies] to the proceeding.

(c) The presiding officer may direct that a copy of any pleading be made available by the filer to any person requesting copies thereof who the presiding officer determines may be affected by the proceeding[s].

(e)d Service may be made upon any party or other person by ordinary mail, by certified mail with return receipt requested, in accordance with the Utah Rules of Civil Procedure, or by any person specifically designated by the commissioner.

(e) Service upon a licensee, if by mail, shall be to the mailing address or other address on file with the Department.

(d)f Any pleading required to be served by these rules shall include a Certificate of Service in substantially the following form: "The undersigned hereby certifies that on this date, a true and correct copy of the (Pleading title) was served, emailed, or mailed, postage prepaid, to the following: name, street, city, state, zip code, and email address. Dated this (blank) day of (month), (year). (signed)."

(e)g When any party is represented by an attorney or other authorized representative, service upon the attorney or representative constitutes service upon the party.

(8) Disqualification of a Presiding Officer.

(a) Any party to an adjudicative proceeding may move for the disqualification of an assigned presiding officer by filing with the commissioner an affidavit alleging facts sufficient to support disqualification.

(b) The commissioner shall determine the issue of disqualification as a part of the record of the case and may request and

receive any additional evidence or testimony as considered necessary to make this determination.

(i) The adjudicative proceeding may not proceed until the commissioner makes this determination.

(ii) No appeal shall be taken from the commissioner's order on the determination of disqualification except as part of an appeal of a final agency action.

(iii) If the commissioner finds that a motion for disqualification was filed without a reasonable basis or good faith belief in the facts asserted, the commissioner may order that the offending party be subject to the appropriate sanctions as are authorized by statute or this rule.]

~~When a presiding officer is disqualified or it becomes impractical for the presiding officer to continue, the commissioner shall appoint another presiding officer.]~~

(c) A presiding officer may at any time voluntarily disqualify himself or herself.

(d) When a presiding officer is disqualified or it becomes impractical for the presiding officer to continue, the commissioner shall appoint another presiding officer.

(9) Ex Parte Contact Prohibited. Except as to matters that by law are subject to disposition on an ex parte basis, the commissioner and the presiding officer shall not have ex parte contact with any party or its representative, directly or indirectly involved in any matter that is the subject of a pending adjudicative proceeding unless ~~[all parties are]~~ each party is given notice and an opportunity to participate.

(10) Standard of Proof. Any issue of fact in an adjudicative proceeding before the presiding officer shall be decided upon the basis of a preponderance of the evidence standard.

(11) Burden of Proof.

(a) A party who commences an adjudicative proceeding has the burden to prove entitlement to the relief sought.

(b) A party who asserts an affirmative defense to a request for relief has the burden to prove entitlement to that defense.

R590-160-6. Electronic Filing and Service of Pleadings in Formal and Informal Proceedings.

(1) Filing with or service on the presiding officer may be accomplished by sending a copy of the pleading in PDF to uidadmincases@utah.gov.

(2) Filing with or service on the Department may be accomplished by sending a copy of the pleading in PDF to the Department's current email as provided in the subject proceeding.

(3) Filing with or service on:

(a) a licensee may be accomplished by sending a copy of the pleading in PDF to the current email provided by the licensee pursuant to Subsection 31A-23a-412(1); or

(b) a party's representative may be accomplished by sending a copy of the pleading in PDF to the representative's current email set forth in the representative's filed pleading.

(4)(a) Any pleading electronically filed or served shall be signed by a party or its representative and shall contain a signed certificate stating the date of electronic filing or service.

(b) An electronically filed or served pleading may be signed using any lawfully recognized signature, including an electronic signature.

R590-160-7. Rules Applicable to Formal Adjudicative Proceedings.

(1) Conduct of Hearing. Any hearing in a formal adjudicative proceeding shall be conducted pursuant to ~~[the provisions of]~~ Section 63G-4-206.

(2) Continuance.

(a) If application is made within a reasonable time prior to the date of hearing, upon proper notice to ~~[the other parties]~~each other party, the presiding officer may grant a motion for continuance or other change in the time and place of hearing, upon good cause shown.

 (b) The presiding officer may also, for good cause, continue a hearing in process if such continuance will not substantially prejudice the rights of any party.

 (3) Public Hearing[s]. Unless ordered by the presiding officer for good cause, any hearing shall be open to the public.

 (4) Telephonic Testimony.

 (a) ~~The presiding officer has discretion whether telephonic testimony may be allowed.~~

 (b) The presiding officer may, when the identity of a witness can be established with reasonable assurance, take testimony telephonically.

 (c) If telephonic testimony is taken, any party shall be permitted to hear the testimony and examine or cross-examine the witness.~~[The presiding officer has discretion whether telephonic testimony may be allowed.]~~

 (d) Any telephonic testimony shall be given under oath.

 (5) Record of a Hearing.

 (a) Recording.

 (i) The record of the proceeding shall be made by an audio recording.

 (ii) A duplicate copy of the recording, or any portion thereof, shall be provided by the presiding officer at the request and expense of any party, and at no cost to the commissioner.

 (b) Transcript of a Hearing.

 (i) Upon reasonable notice and at the party's own expense, any party may request that a certified shorthand reporter be present to record the proceeding.

 (ii) If a transcript is made, the original transcript of the proceeding shall be filed with the presiding officer at no cost to the commissioner.

 (iii) Any party who wants a copy of the transcript may purchase it from the certified shorthand reporter at the party's own expense.

 (6) Subpoenas, Witness Fees, and Payment.

 (a) Subpoenas.

 (i) On the presiding officer's command, or at the request of any party, the presiding officer may issue a subpoena to:

 (A) obtain or inspect documents;

 (B) inspect premises or tangible things; or

 (C) secure the attendance of a witness at a hearing or deposition in a formal adjudicative proceeding.

 (ii) Any subpoena shall be issued and served in accordance with the Utah Rules of Civil Procedure, Rule 45, Subpoena.

 (b) Witness Fees. Each subpoenaed witness, other than Department staff, who appears before the presiding officer shall be entitled to receive the same fees and mileage allowed by law to witnesses in a district court, to be paid by the party who requests the subpoena.

 (c) Payment.

 (i) Any witness appearing at the request of the presiding officer shall be entitled to payment from the funds appropriated for the use of the Department.

 (ii) Any witness subpoenaed at the request of a party other than the presiding officer may, at the time of service of the subpoena, demand one day's witness fee and mileage in advance and unless such fee is tendered, that witness shall not be required to appear.

 (7) Discovery. Discovery may be conducted by the parties' agreement or pursuant to an order of the presiding officer.

 (8) Order. The presiding officer shall issue a written, signed order based upon evidence presented in the hearing.

R590-160-8. Rules Applicable to Informal Adjudicative Proceedings.

 (1)(a) An informal adjudicative proceeding may be commenced by the Department by issuing a Notice of Informal Adjudicative Proceeding and Order ~~[as provided in]~~pursuant to Subsection R590-160-4(1).

 (b) The Notice of Informal Adjudicative Proceeding and Order shall be based upon the information contained in the files of the Department, any declarant's testimony, and information known to the presiding officer.

 (c) The Notice of Informal Adjudicative Proceeding and Order shall constitute a proposed order that shall become final 15 days after service or mailing to the party unless a written request for a hearing is received by the Department prior to the expiration of 15 days.

 (2) A respondent's failure to timely request a hearing in an informal adjudicative proceeding will be considered a failure to exhaust administrative remedies.

 (3) When a hearing is requested in an informal adjudicative proceeding, a Notice of Prehearing Conference shall be issued stating the matters to be decided and giving notice of the date, time, and place of the prehearing scheduling conference to be held.

 (4) A hearing in an informal adjudicative proceeding may be of record.

 (5) At a hearing in an informal adjudicative proceeding, the presiding officer may receive any testimony, proffer[s] of evidence, affidavit[s], declaration[s], and argument[s] relating to the issues to be decided and may issue a subpoenas requiring the attendance of any witness[es] or the production of necessary evidence.

 (6) At the close of the informal adjudicative proceeding, the presiding officer shall issue a written, signed order based upon evidence in the Department's files and the evidence or proffers of evidence received at the proceeding. The order shall be final on the date of the order.

R590-160-9. Agency Review.

 (1)(a) Agency review of an adjudicative proceeding, except an informal proceeding that becomes final without a request for a hearing pursuant to Subsection R590-160-8(1), shall be available to any party to the proceeding by filing a Request for Agency Review with the commissioner within 30 days of the date of the order.

 (b) Failure to seek agency review shall be considered a failure to exhaust administrative remedies.

 (2) A request for agency review shall be filed ~~[in accordance with]~~pursuant to Section 63G-4-301.

 (3)(a) The review shall be conducted by the commissioner or the commissioner's designee.

 (b) The designee shall not be the presiding officer who issued the decision under review.

 (c) If the review is conducted by a designee, the designee shall recommend a disposition to the commissioner who shall make the final decision and shall sign the order.

 (4) Content of a Request for Agency Review.

 (a) The content of a request for agency review shall be in accordance with Subsection 63G-4-301(1)(b) and include a copy of the order, which is the subject of the request.

 (b) A party requesting agency review shall set forth any factual or legal basis in support of that request.

 (c) The request for agency review may include:

 (i) supporting argument;

NOTICES OF PROPOSED RULES

(ii) citation to appropriate legal authority;
(iii) any reference to the relevant portion of the record developed during the formal adjudicative proceeding under review; or
(iv) reference to the relevant portion of the Department's files, and any other evidence or proffer[s] of evidence received during the informal adjudicative proceeding under review.

(d) If a party challenges a finding of fact in the order subject to review, the party shall demonstrate:

(i) based on the entire record, that the finding is not supported by substantial evidence in the formal adjudicative proceeding under review; or

(ii) based on the Department's files and declarant's testimony, that the finding is not supported by substantial evidence in the informal adjudicative proceeding under review.

(e) If a party challenges a legal conclusion in the order subject to review, the party shall support its argument with citation to any relevant authority and also:

(i) cite the portion of the record [~~which~~]that is relevant to that issue in the formal adjudicative proceeding under review; or

(ii) cite the portion of the record [~~which~~]that is relevant to the[~~at~~] issue based upon [~~the~~]any evidence in the Department's files, any fact[s] appearing in the Department's files and verified by a declarant testimony, and any fact[s] presented in evidence or proffer[s] of evidence received in the informal adjudicative proceeding under review.

(f)(i) If the grounds for agency review include any challenge to a determination of fact or conclusion of law as unsupported by or contrary to the evidence, the party seeking agency review shall:

(A) order and cause a transcript of the recording relevant to such finding or conclusion to be prepared in the formal adjudicative proceeding under review, in accordance with Subsections R590-160-7(5)(a) and (b); or

(B) provide a statement in its request for agency review that no transcript or recording is available in the informal adjudicative proceeding under review.

(ii) In a request for agency review [~~under~~]pursuant to Subsection R590-160-9(4)(f)(i)(A), the party seeking review shall certify that a transcript has been ordered and shall notify the presiding officer when the transcript is available for filing.

(iii) The party seeking agency review shall bear the cost of the transcript.

(iv) The presiding officer may waive the requirement of preparation of a written transcript and permit citation to the recording of such adjudicative proceeding upon motion and a reasonable showing that such citation would not be extensive and the costs and period of time in preparation of a written transcript would be unduly burdensome in relation thereto.

(5) Request for a Stay.

(a) Upon the timely filing of a request for agency review, the party seeking review may request that the effective date of the order subject to review be stayed pending the completion of review.

(b) An opposition to the request for a stay shall be made in writing within [~~10~~]ten days from the date the stay is requested.

(c) In determining whether to grant a request for a stay, the presiding officer shall review the request, any opposing memorandum, the findings of fact, conclusions of law, and order and determine whether a stay is in the best interest of the public.

(d) If it is determined to be in the best interest of the public to issue a stay, the presiding officer may:

(i) issue a stay, staying [~~all or~~]any part of the order pending agency review, or

(ii) issue a conditional stay by imposing any term[s], condition[s], or restriction[s] on a party pending agency review.

([~~d~~]e) The presiding officer may also enter an interim order granting a stay pending a final decision on the request for a stay.

(6) Memoranda.

(a) The presiding officer may order or permit [~~the parties~~]any party to file any memorandum[~~a~~] to assist in conducting an agency review.

(b) Any memorandum[~~a~~] shall be filed consistent with these rules or as otherwise governed by any scheduling order.

([~~b~~]c)(i) If a transcript is necessary to conduct an agency review, a supporting memorandum shall be filed no later than 15 days after the filing of the transcript with the Department.

(ii) If a transcript is unavailable or waived by the presiding officer pursuant to Subsection R590-160-9(4)(f)(iv), any supporting memorandum[~~a~~] to the request for agency review shall be filed with the request.

([~~e~~]d) Any opposing memorandum shall be filed no later than 15 days after the filing of the supporting memorandum.

([~~d~~]e) After the filing of an opposing memorandum, a reply memorandum shall be filed no later than five days after the filing of the opposing memorandum.

(7) Oral Argument.

(a) The request for agency review or the response thereto shall state whether oral argument is sought in conjunction with the agency review.

(b) The presiding officer may order or permit oral argument if determined to be warranted to assist in conducting an agency review.

(8) Standard of Review. [~~]~~The standards for agency review correspond to the standards for judicial review of formal adjudicative proceedings, as set forth in Subsection 63G-4-403(4).

(9) Order on Review.

(a) The order on review shall comply with the requirements of Subsection 63G-4-301(6).

(b) An [~~Ø~~]order on [~~R~~]review may affirm, reverse, or amend, in whole or in part, the previous order, or remand for further adjudicative proceeding or hearing.

(10) Failure to comply with Section R590-160-9 may result in dismissal of the request for agency review.

R590-160-10. Sanctions.

(1) In any adjudicative proceeding, the presiding officer may, by order, impose any appropriate sanction[s] upon any party, a party's representative, any witness, or a witness's representative for contemptuous or disobedient conduct, or for failure to comply with this rule or any lawful order.

(2)(a) The presiding officer may take any reasonable step[s] to control the conduct of an adjudicative proceeding[~~].—The presiding officer—] and may impose any sanction against a party or a witness who fails to comply with an order or with a requirement of Rule R590-160.~~

(b) A sanction may include:

(i) excluding evidence;

(ii) dismissing one or more claims;

(iii) striking any pleading[s] or any portion[s] of [~~the~~]a pleading[s];

(iv) entering a default judgment[s]; or

(v) ordering payment of any costs, expenses, and fees.

R590-160-11. Severability.

[~~If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, that invalidity shall~~

not affect any other provision or application of this rule, which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable. If any provision of this rule, R590-160, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule which can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance

Date of Enactment or Last Substantive Amendment: ~~August 14, 2018~~ 2020

Notice of Continuation: September 21, 2018

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 63G-4-102; 63G-4-203

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Repeal			
Utah Admin. Code Ref (R no.):	R590-278	Filing No. 52648	No.

Agency Information

1. Department:	Insurance		
Agency:	Administration		
Room no.:	3110		
Building:	State Office Building		
Street address:	450 N State St.		
City, state, zip:	Salt Lake City, UT 84114		
Mailing address:	PO Box 146901		
City, state, zip:	Salt Lake City, UT 84114-6901		
Contact person(s):			
Name:	Phone:	Email:	
Steve Gooch	801-538-3803	sgooch@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R590-278. Consent Requests Under 18 USC 1033(e)(2)
3. Purpose of the new rule or reason for the change:
The rule is being repealed because the Insurance Department (Department) is changing its process for handling consent requests under 18 USC 1033(e)(2).
4. Summary of the new rule or change:
The Department has determined that the process outlined in this rule is ineffective and time-consuming. The Department is repealing this rule and instituting a new internal process that will be more efficient and effective. The rule will be repealed in its entirety.

Fiscal Information

5. Aggregate anticipated cost or savings to:												
A) State budget:												
The Department will likely see some small savings related to increased processing efficiency. These savings will come in the form of reduced wages due to less time spent processing consent requests, but the extent of the reduction is unknown. The Department expects that the savings will be fairly minimal.												
B) Local governments:												
There are no anticipated costs or savings to local governments. The repeal affects the Department's internal processes and will not affect any external entities.												
C) Small businesses ("small business" means a business employing 1-49 persons):												
There are no anticipated costs or savings to small businesses. The repeal affects the Department's internal processes and will not affect any external entities.												
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):												
There are no anticipated costs or savings to non-small businesses. The repeal affects the Department's internal processes and will not affect any external entities.												
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 <i>agency</i>):												
There are no anticipated costs or savings to any other persons. The repeal affects the Department's internal processes and will not affect any external entities.												
F) Compliance costs for affected persons:												
There are no compliance costs for any persons. The repeal affects the Department's internal processes and will not affect any external entities.												
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												
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2020</th> <th>FY2021</th> <th>FY2022</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2020	FY2021	FY2022	State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0
Fiscal Cost	FY2020	FY2021	FY2022									
State Government	\$0	\$0	\$0									
Local Governments	\$0	\$0	\$0									

NOTICES OF PROPOSED RULES

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Commissioner of the Insurance Department, Todd E. Kiser, 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 repealing this rule will not result in a fiscal impact to businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
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)	Subsection 31A-23a-111(5)(b)	

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:	06/01/2020
10. This rule change MAY become effective on:	06/08/2020
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

Agency head or designee, and title:	Steve Gooch, Public Information Officer I	Date:	04/03/2020
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R590. Insurance Department, Administration.
~~[R590-278. Consent Requests Under 18 USC 1033(e)(2). R590-278-1. Authority.~~

~~This rule is adopted pursuant to the following:
 (1) Subsection 31A-2-201(3) that authorizes the commissioner to make rules to implement the provisions of Title 31A; and
 (2) Subsection 31A-23a-111(5)(b) that authorizes the commissioner to act in compliance with the federal Violent Crime Control and Law Enforcement Act of 1994, 18 USC 1033.~~

~~**R590-278-2. Request for Consent Made by Filing Request for Agency Action.**~~

~~(1) A request under 18 USC 1033(e)(2) for the commissioner's written consent to engage or participate in the business of insurance shall be made by filing a request for agency action. The form "Request for Agency Action Re: 18 USC 1033(e)(2)", available on the department's website, shall be used to make the request. The person making the request shall attach to the form all relevant documents that support the request. After completion, the form shall be filed as directed in Sections R590-160-5 or R590-160-6.
 (2) A request for agency action under this rule is a request for a formal adjudicative proceeding and is governed by the relevant provisions of the Utah Administrative Procedures Act, Title 63G, Chapter 4, and Section R590-160.
 (3) The provisions of R590-160 apply to proceedings under this rule.~~

~~**R590-278-3. Hearing on Request for Agency Action.**~~

~~(1) A presiding officer shall conduct a hearing on the merits of a request for agency action under this rule.
 (2) After the hearing, the presiding officer shall submit to the commissioner the record of the proceeding, recommended findings of fact and conclusions of law, and a recommended order.
 (3) The commissioner shall consider the presiding officer's recommendations and then issue findings of fact and conclusions of law and an order which constitute final agency action.~~

~~(4) A party may submit to the commissioner a written request for reconsideration of the final agency action. The request is governed by Section 63G-4-302 and must be submitted within 20 days of the date of the final agency action.~~

~~(5) A party may seek judicial review of the final agency action as provided in the Utah Administrative Procedures Act, Title 63G, Chapter 4.~~

R590-278-4. Determining Request for Consent.

~~Written consent may be granted if, in the commissioner's sole discretion, a preponderance of the evidence shows that the petitioner is trustworthy to engage or participate in the business of insurance. The petitioner bears the burden of production of evidence and the burden of persuasion. The following are relevant to determining whether written consent will be granted:~~

- ~~(1) Any materially false or misleading statement or omission in the request for agency action;~~
- ~~(2) The nature, severity, and number of the petitioner's crimes;~~
- ~~(3) The petitioner's age at the time the crimes were committed;~~
- ~~(4) The petitioner's punishment for the crimes;~~
- ~~(5) The length of time since the petitioner's most recent conviction;~~
- ~~(6) The petitioner's rehabilitation, including evidence of counseling, community service, completion of probation, and payment of restitution, fines, and interest if applicable;~~
- ~~(7) Current reference letters;~~
- ~~(8) The presence of any fact or circumstance in the petitioner's current life that may have motivated the petitioner to commit crime in the past;~~
- ~~(9) Any unpaid judgment;~~
- ~~(10) If the petitioner intends to apply for an insurance license, the duties of a holder of that type of license;~~
- ~~(11) The extent to which the petitioner, if granted a license, will work under the supervision of another licensee or another person;~~
- ~~(12) The petitioner's trustworthiness in employment, community service, or other endeavors since the most recent conviction;~~
- ~~(13) Information received from the National Association of Insurance Commissioners and any insurance regulatory official;~~
- ~~(14) Whether the petitioner has had any occupational or professional licenses, certifications, or designations revoked and, if so, the basis for the revocation; and~~
- ~~(15) Whether the petitioner has previously requested written consent in any jurisdiction and, if so, the outcome of that request.~~

R590-278-5. Severability.

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

KEY: insurance

Date of Enactment or Last Substantive Amendment: June 21, 2019
Authorizing, and Implemented or Interpreted Law: 31A-23a-111(5)(b); 31A-2-201(3)]

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R590-281-4	Filing No. 52649
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Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	3110	
Building:	State Office Building	
Street address:	450 N State St.	
City, state, zip:	Salt Lake City, UT 84114	
Mailing address:	PO Box 146901	
City, state, zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-538-3803	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R590-281-4. Eligibility to Apply for a License
3. Purpose of the new rule or reason for the change:
The rule is being amended to remove references to Rule R590-278, which is being repealed, and to correct a formatting error. (EDITOR'S NOTE: The proposed repeal of Rule R590-278 is under ID No. 52648 in this issue, May 1, 2020, of the Bulletin.)
4. Summary of the new rule or change:
The change removes two references to Rule R590-278, which is being repealed, and makes a formatting change to meet the standards in the Rulewriting Manual for Utah.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There are no anticipated costs or savings to the state budget. The amendment merely makes a couple of clerical changes.
B) Local governments:
There are no anticipated costs or savings to local governments. The amendment merely makes a couple of clerical changes.
C) Small businesses ("small business" means a business employing 1-49 persons):

There are no anticipated costs or savings to small businesses. The amendment merely makes a couple of clerical changes.

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

There are no anticipated costs or savings to non-small businesses. The amendment merely makes a couple of clerical changes.

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

There are no anticipated costs or savings to any other persons. The amendment merely makes a couple of clerical changes.

F) Compliance costs for affected persons:

There are no compliance costs for any affected persons. The amendment merely makes a couple of clerical 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
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
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Total Fiscal Benefits	\$0	\$0	\$0
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Net Fiscal Benefits	\$0	\$0	\$0
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H) Department head approval of regulatory impact analysis:

The Commissioner of the Insurance Department, Todd E. Kiser, 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 proposed amendment will not result in a fiscal impact on businesses.

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

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)		
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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: 06/01/2020

10. This rule change MAY become effective on: 06/08/2020

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

Agency head or designee, and title:	Steve Gooch, Public Information Officer I	Date:	04/03/2020
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R590. Insurance, Administration.

R590-281. License Applications Submitted by Individuals Who Have a Criminal Conviction.

R590-281-4. Eligibility to Apply for a License.

(1) Except as provided in Subsections (2) and (3), and except in the case of a juvenile adjudication, an individual who has been convicted of or pleaded no contest to a felony or a misdemeanor involving fraud, misrepresentation, theft, or dishonesty is eligible to apply for a license if:

(a) the individual has paid in full all fines and interest ordered by the court related to the conviction;

(b) the individual has paid in full all restitution ordered by the court related to the conviction; and

(c) the following time periods have elapsed from the date the individual was convicted or released from incarceration, parole, or probation, whichever occurred last:

(i) seven years in the case of a felony;

(ii) five years in the case of a class A misdemeanor;

(iii) four years in the case of a class B misdemeanor; or

(iv) three years in the case of any other misdemeanor.

(2) An individual may not apply for a license if a proceeding is pending against the individual.

(3)(a) An individual who has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, or who has been convicted of a felony involving dishonesty or breach of trust, may not apply for a license without first obtaining written consent from the commissioner to engage or participate in the business of insurance[~~as provided in R590-278~~].

(b) An individual who obtains written consent[~~under R590-278~~] may apply for a license[~~That individual~~] and remains subject to all other license application requirements.

(4) The department will deny a license application submitted by an individual who is not eligible under this Section.

KEY: insurance, licensing

Date of Enactment or Last Substantive Amendment: 2020~~June 21, 2019~~

Authorizing, and Implemented or Interpreted Law: 31A-2-201(3)

End of the Notices of 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.):	R25-22	Filing No. 52665

Agency Information

1. Department:	Administrative Services	
Agency:	Finance	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W Floor 3	
City, state, zip:	Taylorsville, UT 84127-2128	
Mailing address:	PO Box 141031	
City, state, zip:	Salt Lake City, UT 84114-1031	
Contact person(s):		
Name:	Phone:	Email:
John Reidhead	801-957-7734	jreidhead@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R25-22. Financial Institution Validation for Access to Medical Inventory Control System
3. Effective Date:
04/10/2020
4. Purpose of the new rule or reason for the change:
This rule is enacted under the authority of Subsection 4-41a-103(6)(a) which establishes the process for the Division of Finance (Division) to validate financial institutions requesting access to the inventory of a medical cannabis establishment or medical cannabis pharmacy. This rule will supersede the previous emergency rule filing for Rule R25-22, ID No. 52656.
5. Summary of the new rule or change:
This rule establishes a process for a validated financial institution to request access to medical cannabis production and cannabis pharmacy's inventory control system. (EDITOR'S NOTE: A corresponding proposed new Rule R25-22 is under ID No. 52655 in this issue, May 1, 2020, of the Bulletin.)

6. Regular rulemaking would:	
<input type="checkbox"/>	cause an imminent peril to the public health, safety, or welfare;
<input type="checkbox"/>	cause an imminent budget reduction because of budget restraints or federal requirements; or
<input checked="" type="checkbox"/>	place the agency in violation of federal or state law.
Specific reason and justification:	
The authorizing statute became effective 03/01/2020. Businesses wishing to comply with statute, need this rule for guidance.	

Fiscal Information

7. Aggregate anticipated cost or savings to:	
A) State budget:	
This rule will cost the Division \$3,000 in the first year and estimates a cost of \$2,500 per year thereafter. To determine the cost to the Division, employee's hourly rates and the estimates of hours each would spend was used to determine the cost to the Division. This amount is higher the first year, because most financial institutions will request access up front than in future years.	
B) Local governments:	
There is no anticipated costs to local governments. This rule only affects state budgets, and will not impact local governments.	
C) Small businesses ("small business" means a business employing 1-49 persons):	
There is no anticipated costs to small businesses. This rule only applies to state budgets, and will not impact small businesses.	
D) 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 <i>agency</i>):	
The proposed rule applies only to financial institutions requesting access to any cannabis establishment's inventory. Financial Institutions will incur a small, but incalculable, cost to assemble existing reports and draft a self-certification letter.	
8. Compliance costs for affected persons:	
There are no other affected persons aside from the Division and the financial institutions wishing to participate.	
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:	
I have reviewed this fiscal analysis, and agree with the described fiscal impacts associated with this rule.	

B) Name and title of department head commenting on the fiscal impacts:
Tani Pack Downing, Executive Director

Citation Information

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):	
Subsection 4-41a-103(6)(a)	

Agency Authorization Information

Agency head or designee, and title:	John Reidhead, Division Director	Date:	04/07/2020
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R25. Administrative Services, Finance.

R25-22. Financial Institution Validation for Access to Medical Cannabis Inventory Control System.

R25-22-1. Purpose and Authority.

(1) Purpose. This rule establishes the process to validate a financial institution in order to provide access to the inventory control system of a medical cannabis production establishment or medical cannabis pharmacy.

(2) Authority. This rule is enacted in accordance with Subsection 4-41a-103(6)(a).

R25-22-2. Definitions.

(1) Terms used in this rule are defined in Sections 4-41a-102 and 26-61a-102.

(2) In addition:

(a) "Utah MRB" means any cannabis production establishment, medical cannabis pharmacy, or home delivery medical cannabis pharmacy licensed in accordance with the Utah Medical Cannabis Act.

(b) "Financial Institution" means any federal or state chartered and regulated depository financial institution.

R25-22-3. Process for Validation of a Financial Institution.

(1) A Financial Institution requesting access to the medical cannabis inventory control system in accordance with this rule must have an established account with a Utah MRB before access may be granted.

(a) The Utah MRB must verify its account status with the requesting Financial Institution with the Division of Finance.

(b) A Financial Institution may become validated in accordance with this rule, but not be granted access until an account is established with a Utah MRB.

(2) A Financial Institution requesting validation in accordance with this rule must submit documentation required in Section R25-22-4 to the Division of Finance.

(3) The Division of Finance will review submitted documentation for:

(a) completeness;

(b) self-certification of intent to comply with relevant laws in accordance with Subsection R25-22-4(1); and

(c) compliance with relevant data security requirements in accordance with Subsections R25-22-4(2), (3) and (4).

(4) A list of validated Financial Institutions will be maintained by the Division of Finance and shared with the Utah Department of Agriculture and Food and the Utah Department of Health in accordance with Section R25-22-5.

R25-22-4. Documents Required for Validation of Financial Institutions.

(1) A Financial Institution must provide a letter self-certifying that the access desired will be used only in accordance with Subsections 4-41a-103(6)(a)(i) through 4-41a-103(6)(a)(iii). The self-certification must stipulate that the financial institution will comply with the following regulations:

(a) Know Your Customer (KYC) in accordance with the Federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, 31 U.S.C. 5318 Sec. 326;

(b) Suspicious Activity Report (SAR) and Currency Transaction Report (CTR) filings in accordance with the Federal Bank Secrecy Act of 1970, 31 U.S.C 5311 et seq., as amended; and

(c) Due diligence in accordance with the Federal Department of Treasury, Financial Crimes Enforcement Network (FinCEN) guidance given in FIN-2014-G001, "BSA Expectations Regarding Marijuana-Related Businesses," Issued February 14, 2014, incorporated by reference.

(2) A Financial Institution must provide self-certification and supporting documentation that Automated Clearing House (ACH) transactions are compliant with National Automated Clearing House Association (NACHA) Rules and Operating Guidelines, incorporated by reference.

(3) A Financial Institution must provide documentation demonstrating compliance with the Gramm-Leach-Bliley Act (GLBA) of 1999, 15 U.S.C. 6801, et seq.

(4) A Financial Institution must provide a current American Institute of Certified Public Accountants (AICPA) SOC 2 Reporting on an Examination of Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy - Type 2 report, incorporated by reference.

R25-22-5. Validated Financial Institutions.

(1) A validated Financial Institution must submit documentation required in Section R25-22-4 to the Division of Finance on an annual basis, as directed by the Division of Finance.

(2) A Financial Institution must notify the Division of Finance within 30 days of any change in information reported for compliance to this rule. If required, time to cure non-compliance will be assigned by the Division of Finance upon notification.

(3) Failure to comply with Subsection R25-22-5(2) will result in automatic removal from the approved Financial Institution list.

(4) A Financial Institution that is removed from the approved Financial Institution list may appeal to the Director of the Division of Finance for reinstatement subject to Rule R25-2.

KEY: marijuana, medical cannabis, financial institution, inventory control system

Date of Enactment or Last Substantive Amendment: April 10, 2020

Authorizing, and Implemented or Interpreted Law: 4-41a-103(6)(a)

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R52-7	Filing No. 52651

Agency Information

1. Department:	Agriculture and Food	
Agency:	Horse Racing Commission (Utah)	
Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Leann Hunting	385-290-2383	leannhunting@utah.gov
Kelly Pehrson	801-538-7102	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:	R52-7. Horse Racing
3. Effective Date:	04/06/2020
4. Purpose of the new rule or reason for the change:	The rule changes make necessary adjustment to Horse Racing Commission guidelines.
5. Summary of the new rule or change:	The rule changes adjust Horse Racing Commission guidelines related to veterinary practices and use of drugs and medication.
6. Regular rulemaking would:	X cause an imminent peril to the public health, safety, or welfare; cause an imminent budget reduction because of budget restraints or federal requirements; or place the agency in violation of federal or state law.
Specific reason and justification:	Emergency rulemaking is necessary so that the changes can take affect prior to the (possible) start of the horse racing season on May 1st.

Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:

These rule changes expand the Department of Agriculture and Food's (Department) role in testing, which will lead to increased costs, however, the Utah Quarter Horse Racing Association (UQHRA) is planning to reimburse the Department for the costs, making the changes revenue neutral. The UQHRA is proposing to increase their fees to account for the additional cost of testing. Adopting the model rule could bring additional revenue into the state because owners may bring horses here from other states, however, any revenue benefit is difficult to quantify at this time.

B) Local governments:

These rule changes are not anticipated to create any costs or savings to local governments because they do not typically race horses and do not have jurisdiction over the Horse Racing Commission.

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

These rule changes do not increase costs for small businesses. While the UQHRA has proposed increasing their testing fees (possibly from \$100 to \$150) that could be paid by small businesses, those fees are not paid to the Department. It is impossible to know at this time how many small businesses will pay this increased fee.

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

These rule changes do not increase costs to other individuals. While an individual horse owner may pay an increased fee for testing, the fee will be charged by the UQHRA and not the department. It is impossible to know at this time how many individuals will pay this increased fee.

8. Compliance costs for affected persons:

Affected persons may pay an increased testing fee to race horses (\$150 instead of \$100 potentially), however, that fee will be paid to the UQHRA and not the Department.

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

These rule changes adopt model horse racing rules and should not have a negative impact on businesses. The changes could have a positive fiscal impact because they will make Utah a more attractive location for horse racing as compared to other states.

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

Kelly Pehrson, Deputy Commissioner

Citation Information

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):

Section 4-38-104

Agency Authorization Information

Agency head or designee, and title:	Kelly Pehrson, Deputy Commissioner	Date:	04/06/2020
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R52. Agriculture and Food, Horse Racing Commission (Utah).

R52-7. Horse Racing.

R52-7-1. Authority.

Promulgated under authority of Section 4-38-104.

R52-7-2. Definitions.

The following definitions shall apply in these rules unless otherwise indicated.

1. "Act" means the Utah Horse Regulation Act.
2. "Added money" means all monies added to the fees paid by the horsemen into the purse for a race.
3. "Age" of a horse is reckoned as beginning on the first day of January in the year in which the horse is foaled.
4. "Also Eligible" pertains to (a) a number of eligible horses, properly entered, which were not drawn for inclusion in a race, but which become eligible according to preference or lot if an entry is scratched prior to scratch time deadline; (b) the next preferred nonqualifier for the finals or consolation from a set of elimination trials which will become eligible in the event a finalist is scratched by the stewards for a rule violation or is otherwise eligible if written race conditions permit.
5. "Arrears" means money past due for entrance fees, jockey fees, or nomination or supplemental fees in nomination races, and therefore in default incidental to these Rules or the conditions of a race.
6. "Authorized Agent" means a person appointed by a written instrument, signed and acknowledged before a notary public by the owner in whose behalf the Agent will act. Said instrument must be on file with the Commission and its authorized representatives.
7. "Bleeder" means a horse which during or following exercise or the race is observed to be shedding blood from one or both nostrils, or the mouth, or hemorrhaging in the lumen of the respiratory tract.
8. "Breeder" of a horse is the owner or lessee of its dam at the time of breeding.
9. "Closing" means the time published by the organization after which nominations or entries will not be accepted for a race.
10. "Commission" means the Utah Horse Racing Commission.
11. "Commissioner" means a member of the Commission.
12. "Conditions of a race" are the qualifications which determine a horse's eligibility to enter.
13. "Day" is a period of 24 hours beginning at midnight.

14. "Race day" is a day during which horse races are conducted.

15. "Declaration" means the act of withdrawing an entered horse from a race before the closing of overnight entries.

16. "Drug (Medication)" means a substance foreign to the normal physiology of the horse.

17. "Enclosure" means all areas of the property of an organization licensee to which admission can be obtained only by payment of an admission fee or upon presentation of proper credentials and all parking areas designed to serve the facility which are owned or leased by the organization licensee.

18. "Entry" means a horse made eligible to run in a race.

19. "Family" means a husband, wife and any dependent children.

20. "Field" means all horses competing in a race.

21. "Financial Interest" means an interest that could result in directly or indirectly receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a business entity, or as a result of salary, gratuity, or other compensation or remuneration from any person.

22. "Foreign Substances" are all substances, except those which exist naturally in the untreated horse at normal physiological concentration, and shall include but not be limited to all narcotics, stimulants, or depressants.

23. "Foul" means an action by any horse or jockey that hinders or interferes with another horse or jockey during the running of a race.

24. "Horse" means an equine of any breed and includes a stallion, gelding, mare, colt, filly, spayed mare or ridgeling.

25. "Horse Racing" means any type of horse racing, including Arabian, Appaloosa, Paint, Pinto, Quarter Horse, and Thoroughbred horse racing.

26. Horse Racing Types:

A. "Appaloosa Horse Racing" means the form of horse racing in which each participating horse is an Appaloosa horse registered with the Appaloosa Horse Club or any successor organization and mounted by a jockey.

B. "Arabian Horse Racing" means the form of horse racing in which each participating horse is an Arabian horse registered with the Arabian Horse Club Registry of America and approved by the Arabian Horse Racing Association of America or any successor organization, mounted by a jockey, and engaged in races on the flat over a distance of not less than one-quarter mile or more than four miles.

C. "Paint Horse Racing" means the form of horse racing in which each participating horse is a Paint horse registered with the American Paint Horse Association or any successor organization and mounted by a jockey.

D. "Pinto Horse Racing" means the form of horse racing in which each participating horse is a Pinto horse registered with the Pinto Horse Association of America, Inc., or any successor organization and mounted by a jockey.

E. "Quarter Horse Racing" means the form of horse racing where each participating horse is a Quarter Horse registered with the American Quarter Horse Association or any successor organization, mounted by a jockey, and engaged in a race over a distance of less than one-half mile.

F. "Thoroughbred Horse Racing" means the form of horse racing in which each participating horse is a Thoroughbred horse registered with the Jockey Club or any successor organization, mounted by a Jockey, and engaged in races on the flat.

27. "Inquiry" means the stewards immediate investigation into the running of a race which may result in the disqualification of one or more horses.

28. "Jockey" means the rider licensed to race.

29. "Jockey Agent" means a licensed authorized representative of a jockey.

30. "Lessee" means a licensed owner whose interest in a horse is by virtue of a completed Commission-approved lease form attached to the registration certificate and on file with the Commission.

31. "Lessor" means the owner of the horse that is leased.

32. "Maiden" means a horse that has never won a race recognized by the official race records of the particular horse's breed registry. A maiden which has been disqualified after finishing first is still a maiden.

33. "Minor" means any individual under 18 years of age.

34. "Nominator" means the person who nominated the horse as a possible contender in a race.

35. "Objection" means:

A. A written complaint made to the Stewards concerning a horse entered in a race and filed not later than two hours prior to the scheduled post time for the first race on the day which the questioned horse is entered;

B. A verbal claim of foul in a race lodged by the horse's jockey, trainer, owner, or the owners licensed Authorized Agent before the race is declared official.

36. "Occupation License" means a requirement for any person acting in any capacity within the enclosure during the race meeting.

37. "Occupation Licensee" means a person who has obtained an occupation license.

38. "Utah Bred Horse" means a horse that is sired by a stallion standing in Utah.

39. "Organization License" means a requirement of any person desiring to conduct a race meeting within the state of Utah.

40. "Organization Licensee" means any person receiving an organization license.

41. "Owner" means any person who holds, in whole or in part, any rights, title, or interest in a horse, or any lessee of a horse who has been duly issued a currently valid owner's license as a person responsible for such horse.

42. "Person" means any individual, corporation, partnership, syndicate, another association or entity.

43. "Post Position" means the position in the starting gate assigned to the horse for the race.

44. "Post Time" means the advertised time for the arrival of the horses at the start of the race.

45. "Protest" means a written complaint, signed by the protester, against any horse which has started in a race and shall be made to the Stewards within 48 hours after the running of the race, except as noted in Subsection R52-7-10(8).

46. "Race Meeting" means the entire period of time not to exceed 20 calendar days separating any race days for which an organization license has been granted to a person by the Commission to hold horse racing.

47. "Allowance" means a race in which eligibility and/or the weight to be carried are based upon the horse's past performance over a specified time.

48. "Handicap" means a race in which the weights to be carried by the entered horses are assigned according to the Racing Secretary's evaluation of each horse's potential for the purpose of equalizing their respective chances of winning.

49. "Invitational" means a race in which the competing horses are selected by inviting their owners to enter specific horses.

50. "Match" means a race contest between two horses with prior consent by the Commission under conditions agreed to by the owners.

51. "Nomination" means a race in which the subscription to a payment schedule nominates and sustains the eligibility of a particular horse. Nominations must close at least 72 hours before the first post time of the day the race is originally scheduled to be run.

52. "Progeny" means a race restricted to the offspring of a specific stallion or stallions.

53. "Purse Race (Overnight)" means any race in which entries close less than 72 hours prior to its running.

54. "Schooling Race" means a preparatory race for entry qualification in official races which conform to requirements adopted by the Commission.

55. "Stakes" means a race which is eligible for stakes or "black-type" recognition by the particular breed registry.

56. "Trials" means a set of races in which eligible horses compete to determine the finalists for a purse in a nominated race.

57. "Restricted Area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to, the barn area, paddock, test barn, Stewards Tower, race course, or any other area designated restricted by the organization licensee and/or the Commission. Signs giving notice of restricted access shall be prominently displayed at all entry points.

58. "Rules" means the rules herein prescribed and any amendments or additions.

59. "Scratch" means the act of withdrawing an entered horse from a race after the closing of overnight entries.

60. "Scratch Time" means the deadline set by the organization licensee for the withdrawing of entered horses.

61. "Starter" means the horse whose stall door of the starting gate opens in front of such horse at the time the starter (the Official) dispatches the horses.

62. "Subscription" means the act of nominating a horse to a nomination race.

63. "Week" means a period of seven days beginning at 12:01 a.m., Monday during which races are conducted.

R52-7-3. Commission Powers and Jurisdiction.

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

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

A. To encourage agriculture and breeding of horses in this State; and

B. To maintain race meetings held in the State of the highest quality and free of any horse racing practices which are corrupt, incompetent, dishonest or unprincipled; and

C. To maintain the appearance as well as the fact of complete honesty and integrity of horse racing in this State; and

D. To generate public revenues.

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

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

4. Commission Meetings. The following provisions govern any meeting at which a voting majority of commission members appear at the anchor location, by telephone, or electronically pursuant to Utah Code Section 52-4-207:

(a) If enough commission members which constitute a voting majority intend to participate electronically or by telephone, public notices of the meeting shall be posted. In addition, the notice shall specify the anchor location where the members of the commission not participating electronically or by telephone will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(b) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be posted on the Public Notice Website. These notices shall be provided at least 24 hours before the meetings.

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

(d) When notice is given of the possibility of a member appearing electronically or by telephone, any commission member may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the commission. At the commencement of the meeting, or at such time as any commission member initially appears electronically or by telephone, the chair shall identify for the record all those who are appearing by telephone or electronically. Votes by members of the commission who are not at the physical location of the meeting shall be confirmed by the chair.

(e) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Department of Agriculture and Food, 350 N Redwood Road, Salt Lake City, Utah. The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. In addition, the anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

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

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

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

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

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

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

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

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

R52-7-4. Racing Organization.

1. **Allocation Of Racing Dates.** The Commission shall allocate racing dates for the conduct of horse race meetings within this State for such time periods and at such racing locations as the Commission determines will best serve the interests of the people of the State of Utah in accordance with the Utah Horse Act. Upon a finding by the Commission that the allocation of racing dates for any year is completed, the racing dates so allocated shall be subject to

reconsideration or amendment only for conditions unforeseen at the time of allocation.

2. **Application For License And Days To Conduct A Horse Race Meeting.** Every person who intends to conduct a horse race meeting shall file such application with the Commission no later than August 1 of the preceding calendar year. Any prospective applicant for license and days to conduct a horse race meeting failing to timely file the application for license may be disqualified and its application for license refused summarily by the Commission.

3. **Commission May Demand Information.** The Commission may require any racing organization or prospective racing organization to furnish the Commission with a detailed proposal and disclosures as to its proposed racing program, purse, program, financial projections, racing officials, principals or shareholders, plants, premises, facility, finances, lease arrangements, agreements, contracts, and such other information as the Commission may require to determine the eligibility and qualification of the organization to conduct a race meeting; all in addition to that required in the application form set forth in Subsection R52-7-4(4) and as required by Section 4-38-4.

4. **Application For Organization License.** Any person desiring to conduct a horse race meeting where the public is charged an admission fee shall apply to the Commission for an organization license. The application shall be made on a form prescribed and furnished by the Commission. The application shall contain the following information:

A. The dates on which and location where the applicant intends to conduct the race meeting.

B. The name and mailing address of the person making the application.

1. If the applicant is a corporation, a certified copy of the Articles of Incorporation and Bylaws; the names and mailing addresses of all stockholders who own at least 3% of the total stock issued by the corporation, officers, and directors; and the number of shares of stock owned by each.

2. If the applicant is a partnership, a copy of the partnership agreement, and the names and mailing addresses of all general and limited partners with a statement of their respective interest in the partnership.

C. Description of photographic equipment, video equipment, and copies of any proposed lease or purchase contract or service agreement in connection therewith.

D. Copies of any agreements with concessionaires or lessees, together with schedules of rates charged for performance of any service or for sale of any article within the enclosure, whether directly or through the concessionaire.

E. Schedule of admission price(s) to be charged.

F. Applicants must submit balance sheets and profit and loss statements for each of the three fiscal years immediately preceding the application, or for the period of organization if less than three years. If the applicant has not completed a full fiscal year since its organization, or if it acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year, the financial information shall be given for the current fiscal year. All financial information shall be accompanied by an unqualified opinion of a Certified Public Accountant; or if the opinion is given with qualifications, the reasons for the qualifications must be stated.

G. A schedule of stall rent, entry fees, or any other charges to be made to the horsemen or public not mentioned above.

H. Any other information the Commission may require. For applicants requesting to conduct non pari-mutuel racing, the licensee fee shall not be less than \$25.00.

A separate application upon a form prescribed and furnished by the Commission shall be filed for each race meeting which such

person proposes to conduct. The application, if made by a person, shall be signed and verified under oath by the person; and if made by more than one person or by a partnership, shall be signed and verified under oath by at least two of the persons or members of the partnership; and if made by an association, a corporation, or any other entity, shall be signed by the President, attested to by the Secretary under the seal of such association or corporation, if it has a seal, and verified under oath by one of the signing officers.

No person shall own any silent or undisclosed interest in any entity requesting an organization license. No organization license shall be issued to any applicant that fails to comply with provisions of this Rule. No incomplete license application shall be considered by the Commission.

I. In considering the granting or denying of all organization's application for a license to conduct horse racing with the non pari-mutuel system of wagering, the following criteria, standards, and guides should be considered by the Commission:

1. Public Interest
 - a. Safety
 - b. Morals
 - c. Security
 - d. Municipal Comments
 - e. Revenues: State and Local
2. Track Location
 - a. Traffic Flow
 - b. Support Services (i.e., hotels, restaurants, etc.)
 - c. Labor Supply
 - d. Public Services (i.e., police, fire, etc.)
 - e. Proximity to Competition
3. Number of Tracks Running or Making Application
 - a. Size
 - b. Type of Racing
 - c. Days
 4. Adequacy of Track Facilities
 5. Experience in Racing of Applicant and Management
 - a. Length
 - b. Type
 - c. Success/Failure
6. Financial Qualifications of Applicant, Applicant's Partners, Officers, Associates, and Shareholders (To Include Contract Services)
 - a. Financial History
 - (1) Records
 - (2) Net Worth
7. Qualifications of Applicant, Applicant's Partners, Officers, Associates, and Shareholders (To Include Contract Services)
 - (1) Arrest Record
 - (2) Conviction Record
 - (3) Litigation Record (Civil/Criminal)
 - (4) Law Enforcement Intelligence
 8. Official Attitude of Local Government Involved
 9. Anticipated Effect Upon Breeding and Horse Industry in Utah
 10. Effect on Saturation of Non pari-Mutuel Market
 11. Anticipated Effect upon State's Economy
 - a. General Economy
 - (1) Tourism
 - (2) Employment
 - (3) Support Industries
 - b. Government Revenue
 - (1) Tax (Direct/Indirect)
 - (2) Income (Direct/Indirect)
 12. Attitude of Local Community Involved

13. The Written Attitude of Horse Industry Associations
14. Experience and Credibility of Consultants, Advisors, and Professionals

- a. Feasibility
- b. Credibility and Integrity of Feasibility Study
15. Financial and Economic Integrity of Financial Plan

- (1) Equity
 - a. Source
 - b. Amount
 - c. Position
 - d. Type
- (2) Debt
 - a. Source
 - b. Amount
 - c. Terms
 - d. Repayment
- (3) Equity to Debt Ratio
 - a. Integrity of Financing Plan
 - (1) Identity of Participants
 - (2) Role of Participants
 - (3) History of Participants
 - (4) Law Enforcement Intelligence

16. Apparent or Non-Apparent Hope of Financial Success

5. List Of Shareholders. Each organization shall, if a corporation or partnership, maintain a current list of shareholders and the number of shares held by each; and such list shall be available for inspection upon demand by the Commission or its representatives. The organization shall immediately inform the Commission of any change of corporate officers or directors, general or managing partners, or of any change in shareholders; provided, however, that if the organization is a publicly-held entity, it shall disclose the names and addresses of shareholders who own 3% of the outstanding shares of the organization. The organization shall immediately notify the Commission of all stock options, tender offers, and any anticipated stock offerings. The Commission may refuse to issue a license to, or suspend the license of, any organization which fails to disclose the real name of any shareholders.

6. Denial Of License. The Commission may deny a license to conduct a horse racing meeting when in its judgment it determines the proposed meeting is not in the public interest, or fails to serve the purposes of the Utah Horse Act, or fails to meet any requirements of Utah State law or the Commission's rules. The Commission shall refuse to issue a license to any applicant who fails to provide the Commission with evidence of its ability to meet its estimated financial obligations for the conduct of the meeting.

7. Duty Of Licensed Organization. Each organization shall observe and enforce the rules of the Commission. The license is granted on the condition that the organization, its officials, its employees and its concessionaires shall obey all decisions and orders of the Commission. The organization shall not allow any wagering within the enclosure of the racing facility which might be construed as being in violation of the Laws of the State of Utah.

8. Conditions Of A Race Meeting. The organization may impose conditions for its race meeting as it may deem necessary; provided, however, that such conditions may not conflict with any requirements of Utah State Law or the Rules, Regulations and Orders of the Commission. Such conditions shall be published in the Condition Book or otherwise made available to all licensees participating in its race meeting. A copy of the conditions and nomination race book shall be published no later than 45 days prior to the commencement of the race meeting. A proof of such conditions and nomination race book shall be filed with the Commission no later than 45 days prior to printing. The

conditions and nomination race book is subject to the approval of the Commission. The organization may impose requirements, qualifications, requisites, and track rules for its race meeting as it may deem necessary; provided such requirements, qualifications, and track rules do not conflict with Utah State Law or the Rules, Regulations, and Orders of the Commission. Such information shall be published in the Condition Book, posted on the organization's bulletin boards, or otherwise made available to all licensees participating at its race meeting.

All requirements, qualifications, requisites or track rules imposed by the organization require prior review and approval by the Commission, which reserves the right of final decision in all matters pertaining to the conditions of a race meeting.

9. Right Of Commission To Information. The organization may be asked to furnish the Commission, on forms approved by the Commission, a daily itemized report of the receipts of attendance, parking, concessions, commissions, and any other requested information. The organization shall also provide a corrected official program, completed race results charts approved by the Commission, and any other information the Commission may require. Such daily reports shall be filed with the Commission within 72 hours of the race day.

10. Duty To Compile Official Program. The organization shall compile an official program for each racing day which shall contain the names of the horses which are to run in each race together with their respective post positions, post time for first race, age, color, sex, breeding, jockey, trainer, owners or stable name, racing colors, weight carried, conditions of the race, the order in which each race shall be run, the distance to be run, the value of each race, a list of Racing Officials and track management personnel, and any other information the Commission may require. The Commission may direct the organization to publish in the program any other information and notices to the public as it deems necessary.

11. Duty To Maintain Racing Records. The organization shall maintain a complete record of all races of all authorized race meetings of the same type of racing being conducted by the organization, and such records shall be maintained and retained for a period of five years. This requirement may be met by race records of Triangle Publications, the American Quarter Horse Association, the Appaloosa Horse Club, the American Paint Horse Association, other breed registry associations' racing records department, or other racing publications approved by the Commission.

12. Horsemen's Bookkeeper. The organization shall employ a Horsemen's Bookkeeper who shall maintain records as the organization and Commission shall direct. The records shall include the name, address, social security or federal identification number, and the state or country of residence of each horse owner, trainer, or jockey participating at the race meeting who has funds due or on deposit in the horseman's account. The Horsemen's Bookkeeper shall keep the riding accounts of the jockeys and shall disburse the received fees to the proper claimants. It shall be the duty of the Horsemen's Bookkeeper to receive and disburse the purses of each race and all stakes, entrance money, jockey fees, and other monies that properly come into his possession, and make disbursements within 48 hours of receipt of notification from the testing laboratory that drug tests have cleared unless an appeal or protest has been filed with the Stewards or the Commission. The Horsemen's Bookkeeper may accept monies due belonging to other organizations or recognized meetings, provided prompt return is made to the organization to which the money is due; except upon written request, the Horsemen's Bookkeeper shall, within 30 days after the meeting, disburse all monies to the persons entitled to receive the same. The Horsemen's Bookkeeper shall maintain a file of all required

statements of partnerships, syndicates, corporations; assignments of interest; lease agreements; and registrations of authorized agents. All records and monies of the Horsemen's Bookkeeper shall be kept separate and apart from any other of the organization and are subject to inspection by the Commission at any time.

13. Accounting Practices And Responsibility. The organization and its managing officers shall ensure that all purse monies, disbursements, and appropriate nomination race monies are available to make timely distribution in accordance with the Act, the Rules and Regulations of the Commission, the organization rules, and race conditions. Copies of all nomination payment race contracts, agreements, and conditions shall be submitted to the Commission and related reporting requirements fulfilled as specified by the Commission. Subject to approval of the Commission, the organization shall maintain on a current basis a bookkeeping and accounting program under the guidance of a Certified Public Accountant. The Commission may require periodic audits to determine that the organization has funds available to meet those distributions for the purposes required by the Act, the Rules and Regulations of the Commission, the conditions and nomination race program of the race meeting, and the obligations incurred in the daily operation of the race meeting. Annually, the organization shall file a copy of all tax returns, a balance sheet, and a profit and loss statement.

14. Electronic Photo Finish Device. All organizations shall install and maintain in good service an electronic photo finish device for photographing the finishes of all races and recording the time of each horse in hundredths of a second, when applicable, to assist the placing judges and the Stewards in determining the finishing positions and time of the horses. Prior to first use, the electronic photo finish device must be approved by the Commission; and a calibration report must be filed with the Commission by January 1 of each year. A photograph of each finish shall be promptly posted for public view in at least one conspicuous place in the public enclosure.

15. Videotape Recording Of Races. All organizations shall install and operate a system to provide a videotape recording of each race so that such recording clearly shows the position and action of the horses and jockeys at close enough range to be easily discernible. A video monitor shall be located in the Stewards' Tower to assist in reviewing the running of the races. Prior to first use, the videotape recording system and location and placement of its equipment must be approved by the Commission. Every race other than a race run solely on a straight course may be recorded by use of at least two cameras to provide panoramic and head-on views of the race. Races run solely on the straight course shall be recorded by the use of at least one camera to provide a head-on view. Except with prior approval of the Commission, all organizations shall maintain an auxiliary videotape recording camera and player in case of breakdown and/or malfunction of a primary videotape recording camera or player.

16. Identification Of Photo Finish Photographs And Videotape Recordings. All photo finish photographs and video-tape recordings required by these Rules shall be identified by indicating thereon, the date, number of the race, and the name of the racetrack at which the race is held.

17. Altering Official Photographs Or Recordings. No person shall cut, mutilate, alter or change any photo finish photograph or videotape recording for the purpose of deceit or fraud of any type.

18. Preservation Of Official Photographs And Recordings. All organizations shall preserve all photographic negatives and videotape recordings of all races for at least 180 days after the close of their meeting. Upon request of the Commission, the organization shall furnish the Commission with a clear, positive print of any photograph of

any race, or a kinescope print or copy of the videotape recording of any race.

19. Viewing Room Required. The organization shall maintain a viewing room for the purpose of screening the videotape recording of the races for viewing by Racing Officials, jockeys, trainers, owners, and other interested persons authorized by the Stewards.

20. Office Space For The Commission. The organization shall provide within the enclosure adequate office space for use by the Commission and its authorized representatives, and shall provide such necessary office furniture and utilities as may be required for the conduct of the Commission's business and the collection of the public revenues at such organization's meetings.

21. Duty To Receive Complaints. The organization shall maintain a place where written complaints or claims of violations (objections) of racetrack rules, regulations, and conditions; Commission Rules and Regulations; or Utah State Laws may be filed. A copy of any written complaint or claim filed with the organization shall be filed by the organization with the Commission or Commission representatives within 24 hours of receipt of the complaint or claim.

22. Bulletin Boards Required. The organization shall erect and maintain a glass enclosed bulletin board close to the Racing Secretary's Office in a place where access is granted to all licensees, upon which all official notices of the Commission shall be posted. The organization shall also erect and maintain a glass enclosed bulletin board in the grandstand area where access is granted to all race day patrons, upon which all official notices of the Commission shall be posted.

23. Communication Systems Required. The organization shall install and maintain in good service a telephonic communication system between the Stewards' stand, racing office, jockey room, paddock, testing barn, starting gate, video camera locations, and other designated places. The organization shall also install and maintain in good service a public address communication system for the purpose of announcing the racing program, the running of the races, and any public service notices, as well as maintaining communications with the barn area for the purpose of paddock calls and the paging of horsemen.

24. Ambulance Service. Subject to the approval of the Commission, the organization shall provide the services of an approved medical ambulance and its properly qualified attendants at all times during the running of the race program at its meeting and, except with prior permission of the Commission, during the hours the organization permits the use of its race course for training purposes. The organization shall also provide the service of a horse ambulance during the same hours. A means of communication shall be provided by the organization between a staffed observation point (Stewards' Tower and Clocker's Stand) for the race course and the place where the required ambulances and their attendants are posted for prompt response in the event of accident to any person or horse. In the event an emergency necessitates the departure of a required ambulance, the race course shall be closed until an approved ambulance is again available within the enclosure.

25. Safety Of Race Course And Premises. The organization shall take cognizance of any complaint regarding the safety or uniformity of its race course or premises, and shall maintain in safe condition the race course and all rails and other equipment required for the conduct of its races.

26. Starting Point Markers And Distance Poles. Permanent markers must be located at each starting point to be utilized in the organization's racing program. The starting point markers and distance poles must be of a size and in a position where they can be seen clearly from the stewards' stand. The starting point markers and distance poles shall be marked with the appropriate distance and be the following colors:

TABLE

1/16 poles . . .	black and white horizontal stripes
1/8 poles . . .	green and white horizontal stripes
1/4 poles . . .	red and white horizontal stripes
220 yards . . .	green and white horizontal stripes
250 yards . . .	blue
300 yards . . .	yellow
330 yards . . .	black and white horizontal stripes
350 yards . . .	red
400 yards . . .	black
440 yards . . .	red and white horizontal stripes
550 yards . . .	black and white horizontal stripes
660 yards . . .	green and white horizontal stripes
770 yards . . .	black and white horizontal stripes
870 yards . . .	blue and white horizontal stripes

27. Grade And Distance Survey. A survey by a licensed surveyor of the race course, including all starting chutes, indicating the grade and measurement of distances to be run must be filed with the Commission prior to the first race meeting.

28. Physical Requirements For Non pari-Mutuel Racing Facility. In order for an organization to be granted a license to conduct non pari-mutuel racing, the facility shall meet the following physical requirements:

A. A regulation track shall be a straightaway course of 440 yards in length. The straightaway shall connect with an oval not less than one-half mile in circumference; except that the width may vary according to the number of horses started in a field, but a minimum of twenty feet shall be allowed for the first two horses with an additional five feet for each added starter.

B. The inner and outer rails shall extend the entire length of the straightaway and around the connecting oval; it shall be at least thirty inches and not more than forty-two inches in height. A racetrack not approved by the Commission prior to January 1, 1993, shall otherwise have inner and outer rails of at least thirty-eight inches (38") and not more than forty-two inches in height. It shall be constructed of metal not less than two inches in diameter, wood not less than two inches in thickness and six inches in width, or other construction material approved by the Commission. Whatever construction material is used must provide for the safety of both horse and rider. It must be painted white and maintained at all times.

C. Stabling facilities should be adequate for the number of horses to be on hand for the meet. In no case will a track with less than 200 stalls be acceptable, without Utah Horse Commission approval.

D. Stands for Stewards and Timers shall be located exactly on the finish line and provide a commanding and uninterrupted view of the entire racing strip.

E. The paddock shall be spacious enough to provide adequate safety. The jockey's room shall be in or adjacent to the paddock enclosure and shall be equipped with separate but equal complete sanitation facilities including showers for both male and female riders. This area must be fenced to keep out unauthorized persons and provide maximum security and safety. The fence shall be at least four feet high of chain link, v-mesh or similar construction.

F. A Test Barn with a minimum of two stalls shall be provided for purpose of collecting urine specimens. The Test Barn and a walking ring large enough to accommodate several horses cooling out at the same time shall be completely enclosed by a fence at least eight feet high of chain link, v-mesh or similar construction. There shall be only one entrance into the Test Barn enclosure which shall remain locked or guarded at all times. Provisions shall be made in this area for an office to accommodate the needs of the Official Veterinarian and from which he can observe the stalls and the entrance into the Test Barn enclosure.

The organization shall provide facilities for the immediate cooling and freezing of all urine specimens, and shall make provisions for the specimens to be shipped to the laboratory packed in dry ice.

G. A grandstand or bleachers shall be provided for the spectators and shall provide for the comfort and safety of the spectators. Facilities must include rest rooms and a public water supply.

29. Organization As The Insurer Of The Race Meeting. Approval of a race meeting by the Commission does not establish said Commission as the insurer or guarantor of the safety or physical condition of the organization's facilities or purse of any race. The organization does thereby agree to indemnify, save and hold harmless the Utah Horse Commission from any liability, if any, arising from unsafe conditions of track facilities or grandstand and default in payment of purses. The organization shall provide the Commission with a certificate of adequate liability insurance.

R52-7-5. Occupation Licensing and Registration.

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

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

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

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

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

D. The date of payment of all required fees as recorded by the Commission shall be the effective date of issuance of a continuous occupation license. A person may have the option of a one or three year license. The license fee shall be the annual fee for each category in which the person is licensed, the fee for a three (3) year license shall be three (3) times the annual fee for each category in which the person is licensed. The license shall expire on December 31.

E. All license applicants may be required to provide two complete sets of fingerprints on forms provided by or acceptable to the Commission and pay the required fee for processing the fingerprint cards through State and Federal Law Enforcement Agencies. If the fingerprints are of a quality not acceptable for processing, the licensee may be required to be reprinted.

F. All applicants for occupation licenses must be a minimum of 16 years of age. However, this shall not preclude dependent children under the age of 16 from working for their parents or guardian if said

parents or guardian are licensed as a trainer or assistant trainer and permission has been obtained from the organization licensee. A trainer or his authorized representative signing a Test Barn Sample Tag must be licensed and a minimum of 18 years of age.

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

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

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

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

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

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

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

7. License Subject To Conditions And Agreements.

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

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

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

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

8. Changes In Application Information. Each licensee or applicant for license shall file with the Commission his permanent and

his current mailing address and shall report in writing to the Commission any and all changes in application information.

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

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

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

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

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

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

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

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

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

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

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

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

14. Physical Examination. The Commission or the Stewards may require that any jockey be examined at any time, and the Commission or the Stewards may refuse to allow any jockey to ride until he has successfully passed such examination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R52-7-6. Racing Officials and Commission Racing Personnel.

1. Racing Officials. The racing officials of a race meeting, unless otherwise ordered by the Commission, are as follows: the stewards, the associate judges, the paddock judge, the starter, the identifier/tattooer, and the racing secretary. No racing official may serve in that capacity during a race in which is entered a horse owned by them or by a member of their family or in which they have any financial interest except for the identifier/tattooer, and the racing secretary. Being the lessee or lessor of a horse shall be construed as having a financial interest.

2. Responsibility To The Commission. The racing officials shall be strictly responsible to the Commission for the performance of their respective duties, and they shall promptly report to the Commission or its stewards any violation of the rules of the Commission coming to their attention or of which they have knowledge. Any racing official who fails to exercise due diligence in the performance of his duties shall be relieved of his duties by the stewards and the matter referred to the Commission.

3. Racing Officials Subject To Approval. Every racing official is subject to prior approval by the Commission before being eligible to act as a racing official at the meeting. At the time of making application for an organization license, the organization shall nominate the racing officials other than the racing officials appointed by the Commission; and after issuance of license to the organization, there shall be no substitution of any racing official except with approval of the stewards or the Commission.

4. Racing Officials Appointed By The Commission. The Commission shall appoint the following racing officials for a race meeting: The board of three stewards and the identifier/tattooer. The Commission may appoint from the approved stewards list one steward to serve as state steward.

5. Racing Personnel Employed By The Commission. The Commission shall employ the services of the licensing person for a race meeting.

6. General Authority Of Stewards. The stewards have general authority and supervision over all licensees and other persons attendant on horses, and also over the enclosures of any recognized meeting. Stewards have the power to interpret the Rules and to decide all questions not specifically covered by them. The stewards shall have the power to determine all questions arising with reference to entries, eligibility and racing; and all entries, declarations and scratches shall be under the supervision of the stewards. The stewards shall be strictly responsible to the Commission for the conduct of the race meeting in every particular.

7. Vacancy Among Racing Officials. Where a vacancy occurs among the racing officials, the stewards shall fill the vacancy immediately. Such appointment is effective until the vacancy is filled in accordance with the rules.

8. Jurisdiction Of Stewards To Suspend Or Fine. The stewards' jurisdiction in any matter commences 72 hours before entries are taken for the first day of racing at the meeting and extends until 30 days after the close of such meeting. In the event a dispute or controversy arises during a race meeting which is not settled within the stewards' thirty-day jurisdiction, then the authority of the stewards may be extended by authority of the Commission for the period necessary to resolve the matter, or until the matter is referred or appealed to the Commission. The stewards may suspend for not more than one year per violation the license of anyone whom they have the authority to supervise; or they may impose a fine not to exceed \$2,500 per violation; or they may exclude from all enclosures in this state; or they may suspend and fine and/or exclude. All such suspensions, fines, or exclusions shall be reported immediately to the Commission. The Stewards may suspend a horse from participating in races if the horse has been involved in violation(s) of the rules promulgated by the Commission or the provisions of the Utah Horse Act under the following circumstances:

A. A horse is a confirmed bleeder as determined by the official veterinarian, and the official veterinarian recommends to the stewards that the horse be suspended from participation.

B. A horse is involved with:

i. Any violation of medication laws and rules;

ii. Any suspension or revocation of an occupation license by the stewards or the Commission or any racing jurisdiction recognized by the Commission; or

iii. Any violation of prohibited devices, laws, and rules.

9. Referral To The Commission. The stewards may refer with or without recommendation any matter within their jurisdiction to the Commission.

10. Payment Of Fines. All fines imposed by the stewards or Commission shall be due and payable to the Commission within 72 hours after imposition, except when the imposition of such fine is ordered stayed by the stewards, the Commission, or a court having jurisdiction. However, when a fine and suspension is imposed by the stewards or Commission, the fine shall be due and payable at the time the suspension expires. Nonpayment of the fine when due and payable may result in immediate suspension pending payment of the fine.

11. Stewards' Reports And Records. The stewards shall maintain a record which shall contain a detailed, written account of all

questions, disputes, protests, complaints, and objections brought to the attention of the stewards. The stewards shall prepare a daily report concerning their race day activities which shall include fouls and disqualifications, disciplinary hearings, fines and suspensions, conduct of races, interruptions and delays, and condition of racing facility. The stewards shall submit the signed original of their report and record to the Executive Director of the Commission within 72 hours of the race day.

12. Power To Order Examination Of Horse. The stewards shall have the power to have tested, or cause to be examined by a qualified person, any horse entered in a race, which has run in a race, or which is stabled within the enclosure; and may order the examination of any ownership papers, certificates, documents of eligibility, contracts or leases pertaining to any horse.

13. Calling Off Race. When, in the opinion of the stewards, a race(s) cannot be conducted in accordance with the rules of the Commission, they shall cancel and call off such race(s). In the event of mechanical failure or interference during the running of a race which affects the horses in such race, the Stewards may declare the race a "no contest." A race shall be declared "no contest" if no horse covers the course.

14. Substitution Of Jockey Or Trainer.

A. In the event a jockey who is named to ride a mount in a race is unable to fulfill his engagement and is excused by the stewards, the trainer of the horse may select a substitute jockey; or, if no substitute jockey is available, the stewards may scratch the horse from the race. However, the responsibility to provide a jockey for an entered horse remains with the trainer; and the scratching of said horse by the stewards shall not be grounds for the refund of any nomination, sustaining, penalty payments, or entry fees.

B. In the absence of the trainer of the horse, the stewards may place the horse in the temporary care of another trainer of their selection; however, such horse may not be entered or compete in a race without the approval of the owner and the substitute trainer. The substitute trainer must sign the entry card.

15. Stewards' List. The stewards may maintain a stewards' list of those horses which, in their opinion, are ineligible to be entered in any race because of poor or inconsistent performance due to the inability to maintain a straight course, or any other reason considered a hazard to the safety of the participants. Such horse shall be refused entry until it has demonstrated to the stewards or their representatives that it can race safely and can be removed from the stewards' list.

16. Duties Of The Starter. The starter shall have complete jurisdiction over the starting gate, the starting of horses, and the authority to give orders not in conflict with the rules as may be required to ensure all participants an equal opportunity to a fair start. The starter shall appoint his assistants; however, he shall not permit his assistants to handle or take charge of any horse in the starting gate without his expressed permission. In the event that organization starter assistants are unavailable to head a horse, the responsibility to provide qualified individuals to head and/or tail a horse in the starting gate shall rest with the trainer. The starter may establish qualification for and maintain a list of such qualified individuals approved by the stewards. No assistant starter or any individual handling a horse at the starting gate shall in any way impede, whether intentionally or otherwise, the start of the race; nor may an assistant starter or other individual, except the jockey handling the horse at the starting gate, apply a whip or other device in an attempt to load any horse in the starting gate. No one other than the jockey shall slap, boot, or otherwise attempt to dispatch a horse from the starting gate.

17. Starter's List. The starter may maintain a starter's list of all horses which, in his opinion, are ineligible to be entered in any race because of poor or inconsistent performance in the starting gate. Such

horse shall be refused entry until it has demonstrated to the starter or his representatives that it has been satisfactorily schooled in the gates and can be removed from the starter's list. Such schooling shall be under the direct supervision of the starter or his representatives.

18. Duties Of The Paddock Judge. The paddock judge shall supervise the assembling of the horses scheduled to race, the saddling of horses in the paddock, the saddling equipment and changes thereof, the mounting of the jockeys, and their departure for the post. The paddock judge shall provide a report on saddling equipment to the Stewards at their request.

19. Duties Of Patrol Judges. The patrol judges, when utilized, shall be subject to the orders of the stewards and shall report to the stewards all facts occurring under their observation during the running of a race.

20. Duties Of Placing Judges And Timers. The placing judges, timers, and/or stewards shall occupy the judges' stand at the time the horses pass the finish line; and their duties shall be to hand time, place the horses in the correct order of finish, and report the results. In case of a dead heat or a disagreement as to the correct order of finish, the decision of the stewards shall be final. In placing the horses at the finish, the position of the horses' noses only shall be considered the most forward point of progress.

21. Duties Of The Clerk Of Scales. The clerk of scales is responsible for the presence of all jockeys in the jockey's room at the appointed time and to verify that all jockeys have a current Utah jockey's license. The clerk of scales shall verify the correct weight of each jockey at the time of weighing out and when weighing in, and shall report any discrepancies to the stewards immediately. In addition, he or she shall be responsible for the security of the jockey's room and the conduct of the jockeys and their attendants. He or she shall promptly report to the stewards any infraction of the Rules with respect to weight, weighing, riding equipment, or conduct. He or she shall be responsible for accounting of all data required on the scale sheet and submit that data to the horsemen's bookkeeper at the end of each race day.

22. Duties Of The Racing Secretary. The racing secretary shall write and publish conditions of all races and distribute them to horsemen as far in advance of the closing of entries as possible. He or she shall be responsible for the safekeeping of registration certificates and the return of same to the trainers on request or at the conclusion of the race meeting. He or she shall record winning races on the form supplied by the breed registry, which shall remain attached to or part of the registration certificate. The racing secretary shall be responsible for the taking of entries, checking eligibility, closing of entries, selecting the races to be drawn, conducting the draw, posting the overnight sheet, compiling the official program, and discharging such other duties of their office as required by the rules or as directed by the Stewards.

23. Duties Of Associate Judge. An associate judge may perform any of the duties which are performed by any racing official at a meeting, provided such duties are assigned or delegated to them by the Commission or by the stewards presiding at that meeting.

24. Duties Of The Official Veterinarian. The official veterinarian must be a graduate veterinarian and licensed to practice in the State of Utah. He or she shall recommend to the stewards any horse that is deemed unsafe to be raced, or a horse that it would be inhumane to allow to race. He or she shall supervise the taking of all specimens for testing according to procedures approved by the Commission. He or she shall provide proper safeguards in the handling of all laboratory specimens to prevent tampering, confusion, or contamination. All specimens collected shall be sent in locked and sealed cases to the laboratory. He or she shall have the authority and jurisdiction to supervise the practicing licensed veterinarians within the enclosure. The official veterinarian shall report to the Commission the names of all

horses humanely destroyed or which otherwise expire at the meeting, and the reasons therefore. The official veterinarian may place horses on a veterinarian's list, and may remove from the list those horses which, in their opinion, can satisfactorily compete in a race.

25. Veterinarian's List. The official veterinarian may maintain a list of all horses who, in their opinion, are incapable of safely performing in a race and are, therefore, ineligible to be entered or started in a race. Such horse may be removed from the Veterinarian's List when, in the opinion of the official veterinarian, the horse has satisfactorily recovered the capability of performing in a race. The reasons for placing a horse on the veterinarian's list shall include the shedding of blood from one or both nostrils following exercise or the performance in a race and the running of a temperature unnatural to the horse.

26. Duties Of The Identifier. The identifier shall identify all horses starting in a race. The identifier shall inspect documents of ownership, eligibility, registration, or breeding as may be necessary to ensure proper identification of each horse eligible to compete at a race meeting provide assistance to the stewards in that regard. The identifier shall immediately report to the paddock judge and the stewards any horse which is not properly identified or any irregularities reflected in the official identification records. The identifier shall report to the stewards and to the Commission on general racing practices observed, and perform such other duties as the Commission may require. The identifier shall report to the racing secretary before the close of the race day business.

R52-7-7. Entries and Declarations.

1. Control Over Entries And Declarations. All entries and declarations are under the supervision of the Stewards or their designee; and they, without notice, may refuse the entries any person or the transfer of entries.

2. Racing Secretary To Establish Conditions. The racing secretary may establish the conditions for any race, the allowances or handicaps to be established for specific races, the procedures for the acceptance of entries and declarations, and such other conditions as are necessary to provide and conduct the organization's race meeting. The racing secretary is responsible for the receipt of entries and declarations for all races. The racing secretary, employees of their department, or racing officials shall not disclose any pertinent information concerning entries which have been submitted until all entries are closed. After an entry to a race for which conditions have been published has been accepted by the racing secretary or their delegate, no condition of such race shall be changed, amended or altered, nor shall any new condition for such race be imposed.

3. Entries. No horse shall be entered in more than one race on the same day. No person shall enter or attempt to enter a horse for a race unless such entry is a bona fide entry made with the intention that such horse is to compete in the race for which entry is made except, if racing conditions permit, for entry back in finals or consolations involving physically disabled or dead qualifiers for purse payment purposes. Entries shall be in writing on the entry card provided by the organization and must be signed by the trainer or assistant trainer of the horse. Entries made by telephone are valid properly confirmed by the track when signing the entry card. No horse shall be allowed to start unless the entry card has been signed by the trainer or his assistant trainer.

4. Determining Eligibility. Determination of a horse's eligibility, penalty or penalties and the right to allowance or allowances for all races shall be from the date of the horse's last race unless the conditions specify otherwise. The trainer is responsible for the eligibility of his horse and to properly enter his horse in condition. In the event the records of the Racing Secretary or the appropriate breed

registry do not reflect the horse's most recent starts, the trainer or owner shall accurately provide such information. If a horse is not eligible under the first condition of any race, he cannot be eligible under subsequent conditions. If the conditions specify nonwinners of a certain amount, it means that the horse has not won a race in which the winner's share was the specified amount or more. If the conditions specify nonearners of a stated amount, it means that the horse has not earned that stated amount in any total number of races regardless of the horse's placing.

5. Entries Survive With Transfer. All entries and rights of entry are valid and survive when a horse is sold with his engagements duly transferred. If a partnership agreement is properly filed with the Horsemen's Bookkeeper, subscriptions, entries and rights of entry survive in the remaining partners. Unless written notice to the contrary is filed with the stewards, the entries, rights of entry, and engagements remain with the horse and are transferred therewith to the new owner. No entry or right of entry shall become void on the death of the nominator unless the conditions of the race state otherwise.

6. Horses Ineligible To Start In A Race. In addition to any other valid ground or reason, a horse is ineligible to start any race if:

A. Such horse is not registered by The Jockey Club if a Thoroughbred; the American Quarter Horse Association if a Quarter Horse; the Appaloosa Horse Club if an Appaloosa; the Arabian Horse Club Registry of America if an Arabian; the American Paint Horse Association if a Paint; the Pinto Horse Association of America, Inc., if a Pinto; or any successors to any of the foregoing or other registry recognized by the Commission.

B. The Certificate of Foal Registration, eligibility papers, or other registration issued by the official registry for such horse is not on file with the racing secretary one hour prior to post time for the race in which the horse is scheduled to race.

C. Such horse has been entered or raced at any recognized race meeting under any name or designation other than the name or designation duly assigned by and registered with the official registry.

D. The Win Certificate, Certificate of Foal Registration, eligibility papers or other registration issued by the official registry has been materially altered, erased, removed, or forged.

E. Such horse is ineligible to enter said race, is not duly entered for such race, or remains ineligible to time of starting.

F. The trainer of such horse has not completed the prescribed licensing procedures required by the Commission before entry and the ownership of such horse has not completed the prescribed licensing procedures prior to the horse starting or the horse is in the care of an unlicensed trainer.

G. Such horse is owned in whole or in part or trained by any person who is suspended or ineligible for a license or ineligible to participate under the rules of any Turf Governing Authority or Stud Book Registry.

H. Such horse is a suspended horse.

I. Such horse is on the stewards' list, starter's list, or the veterinarian's list.

J. Except with permission of the stewards and identifier, the identification markings of the horse do not agree with identification as set forth on the registration certificate to the extent that a correction is required from the appropriate breed registry.

K. A horse has not been lip tattooed by a Commission approved tattooer.

L. The entry of a horse is not in the name of his true owner.

M. The horse has drawn into the field or has started in a race on the same day.

N. Its age as determined by an examination of its teeth by the official veterinarian does not correspond to the age shown on its registration certificate, such determination by tooth examination to be

made in accordance with the current "Official Guide for Determining the Age of the Horse" as adopted by the American Association of Equine Practitioners.

7. **Horses Ineligible To Enter Or Start.** Any horse ineligible to be entered for a race or ineligible to start in any race which is entered or competes in such race, may be scratched or disqualified; and the stewards may discipline any person responsible.

8. **Registration Certificate To Reflect Correct Ownership.** Every certificate of registration, eligibility certificate or lease agreement filed with the organization and its racing secretary to establish the eligibility of a horse to be entered for any race shall accurately reflect the correct and true ownership of such horse, and the name of the owner which is printed on the official program for such horse shall conform to the ownership as declared on the certificate of registration or eligibility certificate. A stable name may be registered for such owner or ownership with the Commission. In the event ownership is by syndicate, corporation, partnership or other association or entity, the name of the owner which is printed on the official program for such shall be the responsible managing owner, officer, or partner who assumes all responsibilities as the owner.

9. **Alteration Or Forgery Of Certificate Of Registration.** No person shall alter or forge any win sheet, certificate of registration, certificate of eligibility, or any other document of ownership or registration, nor willfully forge or alter the signature of any person required on any such document or entry card.

10. **Declarations And Scratches.** Any trainer or assistant trainer of a horse which has been entered in a race who does not wish such horse to participate in the draw must declare his horse from the race prior to the close of entries. Any trainer or assistant trainer of a horse which has been drawn into or is also eligible for a race who does not wish such horse to start in the race, must scratch his horse from the race prior to the designated scratch time. The declaration or scratch of a horse from a race is irrevocable.

11. **Deadline For Arrival Of Entered Horses.** All horses scheduled to compete in a race must be present within the enclosure no later than 30 minutes prior to their scheduled race without stewards' approval. Horses not within the enclosure by their deadline may be scratched and the trainer subject to fine and/or suspension.

12. **Refund Of Fees.** If a horse is declared or scratched from a race, the owner of such horse shall not be entitled to a refund of any nomination, sustaining and penalty payments, entry fees, or organization charges paid or remaining due at the time of the declaration or scratch. In the event any race is not run, declared off, or canceled for any reason, the owners of such horses that remain eligible at the time the race is declared off or canceled shall be entitled to a complete refund of all the above payments and fees less monies specified in written race conditions for advertising and promotion.

13. **Release Of Certificates.** Any certificate of registration or document of ownership filed with the racing secretary to establish eligibility to enter a race shall be released only to the trainer of record of the horse. However, the trainer may authorize in a form provided by the racing secretary the release of the certificate to the owner named on the certificate or his authorized agent. Any disputes concerning the rights to the registration certificates shall be decided by the stewards.

14. **Nomination Races.** Prior to the closing of nominations, the organization shall file with the Commission a copy of the nomination blank and all advertisements for races to be run during a race meeting. For all races which nominations close no earlier than 72 hours before post time, the organization shall furnish the Commission and the owners of horses previously made eligible by compliance with the conditions of such race, with a list of all horses nominated and which remain eligible. The list shall be distributed within 15 days after the due date of each

payment and shall include the horse's name, the owner's name and the total amount of payments and gross purse to date, including any added monies, applicable interest, supplementary payments, and deduction for advertising and administrative expenses. The organization shall deposit all monies for a nomination race in an escrow account according to procedures approved by the Commission.

15. **Limitations On Field And Number Of Races.** No race with less than two horses entered and run, shall be approved by the UHRC. No more than 20 races may be run on a race day, except with permission of the Commission. A race day may be canceled if less than 75 horses have been entered on the day's program, with the exception of days on which trials or finals for a nomination race are scheduled.

16. **Agreement Upon Entry.** No entry shall be accepted in any race except upon the condition that all disputes, claims, and objections arising out of the racing or with respect to the interpretation of Commission and track rules or conditions of any race shall be decided by the Board of Stewards at the race meet; or, upon appeal, decided by the Commission.

17. **Selection Of Entered Horses.** The manner of selecting post positions of horses shall be determined by the stewards. The selection shall be by lot and shall be made by one of the stewards or their designee and a horseman, in public, at the close of entries. If the number of entries to any race is in excess of the number of horses which may, because of track limitations, be permitted to start in any one race, the race may be split; or four horses not drawing into the field may be placed on an also eligible list.

18. **Preferred List Of Horses.** The racing secretary may maintain a list of entered horses eliminated from starting by a surplus of entries, and these horses shall constitute a preferred list and have preference. The manner in which the preferred list shall be maintained and all rules governing such list shall be the responsibility of the Racing Secretary. Such rules must be submitted to the Commission 30 days prior to the commencement of the meet and are subject to approval by the Commission.

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

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

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

~~3. **Veterinarian Report.** Every veterinarian who treats any horse within the enclosure for any contagious or communicable disease shall immediately report to the official veterinarian in writing on a form approved by the Commission. The form shall include the name and location of the horse treated, the name of the trainer, the time of treatment, the probable diagnosis, and the medication administered. Each practicing veterinarian shall be responsible for maintaining treatment records on all horses to which they administer treatment~~

during a given race meeting. These records shall be available to the Commission upon subpoena when required. Any such record and any report of treatment as described above is confidential; and its content shall not be disclosed except in a proceeding before the stewards or the Commission, or in the exercise of the Commission's jurisdiction.

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

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

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

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

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

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

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

11. ~~Taking Of Samples.~~ Blood, urine, saliva or other samples shall be taken under the direction of the official veterinarian or persons

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

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

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

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

13. ~~Split Samples.~~ As determined by the official veterinarian, when sample quantity permits, each test sample shall be divided into two portions so that one portion shall be used for the initial testing for unknown substances. If the Trainer or owner so requests in writing to the stewards within 48 hours of notice of positive lab report on the test sample of his horse, the second sample shall be sent for further testing to a drug testing laboratory designated and approved by the commission. Nothing in this rule shall prevent the commission or executive director from ordering first use of both sample portions for testing purposes. The results of said split sampling may not prevent the disqualification of the horse as per R52 7 8 4 and R52 7 8 6. All costs for transportation and testing of the second sample portion shall be the responsibility of the requesting person. The official veterinarian shall have overall supervision and responsibility for the freezing, storage and safeguarding of the second sample portion.

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

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

~~A. The postmortem examination required under this rule will be conducted by a licensed veterinarian employed by the owner or his~~

trainer in consultation with the official veterinarian, who may be present at such postmortem examination.

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

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

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

E. Each owner and trainer accepts the responsibility for the postmortem examination provided herein as a requisite for maintaining the occupation license issued by the Commission.]. Veterinarians under the authority of Official Veterinarian. Veterinarians licensed by the Commission and practicing at any location under the jurisdiction of the Commission are under the authority of the Official Veterinarian and the Stewards. The Official Veterinarian shall:

A. recommend to the Stewards or the Commission, the discipline that may be imposed upon a veterinarian who violates the rules; and

B. shall sit with the Stewards in any hearing before the Stewards in any administrative process for discipline or violation against a veterinarian.

2. Physical inspection and assessment of racing condition. Any horse entered to participate in an official race shall be subjected to a veterinary inspection prior to starting in the race.

A. The inspection shall be conducted by the Official Veterinarian or the racing veterinarian.

B. The trainer of each horse or their representative must present the horse for inspection as required by the examining veterinarian.

i. Horses presented for examination must have bandages removed; and

ii. their legs must be clean.

iii. Prior to examination horses may not be placed in ice, nor shall any device or substance be applied that impedes veterinary clinical assessment.

C. The Official Veterinarian or the racing veterinarian shall maintain a permanent continuing health and racing soundness record of each horse inspected.

D. The Official Veterinarian or the racing veterinarian are authorized access to any and all horses housed on association grounds regardless of entry status.

E. If, prior to starting:

i. a horse is determined to be unfit for competition; or

ii. if the veterinarian is unable to make a determination of racing soundness;

iii. the veterinarian will recommend to the Stewards the horse be scratched.

F. Horses scratched upon the recommendation of the Official Veterinarian or the racing veterinarian are to be placed on the Veterinarian's List

3. Appropriate role of veterinarians. The following limitations apply to drug treatments of horses that are engaged in activities, including training, related to competing in Utah Horse Racing Commission sanctioned race meets in the jurisdiction.

A. No drug may be administered except in the context of a valid veterinarian-client-patient relationship between an attending veterinarian, the horse owner, who may be represented by the trainer or

other agent, and the horse. No drug or prescription drug may be administered without a veterinarian having examined the horse and provided the treatment recommendation. The relationship requires the following:

i. the veterinarian, with the consent of the owner, has accepted responsibility for making medical judgments about the health of the horse;

ii. after performing an examination, the veterinarian has:

a. sufficient knowledge of the horse to make a preliminary diagnosis of its medical condition;

b. is available, or has made arrangements to oversee treatment outcomes; and

c. maintains the veterinarian-client relationship and;

iii. the judgments of the veterinarian are independent and not dictated by the trainer or owner of the horse.

B. The trainer and veterinarian are both responsible to ensure compliance with these limitations on drug treatments of horses.

4. Treatment Restrictions. Only licensed trainers, licensed owners, or their designees shall be permitted to authorize veterinary medical treatment of horses under their care, custody, and control at locations under the jurisdiction of the Commission.

5. No person other than a licensed veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the Commission, may administer a prescription or controlled medication, drug, chemical, or other substance.

A. This subsection does not apply to the administration of an oral substance allowed by the Commission rules if the substance is not banned.

B. This subsection does not apply to a recognized non-injectable nutritional supplement or other supplement approved a licensed veterinarian or by the official veterinarian.

C. No person shall possess a hypodermic needle, syringe capable of accepting a needle, or injectable of any kind on association grounds, unless otherwise approved by the Commission.

D. At any location under the jurisdiction of the Commission, veterinarians may use only a one-time disposable syringe and needle and shall dispose of both in a manner approved by the Commission.

E. If a person has a medical condition that makes it necessary to have a syringe at any location under the jurisdiction of the Commission, that person may:

i. request permission of the Stewards and the Commission in writing;

ii. furnish a letter from a licensed physician explaining why it is necessary to possess a syringe; and

iii. must comply with any conditions and restrictions set by the Stewards and the Commission.

6. Veterinary practices. Private veterinarians shall not have contact with an entered horse 24 hours before the scheduled post time of the race in which the horse is scheduled to compete, unless licensed by the Commission and approved by the Official Veterinarian. Any unauthorized contact may result in the horse being scratched from the scheduled race and further disciplinary action by the stewards.

A. Any horse entered for racing must be present on the grounds five hours prior to the post time of the race they are entered in.

7. Veterinarians' reports. A private veterinarian who treats a racehorse at a facility under the jurisdiction of the racing authority shall submit a Veterinarian's Medication Report Form approved by the Commission to the Official Veterinarian or other racing authority designee.

A. The Veterinarian's Medication Report Form shall be signed by the private veterinarian or, where reported electronically, shall be submitted by the private veterinarian.

B. The Veterinarian's Medication Report Form must be filed by the treating veterinarian immediately following administration or prescription of any medication, drug, substance, or procedure.

C. Disclosure of any report is governed by the Utah Governmental Records Access and Management Act (GRAMA) and is non-public to the extent allowed by GRAMA. Access to a report is limited to the regulatory veterinarians, and the contents shall not be disclosed except:

i. in the course of an investigation of a possible violation of these rules;

ii. in a proceeding before the Stewards or the Commission exercising their authority; or

iii. to the trainer or owner of record at the time of treatment.

iv. A timely and accurate filing of a Veterinarian's Medication Report Form that is consistent with the analytical results of a positive test may be used as a mitigating factor in determining the nature and extent of a rules violation.

8. Pre-race and post-race testing and reporting to the test barn. The official winning horse and any other horse ordered by the Commission or the Stewards shall be taken to the test barn to have blood or urine samples taken at the direction of the Official Veterinarian.

A. Random testing may be required by the Stewards, the Commission, or Official Veterinarian at any time on a horse on grounds under the jurisdiction of the Commission.

B. Unless otherwise directed by the Stewards or Official Veterinarian, a horse that is selected for testing must be taken directly to the test barn. An individual approved by the Commission or a track security guard shall monitor access to the test barn area during and immediately following each racing performance.

i. All persons entering the test barn area must be:

a. at least 18 years old;

b. currently licensed by the Commission;

c. display their Commission identification badge; and

d. have a legitimate reason for being in the test barn area.

C. Sample collection shall be done in accordance with the guidelines and instructions provided by the Official Veterinarian including the determination of a minimum sample requirement for the primary testing laboratory and:

i. if the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen shall be sent to the primary testing laboratory;

ii. if a specimen obtained is greater than the minimum sample requirement but less than twice that amount, the portion of the sample that is greater than the minimum sample requirement shall be secured as the split sample;

iii. if a specimen obtained is greater than twice the minimum sample requirement, a portion of the sample approximately equal to the amount provided for the primary testing laboratory shall be secured as the split sample.

iv. Blood samples must be collected at a consistent time, preferably not later than one-hour post-race.

9. Pre-race sampling or testing. The Commission shall adopt standard operating procedures that include:

A. sampling procedures; and

B. personnel and notification processes.

10. If a sample taken pre-race is determined to be above the thresholds stated in this rule, the horse shall be scratched.

11. Any owner, trainer, or other licensed designee of the owner or trainer who fails to permit any horse to be tested when a demand has been made by an authorized Commission designee shall have the applicable horse scratched.

12. Out-of-competition testing authorized. The Commission may, at a reasonable time on any date, take blood, urine, hair, or other biologic samples as authorized by Commission rules, from a horse to enhance the ability of the Commission to enforce its medication and anti-doping rules.

13. The Commission shall own the samples. This rule authorizes only the collection and testing of samples, and does not independently make impermissible the administration to or presence in any horse of any drug or other substance. A race day prohibition or restriction of a substance by a Commission rule is not applicable to an out of competition test unless there is an attempt to race the horse in a manner that violates the rule.

14. Horses eligible to be tested. Any horse that has been engaging in activities related to competing in horse racing in the jurisdiction may be tested. This includes, without limitation:

A. any horses that are training outside the jurisdiction to participate in racing in the jurisdiction; and

B. any horses that are training in the jurisdiction, but excludes:

C. weanlings, yearlings, and horses no longer engaged in horse racing, such as retired broodmares.

D. A horse is presumed eligible for out-of-competition testing if:

i. it is on the grounds at a racetrack or training center under the jurisdiction of the Commission;

ii. it is under the care or control of a trainer licensed by the Commission;

iii. it is owned by an owner licensed by the Commission;

iv. it is entered or nominated to race at a premise licensed by the Commission;

v. it has raced within the previous 12 months at a premise licensed by the Commission; or

vi. it is nominated to a program based on racing in the jurisdiction.

15. Horses shall be selected for sampling by a Commission veterinarian, Executive Director, Equine Medical Director, Steward, or Presiding Judge, or a designee of any of the foregoing.

16. Horses may be selected to be tested at random, for cause, or as otherwise determined, at the discretion of the Commission, and the Commission need not provide advance notice before arriving at any location, whether or not licensed by the Commission, to collect samples.

17. The trainer, owner, or their designee shall cooperate with the person who takes samples for the Commission, and shall:

A. assist in the immediate location and identification of the horse; and

B. make the horse available as soon as practical upon arrival of the person who is responsible for collecting the samples

18. A trainer or owner of a horse that has been notified that a written report from a primary laboratory states that a prohibited substance was found in a specimen obtained under these rules, may request that a split sample, corresponding to the portion of the specimen tested by the primary laboratory, be sent to another laboratory approved by the Commission.

A. The request must be made in writing and delivered to the stewards not later than three business days after the receives written notice of the findings of the primary laboratory. Any split sample requested must be shipped within an additional 48 hours. The owner or trainer requesting testing of a split sample shall be responsible for the cost of shipping and testing.

B. Failure of the owner, trainer or designee to appear at the time and place designated by the Official Veterinarian shall constitute a waiver of all rights to split sample testing.

C. Prior to shipment, the Commission shall confirm the split sample laboratory's willingness to simultaneously:

- i. provide the testing requested;
- ii. send results to both the person requesting the testing and the Commission;
- iii. make arrangements for payment satisfactory to the split sample laboratory.

D. If a reference laboratory will accept split samples, that laboratory must be included among the laboratories approved for split sample testing.

19. Storage and shipment of split samples. Split samples obtained in accordance with this rule shall be secured and available for further testing in accordance with the following procedures.

A. A split sample shall be secured in the test barn in the same manner as the portion of the specimen shipped to a primary laboratory until specimens are packed and secured for shipment to the primary laboratory. Any evidence of a malfunction of a split sample freezer or samples that are not in a frozen condition during storage shall be documented in the log and immediately reported to the Official Veterinarian or a designated Commission representative.

B. Split samples shall then be transferred to a freezer at a secure location approved by the Commission that must meet the following:

- i. the freezer shall have two hasps or other devices providing for use of two independent locks;
- ii. one lock shall be the property of the Commission; and
- iii. one lock shall be the property of a representative of the group representing a majority of the horsemen at a race meeting.

C. The locks shall be closed and locked to prevent access, except as provided by these rules.

D. A freezer for storage of split samples shall only be opened:

- i. to deposit or remove split samples; or
- ii. for inventory, or for checking the condition of samples.

E. When a freezer used for storage of split samples is opened, it shall be attended by both a representative of the Commission and the owner, trainer or designee.

F. A chain of custody log shall be maintained and shall record each time a split sample freezer is opened to specify:

- i. each person in attendance;
- ii. the purpose for opening the freezer;
- iii. identification of split samples deposited or removed;
- iv. the date and time the freezer was opened, the time the freezer was closed; and
- v. verify that both locks were secured prior to and after opening the freezer.

F. The Commission shall also provide a split sample chain of custody verification form. The form, including any additional information the Official Veterinarian may require, shall be completed during the retrieval, packaging, and shipment of the split sample, specifying:

- i. the date and time the sample is removed from the split sample freezer;
- ii. the sample number;
- iii. the address where the split sample is to be sent;
- iv. the name of the carrier and the address where the sample is to be taken for shipment;
- v. verification of retrieval of the split sample from the freezer including packaging;
- vi. verification of the address of the laboratory on the sample package;
- vii. verification of the condition of the sample package immediately prior to transfer of custody to the carrier; and

viii. the date and time custody of the sample is transferred to the carrier.

20. The owner, trainer, or designee shall pack the split sample for shipment in the presence of a representative of the Commission, in accordance with the packaging procedures recommended by the Commission.

21. Laboratory minimum standards. Laboratories conducting either primary or split post-race sample analysis must meet at least the following minimum standards.

A. The laboratory must be accredited by an accrediting body designated by the Association of Racing Commissioners International to standards set forth and required by the Commission

B. A testing laboratory must:

- i. have, or have access to, LC/MS instrumentation for screening or confirmation purposes; and
- ii. be able to meet minimum standards of detection, which are defined as:
 - iii. the specific concentration at which a laboratory is expected to detect the presence of a particular substance or metabolite; or
 - iv. by the adoption of a regulatory threshold.

22. Postmortem examinations. The Commission may require a postmortem examination of any horse that dies or is euthanized on association grounds.

A. If a postmortem examination is to be conducted, the Commission or its representative shall take possession of the horse upon death for postmortem examination.

i. All shoes and equipment on the horse's legs shall be left on the horse.

B. If a postmortem examination is to be conducted, the Commission or its representative shall collect blood, urine, bodily fluids, or other biologic specimens immediately, if possible before euthanasia.

i. The Commission may submit blood, urine, bodily fluids, or other biologic specimens collected during a postmortem examination for analysis.

C. The presence of a prohibited substance in a specimen collected during the postmortem examination may constitute a violation.

D. All licensees shall be required to comply with postmortem examination requirements as a condition of licensure.

E. In proceeding with a postmortem examination, the Commission or its designee shall coordinate with the owner or the owner's agent to determine and address any insurance requirements.

F. The owner of the deceased horse shall make payment of any charges due the Official Veterinarian or a licensed veterinarian employed to conduct the postmortem examination.

G. If any licensed veterinarian other than the Official Veterinarian or his designee performs a postmortem examination, the veterinarian shall submit the record of the postmortem examination to the Official Veterinarian within 72 hours of the examination.

R52-7-9. Running the Race.

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

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

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

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

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

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

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

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

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

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

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

11. **Requirements For Horse, Trainer, And Jockey.** Every horse must be in the paddock at the time appointed by the stewards before post time for their race. Every horse must be saddled in the paddock stall designated by the paddock judge unless special permission is granted by the stewards to saddle elsewhere. Each trainer or their

assistant trainer having the care and custody of such horse shall be present in the paddock to supervise the saddling of the horse and shall give such instructions as may be necessary to assure the best performance of the horse. Every jockey participating in a race shall give their best effort in order to facilitate the best performance of their horse.

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

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

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

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

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

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

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

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

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

21. Returning To The Finish After The Race. After the race, the jockey shall return their horse to the finish and before dismounting,

salute the stewards. No person shall assist a jockey in removing from their horse the equipment that is to be included in the jockey's weight except by permission of the stewards. No person shall throw any covering over any horse at the place of dismounting until the jockey has removed the equipment that is to be included in his weight.

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

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

24. Time Trial Qualifiers. When two or more time trial contestants have the same qualifying time, to a degree of .001 of a second, or more exact measurement if photo finish equipment permits, for fewer positions in the finals or consolation necessary for all contestants, then a draw by lot will be conducted in accordance with Subsection R52-7-7(17). However, no contestant may draw into a finals or consolation instead of a contestant which out finished such contestant. When scheduled races are trial heats for futurities or stakes races electronically timed from the starting gates, no organization licensee shall move the starting gates or allow the starting gates to be moved until all trial heats are complete, except in an emergency as determined by the stewards.

R52-7-10. Objections and Protests; Hearing and Appeals.

1. Stewards To Make Inquiry Or Investigation. The stewards shall make diligent inquiry or investigation into any complaint, objection or protest made either upon their own motion, by any Racing

Official, or by any other person empowered by this Article to make such complaint, protest or objection.

2. Objections. Objections to the participation of a horse entered in any race shall be made to the stewards in writing and signed by the objector. Except for claim of foul or interference, an objection to a horse entered in a race shall be made not later than two hours prior to the scheduled post time for the first race on the day which the questioned horse is entered. Any such objection shall set forth the specific reason or grounds for the objection in such detail so as to establish probable cause for the objection. The stewards upon their own motion may consider an objection until such time as the horse becomes a starter. An objection concerning claim of foul in a race may be lodged verbally to the stewards before the race results are declared official.

3. Grounds For Objections. An objection to a horse which is entered in a race shall be made on the following grounds or reasons:

A. A misstatement, error or omission in the entry under which a horse is to run.

B. That the horse which is entered to run is not the horse it is represented to be at the time of entry, or that the age is erroneously given.

C. That the horse is not qualified to enter under the conditions specified for the race, or that the allowances are improperly claimed or not entitled the horse, or that the weight to be carried is incorrect under the conditions of the race.

D. That the horse is owned in whole or in part, or leased by a person ineligible to participate in racing or otherwise ineligible to run a race as provided in these Rules.

E. That reasonable grounds exist whereby a horse was interfered with or impeded or otherwise hindered by another horse or jockey during the running of a race.

4. Horse Subject To Objection. The stewards may scratch from the race any horse which is the subject of an objection if they have reasonable cause to believe that the objection is valid.

5. Protests. A protest against any horse which has started in a race shall be made to the stewards in writing, signed by the protestor, within 48 hours of the race, except as noted in Subsection R52-7-10(8). Any such protest shall set forth the specific reason or reasons for the protest in such detail as to establish probable cause for protest. The stewards upon their own motion may consider a protest at any time.

6. Grounds For Protest. A protest may be made upon the following grounds:

A. Any ground for objection set forth in R52-1-10(3).

B. That the order of finish as officially determined by the stewards was incorrect due to oversight or errors in the numbers designated to the horses which started in the race.

C. That a jockey, trainer or owner of a horse which started in the race was ineligible to participate in racing as provided in these rules.

D. That the weight carried by a horse was improper by reason of fraud or willful misconduct.

E. That an unfair advantage was gained in violation of the rules.

7. Persons Empowered To File Objection Or Protest. A jockey, trainer, owner or authorized agent of the horse which is entered or is a starter in a race is empowered to file an objection or protest against any other horse in such race upon the grounds set forth in this Article for objections and protests.

8. No Limitation On Time To File When Fraud Alleged. Notwithstanding any other provision in this Article, the time limitation on the filing of protests shall not apply in any case in which fraud or willful misconduct is alleged, provided that the stewards are satisfied that the allegations are bona fide and susceptible to verification.

9. Frivolous Or Inaccurate Objection Or Protest. No person shall knowingly file a frivolous, inaccurate, false, or untruthful objection

or protest; nor shall any person present his objection or protest to the stewards in a disrespectful or undignified manner.

10. **Horse To Be Disqualified On Valid Protest.** If a protest against a horse which has run in a race is declared valid, that horse may be disqualified. A horse so disqualified which was a starter in the said race, may be placed last in the order of finish or may be unplaced. The stewards or the Commission may order any purse, award or prize for any race withheld from distribution pending the determination of the protest(s). In the event any purse, award or prize has been distributed to a person on behalf of a horse which by protest or other reason is disqualified or determined not to be entitled to such purse, award or prize, the stewards or the Commission may order such purse, award or prize returned and redistributed to the rightful person. Any person who fails to comply with an order to return any purse, award or prize previously distributed shall be suspended until its return.

11. **Notification Of And Representation At Hearing.** Adequate notice of hearing shall be given to every summoned person in accordance with the procedures set forth in Subsection R52-7-3(6). Every person alleged to have committed a rule violation or who is called to testify before the stewards is entitled at the persons expense to have counsel present evidence and witnesses on his behalf and to cross-examine other witnesses at the hearing.

12. **Testimony And Evidence At Hearing.** Every person called to a hearing before the stewards for a rule violation shall be allowed to present testimony, produce witnesses, cross-examine witnesses, and present documentary evidence in accordance with the rules of privilege recognized by law.

13. **Duty Of Disclosure.** It is the duty and obligation of every licensee to make full disclosure at a hearing before the Commission or before the stewards of any knowledge he or she possesses of a violation of any racing law or of the rules of the Commission. No person may refuse to testify at any hearing on any relevant matter except in the proper exercise of a legal privilege, nor shall any person testify falsely.

14. **Failure To Appear.** Any licensee or summoned person who fails to appear before the stewards or the Commission after they have been ordered personally or in writing to do so, may be suspended pending appearance before the stewards or the Commission. Nonappearance of a summoned person after adequate notice may be construed as a waiver of right to be present at a hearing.

15. **Record Of Hearing.** All hearings before the stewards or Commission shall be recorded. That portion at a hearing constituting deliberations in executive session need not be recorded. A written transcript or a copy of the tape recording shall be made available to any person alleged to have committed a violation of the Act or the rules upon written request and payment of appropriate reimbursement cost(s) for transcription or reproduction.

16. **Vote On Steward's Decision.** A majority vote shall decide any question to which the authority of the stewards extends. If a vote is not unanimous, the dissent steward shall provide a written record to the Commission of the reasons for such dissent within 72 hours of the vote.

17. **Rulings By The Stewards.** Any ruling or order issued by the stewards shall specify the full name of the licensee or person subject to the ruling or order; most recent address on file with the Commission; date of birth; social security number; statement of the offense charged including any rule number; date of ruling; fine and/or suspension imposed or other action taken; changes in the order of finish and purse distribution in a race, when appropriate; and any other information deemed necessary by the stewards or the Commission. Any member of a Board of Stewards may, after consultation with and by mutual agreement of the other stewards, issue an Order or Notice signed by one steward on behalf of the Board of Stewards. Subsequently, an Order

containing all three stewards' signatures shall be made part of the official record.

18. **Summary Suspension Of Occupation Licensee.** If the stewards or the Commission find that the public health, safety, or welfare require emergency action and incorporates such finding to that effect in any Order, summary suspension may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly initiated and held as provided in Subsection R52-7-10(19).

19. **Duration Of Suspension Or Revocation.** Unless execution of an order of suspension or revocation is stayed by the Commission or a court of competent jurisdiction, a person's occupation license, suspended or revoked, shall remain suspended or revoked until the final determination has been made pursuant to the provisions of Section R52-7-5.

20. **Grounds For Appeal From Decision Of The Stewards.** Any decision of the stewards, except decisions regarding disqualifications for interference during the running of a race, may be appealed to the Commission; and such decision may be overruled if it is found by a preponderance of evidence that:

- A. The stewards mistakenly interpreted the law; or
- B. The Appellant produces new evidence of a convincing nature which, if found to be true, would require the overruling of the decision; or
- C. The best interests of racing and the State may be better served.

21. **Appeal From Decision Of The Stewards.** The Commission shall review hearings of any case referred to the Commission by the stewards or appealed to the Commission from the decisions of the stewards except as otherwise provided in this Article. Upon every appealable decision of the stewards, the person subject to the decision or Order shall be made aware of his right to an appeal before the Commission and the necessary procedures thereof. Appeals shall be made no later than 72 hours or the third calendar day from the date of the rendering of the decision of the stewards unless the Commission for good cause extends the time for filing not to exceed 30 days from said rendering date. The appeal shall be in writing, signed by the appellant; shall contain his full name, present mailing address, and present phone number; and shall set forth the facts and any new evidence the appellant believes to be grounds for an appeal before the Commission. Action on such a hearing request must commence by the Commission within 30 days of the filing of the appeal. An appeal shall not affect a decision of the stewards until the appeal has been sustained or dismissed or a stay order issued.

22. **Appointment Of Hearing Examiners.** When directed by the Commission, any qualified person(s) may sit as a hearing examiner(s) for the taking of evidence in any matter pending before the Commission. Any such hearing examiner shall report to the Commission Findings of Fact and Conclusions of Law, and the Commission shall determine the matter as if such evidence had been presented to the full Commission.

23. **Hearings On Agreement.** Persons aggrieved as of the result of a stewards' ruling in a preliminary or trial race may request a hearing before the executive director of the Commission to review same. If all interested parties waive the right to receive ten day notice of hearing, such a hearing may be heard on a day certain within seven days after the preliminary or trial race in question. All such appeals shall be heard on days set by the executive director of the Commission or anyone acting in his stead.

24. **Temporary Stay Order.** The Executive Director may, upon consultation with the direction of a minimum of three Commissioners, issue or deny a temporary stay order to stay execution of any ruling, order or decision of the stewards except stewards'

decisions regarding disqualifications for interference during the running of a race. Any application for a temporary stay shall be in writing, signed by the appellant; shall contain his full name, present mailing address, and present phone number; shall set forth the facts and any evidence to justify the issuance of the stay; and shall be filed with the Office of the Commission as specified in Subsection R52-7-3(7). The granting of a temporary stay order shall carry no presumption that the stayed decision of the stewards is or may be invalid, and a temporary stay order may be dissolved at any time by further order of the executive director upon consultation with and the direction of a minimum of three Commissioners.

25. Appearance At Hearing Upon Appeal. The Commission shall notify the Appellant and the stewards of the date, time and location of its hearing in the matter upon appeal. The burden shall be on the appellant to provide the facts necessary to sustain the appeal.

26. Complaints Against Officials. Any complaint against a racing official other than a steward shall be made to the stewards in writing and signed by the complainant. All such complaints shall be reported to the Commission by the stewards, together with a report of the action taken or the recommendation of the stewards. Complaints against any stewards shall be made in writing to the executive director of the Commission and signed by the complainant.

27. Rulings On Admissibility And Evidence. In all hearings, the chairperson, chief steward or such other person as may be designated, shall make rulings on admissibility and introduction of evidence. Such a ruling shall prevail; except when a Commission member or a steward requests a poll of the panel, and the ruling overturned by majority vote.

R52-7-11. General Conduct.

1. Conditions Of Meeting Binding Upon Licensees. The Commission, recognizing the necessity for an organization to comply with the requirements of its license and to fulfill its obligation to the public and the State of Utah with the best possible uninterrupted services in the comparatively short licensed period, herein provides that all organizations, officials, horsemen, owners, trainers, jockeys, grooms, farriers, organization employees, and all licensees who have accepted directly or indirectly, with reasonable advance notice, the conditions defined by these rules under which said organization engages and plans to conduct such race meeting, shall be bound thereby.

2. Trainer Responsibility. The trainer is presumed to know the "Rules of Racing" and is responsible for the condition, soundness, and eligibility of the horses he enters in a race. Should the chemical analysis, urine or otherwise, taken from a horse under his supervision show the presence of any drug or medication of any kind or substance, whether drug or otherwise, regardless of the time it may have been administered, it shall be taken as prima facie evidence that the same was administered by or with the knowledge of the trainer or person or persons under his supervision having care or custody of such horse. At the discretion of the stewards or Commission, the trainer and all other persons shown to have had care or custody of such horse may be fined or suspended or both. Under the provisions of this rule, the trainer is also responsible for any puncture mark on any horse he enters in a race, found by the stewards upon recommendation of the official veterinarian to evidence injection by syringe. If the trainer cannot be present on race day, he shall designate an assistant trainer. Such designation shall be made prior to time of entry, unless otherwise approved by the stewards. Failure to fully disclose the actual trainer of a horse participating in an approved race shall be grounds to disqualify the horse, and subject the actual trainer to possible disciplinary action by the stewards or the Commission. Designation of an assistant trainer shall not relieve the trainer's absolute responsibility for the conditions and eligibility of the

horse, but shall place the assistant trainer under such absolute responsibility also. Willful failure on the part of the trainer to be present at, or refusal to allow the taking of any specimen, or any act or threat to prevent or otherwise interfere therewith shall be cause for disqualification of the horse involved; and the matter shall be referred to the stewards for further action.

3. Altering Sex Of Horse. Any alteration to the sex of a horse from the sex as recorded on the Certificate of Foal Registration or other official registration Certificate of such horse shall be immediately reported by the trainer to the racing secretary and the official horse identifier if such horse is registered to race at any race meeting.

4. Official Workouts And Schooling Races. No trainer shall permit a horse in his charge to be taken on to the track for training or a workout except during hours designated by the organization. A trainer desiring to engage a horse in a workout or schooling race shall, prior to such workout or race, identify the horse by registered name and tattoo number when requested to do so by the stewards or their authorized representative.

5. Intoxication. No licensee, employee of the organization or its concessionaires, shall be under the influence of intoxicating liquor, the combined influence of intoxicating liquor and any controlled dangerous substance, or under the influence of any narcotic or other drug while within the enclosure. No person shall in any manner or at any time disturb the peace or make themselves obnoxious on the enclosure of an organization.

6. Firearms. No person shall possess any firearm within the enclosure unless he is a fully qualified peace officer as defined in the laws of the State of Utah, or is acting in accordance with Title 53, Chapter 5, Part 7, Concealed Weapons Act and Title 76, chapter 10, Part 5, Utah Code. A person carrying a concealed weapon may be asked to show a valid, current concealed weapons permit before being allowed to enter the facility.

7. Financial Responsibility. No licensee shall willfully and deliberately fail or refuse to pay any monies when due for any service, supplies or fees connected with his operations as a licensee; nor shall he falsely deny any such amount due or the validity of the complaint thereof with the purpose of hindering or delaying or defrauding the person to whom such indebtedness is due. A commission authorized license may be suspended pending settlement of the financial obligation. Any financial responsibility complaint against a licensee shall be in writing, signed by the complainant, and accompanied by documentation of the services, supplies or fees alleged to be due, or by a judgment from a court.

8. Checks. No licensee shall write, issue, make or present a bad check in payment for any license fee, fine, nomination or entry fee or other fees, or for any service or supplies. The fact that such check is returned to the payee by the bank as refused is a ground for suspension pending satisfactory redemption of the returned check.

9. Gratuity To Starter Or Assistant Starter. No person shall offer or give money or other gratuity to any starter or assistant starter, nor shall any starter or assistant starter receive money or other compensation, gratuity or reward, in connection with the running of any race or races except compensation received from an organization for official duties.

10. Possession Of Contraband. No person other than a veterinarian or an animal technician licensed by the Commission shall have in his possession within the enclosure during sanctioned meetings any prohibited substance, or any hypodermic syringe or hypodermic needle or similar instrument which may be used for injection except as provided in Subsection R52-7-8(1). No person shall have in his or her possession within the enclosure during any recognized meeting any device other than the ordinary whip which can be used for the purpose

of stimulating or depressing the horse or affecting its speed at any time. The stewards may permit the possession of drugs or appliances by a licensee for personal medical needs under such conditions as the stewards may impose.

11. Bribes. No person shall give, or offer or promise to give, or attempt to give or offer any money, bribe or thing of value to any owner, trainer, jockey, agent, or any other person participating in the conduct of a race meeting in any capacity, with the intention, understanding or agreement that such owner, trainer, jockey, agent or other person shall not use his best efforts to win a race or so conduct himself in such race that any other participant in such race shall be assisted or enabled to win such race; nor shall any trainer, jockey, owner, agent or other person participating at any race meeting accept, offer to accept, or agree to accept any money, bribe or thing of value with the intention, understanding or agreement that he will not use his best efforts to win a race or to so conduct himself that any other horse or horses entered in such race shall thereby be assisted or enabled to win such race.

12. Trainer's Duty To Ensure Licensed Participation. No trainer shall have in his custody within the enclosure of any race meeting any horse owned in whole or in part by any person who is not licensed as a horse owner by the Commission unless such owner has filed an application for license as a horse owner with the Commission and the same is pending before the Commission; nor shall any trainer have in his employ within the enclosure any groom, stable employee, stable agent, or other person required to be licensed, unless such person has a valid license. All changes of commissioned licensed personnel shall be reported immediately to the Commission.

13. Conduct Detrimental To Horse Racing. No licensee shall engage in any conduct prohibited by law and by the rules of the Commission, nor shall any licensee engage in any conduct which by its nature is unsportsmanlike or detrimental to the best interest of horse racing.

14. Denial Of Access To Private Property. Nothing contained in these rules shall be deemed, expressly or implicitly, to prevent an organization from exercising the right to deny access to or to remove any person from the organization's premises or property for just cause.

15. Tricks/Schemes. No person shall falsify, conceal, or cover up by trick, scheme, or device a material fact; or make any false, fictitious, or fraudulent statements or representations; or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry regarding the prior racing record, pedigree, identity, or ownership of a registered animal in any matter related to the breeding, buying selling, or racing of such animal.

16. Prearranging The Outcome Of A Race. No licensed or unlicensed person may attempt or conspire to prearrange the outcome of a race.

R52-7-12. Fire Prevention and Security.

1. Security Control. Every organization conducting a race meeting shall maintain security controls over its premises, and such security controls are subject to the approval of the Commission.

2. Identification Required. No person shall be admitted to a restricted area within the enclosure without a license, visitor's pass, or other identification issued by the Commission or the organization on his person. Whenever deemed advisable, the stewards or the organization may require the visible display of the identification as a badge. No person shall use the license or credential issued to another, nor shall any person give or loan his license or credential to any other person.

3. Organization Credentials. The racing organization shall establish a system or method of issuing credentials or passes to restrict access to its restricted areas or to ensure that all participants at its

meeting are licensed as required by this Article; provided, however, that no such system or methods may exclude any investigator or employee of the Commission or any peace officer when on duty; nor shall any person be excluded solely on the basis of sex, color, creed, or national origin or ancestry.

4. Organization To Prevent Unauthorized Access To Restricted Areas. Unless granted exemption by the Commission, every organization shall prevent access to and shall remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized. Nothing herein shall be construed to exclude members of the Commission and any staff members of the Commission in the conduct of official duties.

5. Examination Of Personal Effects. The Commission, its authorized officers or agents may enter the stables, rooms, or other places within the premises of a recognized meeting to inspect and examine the personal effects and property of any licensee or other person in or about or permitted access to any restricted area; and each licensee in accepting his license, and each person entering such restricted area does thereby consent thereto.

6. Obedience To Security Officers And Public Safety Officers. No licensee shall willfully ignore or refuse to obey any order issued by the stewards; the Commission; or any security officer of the organization; or any public officer of any police, fire or law enforcement agency when such order is issued or given in the performance of duty for the purpose of controlling any hazardous situation or occurrence. No person shall interfere with public safety officers, security officers or any racing official in the performance of their duties.

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

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

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

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

~~4. Medication. The commission veterinarian, the Commission or any member of the Board of Stewards may take samples of any medicines or other materials suspected of containing improper medication, drugs or chemicals which would affect the racing conditions of a horse in a race and which may be found in stables or elsewhere on~~

race track grounds or in the possession of such tracks or any person connected with racing and the same shall be delivered to the laboratory designated by the Commission.

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

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

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

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

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

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

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

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

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

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

13. ~~Treatment Procedure.~~ Horses on the bleeders list must be treated at least four hours prior to post time with the bleeder medication furosemide, (i.e. Lasix). No other treatment is permitted for bleeder treatment. Bleeder medication must be administered by a licensed veterinarian or trainer in the manner approved by the official veterinarian, using dosages pursuant to CHRB Rule No. 1845, section (e), (Effective 5/27/05), Authorized Bleeder Medication, which is hereby incorporated by reference. Trainers are required to have Lasix forms completed by the veterinarian, the Lasix form must be returned to the test barn personnel within ten minutes of the time of administration of Lasix. The form shall include the date, time and amount of Lasix administered and the signature of the veterinarian. Upon receipt of the Lasix form, the test barn personnel shall log in the date and time of receipt. If the time of receipt exceeds the ten minute grace period, the test barn personnel shall notify the stewards, and the horse shall be scratched by the stewards for the day's racing.

14. ~~Lasix Levels Permitted and Penalty.~~ Any horse whose post race blood tests contains a level in excess of the levels set forth in CHRB Rule No. 1845, sections (b) (c), (Effective 5/27/05), Authorized Bleeder Medication, hereby incorporated by reference, will be said to be positive for Lasix overage and in violation of Utah Horse Racing Rules and Regulations:

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

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

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

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

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

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

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

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

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

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

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

~~22. Trainer Responsibility. Under all circumstances, the horse of record trainer shall be responsible for the horse he trains. 1. No person may possess or use a drug, substance, or medication on the premises of a facility under the jurisdiction of the Commission if:~~

~~A. a recognized analytical method has not been developed to detect and confirm the administration of the substance; or~~

~~B. the use of the substance may endanger the health or welfare of the horse or endanger the safety of the rider;~~

~~C. the use of the substance may adversely affect the integrity of racing; or~~

~~D. no generally accepted use of the substance in equine care exists.~~

~~2. Prohibited substances and methods. The Commission adopts the list of prohibited substances and methods of administration contained in the attached matrix, including all amendments (The Prohibited List).~~

~~A. The substances and methods listed in the Prohibited List may not be used at any place or time and may not be possessed on the premises of a racing or training facility under the jurisdiction of the Commission, except as a restricted therapeutic use.~~

~~B. The equipment and supplies necessary for official testing, shall be provided by the organization.~~

~~3. Restricted therapeutic use. A limited number of medications on the Prohibited List may be exempted when administration occurs in compliance with required conditions for restricted therapeutic use. The use of the substance must comply with all applicable rules of the Commission.~~

~~4. The possession or use of the following substances or of blood doping agents, including those listed below, on the premises of a facility under the jurisdiction of the Commission is forbidden:~~

~~A. Aminoimidazole carboxamide ribonucleotide (AICAR);~~

~~B. Darbepoetin;~~

~~C. Equine Growth Hormone;~~

~~D. Erythropoietin;~~

~~E. Hemopure (registered trademark);~~

~~F. Myo-Inositol Trispyrophosphate (ITPP);~~

~~G. Oxyglobin (registered trademark);~~

~~H. Thymosin beta;~~

~~I. Venoms or its derivatives; or~~

~~J. Thymosin beta.~~

~~5. Other prohibited substances. All substances in the categories below shall be strictly prohibited unless otherwise provided in accordance with state law or Commission rule including:~~

~~A. a pharmacologic substance that is not approved by any governmental regulatory health authority for human or veterinary use within the jurisdiction, including:~~

~~i. drugs under pre-clinical or clinical development;~~

~~ii. discontinued drugs;~~

~~iii. and designer drugs;~~

~~B. designer drugs are a synthetic analog of a drug that has been altered in a manner that may reduce its detection.~~

~~i. Designer drugs do not include:~~

~~a. vitamins, herbs, and supplements for nutritional purposes that do not contain any other prohibited substance; or~~

~~b. the administration of a substance with the prior approval of the Commission in a clinical trial for which an FDA or similar exemption has been obtained;~~

~~C. anabolic agents and Anabolic Androgenic Steroids (AAS);~~

~~D. peptide hormones, growth factors, and related substances including any substance with similar chemical structure or similar biological effects;~~

~~E. all beta-2 agonists, including all optical isomers, including d- and l-, where relevant;~~

~~F. hormone and metabolic modulators are prohibited;~~

~~G. diuretics and other masking agents, including substances with similar chemical structure or similar biological effects.~~

~~6. Prohibited methods of manipulation of blood and blood components include:~~

~~A. the administration or reintroduction of any quantity of autologous, allogenic (homologous), or heterologous blood or red blood cell products of any origin into the circulatory system;~~

~~B. artificially enhancing the uptake, transport, or delivery of oxygen, including perfluorochemicals, efaproxiral (RSR13), and modified hemoglobin products, e.g. hemoglobin-based blood substitutes, microencapsulated hemoglobin products, excluding supplemental oxygen; or~~

~~C. tampering, or attempting to tamper, in order to alter the integrity and validity of samples collected by authority of the Commission.~~

~~i. Tampering methods include blood serum or urine substitution or adulteration, e.g., proteases.~~

~~7. Any reference to substances in this section does not alter the requirements for testing concentrations in race day samples. Nothing in this list shall alter the requirements of post-race testing.~~

~~A. If laboratory testing detects any prohibited substance identified by this rule, the finding shall be reported as a violation. Upon a finding of violation, the horse shall be disqualified, and the owner of the horse shall not participate in any portion of the purse, stakes, trophy, or any other award.~~

~~B. Any purse, stakes, trophy, or award shall be returned if it was presented to the owner of the horse upon the finding of a violation of this section.~~

~~C. Any positive test for a prohibited drug, medication, or substance, including permitted medication in excess of the maximum allowable concentration, as reported by a Commission-approved laboratory, is prima facie evidence of a violation of this rule.~~

~~D. It is presumed that any sample or accepted specimen tested by an approved laboratory is from the horse in question and:~~

~~i. its integrity is preserved;~~

~~ii. all procedures, collection, preservation, and analysis are correct and accurate; and~~

~~iii. it is the burden of the owner, trainer, assistant trainer, or other responsible party to prove by substantial evidence to the contrary in the matter to the administrative Stewards or at the Commission hearing.~~

~~8. Penalties. Upon finding a violation of these medications and prohibited substances rules, the Stewards shall:~~

~~A. consider the classification level of the violation as listed at the time in the Uniform Classification Guidelines of Foreign Substances, as promulgated in the attached penalty matrix, including any updates; and~~

~~B. impose penalties and disciplinary measures consistent with the recommendations contained therein.~~

C. The Stewards shall also consult with the Official Veterinarian to determine if the violation was a result of the administration of a therapeutic medication as documented in a veterinarian's Medication Report Form received, pursuant to R52-7-8(7).

9. The stewards may also consult with the laboratory director or other individuals to determine the seriousness of the laboratory finding or the medication violation. Penalties for all medication and drug violations shall be investigated and reviewed on a case by case basis.

A. Extenuating factors include:

i. the past record of the trainer, veterinarian and owner in drug cases;

ii. the potential of the drug to influence a horse's racing performance;

iii. the legal availability of the drug;

iv. whether the responsible party knew or should have known of the administration of the drug, or intentionally administered the drug;

v. the steps taken by the trainer to safeguard the horse;

vi. the purse of the race; and

vii. whether the licensed trainer was acting on the advice of a licensed veterinarian.

10. As a result of an investigation, there may be mitigating circumstances for which a lesser or no penalty is appropriate for the licensee, or aggravating factors that may increase the penalty beyond the minimum.

KEY: horses, horse racing

Date of Enactment or Last Substantive Amendment: April 6, 2020

Notice of Continuation: August 25, 2016

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

NOTICE OF EMERGENCY (120-DAY) RULE

Utah Admin. Code Ref (R no.):	R357-30	Filing No. 52646
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Agency Information

1. Department:	Governor	
Agency:	Economic Development	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	60 E. South Temple	
City, state, zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-538-8664	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R357-30. Utah Leads Together Small Business Bridge Loan Program

3. Effective Date:

04/02/2020

4. Purpose of the new rule or reason for the change:

The purpose of this rule filing is to create the Utah Leads Together Small Business Bridge Loan Program to support small businesses and the retention of jobs throughout the State during the state of emergency due to novel coronavirus disease 2019 (COVID-19).

5. Summary of the new rule or change:

This rule will codify the Utah Leads Together Small Business Bridge Loan Program by establishing the purpose, authority, eligible business entity criteria, minimum application requirements, and the approval process. The program will provide immediate assistance to small businesses in the state that have been impacted by the COVID-19 pandemic.

6. Regular rulemaking would:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | cause an imminent peril to the public health, safety, or welfare; |
| <input type="checkbox"/> | cause an imminent budget reduction because of budget restraints or federal requirements; or |
| <input type="checkbox"/> | place the agency in violation of federal or state law. |

Specific reason and justification:

The Governor's Office of Economic Development (GOED) is responsible for economic development in the state and is tasked with, among other things, administering grant and loan programs to enhance the economic health and vitality of the state and its business community. This rule will govern the new Utah Leads Together Small Business Bridge Loan Program that will provide immediate assistance to small businesses in the state that have been impacted by the COVID-19 pandemic. This is necessary to get short-term working capital to small businesses prior to federal stimulus funds becoming available.

Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:

There is no aggregate anticipated cost or savings to the state budget. This rule establishes the requirements for participation in the Utah Leads Together Small Business Loan Program.

B) Local governments:

There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.

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

Economic development funds will be awarded to small businesses in the state. The Utah Leads Together Small Business Bridge Loan Program is designed to serve Utah's successful small businesses that have been impacted by the COVID-19 pandemic.

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

There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because these proposed changes do not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

8. Compliance costs for affected persons:

There are no compliance costs for affected persons because participation in the program is optional.

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

This new program will help many Utah small businesses struggling with impacts from the COVID-19 pandemic and in need of assistance during this emergency in our country and our state. GOED hopes that this loan program will help keep Utah workers employed and businesses open for business, at least in some fashion, as people face today's difficult challenges and uncertain health and economic conditions.

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

Val Hale, Executive Director

Citation Information

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):

Section	63N-1-402	
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Agency Authorization Information

Agency head or designee, and title:	Val Hale, Executive Director	Date:	03/30/2020
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R357. Governor, Economic Development.
R357-30. Utah Leads Together Small Business Bridge Loan Program.

R357-30-101. Title.

This rule is known as the "Utah Leads Together Small Business Bridge Loan Program Rule."

R357-30-102. Purpose.

Under Title 63N, Governor's Office of Economic Development, the Utah Leads Together Small Business Bridge Loan Program is created to support small businesses and the retention of jobs throughout the State.

R357-30-103. Authority.

This rule is adopted by the office under the authority of Section 63N-1-402.

R357-30-104. Loan.

As funds are available and at the discretion of the Executive Director of the Governor's Office of Economic Development loans may be awarded. The following are the general terms of a Utah Leads Together Small Business Bridge Loan:

- (1) amounts from \$5,000 to \$20,000;
- (2) amount shall not exceed three months of operating expenses;
- (3) zero percent interest;
- (4) up to a 60 month term;
- (5) deferral of payments for the first 12 months;
- (6) no collateral requirements;
- (7) eligible use of loan funds include:
 - (a) working capital to support payroll expenses;
 - (b) rent;
 - (c) mortgage payments;
 - (d) utility expenses; and
 - (e) similar expenses that occur in the ordinary course of business operations.
- (8) A minimum of 25% of funding will be awarded to businesses located in counties of the 3rd, 4th, 5th or 6th class as classified under Section 17-50-501.
- (9) Receiving other forms of emergency funding will not disqualify an applicant from receiving loan funds through this program, but companies must disclose all sources of emergency funding applied for, received, and anticipated to be received.
- (10) The Executive Director may approve exemptions to the criteria of this Section.

R357-30-105. Business Eligibility.

- (1) To qualify for a Utah Leads Together Small Business Bridge Loan a business shall:
 - (a) be headquartered in the State;
 - (b) have fewer than 50 employees;
 - (c) have been established and registered with Utah's Division of Corporations and Commercial Code to do business in Utah prior to January 1, 2020;
 - (d) be in good standing;
 - (e) have employees who have had payroll taxes withheld; and
 - (f) demonstrate financial distress which may include but are not limited to:
 - (i) notices from tenants closing operations or not paying rent due to loss of income;
 - (ii) inability to pay rent or make loan payments due to decreased sales or suspended operations;
 - (iii) increased costs associated to COVID-19 prevention measures;

(iv) notice of disrupted supply network leading to a shortage of critical inventory or materials; or
 (v) other circumstances subject to review on a case-by-case basis.

R357-30-106. Application Requirements.

- (1) At a minimum the following documents and information are required as part of the application:
- (a) financial statements, when available, for the previous year and most recent month or quarter including:
 - (i) profit and loss for previous year; and
 - (ii) balance sheet;
 - (b) copy of business 2018 or 2019 state of Utah tax returns;
 - (c) copy of business lease agreement or mortgage statement for business location;
 - (d) copy of current business license;
 - (e) copy of a Utah driver's license or government issued ID;
 - (f) signed and current W-9;
 - (g) six month proforma of estimated loss of revenue or other documented loss evidence; and
 - (h) contact information including but not limited to:
 - (i) principal name;
 - (ii) phone number;
 - (iii) email address;
 - (iv) mailing address; and
 - (v) business address.

R357-30-107. Approval Process.

- (1) The office will determine eligibility of applicants submitting to participate in the program. Preference for funding may be given to businesses that:
- (a) have experienced severe economic impact due to the COVID-19 pandemic;
 - (b) can demonstrate a multiplier impact on other industries;
 - (c) play a key role within a strategic state supply chain;
 - (d) pay above county average wages;
 - (e) employ full-time employees;
 - (f) demonstrate solvency prior to the current economic crisis; or
 - (g) submit a complete application.
- (2) After reviewing an application, the office shall:
- (a) deny the application;
 - (b) request additional information or documentation; or
 - (c) approve the application and enter into a written agreement with the applicant.
- (3) Applying is not a guarantee of approval to receive a loan.
- (4) Notification of approval is not a guarantee that the office will issue a loan.
- (5) An approved applicant must agree to all program and contract terms and conditions including, repayment of the loan in full.

KEY: bridge loan, Utah Leads Together, small businesses
Date of Enactment or Last Substantive Amendment: April 3, 2020
Authorizing, and Implemented or Interpreted Law: 63N-1-402

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R600-4	Filing No. 52657

Agency Information

1. Department:	Labor Commission	
Agency:	Administration	
Building:	Heber M. Wells	
Street address:	160 East 300 South, 3rd Floor	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146600	
City, state, zip:	Salt Lake City UT 84114-6600	
Contact person(s):		
Name:	Phone:	Email:
Chris Hill	801-530-6113	chill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:	
R600-4. Definitions Applicable to Disease Testing for Peace Officers, Health Care Providers and Volunteers	
3. Effective Date:	
04/08/2020	
4. Purpose of the new rule or reason for the change:	
The purpose of this rule is to add COVID-19 and its transmission method to the list of diseases for peace officers, health care providers, and volunteers. The need for this emergency rule is due to the COVID-19 pandemic and to provide further safety measures for peace officers, health care providers, and volunteers.	
5. Summary of the new rule or change:	
This rule adds COVID-19 and its transmission method to the list of diseases for peace officers, health care providers, and volunteers	
6. Regular rulemaking would:	
X	cause an imminent peril to the public health, safety, or welfare;
	cause an imminent budget reduction because of budget restraints or federal requirements; or
	place the agency in violation of federal or state law.
Specific reason and justification:	
Section 78B-8-401 et seq. allows for peace officers, health care providers, and volunteers who are significantly exposed to certain infectious diseases during the course of performing their duties to petition the district court for an	

order requiring the person to whom the peace officer, health care provider, or volunteer was significantly exposed submit to testing to determine whether that person is infected and that the results of that test be disclosed to the petitioner by the Department of Health (Department). The current statute only defines three diseases: HIV, Hepatitis B, and Hepatitis C.

Due to the current pandemic caused by the novel coronavirus, COVID-19, it has become necessary to add that disease and its method of transmission to the list of diseases and transmission methods currently in statute. This will allow peace officers, health care providers, and volunteers who are exposed, while in the course of their duties, to a person who refuses to submit to a test for COVID-19 to petition the court and obtain an order from the court requiring such a test. This will allow peace officers, health care providers, and volunteers to more quickly determine whether or not they have been exposed to a person who has tested positive for COVID-19. If the test is negative, the peace officers, health care providers, and volunteers will not need to be quarantined and therefore, can return to their places of work which are vital and essential to the safety and health of the public during this pandemic.

The impact to small businesses will be neutral. The reason that the fiscal impact will be neutral is because the testing for COVID-19 is free. The Department stated that if a test for COVID-19 is performed by the state lab as ordered by a local public health department, the testing is free as it is considered part of the Department's public health responsibilities. Adding COVID-19 and its method of transmission to the already existing list of diseases and methods of transmission found in Section 78B-8-401 for which testing can be required will have a neutral fiscal impact because the testing is free.

D) 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 impact to persons other than small businesses, non-small businesses, state, or local government entities will be neutral. The reason that the fiscal impact will be neutral is because the testing for COVID-19 is free. The Department stated that if a test for COVID-19 is performed by the state lab as ordered by a local public health department, the testing is free as it is considered part of the Department's public health responsibilities. Adding COVID-19 and its method of transmission to the already existing list of diseases and methods of transmission found in Section 78B-8-401 for which testing can be required will have a neutral fiscal impact because the testing is free.

Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:

The impact to the state budget will be neutral. The reason that the fiscal impact will be neutral is because the testing for COVID-19 is free. The Department stated that if a test for COVID-19 is performed by the state lab as ordered by a local public health department, the testing is free as it is considered part of the Department's public health responsibilities. Adding COVID-19 and its method of transmission to the already existing list of diseases and methods of transmission found in Section 78B-8-401 for which testing can be required will have a neutral fiscal impact because the testing is free.

B) Local governments:

The impact to local governments will be neutral. The reason that the fiscal impact will be neutral is because the testing for COVID-19 is free. The Department stated that if a test for COVID-19 is performed by the state lab as ordered by a local public health department, the testing is free as it is considered part of the Department's public health responsibilities. Adding COVID-19 and its method of transmission to the already existing list of diseases and methods of transmission found in Section 78B-8-401 for which testing can be required will have a neutral fiscal impact because the testing is free.

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

8. Compliance costs for affected persons:

There will be limited to no costs for affected persons. The reason that the fiscal impact will be neutral is because the testing for COVID-19 is free. The Department stated that if a test for COVID-19 is performed by the state lab as ordered by a local public health department, the testing is free as it is considered part of the Department's public health responsibilities. Adding COVID-19 and its method of transmission to the already existing list of diseases and methods of transmission found in Section 78B-8-401 for which testing can be required will have a neutral fiscal impact because the testing is free.

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

Adding COVID-19 to the list of diseases and its method of transmission to the already-existing diseases and methods of transmission found in Section 78B-8-401 will have little to no fiscal impact on the state, local governments, small businesses, and individuals. After consultation with the Department, the Department indicated that if a test for COVID-19 is performed by the state lab as ordered by a local public health department, the test is free as it is considered part of the Department's public health responsibilities. However, provider ordered tests performed at other labs within the state are charged to the individual or that individual's health insurance.

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

Jacson R. Maughan, Commissioner

Citation Information

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):

Section 78B-8-401 | Section 78B-8-404

Agency Authorization Information

Agency head or designee, and title:	Jacson R. Maughan, Commissioner	Date:	04/08/2020
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R600. Labor Commission, Administration.

R600-4. Definitions Applicable to Disease Testing for Peace Officers, Health Care Providers and Volunteers.

R600-4-1. Authority and Scope.

A. The Commission, after consultation with the Department of Health, enacts this rule pursuant to the authority granted by 78B-8-401(2) and (8), and 78B-8-404.

B. "Disease" means COVID-19 in addition to the diseases listed in 78B-8-401(2).

C. "Significant exposure" and "significantly exposed" mean exposure to COVID-19 through airborne water droplets.

KEY: labor commission, unincorporated entity, construction licensees

Date of Enactment or Last Substantive Amendment: April 8, 2020
Authorizing, and Implemented or Interpreted Law: 78B-8-401; 78B-8-404

NOTICE OF EMERGENCY (120-DAY) RULE

Utah Admin. Code Ref (R no.):	R612-300	Filing No. 52666
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Agency Information

1. Department:	Labor Commission	
Agency:	Industrial Accidents	
Room no.:	Division of Industrial Accidents	
Building:	Heber Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146610	
City, state, zip:	Salt Lake City, UT 84114-6610	
Contact person(s):		
Name:	Phone:	Email:
Ron Dressler	801-530-6841	rdressler@utah.gov

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

General Information

2. Rule or section catchline:

R612-300. Workers' Compensation Rules - Medical Care

3. Effective Date:

04/13/2020

4. Purpose of the new rule or reason for the change:

The purpose of this change is to establish telemedicine reimbursement rates for medical providers treating injured workers, due to the COVID 19 pandemic.

5. Summary of the new rule or change:

The new rule sections define telemedicine and outline reimbursement rates for the telemedicine services. Specifically, codes are listed that physicians, physical therapists, and non-physicians use for reimbursement and the amounts will be at "parity," or at a comparable rate as an in person visit.

6. Regular rulemaking would:

- cause an imminent peril to the public health, safety, or welfare;
- cause an imminent budget reduction because of budget restraints or federal requirements; or
- place the agency in violation of federal or state law.

Specific reason and justification:

There is currently no reimbursement schedule for telemedicine treatment which means there isn't consistency in reimbursement rates, or no reimbursement at all. Failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned. COVID-19-related actions to promote social distancing have disrupted workers' ability to receive in-person care for their job-related injuries and illnesses. Continuity of care is essential to monitor the progress of recovery, including whether any temporary total disability should continue and when the worker may return to modified or regular work. Treatment delays impede recovery and may increase claims costs. Increasing reimbursement for remote services to levels equivalent to in-person care should promote use of these alternatives to in-office care.

Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:

The impact to the state budget will be neutral. The reason is that when medical providers bill for telemedicine services, they will be using the same codes as when they

bill for in person visits. As such, the reimbursement amounts will be the same.

B) Local governments:

The impact to local governments will be neutral. The reason is that when medical providers bill for telemedicine services, they will be using the same codes as when they bill for in person visits. As such, the reimbursement amounts will be the same.

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

The impact to small businesses will be neutral. The reason is that when medical providers bill for telemedicine services, they will be using the same codes as when they bill for in person visits. As such, the reimbursement amounts will be the same.

D) 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 impact to persons other than small businesses, non-small businesses, state, or local government entities will be neutral. The reason is that when medical providers bill for telemedicine services, they will be using the same codes as when they bill for in person visits. As such, the reimbursement amounts will be the same.

8. Compliance costs for affected persons:

The compliance costs for affected persons will be neutral. The reason is that when medical providers bill for telemedicine services, they will be using the same codes as when they bill for in person visits. As such, the reimbursement amounts will be the same.

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

There will be limited or no fiscal impact on businesses. When medical providers bill for telemedicine services, they will be using the same codes as when they bill for in-person visits. Therefore, the reimbursement amounts will be the same.

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

Jacson R Maughan, Commissioner

Citation Information

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):

Section 34A-1-104 | Section 34A-2-201

Agency Authorization Information

Agency head or designee, and title:	Jacson R. Maughan, Commissioner	Date:	04/13/2020
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R612. Labor Commission, Industrial Accidents.

R612-300. Workers' Compensation Rules - Medical Care.

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

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

1. Reasonable fees for medical care necessary to treat workplace injuries;
2. Standards for disclosure of medical records;
3. Reporting requirements; and
4. Treatment protocols and quality care guidelines.

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

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

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

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

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

5. "Telehealth" is two-way, real-time interactive communication between the member and the physician or authorized provider at the distant site. This electronic communication uses interactive telecommunications equipment that includes, at a minimum, audio and video equipment.

[5]6. "Workplace injury" is an injury or disease compensable under either the Utah Workers' Compensation Act or the Utah Occupational Disease Act.

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

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

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

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

- a. No preferred provider is available;
- b. The injured worker believes in good faith that his or her medical condition is not a workplace injury; or
- c. Travel to a preferred provider is unduly burdensome.

4. If an injured worker who is subject to a preferred provider program fails to obtain initial medical care from a preferred provider, the payor's liability for the cost of such initial medical care is limited to

the amount the payor would have paid a preferred provider. The injured worker may be held personally liable for the remaining balance.

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

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

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

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

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

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

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

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

c. Medically necessary emergency treatment;

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

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

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

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

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

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

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

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

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

time so as to communicate regarding medical care and return-to-work issues.

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

R612-300-3. Required Reports.

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

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

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

B. Form 221, Restorative Services Authorization. Form 221, "Restorative Services Authorization Form" required by Subsection R612-300-5. C. 7. shall be filed with both the payor and the Division.

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

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

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

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

Optum360 Essential RBRVS 2018 annual 1st Quarter Update," (edition includes RBRC18/U1791 and U1791R2) ("RBRVS" hereafter).

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

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

1. Anesthesiology (1 unit per 15 minutes of anesthesia): \$62.00;

2. Medicine (Evaluation and Medicine codes 99203-99204 and 99213-99214): \$56.00;

3. Medicine (all other Evaluation and Medicine codes): \$52

4. Pathology and Laboratory: \$56.00;

5. Radiology: \$58.00;

6. Restorative Services: \$50.00;

7. Surgery (all 20000 codes, codes 49505 thru 49525, and all 60000 codes): \$65.00;

8. Other Surgery: \$43.00.

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

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

a. neither the CPT/RBRVS or any other provision of these rules address the medical care in question; or
 b. application of CPT/RBRVS or other provisions of these rules would result in an inadequate fee due to extraordinary difficulty of treatment.

2. Unless otherwise governed by contract, payors shall reimburse medical providers for telehealth services at the same rate as the comparable in-person service for the following CPT codes using a 95 modifier:

a. Physicians: 99211-99214;

b. Physical therapists: 97110, 97164, 97530, 97535; or

c. Occupational therapists: 97168.

[2]3. If the medical provider and payor cannot agree to a reasonable fee in such cases, the provider can request a hearing before the Commission's Adjudication Division to establish a reasonable fee.

R612-300-5. Fees for Specific Procedures.

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

B. Radiology.

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

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

C. Restorative Services.

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

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

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

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

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

2. No payment is allowed for CPT codes 97024, diathermy; 97026, infrared therapy; 97028, ultraviolet therapy/cold laser therapy; 97169, athletic training evaluations; 97172, athletic training reevaluation.

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

4. Medical providers billing under CPT codes 97161 through 97610 are limited to payment for a maximum of three procedures/units per visit, or six procedures if different sites are treated. Services billed under CPT codes 97545, 97546 and 97150 require preauthorization and are limited to 4 units per injury. The payor shall pay the three highest valued procedures for each treatment site for the visit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E. Impairment Ratings and Insurance Medical Examinations.

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

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

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

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

G. Electrophysiologic Testing. A physician who is legally authorized by his or her medical practice act to diagnose injury or

disease is entitled to the full fee for electrophysiologic testing. Physical therapists and physicians who are qualified to perform such testing but who are not legally authorized to diagnose injury or disease are entitled to payment of 75% of the full fee.

H. Dental Injuries.

1. Initial Treatment.

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

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

2. Subsequent treatment.

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

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

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

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

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

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

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

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

I. Drug testing. Drug screenings for addictive classes of pain medications shall be performed as recommended in the Utah clinical Guidelines on Prescribing Opiates for Treatment of Pain, Utah Department of Health 2009. The collection and billing shall be limited to one 80305, 80306, or 80307 code per date of service, except for unusual circumstances.

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

1. Muscle Testing, CPT codes 95832 through 95857;

2. Computer based Motion Analysis, CPT codes 96000 through 96004;

3. Athletic Training Evaluation, CPT codes 97169 to 97172;

4. Acupuncture, CPT codes 97810 through 97814;

5. Analysis of Data, now BR, CPT code 99090;

6. Patient Education, CPT codes 98960 through 98962;

7. Educational supplies, CPT code 99071; or

8. Artificial discs, percutaneous discectomies, endoscopic discectomies, IDEPT, platelet rich plasma injections, thermorhizotomies and other heat or chemical treatments for discs.

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

A. Physician Assistants, Nurse Practitioners, Medical Social Workers, Nurse Anesthetists, and Physical Therapy Assistants. Fees for services performed by physician assistants, nurse practitioners, medical social workers, nurse anesthetists, and physical therapy assistants are set at 75% of the amount that would otherwise be allowed by these rules and shall be billed using an 83 modifier.

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

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

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

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

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

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

1. RN: \$100/ 2 hours

2. LPN: \$75 / 2 hours

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

4. Speech Therapists: \$80 / visit

5. Physical Therapy: \$125/ hour

6. Occupational Therapy: \$125/ hour

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

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

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

R612-300-7. Billing and Payment.

A. Billing Limitations.

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

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

B. Discounting and down-coding.

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

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

- a. The submitted code is incorrect;
- b. Another code more closely identifies the medical care;
- c. The medical provider has not submitted the documentation necessary to support the code; or

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

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

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

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

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

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

E. Hospital Fees.

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

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

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

F. Charges for Supplies, Materials, or Drugs.

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

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

G. Miscellaneous.

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

2. Payment for hospital care is limited to the bed rate for semi-private room unless a private room is medically necessary.

3. Non-facility RVS total unit values apply, except that procedures provided in a facility setting shall be reimbursed at the facility total unit value and the facility may bill a separate facility charge.

4. Items that are a portion of an overall procedure are NOT to be itemized or billed separately.

5. Payors may round charges to the nearest dollar. If this is done on some charges, it must be done with all charges.

H. Prompt Payment and Interest.

1. All bills for medical care of injured workers must be paid within 45 days of submission to the payor unless the bill or some portion of the bill is in dispute. Any portion of the bill not in dispute remains payable within 45 days of billing.

2. As required by Section 34A-2-420 of the Utah Workers' Compensation Act, any award for medical care made by the Commission shall include interest at 8% per annum from the date of billing for such medical care.

I. Billing Disputes. Payors and health care providers shall use the following procedures to resolve billing disputes.

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

2. The payor shall evaluate the bill and pay the appropriate fee as established by these rules.

3. If the provider believes the payor has improperly computed the fee, the provider may submit a written request for reevaluation to the payor. The request shall describe the specific areas of disagreement and include all appropriate documentation. Any such request for reevaluation must be submitted to the payor within one year of the date of the original payment.

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

5. A payor seeking reimbursement from a provider for overpayment of a bill shall, within one year of the overpayment, submit to the provider a written request for repayment that explains the basis for request. Within 90 days of receipt of the request, the provider shall either make appropriate repayment or respond with a specific written denial of the request.

6. If the provider and payor continue to disagree regarding the proper fee, either party may request informal review of the matter by the Division. Any party may also file a request for hearing on the dispute with the Adjudication Division.

R612-300-8. Travel Allowance for Injured Workers.

A. Payment for Travel to Obtain Medical Care. An injured worker who must travel outside his or her community to obtain necessary medical care is entitled to payment of meals and lodging. An injured worker is entitled to other travel expenses regardless of distance. Payors shall reimburse injured workers for these expenses according to the standards set forth in State of Utah Accounting Policies and Procedures, Section FIACCT 10-02.00, "Travel Reimbursement".

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

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

B. Time Limits for Requesting and Paying Travel Expenses.

1. Requests for travel reimbursement must be submitted to the payor for payment within one year after the subject travel expenses were incurred;

2. The payor must pay an injured employee's travel expenses at the earlier of:

- a. Every three months;
- b. Upon accrual of \$100 in such expense; or
- c. At closure of the injured worker's claim.

C. Prescriptions. Travel allowance shall not include picking up prescriptions with the following exceptions:

1. Travel allowance will be allowed if documentation is provided substantiating a claim that prescriptions cannot be obtained locally within the injured worker's community;

2. Travel allowance will be allowed in instances where dispensing laws do not allow a medication to be called in to a pharmacy thus requiring an injured worker to physically obtain an original prescription from the provider's office.

R612-300-9. Permanent Impairment Ratings.

A. Utah's 2006 Impairment Guides. The "Utah 2006 Impairment Guides" are incorporated by reference and are to be used to rate a permanent impairment not expressly listed in Section 34A-2-412 of the Utah Workers' Compensation Act.

B. American Medical Association's "Guides to the Evaluation of Permanent Impairment, Fifth Edition." For those permanent impairments not addressed in either Section 34A-2-412 or the "Utah 2006 Impairment Guides," impairment ratings are to be established according to the American Medical Association's "Guides to the Evaluation of Permanent Impairment, Fifth Edition."

R612-300-10. Medical Records.

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

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

B. Disclosures Permitted Without Authorization. A medical provider, without authorization from the injured worker, shall:

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

- a. An employer's workers' compensation insurance carrier or third party administrator;
- b. A self-insured employer who administers its own workers' claims.
- c. The Uninsured Employers' Fund;
- d. The Employers' Reinsurance Fund; or
- e. The Labor Commission as required by Labor Commission rules.

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

C. Disclosures Requiring Authorization.

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

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

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

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

d. The Uninsured Employers Fund;

e. The Employers' Reinsurance Fund;

f. The Labor Commission;

g. The injured worker;

h. An injured workers' personal representative;

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

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

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

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

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

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

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

D. Disclosure Regarding Return to Work. A medical provider, who has treated an injured worker for a work related injury or illness, shall disclose information to an injured workers' employer as to when and what restrictions an injured worker may return to work.

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

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

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

H. Injured Worker's Right to Contest Requests for Pre-Injury Medical Records. An injured worker may contest, for good reason, a request for medical records created prior to the reported date of the accident or illness for which the injured worker has made a claim for benefits by filing a complaint with the Labor Commission. Good reason is defined as the request has gone beyond the scope of this rule or sensitive medical information is contained in a particular medical record.

I. Limitations on Use and Re-disclosure of Medical Information.

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

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

- a. Pay or adjudicate workers' compensation claims if the employer is self-insured;
- b. To assess and facilitate an injured workers' return to work;
- c. As otherwise authorized by the injured worker.

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

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

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

1. A search fee of \$15 payable in advance of the search;
2. Copies at \$.50 per page, including copies of microfilm, payable after the records have been prepared and

3. Actual costs of postage payable after the records have been prepared and sent. Actual cost of postage is deemed to be the cost of regular mail unless the requesting party has requested the delivery of the records by special mail or method.

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

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

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

- a. History and physical;
- b. Operative reports of surgery;
- c. Hospital discharge summary;
- d. Emergency room records;
- e. Radiological reports;
- f. Specialized test results; and
- g. Physician SOAP notes, progress notes, or specialized reports.

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

R612-300-11. Utilization Review Standards.

A. Purpose of Utilization Review and Definitions.

1. "Utilization Review" is used to manage medical costs, improve patient care and enhance decision-making. Utilization review

includes, but is not limited to, the review of requests for authorization and the review of medical bills to determine whether the medical services were or are necessary to treat a workplace injury. Utilization review does not include:

- a. bill review for the purpose of determining whether the medical services rendered were accurately billed, or
- b. any system, program, or activity used to determine whether an individual has sustained a workplace injury.

2. Any utilization review system shall incorporate a two-level review process that meets the criteria set forth in subsections B and C of this rule.

3. Definitions. As used in this rule:

a. "Request for Authorization" means any request by a physician for assurance that appropriate payment will be made for a course of proposed medical treatment.

b. "Reasonable Attempt" requires at least two phone calls and a fax, two phone calls and an e-mail, or three phone calls, within five business days from date of the payor's receipt of the physician's request for review.

B. Level I - Initial Request and Review.

1. A health care provider may use Form 223 to request authorization and payment for proposed medical treatment. The provider shall attach all documentation necessary for the payor to make a decision regarding the proposed treatment.

a. Requests for approval of restorative services are governed by the provisions of Section R612-300.5. C. 7. which requires submission of the appropriate RSA form and documentation.

2. Upon receipt of the provider's request for authorization, the payor may use medical or non-medical personnel to apply medically-based criteria to determine whether to approve the request. The payor must:

a. Within 5 business days after receiving the request and documentation, transmit Form 223 back to the physician, in a verifiable manner, advising of the payor's approval or denial of the proposed treatment.

i. If approval is denied, the payor must include with its denial a statement of the criteria it used to make its determination. A copy of the denial must also be mailed to the injured worker.

C. Level II - Review.

1. A health care provider who has been denied authorization or has received no timely response may request a physician's review by completing and sending the applicable portion of Commission Form 223 to the payor.

a. The provider must include the times and days that he/she is available to discuss the case with the reviewing physician, and must be reasonably available during normal business hours.

b. This request for review may be used by a health care provider who has been denied authorization for restorative services pursuant to Subsection R612-300-5.C.7.

2. The payor's physician representative must complete the review within five business days of the treating physician's request for review. Additional time may be requested from the Commission to accommodate highly unusual circumstances or particularly difficult cases.

a. The insurer's physician representative must make a reasonable effort to contact the requesting provider to discuss the request for treatment. The payor shall notify the Commission if an additional five days is needed in order to contact the treating physician or to review the case.

b. If the payor again denies approval of the recommended treatment, the payor must complete the appropriate portion of Commission Form 223, and shall include:

- i. the criteria used by the payor in making the decision to deny authorization; and
- ii. the name and specialty of the payor's reviewing physician;
- iii. appeals information.

c. The denial to authorize payment for treatment must then be sent to the physician, the injured worker and the Commission.

3. The payor's failure to respond to the review request within five business days, by a method which provides certification of transmission, shall constitute authorization for payment of the treatment.

D. Mediation and Adjudication. Upon receipt of denial of authorization for payment for medical treatment at Level II, the Commission will facilitate, upon the request of the injured worker, the final disposition of the case.

1. If the parties agree, the medical dispute will be referred to Commission staff for mediation.

2. If the parties do not agree to mediation, the matter will be referred to the Division of Adjudication for hearing and decision.

E. Reduction of Fee for Failure to Follow Utilization Review Standards.

1. In cases in which a health care provider has received notice of this rule but proceeds with non-emergency medical treatment without obtaining payor authorization, the following shall apply:

a. If the medical treatment is ultimately determined to be necessary to treat a workplace injury, the fee otherwise due the health care provider shall be reduced by 25%.

b. If the medical treatment is ultimately determined to be unnecessary to treat a workplace injury, the payor is not liable for payment for such treatment. The injured worker may be liable for the cost of treatment.

2. The penalty provision in D. 1. shall not apply if the medical treatment in question has been preauthorized by some other non-worker's compensation insurance company or other payor.

R612-300-12. Commission Approval of Health Care Treatment Protocols.

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

B. Standards

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

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

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

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

b. Guideline sources must be identified;

c. The guidelines must be reasonably priced;

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

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

R612-300-13. HIV, Hepatitis B and C Testing and Reporting for Emergency Medical Service Providers.

A. Purpose and Authority. This rule, established pursuant to U.C.A. Section 78B-8-404, establishes procedures for testing and reporting following a significant exposure of an emergency medical services provider to infectious diseases.

B. Definitions. In addition to the terms defined in Section 78B-8-401, the following definitions apply for purposes of this rule.

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

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

3. Source Patient means any individual cared for by a pre-hospital emergency medical services provider, including but not limited to victims of accidents or injury, deceased persons, prisoners or persons in the custody of the Department of Corrections, a county correctional facility, or a public law enforcement entity.

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

C. Emergency Medical Services Provider Responsibility.

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

2. The reporting process is as follows:

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

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

D. Receiving Facility Responsibility.

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

2. Upon notification of exposure, the receiving facility shall request permission from the source patient to draw a blood sample for disease testing. In conjunction with this request, the source patient must be advised of his/her right to refuse testing and be advised that if he/she refuses to be tested that fact will be forwarded to the EMS agency or

employer of EMS provider. The source patient shall also be advised that if he/she refuses to be tested, the EMS agency or provider may seek a court order to compel the source patient to submit to a blood draw for the disease testing.

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

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

F. EMS Agency/Employer Responsibility:

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

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

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

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

R612-300-14. Advance Practice Registered Nurse.

A. Authority. This rule is enacted under the authority of 34A-1-104 and 58-31b-803.

B. Requirement. An advanced practice registered nurse who treats an injured worker and prescribes Schedule II controlled substances for chronic pain is subject to the provisions of the "Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain," July 2013, adopted by the Federation of State Medical Boards, which is incorporated by reference.

KEY: workers' compensation, fees, medical practitioners, nurse practitioners

Date of Enactment or Last Substantive Amendment: April 13, 2020

Notice of Continuation: February 8, 2018

Authorizing, and Implemented or Interpreted Law: 34A-1-104; 34A-2-201

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.):	R68-1	Filing No. 50135

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Robert Hougaard	801-538-7180	rhougaard@utah.gov
Kelly Pehrson	801-538-7102	Kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R68-1. Utah Bee Inspection Act Governing Inspection of Bees

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is promulgated under the authority of Section 4-11-103, that allows the Department of Agriculture and Food (Department) to make and enforce rules to administer Title 4, Chapter 11, the Utah Bee Inspection 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 written comments were 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 should continue because it provides guidelines regarding the registration of those who possess bees in the , including related to identification of apiaries and salvage operations.

Agency Authorization Information

Agency head or designee, and title:	Kelly Pehrson, Deputy Commissioner	Date:	04/06/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R68-6	Filing No. 50140

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	385-245-5222	Ambermbrown@utah.gov
Robert Hougaard	801-538-7180	rhougaard@utah.gov
Kelly Pehrson	801-538-7102	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R68-6. Utah Nursery Act
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated under the authority of Section 4-15-104 because it is necessary to ensure that nurseries produce healthy plants and that nursery stock shipped to other nurseries, brokers, and out-of-state customers meets national nursery stock cleanliness standards.
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 were 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 should continue because it provides important guidelines governing the condition, transport, and labeling of nursery stock sold in Utah that protect businesses and citizens.

Agency Authorization Information

Agency head or designee, and title:	Kelly Pehrson, Deputy Commissioner	Date:	04/06/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R162-2a	Filing No. 50325

Agency Information

1. Department:	Commerce	
Agency:	Real Estate	
Room no.:	2nd Floor	
Building:	Heber M. Wells Bldg.	
Street address:	160 East 300 South	
City, state, zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146711	
City, state, zip:	Salt Lake City, Utah 84114-6711	
Contact person(s):		
Name:	Phone:	Email:
Justin Barney	801-530-6603	justinbarney@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R162-2a. Utah Housing Opportunity Restricted Account
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule was adopted under the statutory provisions of Title 61, Chapter 2, the Division of Real Estate. The purpose of the rule is to make rules providing procedures for an organization to apply to receive money pursuant to Section 61-2-204. Section 61-2-103 provides that the Division of Real Estate (Division) shall make rules to provide procedures for an organization to apply to receive money from the Utah Housing Opportunity Restricted Account.
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:
This rule has not been amended since the last five-year review. No written comments have been received during or since the last five-year review of this rule either supporting or opposing 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 statutory requirement found in Title 61, Chapter 2, remains in effect at the time of this five-year review. For this reason, the rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jonathan C. Stewart, Director	Date:	03/26/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R381-60	Filing No. 50892

Agency Information

1. Department:	Health		
Agency:	Child Care Center Licensing Committee		
Building:	Highland		
Street address:	3760 South Highland Drive		
City, state, zip:	Salt Lake City, UT 84106		
Mailing address:	PO Box 142003		
City, state, zip:	Salt Lake City, UT 84114-2003		
Contact person(s):			
Name:	Phone:	Email:	
Simon Bolivar	801-803-4618	sbolivar@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R381-60. Hourly Child Care Centers
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 26-39-203(1) allows the Department of Health (Department) in concurrence with the Child Care Center Licensing Committee (Committee) to make rules that govern center based child care, and Subsection 26-39-301(2) allows the Department to enforce these rules. Both making and enforcing of these rules are necessary to protect children's common needs for a safe and healthy environment.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no comments submitted to the Committee regarding this rule other than specific comments submitted to the amendments to this rule in December 2019. Those comments were addressed in the adoption of the amended 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 continuation of this rule is necessary for the Department and the Committee to comply with their statutory duty to make, for the Committee and the Department, and to enforce, for the Department, rule in accordance with Utah code to regulate child care programs for the health and safety of children. Any comments received were congruent with the amendments proposed by the Department and the Committee.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/14/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R381-70	Filing No. 50893

Agency Information

1. Department:	Health		
Agency:	Child Care Center Licensing Committee		
Building:	Highland		
Street address:	3760 South Highland Drive		
City, state, zip:	Salt Lake City, UT 84106		
Mailing address:	PO Box 142003		
City, state, zip:	Salt Lake City, UT 84114-2003		
Contact person(s):			
Name:	Phone:	Email:	
Simon Bolivar	801-803-4618	sbolivar@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R381-70. Out of School Time Child Care Programs
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 26-39-203(1) allows the Department of Health (Department) in concurrence with the Child Care Center Licensing Committee (Committee) to make rules that govern center based child care, and Subsection 26-39-301(2) allows the Department to enforce these rules. Both making and enforcing of these rules are necessary to

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

protect children's common needs for a safe and healthy environment.

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

There have been no comments submitted to the Committee regarding this rule other than specific comments submitted to the amendments to this rule in December 2019. Those comments were addressed in the adoption of the amended 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 continuation of this rule is necessary for the Department and the Committee to comply with their statutory duty to make, for the Committee and the Department, and to enforce, for the Department, rule in accordance with Utah code to regulate child care programs for the health and safety of children. Any comments received were congruent with the amendments proposed by the Department and the Committee.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/14/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R381-100	Filing No. 50894
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Agency Information

1. Department:	Health	
Agency:	Child Care Center Licensing Committee	
Building:	Highland	
Street address:	3760 South Highland Drive	
City, state, zip:	Salt Lake City, UT 84106	
Mailing address:	PO Box 142003	
City, state, zip:	Salt Lake City, UT 84114-2003	
Contact person(s):		
Name:	Phone:	Email:
Simon Bolivar	801-803-4618	sbolivar@utah.gov

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

General Information

2. Rule catchline:

R381-100. Child Care Centers

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 26-39-203(1) allows the Department of Health (Department) in concurrence with the Child Care Center Licensing Committee (Committee) to make rules that govern center based child care, and Subsection 26-39-301(2) allows the Department to enforce these rules. Both making and enforcing of these rules are necessary to protect children's common needs for a safe and healthy environment.

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

There have been no comments submitted to the Committee regarding this rule other than specific comments submitted to the amendments to this rule in December 2019. Those comments were addressed in the adoption of the amended 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 continuation of this rule is necessary for the Department and the Committee to comply with their statutory duty to make, for the Committee and the Department, and to enforce, for the Department, rule in accordance with Utah code to regulate child care programs for the health and safety of children. Any comments received were congruent with the amendments proposed by the Department and the Committee.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/14/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R414-506	Filing No. 50996
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Agency Information

1. Department:	Health
Agency:	Health Care Financing, Coverage and Reimbursement Policy
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state, zip:	Salt Lake City, UT
Mailing address:	PO Box 143102
City, state, zip:	Salt Lake City, UT 84114-3102

Contact person(s):		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information
2. Rule catchline:
R414-506. Hospital Provider Assessments
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 26-18-3 requires the Department of Health (Department) to implement the Medicaid program through administrative rules, and Section 26-1-5 authorizes the Department to adopt rules as necessary for the reimbursement of Medicaid services. In addition, Title 26, Chapter 36d, sets forth provisions of the hospital provider assessment.
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 defines the scope of the hospital provider assessment and ensures cost-effective and quality hospital care.

Agency Authorization Information		
Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date: 04/13/2020

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R414-507	Filing No. 51001
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Agency Information	
1. Department:	Health
Agency:	Health Care Financing, Coverage and Reimbursement Policy
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state, zip:	Salt Lake City, UT
Mailing address:	PO Box 143102

City, state, zip:	Salt Lake City, UT 84114-3102	
Contact person(s):		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information
2. Rule catchline:
R414-507. Ground Ambulance Service Provider Assessments
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 26, Chapter 37a, specifies payment and assessment provisions for providers of ground ambulance services and requires the Department of Health (Department) to implement standards and procedures by rule. Section 26-1-5 further authorizes the Department to adopt rules as necessary for this purpose.
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 payment and assessment procedures for providers of ground ambulance services, which ensure quality and cost-effective services for Medicaid members.

Agency Authorization Information		
Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date: 04/08/2020

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R433-1	Filing No. 51096
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Agency Information	
1. Department:	Health
Agency:	Family Health and Preparedness, Maternal and Child Health
Street address:	3760 S. Highland Drive

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

City, state, zip:	Salt Lake City, UT	
Mailing address:	PO Box 142002	
City, state, zip:	Salt Lake City UT 84114-2002	
Contact person(s):		
Name:	Phone:	Email:
Heather Sarin	801-273-2856	hsarin@utah.gov
Laurie Baksh	801-273-2857	lbaksh@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R433-1. Very Low Birth Weight Infant Reporting
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 establishes reporting and records access requirements for certain morbidities of Very Low Birth Weight infants. It establishes reporting of newborn care capabilities by Utah hospitals. Subsections 26-1-30(2)(b), (c), (d), (e), and (p) provide authority for this rule.
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 to date.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Based on feedback from stakeholders who report very low birth weight data, the decision was made to repeal this rule. The feedback included various data collection challenges including the cumbersome nature of collecting and reporting the data which resulted in a reduction in compliance with the rule. There was also minimal utility of the data as well. The section on establishing reporting of care capabilities will be added to the Perinatal Services in Section R432-100-18. This rule is continued until the repeal finishes the rulemaking process. (EDITOR'S NOTE: The proposed repeal of Rule R433-1 is under ID No. 52662 in this issue, May 1, 2020, of the Bulletin.)

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	02/13/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R495-808	Filing No. 51172

Agency Information

1. Department:	Human Services	
Agency:	Administration	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Jonah Shaw	801-538-4219	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R495-808. Fatality Review Act
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
In accordance with Sections 62A-16-101 and 62A-1-111, this rule sets forth the legal criteria and requirements for Department of Human Services (Department) fatality reviews.
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 since the last five-year review period of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule clarifies reporting and reviews of fatality reports for the Department. The continuation of this rule is necessary to uphold the standards that Title 62A, Chapter 16 sets forth.

Agency Authorization Information

Agency head or designee, and title:	Ann Williamson, Executive Director	Date:	04/10/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R527-254	Filing No. 51287

Agency Information

1. Department:	Human Services	
Agency:	Recovery Services	
Street address:	515 E 100 S	
City, state, zip:	Salt Lake City, UT 84102-4211	
Contact person(s):		
Name:	Phone:	Email:
Scott Weight	801-741-7435	sweigh2@utah.gov
Casey Cole	801-741-7253	cacole@utah.gov
Jonah Shaw	801-538-4219	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R527-254. Limitations on Collection of Arrears
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 62A-11-107 gives the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. Section 62-11-502 allows for the enforcement of support arrears by immediate income withholding. Section 78B-12-113 defines the necessary conditions which allow for ORS to enforce a right of support against an obligor. 45 CFR 303.11 outlines the federal requirements which must be met in order for ORS to close a child support case.
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:
This is the initial five-year review of this rule. There have been no comments received since the enactment 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 provides information regarding when ORS will collect support arrears and what is needed by ORS to collect support arrears which accrue outside of the

timeframe in which a IV-D case is open with ORS. The state and federal statutory provisions upon which this rule is based are still in effect. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Liesa Stockdale, ORS Director	Date:	04/09/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R657-55	Filing No. 51783

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room no.:	Suite 2110	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state, zip:	Salt Lake City, UT 84116-3154	
Mailing address:	PO Box 146301	
City, state, zip:	Salt Lake City, UT 84114-6301	
Contact person(s):		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R657-55. Wildlife Expo Permits
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate the management of big game species. This rule provides the standards and procedures for conservation groups to distribute hunting permits at the annual wildlife expo.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments supporting or opposing Rule R657-55 were received since 06/01/2015, when the rule was last reviewed.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

Rule R657-55 provides the requirements, procedures, and standards for conservation groups to issue the 200 hunting permits made available at the wildlife expo. This rule provides the opportunity for residents and nonresidents to visit Utah during the expo for an opportunity to obtain one of the permits. The wildlife expo brings hundreds of thousands of dollars into the state each year. The provisions adopted in this rule are effective in providing the requirements, procedures, and standards for managing the wildlife expo permit program. Continuation of this rule is necessary for continued success of this program.

Agency Authorization Information

Agency head or designee, and title:	Mike Fowlks, Director	Date:	04/06/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R722-300	Filing No. 51932
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Agency Information

1. Department:	Public Safety	
Agency:	Criminal Investigations and Technical Services, Criminal Identification	
Street address:	3888 W 5400 S	
City, state, zip:	Taylorsville, UT 84118	
Mailing address:	PO Box 148280	
City, state, zip:	Salt Lake City, UT 84114-8280	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-965-4018	kgibb@utah.gov
Nicole Borgeson	801-281-5072	nshepherd@utah.gov

Greg Willmore	801-965-4533	gwillmor@utah.gov
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Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
R722-300. Concealed Firearm Permit and Instructor 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:

This rule is authorized by Subsection 53-5-704(17) which provides that the commissioner may make rules necessary to administer Title 53, Chapter 5; and Section 53-5-707.6, which requires the Bureau of Criminal Identification (Bureau) to make rules that establish procedures for producing and distributing a firearms safety and suicide prevention video, and providing access to the video to an applicant seeking renewal of a firearm permit.

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

There have not been any written comments received during or since the last five-year review of this rule.

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

This rule is authorized by Subsection 53-5-704(17) and Section 53-5-707.6, and is needed in order to establish procedures for administration of the Concealed Firearms Act in accordance with Title 53, Chapter 5, Part 7, for producing and distributing a firearms safety and suicide prevention video, and for providing access to the video to an applicant seeking renewal of a firearm permit. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Greg Willmore, Bureau Director	Date:	04/14/2020
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

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

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

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

Education

Administration

No. 52547 (Amendment): R277-108. Annual Assurance of Compliance by Local School Boards
Published: 03/01/2020
Effective: 04/09/2020

No. 52556 (Amendment): R277-121. Board Waiver of Administrative Rules
Published: 03/01/2020
Effective: 04/09/2020

No. 52576 (Amendment): R277-459. Teacher Supplies and Materials Appropriation
Published: 03/01/2020
Effective: 04/09/2020

No. 52559 (Amendment): R277-702. Procedures for the Utah High School Completion Diploma
Published: 03/01/2020
Effective: 04/09/2020

No. 52577 (New Rule): R277-714. Unsafe School Choice Option
Published: 03/01/2020
Effective: 04/09/2020

No. 52560 (Amendment): R277-733. Adult Education Programs
Published: 03/01/2020
Effective: 04/09/2020

No. 52561 (Repeal): R277-735. Corrections Education Programs
Published: 03/01/2020
Effective: 04/09/2020

Environmental Quality

Waste Management and Radiation Control, Radiation

No. 52562 (Amendment): R313-16. General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines. Application for Registration of Inspection Services
Published: 03/01/2020
Effective: 04/13/2020

Waste Management and Radiation Control, Waste Management
No. 52563 (Amendment): R315-15. Standards for Management of Used Oil. DIYer Reimbursement
Published: 03/01/2020
Effective: 04/13/2020

No. 52564 (Amendment): R315-260. Hazardous Waste Management System
Published: 03/01/2020
Effective: 04/13/2020

No. 52565 (Amendment): R315-262. Hazardous Waste Generator Requirements
Published: 03/01/2020
Effective: 04/13/2020

No. 52566 (Amendment): R315-263. Standards Applicable to Transporters of Hazardous Waste and Standards Applicable to Emergency Control of Spills for All Hazardous Waste Handlers
Published: 03/01/2020
Effective: 04/13/2020

No. 52567 (Amendment): R315-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
Published: 03/01/2020
Effective: 04/13/2020

NOTICES OF RULE EFFECTIVE DATES

No. 52568 (Amendment): R315-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
Published: 03/01/2020
Effective: 04/13/2020

Water Quality
No. 52488 (Amendment): R317-8. Review Procedures
Published: 02/01/2020
Effective: 04/01/2020

Governor

Economic Development, Pete Suazo Utah Athletic Commission
No. 52583 (Amendment): R359-1. Pete Suazo Utah Athletic Commission Act Rule
Published: 03/01/2020
Effective: 04/08/2020

Health

Family Health and Preparedness, Emergency Medical Services
No. 52518 (Amendment): R426-5. Epinephrine Auto-Injector Use
Published: 02/15/2020
Effective: 04/08/2020

Family Health and Preparedness, Child Care Licensing
No. 52373 (Amendment): R430-50. Residential Certificate Child Care
Published: 12/15/2019
Effective: 04/03/2020

No. 52374 (Amendment): R430-90. Licensed Family Child Care
Published: 12/15/2019
Effective: 04/03/2020

Human Services

Services for People with Disabilities
No. 52519 (Amendment): R539-1. Non-Waiver Services for People with Intellectual Disabilities or Related Conditions
Published: 03/01/2020
Effective: 04/08/2020

Insurance

Administration
No. 52585 (Amendment): R590-277. Prohibited Policy Provisions
Published: 03/15/2020
Effective: 04/22/2020

Natural Resources

Parks and Recreation
No. 52477 (Amendment): R651-301. State Recreation Fiscal Assistance Programs
Published: 02/01/2020
Effective: 04/07/2020

Wildlife Resources

No. 52554 (Amendment): R657-52. Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs
Published: 03/01/2020
Effective: 04/08/2020

Tax Commission

Administration
No. 52377 (Amendment): R861-1A-9. State Board of Equalization Procedures
Published: 03/01/2020
Effective: 04/09/2020

Auditing

No. 52579 (Amendment): R865-9I-34. Property Tax Relief For Individuals Pursuant to Utah Code Ann. Sections 59-2-1201 through 59-2-1220
Published: 03/01/2020
Effective: 04/09/2020

No. 52580 (Amendment): R865-19S-79. Tourist Home, Hotel, Motel, or Trailer Court Accommodations and Services Defined Pursuant to Utah Code Ann. Sections 59-12-103, 59-12-301, 59-12-352, and 59-12-353
Published: 03/01/2020
Effective: 04/09/2020

No. 52581 (Amendment): R865-19S-96. Transient Room Tax Collection Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-301
Published: 03/01/2020
Effective: 04/09/2020

Property Tax

No. 52382 (Amendment): R884-24P-66. County Board of Equalization Procedures and Appeals
Published: 03/01/2020
Effective: 04/09/2020

Workforce Services

Employment Development
No. 52521 (Amendment): R986-100. A Client Must Inform the Department of All Material Changes
Published: 03/15/2020
Effective: 04/20/2020

Unemployment Insurance

No. 52589 (Amendment): R994-508. Appeal Filing Procedures Amendments
Published: 03/15/2020
Effective: 04/22/2020

End of the Notices of Rule Effective Dates Section