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# EDITOR'S NOTES

## CODIFICATION ERROR OF RULE R590-148, LONG-TERM CARE INSURANCE RULE

The Insurance Department has identified discrepancies between what it believes to be the correct version of Rule R590-148 and the codified version maintained by the Division of Administrative Rules. A review of the publishing and processing history of Rule R590-148 indicates that a codification error occurred in 2002.

On 11/15/2001, Insurance filed a proposed repeal and reenactment for Rule R590-148 (see DAR No. 24237, page 60, in the 12/1/2001 issue of the *Utah State Bulletin*, available at: http://www.rules.utah.gov/publicat/bull_pdf/2001/b20011201.pdf). This was followed by a change in proposed rule filed on 2/28/2002 (see DAR No. 24237 CPR, page 58, in the 3/15/2002 issue of the *Utah State Bulletin*, available at: http://www.rules.utah.gov/publicat/bull_pdf/2002/b20020315.pdf). The change in proposed rule and its associated proposed rule were made effective on 4/18/2002. However, when the rule was codified the text of the original repeal and reenactment was inserted in the administrative code absent the changes associated with the change in proposed rule. This was the error.

The Division of Administrative Rules has reviewed the filing and processing history of Rule R590-148 from the filing of the repeal and reeanactment to the present and has reconstructed the text of the rule as it should be. The correct text of Rule R590-148, including the changes made by the change in proposed rule appears below. The Division of Administrative Rules regrets the error.

**R590. Insurance, Administration.**
**R590-148. Long-Term Care Insurance Rule.**
**R590-148-1. Authority.**

This rule is issued pursuant to the authority vested in the commissioner under Sections 31A-2-201 and 31A-22-1404.

**R590-148-2. Purpose.**

The purpose of this rule is to implement standards for full and fair disclosure of the manner, content, and required disclosures for long-term care insurance to promote the public interest, to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages, and to facilitate flexibility and innovation in the development of long-term care insurance.

**R590-148-3. Applicability and Scope.**

Except as otherwise specifically provided, this rule applies to all long-term care insurance, as defined in 31A-1-301, delivered or issued for delivery in this state on or after January 1, 1993, by insurers; fraternal benefit societies; nonprofit health, hospital and medical service corporations; prepaid health plans; health maintenance organizations and all similar organizations.

Additionally, this rule is intended to apply to policies having indemnity benefits that are triggered by activities of daily living and sold as disability income insurance, if:

(1) The benefits of the disability income policy are dependent upon or vary in amount based on the receipt of long-term care services;

(2) The disability income policy is advertised, marketed or offered as insurance for long-term care services; or

(3) Benefits under the policy may commence after the policyholder has reached Social Security's normal retirement age unless benefits are designed to replace lost income or pay for specific expenses other than long-term care services.

**R590-148-4. Incorporation by Reference.**

The following tables and appendices are hereby incorporated by reference within this rule and are available for public inspection at the Insurance Department during normal business hours or at http://www.insurance.utah.gov/ruleindex.html. These tables and appendices were adopted by the National Association of Insurance Commissioners' Long-Term Care Insurance Model Regulation #641, as approved April 2000.

(1) Table I, Notice to Applicant Regarding Replacement of Individual Accident and Sickness or Long-Term Care Insurance.

(2) Table II, Notice to Applicant Regarding Replacement of Accident and Sickness or Long-Term Care Insurance.

(3) Table III, Triggers for a Substantial Premium Increase.

(4) Table IV, Long-Term Care Insurance Outline of Coverage.

(5) Appendix A, Rescission Reporting Form.

(6) Appendix B, Long-Term Care Insurance Personal Worksheet.

(7) Appendix C, Things You Should Know Before You Buy Long-Term Care Insurance.

(8) Appendix D, Long-Term Care Insurance Suitability Letter.

(9) Appendix E, Claims Denial Reporting Form Long-Term Care Insurance.

(10) Appendix F, Worksheet Potential Rate Increase Disclosure Form.

(11) Appendix G, Replacement and Lapse Reporting Form.

**R590-148-5. Definitions.**

(1) For the purpose of this rule, the terms "applicant," "long-term care insurance," "certificate," "commissioner," and "policy" shall have the meanings set forth in Sections 31A-1-301 and 31A-22-1402.

(2) In addition, the following definitions apply:

(a) "Activities of daily living" means at least bathing, continence, dressing, eating, toileting and transferring.

(b) "Acute condition" means that the individual is medically unstable. Such an individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, in order to maintain the individual's health status.

(c) "Adult day care" means a program for three or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or disabled adults who can benefit from care in a group setting outside the home.

(d) "Bathing" means washing oneself by sponge bath; or in either a tub or shower, including the task of getting into or out of the tub or shower.

(e) "Cognitive impairment" means a deficiency in a person's short or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgment as it relates to safety awareness.

(f) "Continence" means the ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene, including caring for catheter or colostomy bag.

(g)(i) "Chronically ill individual" has the meaning prescribed for this term by section 7702B(c)(2) of the Internal Revenue Code of 1986, as amended. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as:

(A) Being unable to perform, without substantial assistance from another individual, at least two activities of daily living for a period of at least 90 days due to a loss of functional capacity; or

(B) Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

(ii) The term "chronically ill individual" shall not include an individual otherwise meeting these requirements unless within the preceding 12-month period a licensed health care practitioner has certified that the individual meets these requirements.

(h) "Dressing" means putting on and taking off all items of clothing and any necessary braces, fasteners or artificial limbs.

(i) "Eating" means feeding oneself by getting food into the body from a receptacle, such as a plate, cup or table, or by a feeding tube or intravenously.

(j)(i) "Exceptional increase" means only those increases filed by an insurer as exceptional for which the Commissioner determines the need for the premium rate increase is justified:

(A) due to changes in laws and rules applicable to long-term care coverage in this state; or

(B) due to increased and unexpected utilization that affects the majority of insurers of similar products.

(ii) Except as provided in Section R590-148-24, exceptional increases are subject to the same requirements as other premium rate schedule increases.

(iii) The commissioner may request review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase.

(iv) The commissioner, in determining that the necessary basis for an exceptional increase exists, shall also determine any potential offsets to higher claims costs.

(k) "Hands-on assistance" means physical assistance, minimal, moderate or maximal, without which the individual would not be able to perform the activity of daily living.

(l) "Home health care services" means medical and nonmedical services, provided to ill, disabled or infirm persons in their residences. Such services may include homemaker services, assistance with activities of daily living and respite care services.

(m) "Incidental" means that the value of the long-term care benefits provided is less than 10% of the total value of the benefits provided over the life of the policy. These values shall be measured as of the date of issue.

(n) "Licensed health care practitioner" means a physician, as defined in Section 1861(r)(1) of the Social Security Act, a registered professional nurse, licensed social worker or other individual who meets requirements prescribed by the Secretary of the Treasury.

(o) "Maintenance or personal care services" means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual, including the protection from threats to health and safety due to severe cognitive impairment.

(p) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

(q) "Mental or nervous disorder" may not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or any other mental or emotional disease or disorder which does not have a demonstrable organic cause.

(r) "Personal care" means the provision of hands-on services to assist an individual with activities of daily living, for example bathing, eating, dressing, transferring and toileting.

(s) "Qualified actuary" means a member in good standing of the American Academy of Actuaries.

(t) "Qualified long-term care services" means services that meet the requirements of Section 7702(c)(1) of the Internal Revenue Code of 1986, as amended, as follows: necessary diagnostic, preventive, therapeutic, curative, treatment, mitigation and rehabilitative services, and maintenance or personal care services which are required by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(u) "Similar policy forms" means all of the long-term care insurance policies and certificates issued by an insurer in the same long-term care benefit classification as the policy form being considered.

Certificates of groups are not considered similar to certificates or policies otherwise issued as long-term care insurance, but are similar to other comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows:

(I) institutional long-term care benefits only;

(ii) non-institutional long-term care benefits only; or

(iii) comprehensive long-term care benefits.

(v) "Skilled nursing care," "intermediate care," "personal care," "home care," and other services shall be defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered.

(w) "Toileting" means getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene.

(x) "Transferring" means moving into or out of a bed, chair or wheelchair.

(3) All providers of services, including but not limited to "skilled nursing facility," "extended care facility," "intermediate care facility," "convalescent nursing home," "personal care facility," and "home care agency" shall be defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services. The definition may require that the provider be appropriately licensed or certified.

**R590-148-6. Required Provisions and Practices.**

(1) Renewability.

The terms "guaranteed renewable" and "noncancellable" may not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of Subsection R590-148-6(1)(b).

(a) No policy issued to an individual may contain renewal provisions other than "guaranteed renewable" or "noncancellable."

(i) The term "guaranteed renewable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

(ii) The term "noncancellable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate.

(b) Individual long-term care insurance policies shall contain a renewability provision. This provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed. This provision may not apply to policies which do not contain a renewability provision, and under which the right to non-renew is reserved solely to the policyholder.

(c) In addition to the other requirements of this subsection, a qualified long-term care insurance contract shall be guaranteed renewable, within the meaning of Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended.

(2) Limitations and Exclusions.

(a) No policy may be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:

(i) preexisting conditions or diseases;

(ii) mental or nervous disorders; however, this may not permit exclusion or limitation of benefits on the basis of Alzheimer's Disease, or any other mental or nervous disorder of organic origin;

(iii) alcoholism and drug addiction;

(iv) illness, treatment or medical condition arising out of:

(A) war or act of war, whether declared or undeclared;

(B) participation in a felony, riot or insurrection;

(C) service in the armed forces or auxiliary units;

(D) suicide, sane or insane, attempted suicide or intentionally self-inflicted injury; or

(E) aviation for non-fare-paying passengers;

(v) treatment provided in a government facility, unless otherwise required by law,

(vi) services for which benefits are paid under:

(A) Medicare or other governmental program, except Medicaid;

(B) any state or federal workers' compensation;

(C) employer's liability or occupational disease law; or

(D) any motor vehicle no-fault law;

(vii) services provided by a member of the covered person's immediate family;

(viii) services for which no charge is normally made in the absence of insurance;

(ix) benefits provided for a level of care cannot be conditioned on a requirement that the care be in a facility licensed for higher levels of care.

(b) Subsection R590-148-6(2)(a) is not intended to prohibit exclusions and limitations by type of provider or territorial limitations outside the United States.

(3) Preexisting Condition Limitation. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations."

(4) Benefit Triggers. Activities of daily living and cognitive impairment may be used to measure an insured's need for long-term care and shall be described in the policy or certificate in a separate paragraph and shall be labeled "Eligibility for the Payment of Benefits." Any additional benefit triggers shall also be explained in this paragraph. If these triggers differ for different benefits, explanation of the trigger shall accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too shall be specified.

(5) Extension of Benefits. Termination of long-term care insurance shall be without prejudice to any benefits payable for

institutionalization if the institutionalization began while the long-term care insurance was in force and continues without interruption after termination. The extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy.

(6) Discontinuance and Replacement. If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy:

(a) may not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced; and

(b) may not vary or otherwise depend on the individual's health or disability status, claim experience or use of long-term care services.

(7) Premiums.

(a) The term "level premium" may only be used when the insurer does not have the right to change the premium.

(b) A long-term care insurance policy or certificate, other than one where the insurer does not have the right to change the premium, shall include a statement that premium rates may change.

(c) The purchase of additional coverage shall not be considered a premium rate increase, but for purposes of the calculation required under Section R590-148-14, the portion of the premium attributable to the additional coverage shall be added to and considered part of the initial annual premium.

(d) A reduction in benefits shall not be considered a premium change, but for purpose of the calculation required under Section R590-148-14, the initial annual premium shall be based on the reduced benefits.

(8) Riders and Endorsements. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, this premium charge shall be set forth in the policy, rider or endorsement.

(9) Payment of Benefits. A long-term care insurance policy or certificate that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import shall include a definition of these terms and an explanation of the terms in its accompanying outline of coverage.

(10) Eligibility for Benefits Limitations and Conditions. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those prohibited in Section 31A-22-1407 shall set forth a description of these limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label the paragraph "Limitations or Conditions on Eligibility for Benefits."

(11) Disclosure of Tax Consequences. With regard to life insurance policies which provide for long-term care, a disclosure statement is required at the time of application for the policy or rider and at the time the benefit payment request is submitted that receipt of these benefits may be taxable, and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents. This subsection shall not apply to qualified long-term care insurance contracts.

(12) Qualified Contracts. A qualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage that the policy is intended to be a qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986, as amended.

(13) Nonqualified Contracts. A nonqualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage that the policy is not intended to be a qualified long-term care insurance contract.

(14) Long-term care insurance sold in conjunction with another insurance product, including but not limited to life insurance or annuities shall be in the form of a separate rider complying with all provisions of this Rule. Long-term care insurance shall not be incorporated into a life insurance policy or annuity contract.

**R590-148-7. Minimum Standards for Home Health and Community Care Benefits in Long-Term Care Insurance Policies.**

(1) A long-term care insurance policy or certificate shall not, if it provides benefits for home health care services, limit or exclude benefits:

(a) by requiring that the insured would need care in a skilled nursing facility if home health care services were not provided;

(b) by requiring that the insured first or simultaneously receive nursing or therapeutic services, or both, in a home, community or institutional setting before home health care services are covered;

(c) by limiting eligible services to services provided by registered nurses or licensed practical nurses;

(d) by requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of the aid or worker's licensure or certification;

(e) by excluding coverage for personal care services provided by a home health aide;

(f) by requiring that the provision of home health care services be at a level of certification or licensure greater than that required for the eligible service;

(g) by requiring that the insured have an acute condition before home health care services are covered;

(h) by limiting benefits to services provided by Medicare-certified agencies or providers; or

(i) by excluding coverage for adult day care services.

(2) Home health care coverage may be applied to the non-home health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate.

(3) A long-term care insurance policy or certificate, if it provides for home health or community care services, shall provide total home health or community care coverage that is a dollar amount equivalent to at least one-half of one year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement may not apply to policies or certificates issued to residents of continuing care retirement communities.

**R590-148-8. Standards for Benefit Triggers.**

(1) A long-term care insurance policy shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Eligibility for the payment of benefits shall not be more restrictive than requiring either a deficiency in the ability to perform not more than 3 of the activities of daily living or the presence of cognitive impairment.

(2) Insurers may use activities of daily living to trigger covered benefits in addition to those contained in Subsection R590-148-5(2)(a) as long as they are defined in the policy.

(3) An insurer may use additional provisions for the determination of when benefits are payable under a policy or certificate; however the provisions shall not restrict, and are not in lieu of, the requirements contained in Subsections R590-148-8(1) and (2).

(4) For purposes of this section the determination of a deficiency shall not be more restrictive than:

(a) requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or

(b) if the deficiency is due to the presence of a cognitive impairment, supervision or verbal cuing by another person is needed in order to protect the insured or others.

(5) Assessments of activities of daily living and cognitive impairment shall be performed by licensed or certified professionals, such as physicians, nurses or social workers.

(6) Long-term care insurance policies shall include a clear description of the process for appealing and resolving benefit determinations.

(7) The requirements set forth in this section shall be effective January 1, 2003 and shall apply as follows:

(a) Except as provided in Subsection R590-148-8(7)(b), the provisions of this section apply to a long-term care policy issued in this state on or after July 1, 2002.

(b) For certificates issued on or after July 1, 2002, under a group long-term care insurance policy that was in force at the time this rule became effective, the provisions of this section shall not apply.

**R590-148-9. Additional Standards for Benefit Triggers for Qualified Long-Term Care Insurance Contracts.**

(1) A qualified long-term care insurance contract shall pay only for qualified long-term care services received by a chronically ill individual provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(2) A qualified long-term care insurance contract shall condition the payment of benefits on a determination of the insured's inability to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity or to severe cognitive impairment.

(3) Certifications regarding activities of daily living and cognitive impairment required pursuant to Subsection R590-148-9(2) shall be performed by the following licensed or certified professionals: physicians, registered professional nurses, licensed social workers, or other individuals who meet requirements prescribed by the Secretary of the Treasury.

(4) Certifications required pursuant to Subsection R590-148-9(2) may be performed by a licensed health care professional at the direction of the carrier as is reasonably necessary with respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity and the insured is in claim status, the certification may not be rescinded and additional certifications may not be performed until after the expiration of the 90-day period.

(5) Qualified long-term care insurance contracts shall include a clear description of the process for appealing and resolving disputes with respect to benefit determinations.

**R590-148-10. Continuation and Conversion.**

(1) Group long-term care insurance issued in this state on or after July 1, 2002 shall provide covered individuals with a basis for continuation or conversion of coverage.

(2) For the purposes of this section:

(a) "a basis for continuation of coverage" means a policy provision which maintains coverage under the existing group policy when the coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. Group policies which restrict provision of benefits and services to, or contain incentives to use certain providers, facilities, or both, may provide continuation benefits which are substantially equivalent to the benefits of the existing group policy. The commissioner shall make a determination as to the substantial equivalency of benefits, and in doing so, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

(b) "a basis for conversion of coverage" means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an

insured class, and who has been continuously insured under the group policy, and any group policy which it replaced, for at least six months immediately prior to termination, shall be entitled to the issuance of a converted policy by the insurer under whose group policy the individual is covered, without evidence of insurability.

(c) "converted policy" means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the commissioner to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers, facilities, or both, the commissioner, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including provider system arrangements, service availability, benefit levels and administrative complexity.

(d) a "Managed-Care Plan" is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks.

(3) Written application for the converted policy shall be made and the first premium due, if any, shall be paid as directed by the insurer not later than 60 days after termination of coverage under the group policy. The converted policy shall be issued effective on the day following the termination of coverage under the group policy, and shall be renewable annually.

(4) Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.

(5) The premium for the individual converted policy shall not exceed the insurer's customary rate at the time of the termination, which is applicable to the form and amount of the individual policy, and to the class of risk to which the person belonged when terminated from the group policy.

(6) Continuation of coverage or issuance of a converted policy shall be mandatory, except where:

(a) termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or

(b) the terminating coverage is replaced not later than 31 days after termination, by group coverage effective on the day following the termination of coverage:

(i) providing benefits identical to or benefits determined by the commissioner to be substantially equivalent to or in excess of those provided by the terminating coverage; and

(ii) the premium for which is calculated in a manner consistent with the requirements of Subsection R590-148-10(4).

(7) Notwithstanding any other provision of this section, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy which provides benefits on the basis of incurred expenses, may contain a provision which results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than 100% of incurred expenses. This provision shall only be included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable.

(8) The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, may not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.

(9) Notwithstanding any other provision of this section, any insured individual whose eligibility for group long-term care coverage is based upon the individual's relationship to another person, shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage.

**R590-148-11. Unintentional Lapse and Reinstatement.**

Each insurer offering long-term care insurance shall, as a protection against unintentional lapse, comply with the following:

(1)(a) Notice before lapse or termination. No individual long-term care policy or certificate shall be issued until the insurer has received from the applicant either a written designation of at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. The applicant has the right to designate at least one person who is to receive the notice of termination, in addition to the insured. Designation shall not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one person. The designation shall include each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver shall state: "Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until 30 days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice."

(b) The insurer shall notify the insured of the right to change this written designation, no less often than once every two years.

(c) When the policyholder or certificateholder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan the requirements contained in Subsection R590-148-11(1)(a) need not be met until 60 days after the policyholder or certificateholder is no longer on a payroll or pension deduction plan.

(d) Lapse or termination for nonpayment of premium. No individual long-term care policy or certificate shall lapse or be terminated for nonpayment of premium unless the insurer, at least 30 days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to Subsection R590-148-11(1)(a), at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice shall be given by first class United States mail, postage prepaid; and notice may not be given until 30 days after a premium is due and unpaid. Notice shall be deemed to have been given as of five days after the date of mailing.

(2) Reinstatement. In addition to the requirement in Subsection R590-148-11(1)(a), a long-term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage in the event of lapse if the insurer is provided proof that the policyholder or certificateholder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option shall be available to the insured if requested within five months after termination and shall allow for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate.

**R590-148-12. Applications, Enrollment and Replacement of Coverage.**

(1) All applications for long-term care insurance policies or certificates except those which are guaranteed issue shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant.

(2)(a) If an application for long-term care insurance contains a question which asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list the medication that has been prescribed.

(b) If the medications listed in the application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, then the policy or certificate may not be rescinded for that condition.

(3) All applications shall clearly indicate the payment plan selected by the applicant.

(4) Except for policies or certificates which are guaranteed issue:

(a) the following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or certificate:

Caution: If your answers on this application are incorrect or untrue, (company) has the right to deny benefits or rescind your policy.

(b) the following language, or language substantially similar to the following, shall be set out conspicuously on the long-term care insurance policy or certificate at the time of delivery:

Caution: The issuance of this long-term care insurance (policy) (certificate) was based upon your responses to the questions on your application. A copy of your (application) (enrollment form) (is enclosed) (was retained by you when you applied). If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: (insert address)

(5) Prior to issuance of a long-term care policy or certificate to an applicant age 80 or older, the insurer shall obtain one of the following:

(a) a report of a physical examination;

(b) an assessment of functional capacity;

(c) an attending physician's statement; or

(d) copies of medical records.

(6) A copy of the completed application or enrollment form, whichever is applicable, shall be delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application.

(7) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent, containing these questions may be used. With regard to a replacement policy issued to a group, other than employee and labor union groups, the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced; provided, however, that the certificateholder has been notified of the replacement.

(a) Do you have another long-term care insurance policy or certificate in force, including health care service contract, health maintenance organization contract?

(b) Did you have another long-term care insurance policy or certificate in force during the last 12 months?

(i) If so, with which company?

(ii) If that policy lapsed, when did it lapse?

(c) Are you covered by Medicaid?

(d) Do you intend to replace any of your medical or health insurance coverage with this policy/certificate?

(8) Agents shall list any other health insurance policies they have sold to the applicant.

(a) List policies sold which are still in force.

(b) List policies sold in the past five years which are no longer in force.

(9) Solicitations Other than Direct Response. Upon determining that a sale will involve replacement, an insurer; other than an insurer using direct response solicitation methods, or its agent; shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of this notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the manner detailed in Table I, Notice to Applicant Regarding

Replacement of Individual Accident and Sickness or Long-Term Care Insurance.

(10) Direct Response Solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be provided in the manner detailed in Table II, Notice to Applicant Regarding Replacement of Accident and Sickness or Long-Term Care Insurance.

(11) Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. The existing policy shall be identified by the insurer, name of the insured and policy number or address including zip code. The notice shall be made within five working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner.

(12) Life insurance policies and certificates that provide benefits for long-term care shall comply with this section if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer shall comply with the replacement requirements of R590-93, Replacement of Life Insurance and Annuities. If a life insurance policy that provide benefits for long-term care is replaced by another such policy, the replacing insurer shall comply with both the long-term care and the life insurance replacement requirements.

(13) Electronic Enrollment for Group Policies:

(a) In the case of a group policy, any requirement that a signature of an insured be obtained by an agent or insurer shall be deemed satisfied if:

(i) the consent is obtained by telephonic or electronic enrollment by the group policyholder or insurer. A verification of enrollment information shall be provided to the enrollee;

(ii) the telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the accuracy, retention and prompt retrieval of records; and

(iii) the telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the confidentiality of individually identifiable information and "privileged information" as defined by the Utah Government Records Access and Management Act, Section 63-2-101, is maintained.

(b) The insurer shall make available, upon request of the commissioner, records that will demonstrate the insurer's ability to confirm enrollment and coverage amounts.

**R590-148-13. Requirement to Offer Inflation Protection.**

(1) No insurer may offer a long-term care insurance policy unless the insurer also offers to the policyholder in addition to any other inflation protection the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers must offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one of the following:

(a) increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than 5%;

(b) guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status so long as the option for the previous period has not been declined. The premium rate for the additional benefit shall not exceed the insurer's customary rate at the time the offer is made, which is applicable to the form and amount of the policy, the class of risk to which the person belonged at the time of issue of the policy, and to the age attained on the effective date of the increase. The amount of the additional benefit may be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least 5% for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or

(c) covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

(2) Where the policy is issued to a group, except a continuing care retirement community center, the required offer in Subsection R590-148-13(1) shall be made to the group policyholder and to each proposed certificateholder.

(3) Insurers shall include the following information in or with the outline of coverage:

(a) a graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a 20 year period; and

(b) any expected premium increases or additional premiums to pay for automatic or optional benefit increases. An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure.

(4) Inflation protection benefit increases under a policy which contains this benefit shall continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the policy.

(5) An offer of inflation protection which provides for automatic benefit increases shall include an offer of a premium which the insurer expects to remain constant. The offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

(6)(a) Inflation protection as provided in Subsection R590-148-13(1)(a) shall be included in a long-term care insurance policy unless an insurer obtains a rejection of inflation protection signed by the policyholder as required in this subsection. The rejection may be either in the application or on a separate form.

(b) The rejection shall be considered a part of the application and shall state:

I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans (indicate), and I reject inflation protection.

**R590-148-14. Nonforfeiture and Contingent Benefit Requirements.**

(1) To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of Section 31A-22-1412:

(a) a policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in Subsection R590-148-14(4); and

(b) the offer shall be in writing if the nonforfeiture benefit is not otherwise described in the Outline of Coverage or other materials given to the prospective policyholder.

(2) If the offer required to be made under Section 31A-22-1412 is rejected, the insurer shall provide the contingent benefit upon lapse described in this section.

(3)(a) After rejection of the offer required under Section 31A-22-1412, for individual and group policies without nonforfeiture benefits issued after July 1, 2002, the insurer shall provide a contingent benefit upon lapse.

(b) In the event a group policyholder elects to make the nonforfeiture benefit an option to the certificateholder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

(c) The contingent benefit on lapse shall be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth in Table III, Triggers for a Substantial Premium Increase, based on the insured's issue age, and the policy or certificate lapses within 120 days of the due date of the premium so increased. Unless otherwise required, policyholders shall be notified at least 30 days prior to the due date of the premium reflecting the rate increase.

(d) On or before the effective date of a substantial premium increase as defined in Subsection R590-148-14(3)(c), the insurer shall:

(i) offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

(ii) offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of Subsection R590-148-14(4). This option may be elected at any time during the 120-day period referenced in Subsection R590-148-14(3)(c); and

(iii) notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in Subsection R590-148-14(3)(c) shall be deemed to be the election of the offer to convert in Subsection R590-148-14(3)(d)(ii).

(4) Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse, are described in this subsection:

(a) For purposes of this subsection, attained age rating is defined as a schedule of premiums starting from the issue date which increases with age at least 1% per year prior to age 50, and at least 3% per year beyond age 50.

(b) For purposes of this subsection, the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits, amounts and frequency in effect at the time of lapse but not increased thereafter, will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in Subsection R590-148-14(4)(c).

(c) The standard nonforfeiture credit will be equal to 100% of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than 30 times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of Subsection R590-148-14(5).

(d)(i) The nonforfeiture benefit shall begin not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse shall be effective during the first three years as well as thereafter.

(ii) Notwithstanding Subsection R590-148-14(4)(d)(i), for a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of:

(A) the end of the tenth year following the policy or certificate issue date; or

(B) the end of the second year following the date the policy or certificate is no longer subject to attained age rating.

(e) Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.

(5) All benefits paid by the insurer while the policy or certificate is in premium paying status and in the paid up status will not exceed the maximum benefits, which would be payable if the policy or certificate had remained in premium paying status.

(6) There shall be no difference in the minimum nonforfeiture benefits as required under this section for group and individual policies.

(7) The requirements set forth in this section shall become effective January 1, 2003 and shall apply as follows:

(a) Except as provided in Subsection R590-148-14(7)(b), the provisions of this section apply to any long-term care policy issued in this state on or after July 1, 2002.

(b) For certificates issued on or after July 1, 2002, under a group long-term care insurance policy, which policy was in force at the time this rule became effective, the provisions of this section shall not apply.

(8) Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of Section R590-148-22 treating the policy as a whole.

(9) To determine whether contingent nonforfeiture upon lapse provisions are triggered under Subsection R590-148-14(3)(c), a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer.

(10) A nonforfeiture benefit for qualified long-term care insurance contracts that are level premium contracts shall be offered that meets the following requirements:

(a) the nonforfeiture provision shall be appropriately captioned;

(b) the nonforfeiture provision shall provide a benefit available in the event of a default in the payment of any premiums and shall state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying contracts approved by the commissioner for the same contract form; and

(c) the nonforfeiture provision shall provide at least one of the following:

(i) reduced paid-up insurance;

(ii) extended term insurance;

(iii) shortened benefit period; or

(iv) other similar offerings approved by the commissioner.

**R590-148-15. Standard Format Outline of Coverage.**

This section of the rule implements, interprets and prescribes a standard format of an outline of coverage for the provisions in Subsection 31A-22-1409(2).

(1) The outline of coverage shall be a free-standing document, using no smaller than ten point type.

(2) The outline of coverage may contain no material of an advertising nature.

(3) Text which is capitalized or underscored in the standard format outline of coverage may be emphasized by other means which provide prominence equivalent to capitalization or underscoring.

(4) Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated.

(5) The format for outline of coverage can be found in Table IV, Long-Term Care Insurance Outline of Coverage.

**R590-148-16. Requirement to Deliver Shopper's Guide.**

(1) A long-term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners, or a guide developed or approved by the commissioner, shall be provided to all prospective applicants of a long-term care insurance policy or certificate.

(a) In the case of agent solicitations, an agent must deliver the shopper's guide prior to the presentation of an application or enrollment form.

(b) In the case of direct response solicitations, the shopper's guide must be presented in conjunction with any application or enrollment form.

(2) Life insurance policies or riders that provide long-term care benefits are not required to furnish the above-referenced guide if the long term care benefits are incidental, but shall furnish the policy summary required under Subsection 31A-22-1409(8).

**R590-148-17. Suitability.**

(1) Every insurer shall:

(a) develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant;

(b) train its agents in the use of its suitability standards; and

(c) maintain a copy of its suitability standards and make them available for inspection upon request by the commissioner.

(2)(a) To determine whether the applicant meets the standards developed by the insurer, the agent and insurer shall develop procedures that take the following into consideration:

(i) the ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;

(ii) the applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and

(iii) the values, benefits and costs of the applicant's existing insurance, if any, when compared to the values, benefits and costs of the recommended purchase or replacement.

(b) The insurer, and where an agent is involved, the agent shall make reasonable efforts to obtain the information set out in Subsection R590-148-17(2)(a). The efforts shall include presentation to the applicant, at or prior to application, the "Long-Term Care Insurance Personal Worksheet." The personal worksheet used by the insurer shall contain, at a minimum, the information in the format contained in Appendix B, in not less than 12 point type. The insurer may request the applicant to provide additional information to comply with its suitability standards. A copy of the insurer's personal worksheet shall be filed with the commissioner.

(c) A completed personal worksheet shall be returned to the insurer prior to the insurer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses.

(d) The sale or dissemination outside the company or agency by the insurer or agent of information obtained through the personal worksheet in Appendix B is prohibited.

(3) The insurer shall use the suitability standards it has developed pursuant to this section in determining whether issuing long-term care insurance coverage to an applicant is appropriate.

(4) Agents shall use the suitability standards developed by the insurer in marketing long-term care insurance.

(5) At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in Appendix C in not less than 12 point type.

(6) If the insurer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the insurer may reject the application. In the alternative, the insurer shall send the applicant a letter similar to Appendix D, Long-

Term Care Insurance Suitability Letter. However, if the applicant has declined to provide financial information, the insurer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file.

(7) If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy.

**R590-148-18. Marketing Standards.**

(1) Every insurer shall:

(a) Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate.

(b) Establish marketing procedures to assure excessive insurance is not sold or issued.

(c) Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."

(d) Provide copies of the disclosure forms required in Subsection R590-148-19(2) to the applicant. See Appendix B, Long-Term Care Insurance Personal Worksheet, and Appendix F, Potential Rate Increase Disclosure Form.

(e) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of this insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required.

(f) Every insurer or entity marketing long-term care insurance shall establish audit able procedures for verifying compliance with this Subsection R590-148-18(1).

(g) If the state in which the policy or certificate is to be delivered or issued for delivery has a senior insurance counseling program approved by the commissioner, the insurer shall, at solicitation, provide written notice to the prospective policyholder and certificateholder that the program is available and the name, address and telephone number of the program.

(h) For long-term care health insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to Subsections R590-148-6(1)(a)(ii) and R590-148-6(6)(a).

(i) Provide an explanation of contingent benefit upon lapse provided for in Subsection R590-148-14(3)(c).

(2) In addition to the practices prohibited in Part 3, Chapter 23 of Title 31A, the following acts and practices are prohibited:

(a) Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy or to take out a policy of insurance with another insurer.

(b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(c) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(d) Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.

**R590-148-19. Required Disclosure of Rating Practices to Consumer.**

(1) This section shall apply as follows:

(a) Except as provided in Subsection R590-148-19(1)(b), this section applies to any long-term care policy or certificate issued in this state on or after January 1, 2003.

(b) For certificates issued on or after July 1, 2002, under a group long-term care insurance policy, which policy was in force at the time this rule became effective, the provisions of this section shall apply on the policy anniversary following January 1, 2003.

(2) Other than policies for which no applicable premium rate or rate schedule increases can be made, insurers shall provide all of the information listed in this subsection to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time. In such a case, an insurer shall provide all of the information listed in this section to the applicant no later than at the time of delivery of the policy or certificate.

(a) A statement that the policy may be subject to rate increases in the future;

(b) an explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option in the event of a premium rate revision;

(c) the premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase;

(d) a general explanation for applying premium rate or rate schedule adjustments that shall include:

(i) a description of when premium rate or rate schedule adjustments will be effective, e.g., next anniversary date, next billing date, etc.; and

(ii) the right to a revised premium rate or rate schedule as provided in Subsection R590-148-19(2)(b) if the premium rate or rate schedule is changed.

(e)(i) Information regarding each premium rate increase on this policy form or similar policy forms over the past ten years for this state or any other state that, at a minimum, identifies:

(A) the policy forms for which premium rates have been increased;

(B) the calendar years when the form was available for purchase; and

(C) the amount, percent, and date of implementation for each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase, and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics.

(ii) The insurer may, in a fair manner, provide additional explanatory information related to the rate increases.

(iii) An insurer shall have the right to exclude from the disclosure premium rate increases that only apply to blocks of business acquired from other nonaffiliated insurers or the long-term care policies acquired from other nonaffiliated insurers when those increases occurred prior to the acquisition.

(iv) If an acquiring insurer files for a rate increase on a long-term care policy form acquired from nonaffiliated insurers or a block of policy forms acquired from nonaffiliated insurers on or before the effective date of this section, or the end of a 24-month period following the acquisition of the block or policies, the acquiring insurer may exclude that rate increase from the disclosure. However, the nonaffiliated selling company shall include the disclosure of that rate increase in accordance with Subsection R590-148-19(2)(e)(i).

(v) If the acquiring insurer in Subsection R590-148-19(2)(e)(iv) files for a subsequent rate increase, even within the 24-month period, on the same policy form acquired from nonaffiliated insurers or block of policy forms acquired from nonaffiliated insurers referenced in Subsection R590-148-19(2)(e)(iv), the acquiring insurer shall make all disclosures required by Subsection R590-148-19(2)(e), including disclosure of the earlier rate increase referenced in Subsection R590-148-19(2)(e)(iv).

(3) An applicant shall sign an acknowledgment at the time of application, unless the method of application does not allow for signature at that time, that the insurer made the disclosure required under Subsections R590-148-19(2)(a) and (e). If due to the method of application the applicant cannot sign an acknowledgment at the time of application, the applicant shall sign no later than at the time of delivery of the policy or certificate.

(4) An insurer shall use the forms in Appendix B, Personal Worksheet, and Appendix F, Potential Rate Increase Disclosure Form, to comply with the requirements of Subsections R590-148-19(1) and (2).

(5) An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least 45 days prior to the implementation of the premium rate schedule increase by the insurer. The notice shall include the information required by Subsection R590-148-19(2) when the rate increase is implemented.

**R590-148-20. Filing Requirements.**

(1) Prior to an insurer or similar organization offering group long-term care insurance to a resident of this state pursuant to Section 31A-22-1403, it shall file with the commissioner evidence that the group policy or certificate thereunder has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this state.

(2)(a) Every insurer shall provide a copy of any long-term care insurance advertisement intended for use in Utah whether through written, radio or television medium to the insurance commissioner of this state upon request.

(b) All advertisements shall be retained by the insurer, health care service plan or other entity for at least three years from the date the advertisement was first used.

(c) The commissioner may exempt from these requirements any advertising form or material when, in the commissioner's opinion, this requirement may not be reasonably applied.

**R590-148-21. Initial Filing Requirements.**

(1) This section shall apply to any long-term care policy issued in this state on or after January 1, 2003.

(2) An insurer shall file the information listed in this subsection to the commissioner prior to making a long-term care insurance form available for sale:

(a) a copy of the disclosure documents required in Section R590-148-19; and

(b) an actuarial certification consisting of at least the following:

(i) a statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;

(ii) a statement that the policy design and coverage provided have been reviewed and taken into consideration;

(iii) a statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration;

(iv) a complete description of the basis for contract reserves that are anticipated to be held under the form, to include:

(A) sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held;

(B) a statement that the assumptions used for reserves contain reasonable margins for adverse experience;

(C) a statement that the net valuation premium for renewal years does not increase, except for attained-age rating where permitted; and

(D) a statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur;

(I) an aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship; and

(II) if the gross premiums for certain age groups appear to be inconsistent with this requirement, the commissioner may request a demonstration under Subsection R590-148-21(3) based on a standard age distribution;

(v)(A) A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also

available from the insurer except for reasonable differences attributable to benefits; or

(B) A comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences.

(3) The commissioner may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration shall include either premium and claim experience on similar policy forms, adjusted for any premium or benefit differences, relevant and credible data from other studies, or both.

(4) The premiums charged to an insured for long-term care insurance may not increase due to either:

(a) the increasing age of the insured at ages beyond 65; or

(b) the duration the insured has been covered under the policy.

**R590-148-22. Loss Ratio.**

(1) This section shall apply to all individual long-term care insurance except those covered in Sections R590-148-22 and R590-148-24.

(2) Benefits under individual long-term care insurance policies shall be deemed reasonable in relation to premiums provided the expected loss ratio is at least 60%, calculated in a manner which provides for adequate reserving of the long-term care insurance risk.

(3) In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including:

(a) statistical credibility of incurred claims experience and earned premiums;

(b) the period for which rates are computed to provide coverage;

(c) experienced and projected trends;

(d) concentration of experience within early policy duration;

(e) expected claim fluctuation;

(f) experience refunds, adjustments or dividends;

(g) renewability features;

(h) all appropriate expense factors;

(i) interest;

(j) experimental nature of the coverage;

(k) policy reserves;

(l) mix of business by risk classification; and

(m) product features such as long elimination periods, high deductibles and high maximum limits.

(4) The premiums charged to an insured for long-term care insurance may not increase due to either:

(a) the increasing age of the insured at ages beyond 65; or

(b) the duration the insured has been covered under the policy.

(5) Rate filings documents must contain all information required in R590-85-4.

**R590-148-23. Reserve Standards.**

(1) When long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to these policies, policy reserves for these benefits shall be determined in accordance with Subsection 31A-17-504(7). Claim reserves must also be established when the policy or rider is in claim status.

Reserves for policies and riders subject to this subsection should be based on the multiple decrement model utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations are acceptable if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The calculations may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. However, in no event may the reserves for the long-term care benefit and the life insurance benefit be less than the reserves for the life insurance benefit assuming no long-term care benefit.

In the development and calculation of reserves for policies and riders subject to this subsection, due regard shall be given to the applicable policy provisions, marketing methods, administrative procedures and all other considerations which have an impact on projected claim costs, including, but not limited to, the following:

(a) definition of insured events;

(b) covered long-term care facilities;

(c) existence of home convalescence care coverage;

(d) definition of facilities;

(e) existence or absence of barriers to eligibility;

(f) premium waiver provision;

(g) renewability;

(h) ability to raise premiums;

(i) marketing method;

(j) underwriting procedures;

(k) claims adjustment procedures;

(l) waiting period;

(m) maximum benefit

(n) availability of eligible facilities;

(o) margins in claim costs;

(p) optional nature of benefit;

(q) delay in eligibility for benefit;

(r) inflation protection provisions; and

(s) guaranteed insurability option.

Any applicable valuation morbidity table shall be certified as appropriate as a statutory valuation table by a member of the American Academy of Actuaries.

(2) When long-term care benefits are provided other than as in Subsection R590-148-23(1), reserves shall be determined in accordance with Minimum Reserve Standards for Individual and Group Health Insurance Contracts, Appendix A-010, Accounting Practices and Procedures Manual, edition March 2001, published by the National Association of Insurance Commissioners.

**R590-148-24. Premium Rate Schedule Increases.**

(1) This section shall apply as follows:

(a) except as provided in Subsection R590-148-24(1)(b), this section applies to any long-term care policy or certificate issued in this state on or after January 1, 2003.

(b) for certificates issued on or after July 1, 2002, under a group long-term care insurance policy, which policy was in force at the time this rule became effective, the provisions of this section shall apply on the policy anniversary following January 1, 2003.

(2) An insurer shall file notice of a pending premium rate schedule increase, including an exceptional increase, to the commissioner prior to the notice to the policyholders and shall include:

(a) information required by Section R590-148-19;

(b) certification by a qualified actuary that:

(i) if the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated;

(ii) the premium rate filing is in compliance with the provisions of this section;

(c) an actuarial memorandum justifying the rate schedule change request that includes:

(i) lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale:

(A) annual values for the five years preceding and the three years following the valuation date shall be provided separately;

(B) the projections shall include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase;

(C) the projections shall demonstrate compliance with Subsection R590-148-24(3); and

(D) for exceptional increases:

(I) the projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and

(II) in the event the commissioner determines as provided in Section R590-148-5(2)(j)(iv) that offsets may exist, the insurer shall use appropriate net projected experience;

(ii) disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger contingent benefit upon lapse;

(iii) disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary;

(iv) a statement that policy design, underwriting and claims adjudication practices have been taken into consideration; and

(v) in the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer will need to file composite rates reflecting projections of new certificates;

(d) a statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the commissioner; and

(e) sufficient information for review of the premium rate schedule increase by the commissioner.

(3) All premium rate schedule increases shall be determined in accordance with the following requirements:

(a) exceptional increases shall provide that at least 70% of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;

(b) premium rate schedule increases shall be calculated such that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

(i) the accumulated value of the initial earned premium times 58%;

(ii) 85% percent of the accumulated value of prior premium rate schedule increases on an earned basis;

(iii) the present value of future projected initial earned premiums times 58%; and

(iv) 85% percent of the present value of future projected premiums not in Subsection R590-148-24(3)(b)(iii) on an earned basis;

(c) in the event that a policy form has both exceptional and other increases, the values in Subsections R590-148-24(3)(b)(ii) and (iv) will also include 70% for exceptional rate increase amounts; and

(d) all present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves which is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the health insurance contract. The actuary shall disclose as part of the actuarial memorandum, the use of any appropriate averages.

(4) For each rate increase that is implemented, the insurer shall file for review by the commissioner updated projections, as defined in Subsection R590-148-24(2)(c)(i), annually for the next three years and include a comparison of actual results to projected values. The commissioner may extend the period to greater than three years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in Subsection R590-148-24(11), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the commissioner.

(5) If any premium rate in the revised premium rate schedule is greater than 200% of the comparable rate in the initial premium schedule, lifetime projections, as defined in Subsection R590-148-24(2)(c)(i), shall be filed for review by the commissioner every five years following the end of the required period in Subsection R590-148-24(4). For group insurance policies that meet the conditions in Subsection R590-148-24(11), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the commissioner.

(6)(a) If the commissioner has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in Subsection R590-148-24(3), the commissioner may require the insurer to implement any of the following:

(i) premium rate schedule adjustments; or

(ii) other measures to reduce the difference between the projected and actual experience.

(b) In determining whether the actual experience adequately matches the projected experience, consideration should be given to Subsection R590-148-24(2)(c)(v), if applicable.

(7) If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file:

(a) a plan, subject to commissioner approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect; otherwise the commissioner may impose the condition in Subsection R590-148-24(8); and

(b) the original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to Subsection R590-148-24(3) had the greater of the original anticipated lifetime loss ratio or 58% been used in the calculations described in Subsection R590-148-24(3)(a)(i) and (iii).

(8) (a) For a rate increase filing that meets the following criteria, the commissioner shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if significant adverse lapsation has occurred or is anticipated:

(i) the rate increase is not the first rate increase requested for the specific policy form or forms;

(ii) the rate increase is not an exceptional increase; and

(iii) the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse.

(b) In the event significant adverse lapsation has occurred, is anticipated in the filing or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the commissioner may determine that a rate spiral exists. Following the determination that a rate spiral exists, the commissioner may require the insurer to offer, without underwriting, to all in force insureds subject to the rate increase the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates.

(i) The offer shall:

(A) be subject to the approval of the commissioner;

(B) be based on actuarially sound principles, but not be based on attained age; and

(C) provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy.

(ii) The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of:

(A) the maximum rate increase determined based on the combined experience; and

(B) the maximum rate increase determined based only on the experience of the insureds originally issued the form plus 10%.

(9) If the commissioner determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the commissioner may, in addition to the provisions of Subsection R590-148-24(8), prohibit the insurer from either of the following:

(a) filing and marketing comparable coverage for a period of up to five years; or

(b) offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

(10) Subsections R590-148-24(1) through (9) shall not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in Subsection R590-148-5(2)(m), if the policy complies with all of the following provisions:

(a) the interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;

(b) the portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements as applicable in any of the following:

(i) Section 31A-22-408; and

(ii) Section 31A-22-409;

(c) the policy meets the disclosure requirements of Subsections 31A-22-1409(7) and (8) and 31A-22-1410;

(d) the portion of the policy that provides insurance benefits other than long-term care coverage meets the requirements as applicable in the following:

(i) policy illustrations as required by R590-177; and

(ii) disclosure requirements in R590-133;

(e) an actuarial memorandum is filed with the insurance department that includes:

(i) a description of the basis on which the long-term care rates were determined;

(ii) a description of the basis for the reserves;

(iii) a summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

(iv) a description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any;

(v) a description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

(vi) the estimated average annual premium per policy and the average issue age;

(vii) a statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

(viii) a description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves

on the underlying insurance policy, both for active lives and those in long-term care claim status.

(11) Subsections R590-148-24(6) and (8) shall not apply to group insurance policies where:

(a) the policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or

(b) the policyholder, and not the certificateholders, pays a material portion of the premium, which shall not be less than 20% of the total premium for the group in the calendar year prior to the year a rate increase is filed.

**R590-148-25. Reporting Requirements.**

(1) Every insurer shall maintain records for each agent of that agent's amount of replacement sales as a percent of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percent of the agent's total annual sales.

(a) Every insurer shall report the 10% of its agents with the greatest percentages of lapses and replacements as measured by Subsection R590-148-25(1).

(b) Every insurer shall report the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year.

(c) Every insurer shall report the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year.

(d) The reports required by Subsection R590-148-25(1)(a), (b), and (c) must be reported on the "Replacement and Lapse Reporting Form," Appendix G.

(e) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance.

(2) Every insurer shall report, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied. The report used by the insurer shall contain, at a minimum, the information in the format contained in Appendix E, Claims Denial Reporting Form Long-Term Care Insurance, in not less than 12 point type.

(3) Every insurer shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those which the insured voluntarily effectuated and shall annually report this information in the format currently prescribed by the National Association of Insurance Commissioners.

(4) Every insurer shall report the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter.

(5) For purposes of this section:

(a) "policy" shall mean only long-term care insurance;

(b) "claim" means a request for payment of benefits under an in force policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met;

(c) "denied" means that the insurer refuses to pay a claim for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition; and

(d) "report" means on a statewide basis.

(6) Reports required under this section shall be filed with the commissioner annually on or before June 30.

**R590-148-26. Licensing.**

A producer is not authorized to sell, solicit or negotiate with respect to long-term care insurance except as authorized by Chapter 23 of Title 31A.

**R590-148-27. Discretionary Powers of Commissioner.**

The commissioner may upon written request and after an administrative hearing, issue an order to modify or suspend a specific provision or provisions of this rule with respect to a specific long-term care insurance policy or certificate upon a written finding that:

(1) the modification or suspension would be in the best interest of the insured; and

(2) the purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and

(3) one of the following occur:

(a) the modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care;

(b) the policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of the community; or

(c) the modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product.

**R590-148-28. Penalties.**

In addition to any other penalties provided by the laws of this state any insurer and any agent found to have violated any requirement of this state relating to the rule of long-term care insurance or the marketing of this insurance shall be subject to a fine of up to three times the amount of any commissions paid for each policy involved in the violation or up to $10,000, whichever is greater.

**R590-148-29. Enforcement Date.**

Effective July 1, 2002, the department will enforce all sections of the rule that do not have a different compliance date.

**R590-148-30. Severability.**

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

**KEY: insurance**
**Date of Enactment or Last Substantive Amendment: September 30, 2005**
**Notice of Continuation: August 14, 2002**
**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-22-1404**

*If you have any questions regarding this correction, please contact Michael Broschinsky, Administrative Code Editor, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3003, FAX: (801) 538-1773, or Internet E-mail: mbroschi@utah.gov.*

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

# SPECIAL NOTICES

**Governor's Proclamation: Calling the Fifty-Sixth Legislature into a Ninth Extraordinary Session**

**P R O C L A M A T I O N**

**WHEREAS**, since the close of the 2006 General Session of the 56th 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 in Extraordinary Session;

**NOW, THEREFORE, I, JON M. HUNTSMAN, JR.**, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 56th Legislature into an Ninth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 17th day of May, 2006, at 12:00 noon, for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2006 General Session of the Legislature of the State of Utah.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Salt Lake Capitol Complex in Salt Lake City, Utah, this 2nd day of May, 2006.

(State Seal)

**Jon M. Huntsman, Jr.**
**Governor**

**Gary R. Herbert**
**Lieutenant Governor**

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**Governor's Proclamation: Calling the Fifty-Sixth Legislature into a Third Special Session**

**PROCLAMATION**

**WHEREAS,** since the adjournment of the 2006 General Session of the Fifty-Sixth Legislature of the State of Utah, matters have arisen that 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, Jon M. Huntsman, Jr., 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 Fifty-Sixth Legislature of the State of Utah into a Third Special Session at the State Capitol Complex, in Salt Lake City, Utah, on the 24th day of May 2006, at 2:00 p.m., for the following purposes:

1. To consider a provision authorizing (a) an appropriation of transportation funding, (b) an appropriation of funds from the Division of Housing and Community Development to the Division of Arts and Museums, (c) an appropriation for the Driver License Division, and (d) an appropriation for the Economic Development Incentive Fund;

2. To consider a provision appropriating $2 million in Medicaid funding for emergency dental services for the aged, blind, and disabled;

3. To consider a provision authorizing funds for a parking structure at the State Capitol Complex in an amount not to exceed $15 million;

4. To consider resolutions providing legislative authorization for (a) the receipt of a federal grant by the Utah Department of Natural Resources, and (b) the construction of a maintenance shed by the Utah Department of Transportation on property near Meadow, Utah;

5. To consider legislation authorizing the Utah Tax Commission to share confidential tax data with the Governor's Office of Planning and Budget, the Office of Legislative Fiscal Analyst, and the Office of Legislative Research and General Counsel;

6. To consider legislation requiring reporting of information and addressing causes of action regarding the exchange of securities;

7. To consider legislation to correct the transitional effective date provisions of the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act and to make technical corrections to the shelter hearing provisions of the Juvenile Court Act of 1996;

8. To consider legislation authorizing a cost-of-living adjustment for certain executive officers; and

9. To consider legislation to assist retail establishments as they respond to recent changes in Utah's sales-tax system.

**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 State Capitol Complex in Salt Lake City, Utah, this 22nd day of May, 2006.

(State Seal)

**Jon M. Huntsman, Jr.**
**Governor**

**ATTEST:**

**Gary R. Herbert**
**Lieutenant Governor**

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**Governor's Proclamation: Calling the Fifty-Sixth Legislature into a Tenth Extraordinary Session**

**PROCLAMATION**

**WHEREAS**, since the close of the 2006 General Session of the 56th 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 in Extraordinary Session;

**NOW, THEREFORE**, I, JON M. HUNTSMAN, JR., Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and laws of the State of Utah, do by this Proclamation call the Senate only of the 56th Legislature into a Tenth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 24th day of May, 2006, at 2:00 p.m., for the following purpose:

For the Senate to consent to an appointment made by the Governor to a position within the government of the State of Utah since the close of the 2006 General Session of the Legislature of the State of Utah.

The Extraordinary Session shall take place as part of, and occur in conjunction with, the Third Special Session called by the Proclamation dated May 22, 2006.

**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 Salt Lake Capitol Complex in Salt Lake City, Utah, this 22nd day of May, 2006.

(State Seal)

**Jon M. Huntsman, Jr.**
**Governor**

**Gary R. Herbert**
**Lieutenant Governor**

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**Governor's Executive Order 2006-0002: State Agency Participation in Comprehensive Preparedness Initiative**

**EXECUTIVE ORDER**

**State Agency Participation in Comprehensive Preparedness Initiative**

**WHEREAS,** all State agencies shall participate in the Comprehensive Preparedness Initiative as directed by the Department of Public Safety Division of Homeland Security;

**WHEREAS,** all State agencies shall complete their Continuity of Operation Plans by July 1;

**WHEREAS,** all State agencies shall support the State's efforts to become rated sufficient in each standard recently established in the U.S. Department of Homeland Security state-by-state catastrophic event planning assessment; and

**WHEREAS,** all State agencies shall support the State's efforts to become fully accredited through the Emergency Management Accreditation Program;

**NOW, THEREFORE,** I, Jon M. Huntsman, Jr., 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 hereby order:

State agencies shall work with and support the Department of Public Safety's Division of Homeland Security to ensure the State of Utah is rated sufficient in each standard recently established in the U.S. Department of Homeland Security state-by-state catastrophic event planning assessment. Agencies shall also work with the Department of Public Safety Division of Homeland Security to address deficiencies in current state plans and capabilities in order to ensure the State becomes accredited through the Emergency Management Accreditation Program.

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, this 1st day of May, 2006.

(State Seal)

**Jon M. Huntsman, Jr.**
**Governor**

**ATTEST:**

**Gary R. Herbert**
**Lieutenant Governor**

2006/0002

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**Governor's Executive Order 2006-0003: Wildland Fire Management**

**EXECUTIVE ORDER**

**Wildland Fire Management**

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

**WHEREAS**, numerous wildland fires are burning and continue to burn in various areas statewide and present a serious threat to public safety, property, natural resources and the environment;

**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 is required to suppress the fires and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment; and,

**WHEREAS**, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981;

**NOW, THEREFORE**, I, Jon M. Huntsman, Jr., Governor of the State of Utah, by virtue of the power vested in me by the Constitution and the laws of the State of Utah do hereby order that:

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of May 10, 2006, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

**IN WITNESS, WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, this 10th day of May 2006.

(State Seal)

**Jon M. Huntsman, Jr.**
**Governor**

**ATTEST:**

**Gary R. Herbert**
**Lieutenant Governor**

2006/0003

**End of the Special Notices Section**

# NOTICES OF
# PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between May 2, 2006, 12:00 a.m., and May 15, 2006, 11:59 p.m. are included in this, the June 1, 2006, issue of the *Utah State Bulletin*.

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

Following the RULE ANALYSIS, the text of the PROPOSED RULE is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text (· · · · · ·) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least July 3, 2006. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through September 29, 2006, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

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

# Alcoholic Beverage Control, Administration
# R81-1-7
# Disciplinary Hearings

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 28708
FILED: 05/03/2006, 14:04

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Alcoholic Beverage Control (ABC) Commission has asked for this proposed rule change in an effort to reduce the time involved when a licensee decides to appeal the Commission's final order regarding violation outcomes and penalties.

SUMMARY OF THE RULE OR CHANGE: This proposed rule amendment will allow all disciplinary cases to initially commence under informal procedures. If a case does not settle, the department will declare whether it will seek a penalty in excess of a $5,000 fine, in excess of a 15-day suspension of the license, or a revocation of the license. If below this threshold, the case will proceed to an informal hearing. If the threshold is met, the case will proceed to a formal hearing. Cases heard formally will be reviewed by the Court of Appeals on the record. Cases heard informally will be reviewed de novo by the District Court. Most cases that are currently appealed involve the higher penalties because they present serious threats to the public safety. This proposed rule amendment will result in these more serious cases being reviewed on the record by an appellate court and will avoid lengthy retrials of these cases de novo in District Court. The rule, as it is presently written, provides for all hearings to be handled informally. The only significant change at the agency level under the proposed rule amendment is that discovery will be permitted in formal adjudications.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 32A-1-107 and 32A-1-119

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--There are, and have always been, costs involved with bringing disciplinary actions against licensees. These costs include expenses related to reviewing and assessing law enforcement complaints, preparing notices of agency action, and conducting prehearing conferences and hearings. Since the Department of Alcohol Beverage Control (DABC) already holds hearings, these costs have been part of DABC's budget for many years. The amendments to this rule only alter the procedures by which the disciplinary actions are handled and routed on appeal. The amendment will not affect the costs or savings of the proceedings.

❖ LOCAL GOVERNMENTS: None--Disciplinary hearings are administrative actions taken by the DABC against liquor licensees who have been found to have violated Utah's liquor laws. How the DABC conducts its hearings has no effect on local governments.

❖ OTHER PERSONS: None--The amendments to this rule will not involve a cost or savings to any other persons since the amendments only affect those licensees who have violated Utah's liquor laws. And even then, hearing costs have already been established by the department and will not change if this rule is amended.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule amendment will neither increase nor decrease the costs assessed by the DABC for disciplinary actions against licensees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Over the years, a small fraction of the licensee violations adjudicated by the ABC Commission have gone to appeal. Of these, some have been held up in the courts for several years due to lengthy retrials. By the time the District Courts can hear the appeals, many of the witnesses are unavailable and the testimonies are difficult to obtain. This rule amendment is proposed as a remedy to this problem in the more serious violations by allowing the Appellate Courts to consider the cases on the record rather than to have to retry them de novo. The amendment does not have so much a fiscal impact on businesses as it affects the public at large. DABC feels this amendment is important since timely resolution of these serious liquor violations is in the public's best interest. Kenneth F. Wynn, Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: Kenneth F. Wynn, Director

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**R81. Alcoholic Beverage Control, Administration.**
**R81-1. Scope, Definitions, and General Provisions.**
**R81-1-7. Disciplinary Hearings.**

(1) General Provisions.

(a) This rule is promulgated pursuant to Section 32A-1-107(1)(c)(i) and shall govern the procedure for disciplinary actions under the jurisdiction of the commission. Package agencies are expressly excluded from the provisions of this rule, and are [~~be~~ ]governed by the terms of the package agency contract.

(b) Liberal Construction. Provisions of this rule shall be liberally construed to secure just, speedy and economical determination of all issues presented in any disciplinary action.

(c) Emergency Adjudication Proceedings. The department or commission may issue an order on an emergency basis without complying with the Utah Administrative Procedures Act in accordance with the procedures outlined in Section 63-46b-20.

(d) Utah Administrative Procedures Act. Proceedings under this rule shall be in accordance with Title 63, Chapter 46b, Utah Administrative Procedures Act (UAPA), and Sections 32A-1-119 and -120.

(e) Penalties.

(i) This rule shall govern the imposition of any penalty against a commission licensee, permittee, or certificate of approval holder, an officer, employee or agent of a licensee, permittee, or certificate of approval holder, and a manufacturer, supplier or importer whose products are listed in this state.

(ii) Penalties may include a letter of admonishment, imposition of a fine, the suspension or revocation of a commission license, permit, or certificate of approval, the requirement that a licensee have a written responsible alcohol service plan as provided in R81-1-24, the assessment of costs of action, an order prohibiting an officer, employee or agent of a licensee, permittee, or certificate of approval holder, from serving, selling, distributing, manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of employment with any commission licensee, permittee, or certificate of approval holder for a period determined by the commission, the forfeiture of bonds, an order removing a manufacturer's, supplier's or importer's products from the department's sales list and a suspension of the department's purchase of those products for a period determined by the commission, and an order removing the products of a certificate of approval holder from the state approved sales list, and a suspension of the purchase of the products in the state.

(iii) Department administrative costs are the hourly pay rate plus benefits of each department employee involved in processing and conducting the adjudicative proceedings on the violation, an hourly charge for department overhead costs, the amount billed the department by an independent contractor for services rendered in conjunction with an adjudicative proceeding, and any additional extraordinary or incidental costs incurred by the department. The commission may also assess additional costs if a respondent fails to appear before the commission at the final stage of the adjudicative process. Department overhead costs are calculated by taking the previous year's total department expenditures less staff payroll charges expended on violations, dividing it by the previous year's total staff hours spent on violations, and multiplying this by a rate derived by taking the previous year's total staff payroll spent on violations to the previous year's total payroll of all office employees. The overhead cost figure shall be recalculated at the beginning of each fiscal year.

(f) Perjured Statements. Any person who makes any false or perjured statement in the course of a disciplinary action is subject to criminal prosecution under Section 32A-12-304.

(g) Service. Service of any document shall be satisfied by service personally or by certified mail upon any respondent, or upon any officer or manager of a corporate or limited liability company respondent, or upon an attorney for a respondent, or by service personally or by certified mail to the last known address of the respondent or any of the following:

(i) Service personally or by certified mail upon any employee working in the respondent's premises; or

(ii) Posting of the document or a notice of certified mail upon a respondent's premises; or

(iii) Actual notice. Proof of service shall be satisfied by a receipt of service signed by the person served or by a certificate of service signed by the person served, or by certificate of service signed by the server, or by verification of posting on the respondent's premises.

(h) Filing of Pleadings or Documents. Filing by a respondent of any pleading or document shall be satisfied by timely delivery to the department office, 1625 South 900 West, Salt Lake City, or by timely delivery to P. O. Box 30408, Salt Lake City, Utah 84130-0408.

(i) Representation. A respondent who is not a corporation or limited liability company may represent himself in any disciplinary action, or may be represented by an agent duly authorized by the respondent in writing, or by an attorney. A corporate or limited liability company respondent may be represented by a member of the governing board of the corporation or manager of the limited liability company, or by a person duly authorized and appointed by the respondent in writing to represent the governing board of the corporation or manager of the limited liability company, or by an attorney.

(j) Presiding Officers.

(i) The commission or the director may appoint presiding officers to receive evidence in disciplinary [~~actions~~]proceedings, and to submit to the commission orders containing written findings of fact, conclusions of law, and recommendations for commission action.

[~~(i)~~](ii) If fairness to the respondent is not compromised, the commission or director may substitute one presiding officer for another during any proceeding.

[~~(ii)~~](iii) A person who acts as a presiding officer at one phase of a proceeding need not continue as presiding officer through all phases of a proceeding.

[~~(iii)~~](iv) Nothing precludes the commission from acting as presiding officer over all or any portion of an adjudication proceeding.

[~~(iv)~~](v) At any time during an adjudicative proceeding the presiding officer may hold a conference with the department and the respondent to:

(A) encourage settlement;

(B) clarify issues;

(C) simplify the evidence;[~~or~~]

(D) expedite the proceedings; or

(E) facilitate discovery, if a formal proceeding.

(k) Definitions. The definitions found in Sections 32A-1-105 and Title 63, Chapter 46b apply to this rule.

(l) Computation of Time. The time within which any act shall be done shall be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, or state or federal holiday, in which case the next business day shall count as the last day.

(m) Default.

(i) The presiding officer may enter an order of default against a respondent if the respondent in an adjudicative proceeding fails to attend or participate in the proceeding.

(ii) The order shall include a statement of the grounds for default, and shall be mailed to the respondent and the department.

(iii) A defaulted respondent may seek to have the default order set aside according to procedures outlined in the Utah Rules of Civil Procedure.

(iv) After issuing the order of default, the commission or presiding officer shall conduct any further proceedings necessary to complete the adjudicative proceeding without the participation of the respondent in default and shall determine all issues in the adjudicative proceeding, including those affecting the defaulting respondent.

(2) Pre-adjudication Proceedings.

(a) Staff Screening. Upon receipt of a violation report, a decision officer of the [~~compliance section of the~~ ]department shall review the report, and the alleged violator's violation history, and in accordance with R81-1-6, determine the range of penalties which may be assessed should the alleged violator be found guilty of the alleged violation.

(b) Letters of Admonishment. Because letters of admonishment are not "state agency actions" under Section 63-46b-1(1)(a), no adjudicative proceedings are required in processing them, and they shall be handled in accordance with the following procedures:

(i) If the decision officer of the department determines that the alleged violation does not warrant an administrative fine, or suspension or revocation of the license, permit, or certificate of approval, or action against an officer, employee or agent of a licensee, permittee, or certificate of approval holder, or against a manufacturer, supplier or importer of products listed in this state, a letter of admonishment may be sent to the respondent.

(ii) A letter of admonishment shall set forth in clear and concise terms:

(A) The case number assigned to the action;

(B) The name of the respondent;

(C) The alleged violation, together with sufficient facts to put a respondent on notice of the alleged violations and the name of the agency or staff member making the report;

(D) Notice that a letter of admonishment may be considered as a part of the respondent's violation history in assessing appropriate penalties in future disciplinary actions against the respondent; and

(E) Notice that a rebuttal is permitted under these rules within ten days of service of the letter of admonishment.

(F) Notice that the letter of admonishment is subject to the approval of the commission.

(iii) A copy of the law enforcement agency or department staff report shall accompany the letter of admonishment. The decision officer shall delete from the report any information that might compromise the identity of a confidential informant or undercover agent.

(iv) A respondent may file a written rebuttal with the department within ten days of service of the letter of admonishment. The rebuttal shall be signed by the respondent, or by the respondent's authorized agent or attorney, and shall set forth in clear and concise terms:

(A) The case number assigned to the action;

(B) The name of the respondent;

(C) Any facts in defense or mitigation of the alleged violation, and a brief summary of any attached evidence. The rebuttal may be accompanied by supporting documents, exhibits, or signed statements.

(v) If the decision officer is satisfied, upon receipt of a rebuttal, that the letter of admonishment was not well taken, it may be withdrawn and the letter and rebuttal shall be expunged from the respondent's file. Letters of admonishment so withdrawn shall not be considered as a part of the respondent's violation history. If no rebuttal is received, or if the decision officer determines after receiving a rebuttal that the letter of admonishment is justified, the matter shall be submitted to the commission for final approval. Upon commission approval, the letter of admonishment, together with any written rebuttal, shall be placed in the respondent's department file and may be considered as part of the respondent's violation history in assessing appropriate penalties in future disciplinary actions against the respondent. If the commission rejects the letter of admonishment, it may either direct the decision officer to dismiss the matter, or may direct that an adjudicative proceeding be commenced seeking a more severe penalty.

(vi) At any time prior to the commission's final approval of a letter of admonishment, a respondent may request that the matter be processed under the adjudicative proceeding process.

(c) [~~Designation~~]Commencement of [~~Informal~~ ]Adjudicative Proceedings.

[~~(i) All adjudicative proceedings conducted under this rule are hereby designated as informal proceedings.~~

~~(ii) If the decision officer determines that the alleged violation warrants commencement of adjudicative proceedings, the matter shall be referred to a presiding officer who shall commence informal adjudication proceedings.~~](i) Alleged violations shall be referred to a presiding officer for commencement of adjudicative proceedings under the following circumstances:

(A) the decision officer determines during screening that the case does not fit the criteria for issuance of a letter of admonishment under section (2)(b)(i);

(B) a respondent has requested that a letter of admonishment be processed under the adjudicative proceeding process; or

(C) the commission has rejected a letter of admonishment and directed that an adjudicative proceeding be commenced seeking a more severe penalty.

(ii) All adjudicative proceedings shall commence as informal proceedings.

(iii) At any time after commencement of informal adjudicative proceedings, but before the commencement of a hearing, if the department determines that it will seek administrative fines exceeding $3000, a suspension of the license, permit or certificate of approval for more than ten days, or a revocation of the license, permit, or certificate of approval for the alleged violation(s), the presiding officer shall convert the matter to a formal adjudicative proceeding.

(iv) At any time before a final order is issued, a presiding officer may convert an informal proceeding to a formal proceeding if conversion is in the public interest and does not unfairly prejudice the rights of any party.

(3) The Informal Process.

(a) Notice of agency action.

(i) Upon referral of a violation report from the decision officer for commencement of informal adjudicative proceedings, the presiding officer shall issue and sign a written "notice of agency action" which shall set forth in clear and concise terms:

(A) The names and mailing addresses of all [~~respondents and other~~ ]persons to whom notice is being given by the presiding officer, and the name, title, and mailing address of any attorney or employee who has been designated to appear for the department;

(B) The department's case number;

(C) The name of the adjudicative proceeding, "DABC vs. ";

(D) The date that the notice of agency action was mailed;

(E) A statement that the adjudicative proceeding is to be conducted informally according to the provisions of this rule and Sections 63-46b-4 and -5[~~, and that an informal hearing will be held where the respondent and department shall be permitted to testify, present evidence and comment on the issues~~]unless a presiding officer converts the matter to a formal proceeding pursuant to Sections (2)(c)(iii) or (iv) of this rule, in which event the proceeding will be conducted formally according to the provisions of this rule and Sections 63-46b-6 to -11;

(F) The date, time and place of any prehearing conference with the presiding officer;

(G) [~~The date, time and place of the scheduled informal hearing;~~]A statement that a respondent may request a hearing for the purpose of determining whether the violation(s) alleged in the notice of agency action occurred, and if so, the penalties that should be imposed;

(H) A statement that a respondent who fails to attend or participate in [~~the~~]any hearing may be held in default;

(I) A statement of the legal authority and jurisdiction under which the adjudicative proceeding is to be maintained;

(J) A statement of the purpose of the adjudicative proceeding and questions to be decided including:

(I) the alleged violation, together with sufficient facts to put the respondent on notice of the alleged violation and the name of the agency or department staff member making the violation report;

(II) the penalty sought, which may include assessment of costs under Section 32A-1-119(5)(c) and (d) if the respondent is found guilty of the alleged violation, and forfeiture of any compliance bond on final revocation under Section 32A-1-119(5)[~~(d)~~](f) if revocation is sought [~~in the complaint~~]by the department;

(K) Any violation history of the respondent which may be considered in assessing an appropriate penalty should the respondent be found guilty of the alleged violation; and

(L) The name, title, mailing address, and telephone number of the presiding officer.

(ii) A copy of the law enforcement agency or staff report shall accompany the notice of agency action. The presiding officer shall delete from the report any information that might compromise the identity of a confidential informant or undercover agent.

(iii) The notice of agency action and any subsequent pleading in the case shall be retained in the respondent's department file.

(iv) The notice of agency action shall be mailed to each respondent, any attorney representing the department, and, if applicable, any law enforcement agency that referred the alleged violation to the department.

(v) The presiding officer may permit or require pleadings in addition to the notice of agency action. All additional pleadings shall be filed with the presiding officer, with copies sent by mail to each respondent and to the department.

(vi) Amendment to Pleading. The presiding officer may, upon motion of the respondent or department made at or before the hearing, allow any pleading to be amended or corrected. Defects which do not substantially prejudice a respondent or the department shall be disregarded.

(vii) Signing of Pleading. Pleadings shall be signed by the department or respondent, or their authorized attorney or representative, and shall show the signer's address and telephone number. The signature shall be deemed to be a certification by the signer that he has read the pleading and that he has taken reasonable measures to assure its truth.

(b) The Prehearing Conference.

(i) The presiding officer may hold a prehearing conference with the respondent and the department to encourage settlement, clarify issues, simplify the evidence, or expedite the proceedings.

(ii) All or part of any adjudicative proceeding may be stayed at any time by a written settlement agreement signed by the department and respondent or their authorized attorney or representative, and by the presiding officer. The stay shall take effect immediately upon the signing of the settlement agreement, and shall remain in effect until the settlement agreement is approved or rejected by the commission. No further action shall be required with respect to any action or issue so stayed until the commission has acted on the settlement agreement.

(iii) A settlement agreement approved by the commission shall constitute a final resolution of all issues agreed upon in the settlement. No further proceedings shall be required for any issue settled. The approved settlement shall take effect by its own terms and shall be binding upon the respondent and the department. Any breach of a settlement agreement by a respondent may be treated as a separate violation and shall be grounds for further disciplinary action. Additional sanctions stipulated in the settlement agreement may also be imposed.

(iv) If the settlement agreement is rejected by the commission, the action shall proceed in the same posture as if the settlement agreement had not been reached, except that all time limits shall have been stayed for the period between the signing of the agreement and the commission rejection of the settlement agreement.

(v) If the matter cannot be resolved by settlement agreement, the department shall notify the respondent and the presiding officer whether it will seek administrative fines exceeding $3000, a suspension of the license, permit or certificate of approval for more than ten days, or a revocation of the license, permit, or certificate of approval for the alleged violation(s).

(vi) If the department does not seek administrative fines exceeding $3000, a suspension of the license, permit, or certificate of approval for more than ten days, or a revocation of the license, permit, or certificate of approval for the alleged violation(s), any hearing on the matter shall be adjudicated informally.

(vii) If the department does seek administrative fines exceeding $3000, a suspension of the license, permit, or certificate of approval for more than ten days, or a revocation of the license, permit, or certificate of approval for the alleged violation(s), the presiding officer shall convert the matter to a formal adjudicative proceeding, and any hearing on the matter shall be adjudicated formally. The department may waive the formal adjudicative proceeding requirement that the respondent file a written response to the notice of agency action.

(c) The Informal Hearing.

(i) [~~The respondent and department shall be notified in writing of the date, time and place of the hearing at least ten days in advance of the hearing. Notice may appear in the notice of agency action, or~~

~~may appear in a separate notice issued by the presiding officer.~~]The presiding officer shall notify the respondent and department in writing of the date, time and place of the hearing at least ten days in advance of the hearing. Continuances of scheduled hearings are not favored, but may be granted by the presiding officer for good cause shown. Failure by a respondent to appear at the hearing after notice has been given shall be grounds for default and shall waive both the right to contest the allegations, and the right to the hearing. The presiding officer shall proceed to prepare and serve on respondent an order pursuant to R81-1-7(3)(d).

(ii) All hearings shall be presided over by the presiding officer.

(iii) The respondent named in the notice of agency action and the department shall be permitted to testify, present evidence, and comment on the issues. Formal rules of evidence shall not apply, however, the presiding officer:

(A) may exclude evidence that is irrelevant, immaterial or unduly repetitious;

(B) shall exclude evidence privileged in the courts of Utah;

(C) shall recognize presumptions and inferences recognized by law;

(D) may receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all the pertinent portions of the original document;

(E) may take official notice of any facts that could be judicially noticed under the Utah Rules of Evidence, of the record of other proceedings before the commission, and of technical or scientific facts within the commission's specialized knowledge;

(F) may not exclude evidence solely because it is hearsay; and

(G) may use his experience, technical competence, and specialized knowledge to evaluate the evidence.

(iv) All testimony shall be under oath.

(v) Discovery is prohibited.

(vi) Subpoenas and orders to secure the attendance of witnesses or the production of evidence shall be issued by the presiding officer when requested by a respondent or the department, or may be issued by the presiding officer on his own motion.

(vii) A respondent shall have access to information contained in the department's files and to material gathered in the investigation of respondent to the extent permitted by law.

(viii) Intervention is prohibited.

(ix) The hearing shall be open to the public, provided that the presiding officer may order the hearing closed upon a written finding that the public interest in an open meeting is clearly outweighed by factors enumerated in the closure order. The presiding officer may take appropriate measures necessary to preserve the integrity of the hearing.

(x) Record of Hearing. The presiding officer shall cause an official record of the hearing to be made, at the department's expense, as follows:

(A) The record of the proceedings may be made by means of [~~a tape recorder~~]an audio or video recorder or other recording device at the department's expense.

(B) The record may also be made by means of a certified shorthand reporter employed by the department or by a party desiring to employ a certified shorthand reporter at its own cost in the event that the department chooses not to employ a reporter. If a party employs a certified shorthand reporter, the original transcript of the hearing shall be filed with the department. Those desiring a copy of the certified shorthand reporter's transcript may purchase it from the reporter.

(C) Any respondent, at his own expense, may have a person approved by the department, prepare a transcript of the hearing, subject to any restrictions that the department is permitted by statute to impose to protect confidential information disclosed at the hearing. Whenever a transcript or [~~tape~~]audio or video recording of a hearing is made, it will be available at the department for use by the [~~respondent~~]parties, but the original transcript or [~~tape~~ ]recording may not be withdrawn.

(D) The department shall retain the record of the evidentiary hearing for a minimum of one year from the date of the hearing, or until the completion of any court proceeding on the matter.

(xi) The presiding officer may grant continuances or recesses as necessary.

(xii) Order of presentation. Unless otherwise directed by the presiding officer at the hearing, the order of procedure and presentation of evidence will be as follows: (1) department; (2) respondent; (3) rebuttal by department.

(xiii) Time limits. The presiding officer may set reasonable time limits for the presentations described above.

(xiv) Continuances of the hearing. Any hearing may be continued to a time and date certain announced at the hearing, which shall not require any new notification. The continuance of the hearing may be made upon motion of a respondent or the department indicating good cause why a continuance is necessary. The continuance of the hearing may also be made upon the motion of the presiding officer when in the public interest.

(xv) Oral Argument and Briefs. Upon the conclusion of the taking of evidence, the presiding officer may, in his discretion, permit a respondent and the department to make oral arguments or submit additional briefs or memoranda upon a schedule to be designated by the presiding officer.

(d) Disposition.

(i) Presiding Officer's Order; Objections.

(A) Within a reasonable time after the close of the hearing, the presiding officer shall issue a signed order in writing that includes the following:

(I) the decision;

(II) the reasons for the decision;

(III) findings of facts;

(IV) conclusions of law;

(V) recommendations for final commission action;

(VI) notice that a respondent or the department having objections to the presiding officer's order may file written objections with the presiding officer within ten days of service of the order, setting forth the particulars in which the report is alleged to be unfair, inaccurate, incomplete, unreasonable, unlawful or not supported by the evidence.

(B) The order shall be based on the facts appearing in the department's files and on the facts presented in evidence at the informal hearing. Any finding of fact that was contested may not be based solely on hearsay evidence. The findings of fact shall be based upon a preponderance of the evidence. The order shall not recommend a penalty more severe than that sought in the notice of agency action, and in no event may it recommend administrative fines exceeding $3000, a suspension of the license, permit, or certificate of approval for more than ten days, or a revocation of the license, permit, or certificate of approval.

(C) A copy of the presiding officer's order shall be promptly mailed to the respondent and the department.

(D) The presiding officer shall wait ten days from service of his order for written objections, if any. The presiding officer may then amend or supplement his findings of fact, conclusions of law, and recommendations to reflect those objections which have merit or which are not disputed.

(E) Upon expiration of the time for filing written objections, the order of the presiding officer and any written objections timely filed, shall be submitted to the commission for final consideration.

(ii) Commission Action.

(A) Upon expiration of the time for filing objections, the order shall be placed on the next available agenda of a regular commission meeting for consideration by the commission. Copies of the order, together with any objections filed shall be forwarded to the commission, and the commission shall finally decide the matter on the basis of the order and any objections submitted.

(B) The commission shall be deemed a substitute presiding officer for this final stage of the informal adjudicative proceeding pursuant to Sections 63-46b-2(1)(h)(ii) and (iii). This stage is not considered a "review of an order by an agency or a superior agency" under Sections 63-46b-12 and -13.

(C) No additional evidence shall be presented to the commission. The commission may, [~~at~~]in its discretion, permit the respondent and department to present oral presentations.

(D) After the commission has reached a final decision, it shall issue or cause to be issued a signed, written order pursuant to Section 32A-1-119[~~(5)~~](3)(c) and (6) and 63-46b-5(1)(i), containing:

(I) the decision;

(II) the reasons for the decision;

(III) findings of fact;

(IV) conclusions of law;

(V) action ordered by the commission and effective date of the action taken;

(VI) notice of the right to seek judicial review of the order within 30 days from the date of its issuance in the district court in accordance with Sections 63-46b-14, -15, -17, and -18, and 32A-1-119 and -120.

(E) The commission may adopt in whole or in part, any portion(s) of the initial presiding officer's order.

(F) The order shall be based on the facts appearing in the department's files and on the facts presented in evidence at the informal hearing.

(G) The order shall not impose a penalty more severe than that sought in the notice of agency action, and in no event may it impose administrative fines exceeding $3000, a suspension of the license, permit, or certificate of approval for more than ten days, or a revocation of the license, permit, or certificate of approval.

(H) The commission, after it has rendered its final decision and order, may direct the department director to prepare, issue, and cause to be served on the parties the final written order on behalf of the commission.

[~~(II)~~](I) A copy of the commission's order shall be promptly mailed to the [~~respondent and the department~~]parties.

(e) Judicial Review.

(i) Any petition for judicial review of the commission's final order must be filed within [~~thirty~~]30 days from the date the order is issued.

(ii) Appeals from informal adjudicative proceedings shall be to the district court in accordance with Sections 63-46b-15, -17, and -18, and 32A-1-119 and -120.

(4) The Formal Process.

(a) Conversion Procedures. If a presiding officer converts an informal adjudicative proceeding to a formal adjudicative proceeding pursuant to sections (2)(c)(iii) or (iv):

(i) the presiding officer shall notify the parties that the adjudicative proceeding is to be conducted formally according to the provisions of this rule and Sections 63-46b-6 to -11;

(ii) the case shall proceed without requiring the issuance of a new or amended notice of agency action;

(iii) the respondent shall be required to file a written response to the original notice of agency action within 30 days of the notice of the conversion of the adjudicative proceeding to a formal proceeding, unless this requirement is waived by the department. Extensions of time to file a response are not favored, but may be granted by the presiding officer for good cause shown. Failure to file a timely response shall waive the respondent's right to contest the matters stated in the notice of agency action, and the presiding officer may enter an order of default and proceed to prepare and serve his final order pursuant to R81-1-7(4)(e). The response shall be signed by the respondent, or by an authorized agent or attorney of the respondent, and shall set forth in clear and concise terms:

(A) the case number assigned to the action;

(B) the name of the adjudicative proceeding, "DABC vs. ";

(C) the name of the respondent;

(D) whether the respondent admits, denies, or lacks sufficient knowledge to admit or deny each allegation stated in the notice of agency action, in which event the allegation shall be deemed denied;

(E) any facts in defense or mitigation of the alleged violation or possible penalty;

(F) a brief summary of any attached evidence. Any supporting documents, exhibits, signed statements, transcripts, etc., to be considered as evidence shall accompany the response;

(G) a statement of the relief the respondent seeks;

(H) a statement summarizing the reasons that the relief requested should be granted.

(iv) the presiding officer may permit or require pleadings in addition to the notice of agency action and the response. All additional pleadings shall be filed with the presiding officer, with copies sent by mail to each party.

(v) the presiding officer may, upon motion of the responsible party made at or before the hearing, allow any pleading to be amended or corrected. Defects which do not substantially prejudice any of the parties shall be disregarded;

(vi) Pleadings shall be signed by the party or the party's attorney and shall show the signer's address and telephone number. The signature shall be deemed to be a certification by the signer that he has read the pleading and that he has taken reasonable measures to assure its truth;

(b) Intervention.

(i) Any person not a party may file a signed, written petition to intervene in a formal adjudicative proceeding with the presiding officer. The person who wishes to intervene shall mail a copy of the petition to each party. The petition shall include:

(A) the agency's case number;

(B) a statement of facts demonstrating that the petitioner's legal rights or interests are substantially affected by the formal adjudicative proceedings or that the petitioner qualifies as an intervenor under any provision of law; and

(C) a statement of the relief that the petitioner seeks from the agency;

(ii) Response to Petition. Any party to a proceeding into which intervention is sought may make an oral or written response to the petition for intervention. The response shall state the basis for opposition to intervention and may suggest limitations to be placed upon the intervenor if intervention is granted. The response must be presented or filed at or before the hearing.

(iii) Granting of Petition. The presiding officer shall grant a petition for intervention if the presiding officer determines that:

(A) the petitioner's legal interests may be substantially affected by the formal adjudicative proceeding; and

(B) the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention.

(iv) Order Requirements.

(A) Any order granting or denying a petition to intervene shall be in writing and sent by mail to the petitioner and each party.

(B) An order permitting intervention may impose conditions on the intervenor's participation in the adjudicative proceeding that are necessary for a just, orderly, and prompt conduct of the adjudicative proceeding.

(C) The presiding officer may impose conditions at any time after the intervention.

(D) If it appears during the course of the proceeding that an intervenor has no direct or substantial interest in the proceeding and that the public interest does not require the intervenor's participation, the presiding officer may dismiss the intervenor from the proceeding.

(E) In the interest of expediting a hearing, the presiding officer may limit the extent of participation of an intervenor. Where two or more intervenors have substantially like interests and positions, the presiding officer may at any time during the hearing limit the number of intervenors who will be permitted to testify, cross-examine witnesses or make and argue motions and objections.

(c) Discovery and Subpoenas.

(i) Discovery. Upon the motion of a party and for good cause shown that it is to obtain relevant information necessary to support a claim or defense, the presiding officer may authorize the manner of discovery against another party or person, including the staff, as may be allowed by the Utah Rules of Civil Procedure.

(ii) Subpoenas. Subpoenas and orders to secure the attendance of witnesses or the production of evidence in formal adjudicative proceedings shall be issued by the presiding officer when requested by any party, or may be issued by the presiding officer on his own motion.

(d) The Formal Hearing.

(i) Notice. The presiding officer shall notify the parties in writing of the date, time, and place of the hearing at least ten days in advance of the hearing. The presiding officer's name, title, mailing address, and telephone number shall be provided to the parties. Continuances of scheduled hearings are not favored, but may be granted by the presiding officer for good cause shown. Failure to appear at the hearing after notice has been given shall be grounds for default and shall waive both the respondent's right to contest the allegations, and the respondent's right to the hearing. The presiding officer shall proceed to prepare and serve on respondent his order pursuant to R81-1-7(4)(e).

(ii) Public Hearing. The hearing shall be open to all parties. It shall also be open to the public, provided that the presiding officer may order the hearing closed upon a written finding that the public interest in an open hearing is clearly outweighed by factors enumerated in the closure order. The presiding officer may take appropriate measures necessary to preserve the integrity of the hearing.

(iii) Rights of Parties. The presiding officer shall regulate the course of the hearings to obtain full disclosure of relevant facts and to afford all the parties reasonable opportunity to present their positions, present evidence, argue, respond, conduct cross-examinations, and submit rebuttal evidence.

(iv) Public Participation. The presiding officer may give persons not a party to the adjudicative proceeding the opportunity to present oral or written statements at the hearing.

(v) Rules of Evidence. Technical rules of evidence shall not apply. Any reliable evidence may be admitted subject to the following guidelines. The presiding officer:

(A) may exclude evidence that is irrelevant, immaterial or unduly repetitious;

(B) shall exclude evidence privileged in the courts of Utah;

(C) shall recognize presumptions and inferences recognized by law;

(D) may receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all the pertinent portions of the original document.

(E) may take official notice of any facts that could be judicially noticed under the Utah Rules of Evidence, of the record of other proceedings before the agency, and of technical or scientific facts within the agency's specialized knowledge;

(F) may not exclude evidence solely because it is hearsay; and

(G) may use his experience, technical competence, and specialized knowledge to evaluate the evidence.

(vi) Oath. All testimony presented at the hearing, if offered as evidence to be considered in reaching a decision on the merits, shall be given under oath.

(vii) Order of presentation. Unless otherwise directed by the presiding officer at the hearing, the order of procedure and presentation of evidence will be as follows: (1) agency; (2) respondent; (3) intervenors (if any); (4) rebuttal by agency.

(viii) Time limits. The presiding officer may set reasonable time limits for the presentations described above.

(ix) Continuances of the hearing. Any hearing may be continued to a time and date certain announced at the hearing, which shall not require any new notification. The continuance of the hearing may be made upon motion of a party indicating good cause why a continuance is necessary. The continuance of the hearing may also be made upon the motion of the presiding officer when in the public interest.

(x) Oral Argument and Briefs. Upon the conclusion of the taking of evidence, the presiding officer may, in his discretion, permit the parties to make oral arguments or submit additional briefs or memoranda upon a schedule to be designated by the presiding officer.

(xi) Record of Hearing. The presiding officer shall cause an official record of the hearing to be made, at the agency's expense, as follows:

(A) The record may be made by means of an audio or video recorder or other recording device at the department's expense.

(B) The record may also be made by means of a certified shorthand reporter employed by the department or by a party desiring to employ a certified shorthand reporter at its own cost in the event that the department chooses not to employ a reporter. If a party employs a certified shorthand reporter, the original transcript

of the hearing shall be filed with the department. Those desiring a copy of the certified shorthand reporter's transcript may purchase it from the reporter.

(C) Any respondent, at his own expense, may have a person approved by the department prepare a transcript of the hearing, subject to any restrictions that the agency is permitted by statute to impose to protect confidential information disclosed at the hearing. Whenever a transcript or audio or video recording of a hearing is made, it will be available at the department for use by the parties, but the original transcript or recording may not be withdrawn.

(D) The department shall retain the record of the evidentiary hearing for a minimum of one year from the date of the hearing, or until the completion of any court proceeding on the matter.

(xii) Failure to appear. Inexcusable failure of the respondent to appear at a scheduled evidentiary hearing after receiving proper notice constitutes an admission of the charged violation. The validity of any hearing is not affected by the failure of any person to attend or remain in attendance pursuant to Section 32A-1-119(5)(c).

(e) Disposition.

(i) Presiding Officer's Order; Objections.

(A) Within a reasonable time of the close of the hearing, or after the filing of any post-hearing papers permitted by the presiding officer, the presiding officer shall sign and issue a written order that includes the following:

(I) the findings of fact based exclusively on evidence found in the record of the adjudicative proceedings, or facts officially noted. No finding of fact that was contested may be based solely on hearsay evidence. The findings of fact shall be based upon a preponderance of the evidence, except if the respondent fails to respond as per R81-1-7(4)(a)(iii), then the findings of fact shall adopt the allegations in the notice of agency action;

(II) conclusions of law;

(III) the decision;

(IV) the reasons for the decision;

(V) recommendations for final commission action. The order shall not recommend a penalty more severe than that sought in the notice of agency action;

(VI) notice that a respondent or the department having objections to the presiding officer's order may file written objections with the presiding officer within ten days of service of the order setting forth the particulars in which the report is alleged to be unfair, inaccurate, incomplete, unreasonable, unlawful, or not supported by the evidence.

(B) A copy of the presiding officer's order shall be promptly mailed to the parties.

(C) The presiding officer shall wait ten days from service of his order for written objections, if any. The presiding officer may then amend or supplement his findings of fact, conclusions of law, and recommendations to reflect those objections which have merit and which are not disputed.

(D) Upon expiration of the time for filing written objections, the order of the presiding officer and any written objections timely filed, shall be submitted to the commission for final consideration.

(ii) Commission Action.

(A) Upon expiration of the time for filing objections, the order shall be placed on the next available agenda of a regular commission meeting for consideration by the commission. Copies of the order, together with any objections filed by the respondent, shall be forwarded to the commission, and the commission shall finally decide the matter on the basis of the order and any objections submitted.

(B) The commission shall be deemed a substitute presiding officer for this final stage of the formal adjudicative proceeding pursuant to Sections 63-46b-2(h)(ii) and (iii). This stage is not considered a "review of an order by an agency or a superior agency" under Sections 63-46b-12 and -13.

(C) No additional evidence shall be presented to the commission. The commission may, in its discretion, permit the parties to present oral presentations.

(D) After the commission has reached a final decision, it shall issue or cause to be issued a signed, written order pursuant to Section 32A-1-119(3)(c) and (6) and 63-46b-10(1) that includes:

(I) findings of fact based exclusively on evidence found in the record of the adjudicative proceedings, or facts officially noted. No finding of fact that was contested may be based solely on hearsay evidence. The findings of fact shall be based upon a preponderance of the evidence, except if the respondent fails to respond as per R81-1-7(4)(a)(iii), then the findings of fact shall adopt the allegations in the notice of agency action and the respondent is considered in default;

(II) conclusions of law;

(III) the decision;

(IV) the reasons for the decision;

(V) action ordered by the commission and effective date of the action taken. The order shall not impose a penalty more severe than that sought in the notice of agency action;

(VI) notice of the right to file a written request for reconsideration within ten days of the service of the order;

(VII) notice of the right to seek judicial review of the order within thirty days of the date of its issuance in the court of appeals in accordance with Sections 32A-1-120 and 63-46b-16, -17, and -18.

(E) The commission may adopt in whole or in part, any portion(s) of the initial presiding officer's order.

(F) The commission may use its experience, technical competence and specialized knowledge to evaluate the evidence.

(G) The commission, after it has rendered its final decision and order, may direct the department director to prepare, issue, and cause to be served on the parties the final written order on behalf of the commission.

(H) A copy of the commission's order shall be promptly mailed to the parties.

(I) A respondent having objections to the order of the commission may file, within ten days of service of the order, a request for reconsideration with the commission, setting forth the particulars in which the order is unfair, unreasonable, unlawful, or not supported by the evidence. If the request is based upon newly discovered evidence, the petition shall be accompanied by a summary of the new evidence, with a statement of reasons why the respondent could not with reasonable diligence have discovered the evidence prior to the formal hearing, and why the evidence would affect the commission's order.

(J) The filing of a request for reconsideration is not a prerequisite for seeking judicial review of the commission's order.

(K) Within twenty days of the filing of a request for reconsideration, the commission may issue or cause to be issued a written order granting the request or denying the request in whole or in part. If the request is granted, it shall be limited to the matter specified in the order. Upon reconsideration, the commission may confirm its former order or vacate, change or modify the same in any particular, or may remand for further action. The final order shall have the same force and effect as the original order.

(L) If the commission does not issue an order within twenty days after the filing of the request, the request for reconsideration shall be considered denied.

(f) Judicial Review.

(i) Respondent may file a petition for judicial review of the commission's final order within 30 days from the date the order is issued.

(ii) Appeals from formal adjudicative proceedings shall be to the Utah Court of Appeals in accordance with Sections 63-46b-16, -17, and -18, and Section 32A-1-120.

**KEY: alcoholic beverages**
**Date of Enactment or Last Substantive Amendment: [~~August 1, 2005~~]2006**
**Notice of Continuation: December 26, 2001**
**Authorizing, and Implemented or Interpreted Law: 32A-1-107; 32A-1-119(5)(c); 32A-3-103(1)(a); 32A-4-103(1)(a); 32A-4-203(1)(a); 32A-4-304(1)(a); 32A-4-403(1)(a); 32A-5-103[~~(3)(c)~~](1)(a); 32A-6-103(2)(a); 32A-7-103(2)(a); 32A-8-103(1)(a); 32A-8-503(1)(a); 32A-9-103(1)(a); 32A-10-203(1)(a); 32A-10-303(1)(a); 32A-11-103(1)(a)**

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# Commerce, Occupational and Professional Licensing

# R156-46a

## Hearing Instrument Specialist Licensing Act Rules

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 28732
FILED: 05/15/2006, 13:58

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Hearing Instrument Specialist Licensing Board are proposing amendments to the rule to clarify the requirements for the supervision of a hearing instrument intern and to state that a violation of the supervision requirements is considered unprofessional conduct for a licensed hearing instrument specialist.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, statutory citations are corrected where necessary. Added Section R156-46a-302d with respect to hearing instrument intern supervision requirements and added to Section R156-46a-502a that failing to comply with the requirements of Section R156-46a-302d is considered unprofessional conduct for a licensed hearing instrument specialist.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 58-1-106(1)(a) and 58-1-202(1)(a); and Sections 58-46a-101 and 58-46a-304

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: Proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. Proposed amendments only apply to licensees and potential licensees as either a hearing instrument specialist or hearing instrument intern.

❖ OTHER PERSONS: The Division anticipates no costs or savings to the public as a result of the proposed amendments since the proposed amendments are only a clarification of hearing instrument specialist internship supervision requirements and do not add any additional requirements that would affect the public. The proposed amendments will apply to licensed hearing instrument specialists who supervise licensed hearing instrument interns. However, the Division does not anticipate any costs or savings as a result of clarifying the supervision requirements in the rule beyond those costs currently in place when a licensed hearing instrument specialist supervises a licensed hearing instrument intern. However, if a licensed hearing instrument specialist violates the proposed supervision requirements, he could possibly be subject to disciplinary action against his license. The Division is unable to determine if or how many licensed hearing instrument specialists may violate the intern supervision requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division anticipates no costs or savings to the public as a result of the proposed amendments since the proposed amendments are only a clarification of hearing instrument specialist internship supervision requirements and do not add any additional requirements that would affect the public. The proposed amendments will apply to licensed hearing instrument specialists who supervise licensed hearing instrument interns. However, the Division does not anticipate any costs or savings as a result of clarifying the supervision requirements in the rule beyond those costs currently in place when a licensed hearing instrument specialist supervises a licensed hearing instrument intern. However, if a licensed hearing instrument specialist violates the proposed supervision requirements, he could possibly be subject to disciplinary action against his license. The Division is unable to determine if or how many licensed hearing instrument specialists may violate the intern supervision requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing codifies standards for intern supervisors and defines the violation of these standards as unprofessional conduct. No fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG

160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/21/2006 at 10:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 4A (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: J. Craig Jackson, Director

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**R156. Commerce, Occupational and Professional Licensing.**
**R156-46a. Hearing Instrument Specialist Licensing Act Rules.**
**R156-46a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 46a, as used in Title 58, Chapters 1 and 46a or these rules:

(1) "Analog" means a continuous variable physical signal.

(2) "Digital" means using or involving numerical digits, expressed in a scale of notation to represent discreetly all variables occurring.

(3) "Programmable" means the electronic technology in the hearing instrument can be modified independently.

(4) "Unprofessional conduct," as defined in Title 58 Chapters 1 and 46a, is further defined, in accordance with Subsection 58-1-203([~~5~~]1)(e), in Section R156-46a-502.

**R156-46a-103. Authority - Purpose.**

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58 Chapter 46a.

**R156-46a-302a. Qualifications for Licensure - Hearing Instrument Specialist Certification Requirement.**

In accordance with Subsections 58-1-203(2) and 58-1-301(3), an applicant shall submit a notarized copy of his current certificate documenting National Board for Certification in Hearing Instrument Sciences (NBC-HIS) to satisfy the certification requirement for licensure as a hearing instrument specialist in Subsection 58-46a-302(1)(e).

**R156-46a-302d. Qualifications for Licensure - Internship Supervision Requirements.**

In accordance with Subsections 58-46a-102(7) and 58-1-203(1)(b), the requirements for supervision of a hearing instrument intern are defined and clarified as follows. The hearing instrument intern supervisor shall:

(1) not have been disciplined for any unprofessional or unlawful conduct within five years of the start of any internship program;

(2) supervise no more than one hearing instrument intern on direct supervision;

(3) supervise no more than two hearing instrument interns at one time;

(4) not begin an internship program until:

(a) the hearing instrument intern is properly licensed as a hearing instrument intern; and

(b) the supervisor is approved by the Division in collaboration with the Board;

(5) keep a daily record on forms available from the Division, during the direct supervision period, which shall include the hours of instruction, the duties assigned, the total hours worked each week and the type of services performed;

(6) make available to the Division, upon request, upon completion of direct supervision and upon completion of the internship, the intern's training records;

(7) notify the Division immediately when the intern has completed direct supervision on forms available from the Division; and

(8) notify the Division within ten working days if the internship program is terminated.

**R156-46a-502a. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) violating any state or federal law applicable to persons practicing as a hearing instrument specialist or hearing instrument intern;

(2) failure to perform the minimum components of an evaluation for a hearing aid as set forth in Section R156-46a-502b;

(3) aiding or abetting any person other than a Utah licensed hearing instrument specialist, a licensed hearing instrument intern, a licensed audiologist, or a licensed physician to perform a hearing aid examination;

(4) dispensing a hearing aid without the purchaser having:

(a) received a medical evaluation by a licensed physician within the preceding six months prior to the purchase of a hearing aid; or

(b) a document signed by the purchaser being a fully informed adult waiving the medical evaluation in accordance with Food and Drug Administration (FDA) required disclosures, except a person under the age of 18 years may not waive the medical evaluation;

(5) using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation, however disseminated or published, which is misleading, deceiving, or untruthful;

(6) quoting prices of competitive hearing instruments or devices without disclosing that they are not the current prices or to show, demonstrate, or represent competitive models as being current when such is not the fact;

(7) using the word digital in any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or other representation when the hearing instrument circuit is less than 100% digital, unless the word digital is accompanied by the word analog, as in "digitally programmable analog hearing aid";

(8) failure to perform a prepurchase hearing evaluation;[~~or~~]

(9) supervising more than two hearing instrument interns at one time; and

(10) failing as a hearing instrument intern supervisor to comply with any of the requirements of Section R156-46a-302d.

**KEY: licensing, hearing aids, hearing instrument specialist, hearing instrument intern**
**Date of Enactment or Last Substantive Amendment: [~~March 18, 2003~~]2006**
**Notice of Continuation: June 24, 2004**
**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-46a-101; 58-46a-304**

# Corrections, Administration
# R251-111
## Government Records Access and Management

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 28714
FILED: 05/04/2006, 12:51

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is due for the five-year review and after the review, it was determined that changes needed to be made that require additional procedures for requesting and receiving records from Corrections by electronic means.

SUMMARY OF THE RULE OR CHANGE: This rule change adds the ability for the public, or other agencies, to submit electronic requests for records, and for the Department to send the records by electronic means.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-2-201(12), and Sections 63-2-204, 63-2-904, 64-13-27, 46-4-501, and 46-4-502

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no cost, or savings, to the State budget because this change does not mandate the use of electronic (e-mail) records requests. The State already has e-mail capability in use, and this change will only affect one e-mail address in State government. The number of new e-mails is directly off-set by the number of mail requests not sent. The major cost of Government Records Access and Management Act (GRAMA) requests is due to the time researching the request, not the method of the request.

❖ LOCAL GOVERNMENTS: There is no mandatory cost to local government entities because the use of electronic requests is optional. Local government, which mostly do have e-mail capabilities, may still choose to use the traditional method of mailing in a records request form.

❖ OTHER PERSONS: There is no mandatory cost to the public or other persons because the use of an electronic request is an optional method offered strictly for the public's benefit. Any person who does not have access to e-mail from such free sources as the Public Library, may still use the traditional method of mailing in a records request form.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs. This change allows e-mail or other electronic requests for records. It does not eliminate any former options of requesting records.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Using e-mail, or other electronic means of requesting records, may be quicker and more convenient for some businesses, and would save them some postage expenses. The rule does not require a business to use e-mail if they do not have access to it, so there are no compliance, equipment, or training costs. Scott Carver, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: Scott V. Carver, Executive Director

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**R251. Corrections, Administration.**
**R251-111. Government Records Access and Management.**
**R251-111-1. Authority and Purpose.**

(1) This rule is authorized by the Government Records and Management Act (GRAMA), Sections 63-2-201 (12), 63-2-204 and 63-2-904; 64-13-27; and Sections 46-4-501 and 46-4-502.

(2) The purpose of this rule is to provide procedures for access to government records of the Department of Corrections and to facilitate intergovernmental, crossboundry intercooperation.

**R251-111-4. Requests for Access.**

(1) Requests for access to records shall be directed as follows:

(a) All records requests by an inmate or offender under the jurisdiction of the Department shall be directed to:

(i) For all inmates in Utah State Prison Facilities: Institutional Operations Division, Primary Records Officer, Administration Building, P.O. Box 250, Draper, Utah 84020; or

(ii) For all probationers, parolees and early release inmates: Adult Probation and Parole Division, Primary Records Officer, Administration, 14717 S. Minuteman Drive, Draper, Utah 84020.

(b) All records requests by persons to obtain information for a story or report for publication or broadcast to the general public shall be directed to the Public Information Officer, 14717 S. Minuteman Drive, Draper, Utah 84020.

(c) All requests for access to records by persons other than those specified in subparagraphs (i) and (ii) above, shall be directed to the Records Bureau, 14717 S. Minuteman Drive, Draper, Utah 84020.

(d) All requests from governmental agencies shall be directed to the appropriate unit of the Utah Department of Corrections, as approved by the Records Bureau or specified in Departmental policy.

(2) The time limits dictated by GRAMA Section 63-2-204 for response to requests shall be calculated based on receipt of a valid request at the office specified in this rule.

**R251-111-5. Submission Requirements -- Forms.**

(1) All records requests from inmates shall be on a form supplied by the Department. Other requests shall be in writing and shall contain name, mailing address, daytime telephone number (if available), and a reasonably specific description of the records requested.

(2) Evidence of the requester's identity may be required. In accordance with Section 63-2-202(6) the Department shall obtain evidence of the requester's identity before releasing a private, controlled, or protected record.

(3) Unless the request is made in writing, contains the information listed in R251-111-5 (1) above and satisfactory identification is presented, when required, the Department shall return the request with instructions regarding proper submission.

(4) Written requests may be submitted electronically. Evidence of identity, where required, shall be based upon accepted State standards for electronic identification.

**R251-111-8. Response to Requests.**

The response by the Utah Department of Corrections for any type of record request may be made partially or fully by electronic means.

**R251-111-[8]9. Appeal.**

Any person may appeal access determinations to the Department Executive Director, or his designee, under the procedures of GRAMA, Section 63-2-401.

**KEY: criminal records, security measures, government records[~~*~~]**
**Date of Enactment or Last Substantive Amendment: [~~January 28, 2002~~]2006**
**Notice of Continuation: December 7, 2001**
**Authorizing, and Implemented or Interpreted Law: 63-2-204; 63-2-904**

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# Education, Administration
# R277-506
## School Counselors, School Psychologists, and School Social Workers Certificates and Programs

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 28737
FILED: 05/15/2006, 15:58

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide terminology changes to make it consistent with other licensing rules, and to remove the school counselor section of the rule. School counselor levels of licensure language is now incorporated into Rule R277-502, Educator Licensing and Data Retention.

SUMMARY OF THE RULE OR CHANGE: The amendments include adding and changing definitions and terminology throughout the rule, and removing Section R277-506-3.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-402(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to state budget. The amendments only change definitions and terminology and move a section within the rule to a more appropriate rule.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The amendments only change definitions and terminology and move a section within the rule to a more appropriate rule.

❖ OTHER PERSONS: There are no anticipated costs or savings to other persons. The amendments only change definitions and terminology and move a section within the rule to a more appropriate rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The amendments only change definitions and terminology and move a section within the rule to a more appropriate rule.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

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**R277. Education, Administration.**
**R277-506. [~~School Counselors, -~~]School Psychologists[~~,~~] and School Social Workers [~~Certificates~~]Licenses and Programs.**
**R277-506-1. Definitions.**

[~~S~~]A. "Board" means the Utah State Board of Education.

[~~B. "Basic Certificate" means the initial certificate issued by the Board which permits the holder to be employed as an educator in the public schools.~~

~~C. "Standard Certificate" means a certificate issued by the Board after a holder has demonstrated competence under the Basic Certificate.~~

] [~~G~~]B. "Career information delivery systems" means the state approved computer software program which provides specific occupation and career planning information, scholarship information, and information about postsecondary institutions.

[~~N~~]C. "Consultation" means consulting with parents, teachers, other educators, and community agencies regarding strategies to help students.

[~~E. "SEOP" means student educational occupational plan.~~

] [~~F~~]D. "Guidance curriculum planning" means structured, developmental experiences presented systematically through classroom and group activities which are organized in areas of self-knowledge, education and occupational exploration, and career planning directed toward meeting the Board approved student competencies.

E. "Level 1 license" means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to candidates who have also met all ancillary requirements established by law or rule.

F. "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license as well as any additional requirements established by law or rule relating to professional preparation or experience.

[~~H. "Structured groups" means groups conducted by counselors outside the classroom to respond to students' identified interests or needs.~~

~~I. "Classroom presentations" means team teaching or assisting in teaching guidance curriculum learning activities or units by counselors in classrooms, the guidance center, or other school facilities.~~

~~J. "Advisement" means counseling with students using personal-social, education, career and labor market information to plan personal, educational and occupational goals.~~

~~K. "Assessment" means analysis and evaluation of students' abilities, interests, skills and achievement by counselors; counselors may use this test information and other data as the basis for assisting students to develop immediate and long-range plans.~~

~~L. "Placement" means assisting students in making the transition from school to school, school to work or school to additional education and training.~~

~~M. "Personal counseling" means counseling on a small-group or individual basis for students expressing difficulties dealing with relationships, personal concerns, or normal developmental tasks; this includes assisting students in identifying problems, causes, alternatives, and possible consequences to initiate appropriate action.~~

] [~~D~~]G. "Practicum" means a practical, usually simulated, application of previously studied theory, monitored by a professional in the field. The experience shall include at least the following subject matter: [~~test administration~~]student assessment and interpretation, guidance curriculum planning, individual and group counseling, individual education and occupational planning, and use of career information delivery systems.

[~~O. "Referral" means recommending/contacting referral sources, agencies, or programs to deal with crises such as suicide, violence, abuse and terminal illness.~~

~~P. "Program management" means following and understanding guidance program evaluation, data analysis, follow-up studies, and the continued development and updating of guidance learning activities and resources.~~

~~Q. "Community outreach" means becoming knowledgeable about community resources and referral agencies, field trip sites, employment opportunities, and local labor market information.~~

~~R. "Public relations" means orienting staff and the school community to the comprehensive guidance program through such means as newsletters, local media, and school-community presentations.~~

] [~~A~~]H. "[~~Provisional Certificate~~]Temporary license" means a designation that an applicant has met all requirements of Section 3A(1), below.

[~~T~~]I. "USOE" means the Utah State Office of Education.

[~~U. "State Advisory Committee on Teacher Education (SACTE)" means a committee charged with promoting and providing liaison among preparing institutions, public schools, professional organizations, and the USOE for the improvement of teacher certification and teacher education. SACTE is comprised of 30 members: six deans of universities/colleges, four superintendents, three elementary teachers, three secondary teachers, two elementary principals, two secondary principals, and ten others representing counselors, applied technology education, Utah Association of Teacher Educators, Board of Regents, Utah Education Association, USOE, School Boards Association, and a lay person.~~

]

**R277-506-2. Authority and Purpose.**

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Sections 53A-1-402(1)(a) [~~and 53A-6-103~~ ]which [~~permit~~]requires the Board to make rules regarding the qualification and certification of educators and ancillary personnel who provide direct student services, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify:

(1) the standards for obtaining [~~certificates~~]licenses issued by the Board for employment in the public schools as [~~school counselors, -~~]school psychologists, and school social workers; and

(2) the standards which shall be met by a post-secondary institution in order to receive Board approval of its program for [~~school counselors, -~~]school psychologists[~~,~~] and school social workers.

[~~**R277-506-3. School Counselor.**~~

~~A. There are three levels of certification for a K-12 school counselor.~~

~~(1) Provisional certificate--an applicant for the Level I (Provisional) Certificate shall:~~

~~(a) be formally admitted into a Board approved counselor education program;~~

~~(b) have completed all of the requirements of a Board approved counselor education program except the field experience at a Board approved institution of higher education;~~

~~(c) have completed a practicum experience which includes:~~

~~(i) individual education and career planning to include student education plan (SEP) at the elementary level and student education/occupation plan (SEOP) at the secondary level,~~

~~(ii) guidance curriculum planning,~~

~~(iii) individual and group counseling,~~

~~(iv) test administration and interpretation, and~~

~~(v) use of career information delivery systems;~~

~~(d) have been recommended for Level I Certification by an institution of higher education with a Board approved counselor education program.~~

~~(2) Basic Certificate - an applicant for the Level II (Basic) Certificate shall:~~

~~(a) have completed the requirements for a Level I Provisional Certificate identified in Section 3A(1), above;~~

~~(b) under the supervision of a school counselor with a Level III School Counselor Certificate, have completed a Board approved 600 hour field experience in a counselor education program in a school setting and demonstrated competence during field experience in the following:~~

~~(i) structured groups,~~

~~(ii) classroom presentations,~~

~~(iii) advisement,~~

~~(iv) assessment,~~

~~(v) placement and follow-up,~~

~~(vi) personal counseling,~~

~~(vii) consultation,~~

~~(viii) referral,~~

~~(ix) program management,~~

~~(x) community outreach, and~~

~~(xi) public relations;~~

~~(c) have a master's degree in school counseling or in a related field, as approved by the Board; and~~

~~(d) have been recommended for a Level II Certificate by an institution that has a program for the preparation of school counselors approved by the Board;~~

~~(3) Standard Certificate - an applicant for the Level III (Standard) Certificate shall:~~

~~(a) have completed the requirements for a Level II Basic Certificate identified in Section 3A(2), above;~~

~~(b) have completed at least two years of successful experience as a school counselor under a Basic School Counselor Certificate or its equivalent.~~

~~(c) have been recommended for the Standard Certificate by the superintendent of the employing school district.~~

~~(4) An individual with a Level I Certificate may be allowed to function as a counselor for not more than three years, after which the counselor shall move to the Level II to be allowed to continue as a school counselor;~~

~~(5) Only 400 hours of field experience are required for the Basic Certificate if the applicant has two or more years of successful teaching or counseling experience, as approved by the Board; and~~

~~(6) Field experience shall be supervised on site by qualified district employees unless the Board approves alternate supervision.~~

]**R277-506-[4]3. School Psychologist.**

A. An applicant for the [~~Basic~~]Level 1 School Psychologist [~~Certificate~~]License area of concentration shall have:

(1) completed at least an approved masters degree or equivalent certification program consisting of a minimum of 60 semester (90 quarter) hours in school psychology at an accredited institution;

(2) demonstrated competence in the following:

(a) understanding the organization, administration, and operation of schools, the major roles of personnel employed in schools, and curriculum development;

(b) directing psychological and psycho-educational assessments and intervention including all areas of exceptionality;

(c) individual and group intervention and remediation techniques, including consulting, behavioral methods, counseling, and primary prevention;

(d) understanding the ethical and professional practice and legal issues related to the work of school psychologists;

(e) social psychology, including interpersonal relations, communications and consultation with students, parents, and professional personnel;

(f) coordinating and working with community-school relations and multicultural education programs and assessment; and

(g) using and evaluating tests and measurements, developmental psychology, affective and cognitive processes, social and biological bases of behavior, personality, and psychopathology;

(3) completed a one school year internship or its equivalent with a minimum of 1200 clock hours in school psychology. At least 600 of the 1200 clock hours shall be in a school setting or a setting with an educational component; and

(4) been recommended by an institution whose program of preparation for school psychologists has been approved by the Board.

B. Current certification as a nationally certified school psychologist by the National School Psychology Certification Board shall be accepted in lieu of requirements for the [~~Basic Certificate~~]Level 1 License.

C. An applicant for the [~~Standard~~]Level 2 School Psychologist [~~Certificate~~]License area of concentration shall:

(1) satisfy requirements for the [~~basic~~]Level 1 school psychologist [~~certificate~~]License;

(2) have completed at least two years of successful experience as a school psychologist under a [~~Basic~~]Level 1 School Psychologist [~~Certificate~~]License area of concentration or its equivalent; and

(3) have been recommended by the employing school district with [~~input~~]consultation from a teacher education institution.

D. The school psychologist preparation program of an institution may be approved by the Board if it meets the standards prescribed in the Standards for State Approval of Teacher Education for school psychologists. These standards were developed by school psychologists in Utah schools and recommended to the Board by SACTE and are available from the USOE[~~, Certification Office~~].

**R277-506-[5]4. School Social Workers.**

A. An applicant for the [~~Basic~~]Level 1 School Social Worker [~~Certificate~~]License area of concentration shall have:

(1) completed a Board approved program for the preparation of school social workers including a Master of Social Work degree from an accredited institution;

(2) demonstrated competence in the following:

(a) articulating the role and function of the school social worker including relationships with other professional school and community personnel, organizations, and agencies;

(b) understanding the organization, administration, and evaluation of a school social work program;

(c) social work practice with individuals, families, and groups;

(d) developing and interpreting a social history and psycho-social assessment of the individual and the family system;

(e) analyzing family dynamics and experience in counseling and conflict management and resolution;

(f) communication and consulting skills in working with the client, the family, the school staff, and community and social agencies;

(g) understanding the teaching/learning environment;

(h) analyzing school law and child welfare issues;

(i) using social work methods to facilitate the affective domain of education and the learning process; and

(j) understanding knowledge pertaining to the cause and effects of social forces, cultural changes, stress, disability, disease, deprivation, neglect, and abuse on learning and on human behavior and development, and the effect of these forces on minorities of race, ethnicity, and class.

(3) completed an approved school social work internship in a school setting or in an agency which includes a substantial amount of experience with children and contact with schools; and

(4) been recommended by an institution whose program of preparation for social workers has been approved by the Board.

B. An applicant for the Level 2-Standard School Social Worker [~~Certificate~~]License area of concentration shall have:

(1) completed at least [~~two~~]three years of successful experience as a school social worker under a [~~Basic~~]Level 1 School Social Worker [~~Certificate~~]License area of concentration or its equivalent; and

(2) been recommended by the employing school district with [~~input~~]consultation from a teacher education institution.

C. The social worker program of an institution may be approved by the Board if it meets the standards prescribed in the Standards for State Approval of Teacher Education for school social workers, developed and available as provided in [~~Subsection~~ ]R277-506-[4]3D.

**KEY: educational program evaluations, professional competency, [~~teacher certification~~]educator licensing**
**Date of Enactment or Last Substantive Amendment: [~~December 3, 1996~~]2006**
**Notice of Continuation: September 12, 2002**
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(a); 53A-6-103; 53A-1-401(3)**

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# Education, Administration
# R277-602
## Special Needs Scholarships - Funding and Procedures

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 28736
FILED: 05/15/2006, 15:58

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for changes made by the Legislature during the 2006 Legislative General Session in H.B. 351. H.B. 351 changed the requirements for student and private school eligibility, and requires a written notification to parents of public school students with Individual Education Programs (IEPs). (DAR NOTE: H.B. 351 (2006) is found at Chapter 200, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The amendments provide for new definitions, changes within the Parent/Guardian Responsibilities section regarding required documentation that must be submitted with the application form, new payment provisions language, and removes the Retroactive Scholarship Payments section.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1a-707

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to state budget. The Legislature appropriated funding for one administrative position within the Utah State Office of Education to supervise the program.

❖ LOCAL GOVERNMENTS: A significant cost to school districts is expected for school district personnel to participate in the IEP process to determine funding for students who have not had IEPs previously. In the 2005-2006 school year, 137 students received a Carson Smith Scholarship. Of those 137 students, 80 students needed IEPs at the estimated cost of $360 per IEP for a total of $28,800. We expect the number of Carson Smith Scholarship students to double to 270 with approximately 110 new students needing IEPs at an estimated cost of $380 per IEP for a total of $41,000. School districts are expected to spend an additional $60,000 to mail required information to parents of students with IEPs.

❖ OTHER PERSONS: There are no cost or savings to other persons. Any expenses will be borne by school districts or will be covered at the Utah State Office of Education by the $100,000 appropriation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Affected persons will benefit by the expenditures of school districts.

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

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

EDUCATION
ADMINISTRATION

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

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**R277. Education, Administration.**
**R277- 602. Special Needs Scholarships - Funding and Procedures.**
**R277-602-1. Definitions.**

A. "Agreed upon procedure" for purposes of this rule means the agreed upon procedure as provided for under Section 53A-1a-705(1)(b)(i)(B).

[~~A~~]B. "Annual assessment" for purposes of this rule means a formal testing procedure carried out under prescribed and uniform conditions that measures students' academic progress, consistent with Section 53A-1a-705(1)(f).

[~~B~~]C. "Appeal" for purposes of the rule means an opportunity to discuss/contest a final administrative decision consistent with and expressly limited to the procedures of this rule.

[~~C~~]D. "Assessment team" means the individuals designated under Section 53A-1a-703(1).

[~~D~~]E. "Audit of a private school" for purposes of this rule means a financial audit provided by an independent certified public accountant, as provided under Section 53A-1a-705(1)(b).

[~~E~~]F. "Board" means the Utah State Board of Education.

[~~F~~]G. "Days" means school days unless specifically designated otherwise in this rule.

[~~G~~]H. "Disclosure to parents" for purposes of this rule means the express acknowledgments and acceptance required under Section 53A-1a-704(5) as part of parent application available through schools districts.

[~~H~~]I. "Eligible student" for purposes of this rule means:

(1) the student's parent resides in Utah;

(2) the student has a disability as designated in 53A-1a-704(2)(b); and

(3) the student is school age.

(4) Eligible student also means that the student was enrolled in a public school in the school year prior to the school year in which the student will be enrolled in a private school, has an IEP and has obtained acceptance for admission to an eligible private school; and

(5) The requirement to be enrolled in a public school in the year prior and have an IEP does not apply if:

(a) the student is enrolled or has obtained acceptance for admission to an eligible private school that [~~specializes in serving~~]has previously served students with disabilities; and

(b) an assessment team is able to readily determine with reasonable certainty that the student has a disability and would qualify for special education services if enrolled in a public school and the appropriate level of special education services which would be provided were the student enrolled in a public school.

[~~I~~]J. "Enrollment" for purposes of this rule means that the student has completed the school enrollment process, the school maintains required student enrollment information and documentation of age eligibility, the student is scheduled to receive services at the school, the student attends regularly, and has been accepted consistent with R277-419 and the student's IEP.

[~~J~~]K. "Final administrative action" for purposes of this rule means the concluding action under Section 53A-1a-701 through 53A-1a-710 and this rule.

[~~K. "Fiscal soundness of a private school" for purposes of this rule means that the school has provided to the USOE the information required under Section 53A-1a-705(1)(b) that includes:~~

~~(1) a copy of the audit completed in the school's initial year that the school accepts scholarship audit and opinion letter consistent with Section 53A-1a-705(1)(b) as defined by AICPA standards;~~

~~(2) a letter from a certified public accountant stating that the private school:~~

~~(a) is insured consistent with R277-602-1M; and~~

~~(b) has sufficient funds to maintain operations for the full school year.~~

~~L~~]L. "Individual education program (IEP)" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with Board Special Education Rules and Part B of the Individuals with Disabilities Education Act (IDEA).

[~~M. "Insured" for purposes of this rule means that the school has provided a certificate of insurance for accident and liability insurance in the amount of $1 million, $2 million aggregate, and proof of property and auto coverage. Property coverage should include coverage for employees working with funds of the school. The insurance company providing coverage to the school should have a Best rating of at least an A-, and be at least a Category VI company in size.~~

~~N. "Northwest accredited special purpose school" means a school accredited by the Northwest Association of Accredited Schools that is public, nonpublic, proprietary or nonprofit. The school has been designated by Northwest as a school that meets the special educational needs of students under unique circumstances. Generally, such schools offer a limited array of educational services and may not adhere to the state's common school compulsory attendance laws or graduation requirements.~~

~~O. "Private school that specializes in serving students with disabilities" means the school:~~

~~(1) has a student population of at least 80 percent students with identified disabilities under Section 53A-1a-704(2); or~~

~~(2) is a Northwest accredited special purpose school that serves students with disabilities; or~~

~~(3)(a) employs or contracts with special education teachers who have a Utah educator license with special education area of concentration. The teachers are responsible for the evaluation, programming, instruction, and assessment of students with disabilities; and~~

~~(b) employs or contracts with licensed related service providers who are responsible for evaluation, programming, instruction, and assessment of students with disabilities; and~~

~~(c) the special education teachers and related service providers deliver services within the caseload guidelines in the Utah State Board of Education approved Special Education Rules.~~]M. "Private school that has previously served students with disabilities" means a school that:

(1) has enrolled students within the last three years under the special needs scholarship program;

(2) has enrolled students within the last three years who have received special education services under Individual Services Plans (ISP from the school district where the school is geographically located; or

(3) can provide other evidence to the Board that is determinative of having enrolled students with disabilities within the last three years.

[~~P~~]N. "Special Needs Scholarship Appeals Committee (Appeals Committee)" means a committee comprised of:

(1) the special needs scholarship coordinator;

(2) the USOE Special Education Director; and

(3) a Board-designated special education advocate.

[~~Q~~]O. "USOE" means the Utah State Office of Education.

[~~R~~]P. "Warrant" means payment by check to a private school.

**R277-602-3. Parent/Guardian Responsibilities.**

A. If the student is enrolled in a public school or was enrolled in a public school in the year previous to the year in which the scholarship is sought, the parent/guardian shall submit an application, available from the USOE or online at www.usoe.org, to the school district or charter school within which the parent/guardian resides.

(1) The parent shall complete all required information on the application[~~.~~] and submit the following documentation with the application form:

(a) documentation that the parent/guardian is a resident of the state of Utah;

(b) documentation that the student is at least five years of age before September 2 of the year of enrollment, consistent with Section 53A-3-402(6);

(c) documentation that the student is not more than 21 years of age and has not graduated from high school consistent with Section 53A-15-301(1)(a);

(d) documentation that the student has satisfied R277-702-3A or B; and

(e) documentation that the student has official acceptance at an eligible private school, as defined under Section 53A-1a-705;

(2) The parent shall sign the acknowledgments and refusal to consent to services on the application form consistent with Section 53A-1a-704.

([~~2~~]3) Any intentional falsification, misinformation, or incomplete information provided on the application may result in the cancellation of the scholarship to the student and non-payment to the private school.

B. If the student was not enrolled in a public school in the year previous to the year in which the scholarship is sought,[~~but was enrolled in a private school that specializes in serving students with disabilities,~~] the parent/guardian shall submit an application to the school district in which the private school is geographically located (school district responsible for child find under IDEA, Sec. 612(a)(3)).[~~The parent/guardian shall provide:~~]

(1) The parent shall complete all required information on the application and submit the following documentation with application form:

(a) documentation that the parent/guardian is a resident of the state of Utah;

(b) documentation that the student is at least five years of age, before September 2 of the year of enrollment;

(c) documentation that the student is not more than 21 years of age and has not graduated from high school consistent with Section 53A-15-301(1)(a);

(d) documentation that the student has satisfied R277-602-3A or B; and

(e) documentation that the student has official acceptance at an eligible private school, as defined under Section 53A-1a-705.

(2) The parent shall sign the acknowledgments and refusal to consent to services on the application form consistent with Section 53A-1a-704.

([~~1~~]3) The parent shall provide documentation of student's enrollment in an eligible private school as defined under Section 53A-1a-705;

([~~2~~]4) [~~documentation following an~~]The parent shall participate in an assessment team[~~'s evaluation that~~] meeting to determine if a student would qualify for special education services and the level of services for which the student would be eligible if enrolled in a public school.

[~~C. Upon completion of the application, parents of students eligible under R277-602-3A or B above shall provide by July 1, or later as allowed by the Board, prior to the year in which admission is sought, the application form together with the following documentation to the student's enrollment district that received the scholarship application:~~

~~(1) documentation that the parent/guardian is a resident of the state of Utah;~~

~~(2) documentation that the student is at least five years of age, consistent with Section 53A-3-402(6);~~

~~(3) documentation that the student is not more than 21 years of age and has not graduated from high school consistent with Section 53A-15-301(1)(a);~~

~~(4) documentation that the student has satisfied R277-602-3A or B above;~~

~~(5) documentation that the student has official acceptance at an eligible private school, as defined under Section 53A-1a-705;~~

~~(6) parent signature on acknowledgments and refusal to consent to services on the application form consistent with Section 53A-1a-704;~~

~~(7) notification in writing in the second and third year to indicate continued enrollment.~~]C. Payment provisions

(1) The parent of a special needs scholarship student whose application is received on or before July 1 shall be eligible for quarterly scholarship payments equal to no more than the amount established in Section 53A-1a-706(2), with payments beginning on September 1.

(2) The parent of a special needs scholarship student whose application is received after July 1, but on or before September 1 that shall be eligible for quarterly scholarship payments equal to no more than three-fourths of the amount established in Section 53A-1a-706(2), with payments beginning on November 1.

(3) The parent of a special needs scholarship student whose application is received after September 1, but on or before November 1 shall be eligible for quarterly scholarship payments equal to no more than one-half of the amount established in Section 53A-1a-706(2), with payments beginning on February 1.

(4) The parent of a special needs scholarship student whose application is received on or before February 15 shall be eligible for quarterly scholarship payments equal to no more than one-fourth of the amount established in Section 53A-1a-706(2), with payments beginning on April 15.

D. A special needs scholarship shall be effective for three years subject to renewal under Section 53A-1a-704(6).

E. The parent shall, consistent with Section 53A-1a-706(8), endorse the warrant received by the private school from the USOE no more than 15 school days after the private school's receipt of the warrant.

F. The parent shall notify the Board in writing within five days if:

(1) the student does not continue in enrollment in an eligible private school for any reason including parent/student choice, suspension or expulsion of the student; or

(2) the student misses more than 10 consecutive days at which point the Board may modify the payment to the private school consistent with R277-419-1J.

G. The parent shall cooperate and respond within 10 days to an enrollment cross-checking request from the Board.

H. The parent shall notify the Board in writing by July 1 in the second and third year to indicate the student's continued enrollment.

**R277-602-4. School District or Charter School Responsibilities.**

A. The school district or charter school that receives the student's scholarship application consistent with Section 53A-1a-704(4) shall forward applications to the Board no more than 10 days following receipt of the application.

B. The school district or charter school that received the student's scholarship application shall:

(1) receive applications from students/parents;

(2) verify enrollment of the student seeking a scholarship in previous school year within a reasonable time following contact by the Board;

(3) verify the existence of the student's IEP and level of service to the USOE within a reasonable time;

(4) provide personnel to participate on an assessment team to determine:

(a) if a student who was previously enrolled in a private school [~~that specializes in serving students with disabilities~~]that has previously served students with disabilities would qualify for special education services if enrolled in a public school and the appropriate level of special education services which would be provided were the child enrolled in a public school for purposes of determining the scholarship amount consistent with Section 53A-1a-706(2);

(b) if a student previously receiving a special needs scholarship is entitled to receive the scholarship during the subsequent eligibility period.

C. Special needs scholarship students shall not be enrolled in public or charter schools for dual enrollment or extracurricular activities, consistent with the parents'/guardians' assumption of full responsibility for students' services under Section 53A-1a-704(5).

D. School districts [~~or~~]and charter schools shall cooperate with the Board in cross-checking special needs scholarship student enrollment information, as requested by the Board.

E. School districts and charter schools shall provide written notice to parents or guardians of students who have an IEP of the availability of a scholarship to attend a private school through the Special Needs Scholarship Program. The written notice shall consist of the following statement: School districts and charter schools are required by Utah law, 53A-1a-704(10), to inform parents of students with IEPs enrolled in public schools, of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program. Further information is available at www.schools.utah.gov/admin/specialneeds.htm.

**R277-602-5. State Board of Education Responsibilities.**

A. The Board shall provide applications[~~annually~~], containing acknowledgments required under Section 53A-1a-704(5), for parents seeking a special needs scholarship online, at the Board offices, at school district or charter school offices, and at charter schools no later than April 1 prior to the school year in which admission is sought[~~(applications for the 2005-06 school year shall be available no later than June 15)~~].

B. The Board shall provide a determination that a private school meets the eligibility requirements of Section 53A-1a-705 as soon as possible but no more than 30 days after the private school submits an application and completed documentation of eligibility. The Board may:

(1) provide reasonable timelines within the application for satisfaction of private school requirements;

(2) issue letters of warning, require the school to take corrective action within a time frame set by the Board, suspend the school from the program consistent with Section 53A-1a-708, or impose such other penalties as the Board determines appropriate under the circumstances.

(3) establish appropriate consequences or penalties for private schools that:

(a) fail to provide affidavits under Section 53A-1a-708;

(b) fail to administer assessments, fail to report assessments to parents or fail to report assessments to assessment team under Section 53a-1a-705(1)(f);

(c) fail to employ teachers with credentials required under Section 53A-1a-705(g);

(d) fail to provide to parents relevant credentials of teachers under Section 53A-1a-705(h);

(e) fail to require completed criminal background checks under Section 53A-3-410(2) and take appropriate action consistent with information received.

(4) initiate complaints and hold administrative hearings, as appropriate, and consistent with R277-602.

C. The Board shall make a list of eligible private schools updated annually and available no later than May 30 [~~(June 25 for 2005-2006 school~~]of each year.

D. Information about approved scholarships and availability and level of funding shall be provided to scholarship applicant parents/guardians no later than July 30 of each year.

E. The Board shall mail scholarships directly to private schools as soon as reasonably possible consistent with Section 53A-1a-706(8).

[~~F. For the 2005-06 school year, payments shall begin September 1 to private schools.~~

~~G~~]F. Beginning with the 2006-07 school year, the Board may begin scholarship payments to eligible private schools no earlier than July 1 but before payment dates established by Section 53A-1a-706(5)(a) if the parent/guardian negotiates a payment date with the USOE, provides reasonable advance notice to the USOE and assumes responsibility for transmission of the payment from the USOE to the private school.

[~~H~~]G. If an annual legislative appropriation is inadequate to cover all scholarship applicants and documented levels of service,

the Board shall establish by rule a lottery system for determining the scholarship recipients, with preference provided for under Section 53A-1a-706(1)(c)(i).

[~~I~~]H. The Board shall verify and cross-check with school districts or charter school special needs scholarship student enrollment information consistent with Section 53A-1a-706(7).

**R277-602-6. Responsibilities of Private Schools that Receive Special Needs Scholarships.**

A. Private schools shall submit applications [~~and~~ ]by May 1 [~~(June 15 by 2005-06 school year) and satisfy eligibility requirements within 10 days preceding the school year of eligibility to receive special needs scholarships consistent with Section 53A-1a-705~~]prior to the school year in which it intends to enroll scholarship students.

B. Applications and appropriate documentation from private schools for eligibility to receive special needs scholarship students shall be provided to the USOE consistent with Section 53A-1a-705(3).

C. Private schools shall satisfy criminal background check requirements for employees and volunteers consistent with Section 53A-3-410.

D. Private schools that seek to enroll special needs scholarship students shall, in concert with the parent seeking a special needs scholarship for a student, initiate the assessment team meetings required under Sections 53A-1a-704(3) and 53A-1a-704(6).

(1) Meetings shall be scheduled at times and locations mutually acceptable to private schools, applicant parents and participating public school personnel.

(2) Designated private school and public school personnel shall maintain documentation of the meetings and the decisions made for the students.

(3) Documentation regarding required assessment team meetings, including documentation of meetings for students denied scholarships or services and students admitted into private schools and their levels of service, shall be maintained confidentially by the private and public schools, except the information shall be provided to the USOE for purposes of [~~audit or~~]determining student scholarship eligibility, or for verification of [~~services~~]compliance upon request by the USOE.

E. Private schools receiving scholarship payments under this rule shall provide complete student records in a timely manner to other private schools or public schools requesting student records if parents have transferred students under Section 53A-1a-704(7).

F. Private schools shall notify the Board within five days if:

(1) the student does not continue in enrollment in an eligible private school for any reason including parent/student choice, suspension or expulsion of the student; or

(2) the student misses more than 10 consecutive days of school.

G. Private schools shall satisfy health and safety laws and codes under Section 53A-1a-705(1)(d) including:

(1) the adoption of emergency preparedness response plans that include training for school personnel and parent notification for fire drills, natural disasters, and school safety emergencies and

(2) compliance with R392-200, Design, Construction, Operation, Sanitation, and Safety of Schools.

[~~**R277-602-7. Retroactive Scholarship Payments.**~~

~~A. Retroactive scholarship payments shall be made to parents consistent with eligibility criteria for private schools, private schools specializing in serving students with disabilities, eligible students as outlined in R277-602 for the 2004-2005 school year as provided under Section 53A-1a-706(9)(a).~~

~~B. Retroactive scholarship payments shall be made to parents submitting required documentation no later than September 1, 2005.~~

]**R277-602-[~~8~~]7. Special Needs Scholarship Appeals.**

A. A parent or legal guardian of an eligible student or a parent or legal guardian of a prospective eligible student may appeal any final administrative decision under this rule.

B. The Appeals Committee may not grant an appeal contrary to the statutory provisions of Section 53A-1a-701 through 53A-1a-710.

C. An appeal shall be submitted in writing to the USOE Special Needs Scholarship Coordinator at: Utah State Office of Education, 250 East 500 South, P.O. Box 144200, Salt Lake City, UT 84114-4200.

(1) The appeal opportunity is expressly limited to a written appeal.

(2) Appellants have no right to additional elements of due process beyond the specific provisions of this rule.

(3) Nothing in the appeals process established under R277-602-8 shall be construed to limit, replace or adversely affect parental appeal rights available under IDEA.

D. Appeals shall be made within 15 days of written notification of the final administrative decision.

E. Appeals shall be considered by the Appeals Committee within 15 days of receipt of the written appeal.

F. The decision of the Appeals Committee shall be transmitted to parents no more than ten days following consideration by the Appeals Committee.

G. Appeals shall be finalized as expeditiously as possible in the joint interest of schools and students involved.

H. The Appeals Committee's decision is the final administrative action.

**KEY: special needs students, scholarships**
**Date of Enactment or Last Substantive Amendment: [~~February 15,~~ ]2006**
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1a-706(5)(b); 53A-3-410(6)(i)(c); 53A-1a-707; 53A-1-401(3)**

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# Education, Administration
# R277-603
## Basic Skills Education Program

**NOTICE OF PROPOSED RULE**
(New Rule)
DAR FILE NO.: 28735
FILED: 05/15/2006, 15:58

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new rule is created as a result of H.B. 181 from the 2006 Legislative General Session. The rule provides for remedial instruction to students who have failed the Utah Basic Skills

Competency Test (UBSCT) in the two lowest ranges after the spring of their junior year. The rule also establishes requirements for Basic Skills Education providers and students/parents, as well as procedures for program administration. (DAR NOTE: H.B. 181 (2006) is found at Chapter 299, Laws of Utah 2006, and will be effective 07/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The new rule provides definitions, State Board of Education responsibilities, school districts and charter school responsibilities, accredited public and private providers and other provider responsibilities, parent and student responsibilities, and miscellaneous provisions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1-612

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. The Legislature appropriated funding for the Basic Skills Education Program (BSEP) and the Program will be administered by existing staff.

❖ LOCAL GOVERNMENTS: Any anticipated cost or savings to school districts may be recouped by school districts if students who received remediation subsequently passed the UBSCT. The Legislature appropriated funding for the vouchers that school districts may earn if they successfully remediate students. School districts will not be compensated for remediation if students do not pass the UBSCT. School district remediation programs may be so varied that costs to remediate students for whom school districts will not be compensated are far too speculative to estimate at this time.

❖ OTHER PERSONS: Anticipated cost or savings to private education provider are speculative at this time. They may provide remediation for students and be compensated if students subsequently pass the UBSCT but we have no estimates of what kind of programs may be provided or the number of students who may participate or the cost of the remediation programs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no requirement under the law or this rule for school districts or private education providers to offer remediation.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

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**R277. Education, Administration.**
**R277-603. Basic Skills Education Program.**
**R277-603-1. Definitions.**

A. "Accredited public or private educational institution" means an institution accredited by the Northwest Association of Accredited Schools or a regional accrediting association as a high school, a K-12 school, a special purpose school, a supplementary education school, or a distance education school.

B. "Basic Skills Education Program (BSEP)" means a program created to provide students who have not passed the UBSCT supplemental instruction in the skills and knowledge necessary to pass the test.

C. "Board" means the Utah State Board of Education.

D. "Charter schools" means schools acknowledged as charter schools by local boards of education under Section 53A-1a-515 and this rule or by the Board under Section 53A-1a-505.

E. "Disclosure to parents" means the express acknowledgments and acceptance required for parents or legal guardians under Sections 53A-1-612(10)(b)(ii) and 53A-1-612(12)(c) and this rule.

F. "Distance basic skills education provider" means a Utah-based on-line or correspondence program provided by a public school/school district, the USOE, or an institution of higher education that satisfies the requirements of R277-603-1H.

G. "Enrolled full time" means the student is registered and attending the number of courses a school or school district requires for full-time enrollment for funding purposes. Notwithstanding school district/school policies, a student shall be enrolled in a minimum of five courses for credit to be enrolled full time.

H. "Other basic skills provider" means an education program that:

(1) has a current business license;

(2) meets the requirements of Section 53A-3-410 regarding criminal background checks; and

(3) agrees not to discriminate against stipend recipients on the basis of race, color, national origin, gender, economic status, language proficiency or disability;

(4) submits evidence of expertise and capacity to provide basic skills education which may include most employees providing education services have educator licenses, employees have more than three years of teaching experience in public or private schools, evidence of specific skills or training, accreditation by Northwest or a regional accrediting association, and evidence of curriculum materials aligned to the Core and the UBSCT; and

(5) agrees, if the basic skills provider is an individual employed by a school district or charter school, to abide by all rules pertaining to conflict of interest of educators working in their own fields, consistent with Section 53A-1-402.5 and R277-107, Educational Services Outside of Educator's Regular Employment.

I. "Passing UBSCT results" means a scaled score that is in the sufficient or substantial range that is obtained by a stipend recipient student in either October or February administration of the UBSCT of the student's senior year.

J. "Qualified basic skills education provider" means a school district, a charter school, an accredited public or private educational program, or other entity that has met the following criteria:

(1) The program has a physical location in Utah where students and stipend recipients attend classes and have direct contact with the program's teachers;

(2) the program has applied for eligibility to and been approved by the USOE to enroll BSEP stipend recipients;

(3) the program has provided an affidavit to the USOE affirming its willingness and intention to comply with the requirements and rules of the BSEP; and

(4) satisfies all other requirements of the law and this rule.

K. "Qualifying UBSCT result" means a scaled score that falls into one of the following ranges:

(1) below the midpoint of the partial mastery range but above the minimal mastery range;

(2) below the partial mastery range but above or at the midpoint of the minimal master range; or

(3) below the midpoint of the minimal mastery range.

L. "School district" means a Utah public school district.

M. "Spring of the junior year" means the point in time when the student's class has had three attempts to pass the UBSCT, and the results have been reported to those students who attempted the UBSCT on the third administration.

N. "Stipend" means the amount that a student's parent/guardian may receive to be applied to charges for basic skills education from a qualified provider. A stipend has no value unless assigned to a basic skills education provider, and is only collectible upon the submission of a claim for payment pursuant to the provisions of Section 53A-1-612, and R277-603-4 and 5.

O. "Stipend recipient" means a student who:

(1) meets the qualifications of Section 53A-1-612(4); and

(2) has participated in a minimum of two UBSCT attempts or as many attempts as possible while enrolled in a Utah public school.

O. "Utah Basic Skills Competency Test (UBSCT)" means a test to be administered to Utah students beginning in the tenth grade to include components in English, language arts, reading and mathematics. Utah students shall satisfy the requirements of the UBSCT in addition to state and district graduation requirements prior to receiving a high school diploma indicating a passing score on all UBSCT subtests.

P. "Voucher" means a copy of a students UBSCT results and a statement signed by the student's parent/legal guardian assigning the student's stipend to a BSEP provider. The statement to accompany UBSCT results that assigns the stipend to a BSEP provider shall be provided by the Board and shall contain the following information:

(1) student name;

(2) student birthdate;

(3) parent/guardian name, address, phone number, and other contact information;

(4) student social security number or student identification;

(5) UBSCT results for each failed UBSCT attempt;

(6) required parent and student acknowledgments under Section 53A-1-612 and this rule; and

(7) parent and student signatures.

**R277-603-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board, Section 53A-1-612 which requires the Board to make rules to initiate, manage and monitor the BSEP, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide necessary standards and procedures for the Basic Skills Education Program as directed by the Legislature to assist students in passing the Utah Basic Skills Competency Test.

**R277-603-3. State Board of Education Responsibilities.**

A. The Board shall provide school districts and charter schools with a copy of this rule, required forms, templates, and model procedures.

B. The Board shall provide applications annually to Basic Skills Education providers no later than May 1 prior to the year in which eligibility to serve BSEP stipend recipients is sought (June 1 for the 2006-2007 school year).

C. The Board shall provide a determination that an applicant meets the requirements of R277-603 and Section 53A-1-612(1)(b) to be a BSEP provider as soon as possible but no more than 30 days after the applicant submits the required application and materials. The Board may:

(1) provide reasonable timelines for satisfaction of eligibility requirements;

(2) issue letters of warning, require a provider to take corrective action within a time frame set by the Board, suspend a provider from BSEP participation or eligibility, or impose such other penalties as the Board determines appropriate under the circumstances;

(3) make available acknowledgment forms required under Section 53A-1-612(12)(c);

(4) establish appropriate consequences or penalties for providers that:

(a) fail to provide services to eligible students;

(b) fails to act in accordance with provisions of the law and this rule.

D. The Board shall make a list of qualified providers updated annually and available no later than May 30 of each year (June 30 for the 2006-2007 school year).

E. The Board shall honor only requests for payments made with all necessary documentation received consistent with R277-603-4E.

F. The Board shall mail stipend payments directly to qualified providers upon their timely submission to the Board of payment request that complete the requirements of Section 53A-1-612(9) and R277-603-?).

G. If an annual appropriation is inadequate to cover all stipend payments submitted from qualified providers, the Board shall pay stipends on a first submitted/first paid basis or on a proportional basis as circumstances dictate.

H. The Board may verify student UBSCT results and other program information as necessary or warranted with reasonable notice to assure compliance by a stipend recipient/BSEP provider with the provisions of Section 53A-1-602 and this rule.

**R277-603-4. School Districts and Charter School Responsibilities.**

A. School districts and charter schools shall provide students who have qualifying UBSCT results after the spring of their junior year with voucher applications for BSEP stipends.

B. School districts and charter schools that intend to be qualified providers shall notify the Board of their intention and provide the Board with the following information:

(1) a brief description of the BSEP that shall be available to stipend recipients.

(2) a description of amounts, if any, that stipend recipients will be charged in addition to the amount paid by the Board.

(3) a statement of additional charges will be accompanied by an explanation to parents/students or the district's policies consistent with Section 53A-13-104.

(4) a statement that all those who provide BSEP instruction shall be employees of the school district or charter school.

C. School districts and charter schools may not make any charge or refund of a charge contingent upon a student's passing or failing a test. Charges relative to the BSEP are subject to the provisions of Section 53A-12-103(1)(b), and it is presumed that the student will be responsible for any fees associated with a remediation program with exceptions provided for in Section 53A-13-104.

D. School districts and charter schools shall submit request for payment of vouchers in the amount of the stipend, if, on a subsequent administration of the UBSCT, the stipend recipient passes the subtest corresponding to the basic skills education provided by the school district or charter school.

E. Request for payment shall be submitted after the October administration for students who have passed the UBSCT by no later than January 15, and after the February administration for students who have passed no later than April 15.

F. Requests for payments shall only be made for students who were stipend recipients and who received basic skills education from the school district or charter school.

G. School districts and charter schools shall provide to the Board a list of all school district or charter school students who are qualified for stipends.

H. School districts/charter schools shall provide to the Board a list of those students who have assigned their stipends to the school district in such form/format as the Board may determine.

**R277-603-5. Accredited Public and Private Providers and Other Provider Responsibilities.**

A. Accredited public and private providers and other providers that intend to participate in the BSEP shall notify the Board of their intention and provide the following information/materials to the Board to be used to determine eligibility:

(1) a brief description of the BSEP services that will be provided to stipend recipients by the provider;

(2) a description of amounts (if any) that stipend recipients shall be charged in addition to amounts paid by the Board;

(3) a statement that private providers shall not make any charge or refund contingent on a student passing or failing a test; and

(4) a statement that all employees of a BSEP who will be providing remediation services to public school students have had criminal background checks and results have been reviewed and approved by the applicant BSEP.

B. Upon a stipend recipient's presentation to the provider of a voucher, the provider shall notify the Board within 10 days of the commencement of service of its possession of the voucher. This notification shall be submitted to the Board in such form/format as the Board may determine.

C. Accredited public and private providers and other providers shall submit request for payment of vouchers in the amount of the stipend, if, on a subsequent administration of the UBSCT, the stipend recipient passes the subtest corresponding to the basic skills education provided by the school district or charter school.

D. Request for payment shall be submitted after the October administration for students who have passed the UBSCT, by no later than January 15, and after the February administration for students who have passed, no later than April 15.

E. Requests for payments shall only be made for students who were stipend recipients and who received basic skills education from accredited public and private providers and other providers.

**R277-603-6. Parent and Student Responsibilities.**

A. Students with UBSCT results in the ranges in Section 53A-1-612(5) shall qualify for stipends upon a parent/guardian signing a statement assigning the BSEP stipend to a qualified BSEP provider and giving the provider a copy of the student's UBSCT results for every UBSCT attempt made by the student. The statement and UBSCT results constitute a BSEP voucher.

B. A parent may not give a voucher to more than one BSEP provider. Violation of this part may result in invalidation of the voucher and disqualification from further BSEP participation.

C. Parents are entirely responsible for the choice of a BSEP provider from among those listed as qualified by the Board.

D. Parents are responsible for payment of any amounts providers may charge stipend recipients in addition to that paid by the Board.

E. Stipend recipients shall attempt the UBSCT at every available administration after presentation of a voucher to a BSEP provider.

**R277-603-7. Miscellaneous Provisions.**

Educators who are employed by Utah public and charter schools may qualify as BSEP providers consistent with Section 53A-1-402.5 and R277-107.

**KEY: basic skills competency, stipends**
**Date of Enactment or Last Substantive Amendment: 2006**
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-612(12); 53A-1-401(3)**

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# Health, Health Care Financing, Coverage and Reimbursement Policy

# R414-11

## Podiatry Services

**NOTICE OF PROPOSED RULE**
(Repeal and Reenact)
DAR FILE NO.: 28734
FILED: 05/15/2006, 15:20

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is necessary to clarify podiatry services policy and to implement it in rule pursuant to Subsection 26-18-3(2)(a).

SUMMARY OF THE RULE OR CHANGE: In the reenacted version of Rule R414-11, there is more detail regarding covered services than found in the repealed rule. The new rule also places limitations on services not found in the repealed rule, and includes all limited services under one section. In addition, the repealed rule specifies podiatry services in nursing homes, while the new rule states general service coverage in nursing homes and specifies service limitations. At the state's option, several limited services in the old rule are now listed as noncovered services in the new rule. References to medical necessity and utilization control found in the old rule no longer exist in the new rule. Further, prior authorization criteria found in the old rule does not exist in the new rule because the criteria is already referenced in Rule R414-1. The old rule specifies reimbursement procedure codes while the new rule specifies reimbursement criteria and methodology for podiatry services. Finally, the new rule is updated to reflect the copayment policy for a non-exempt Medicaid client, which is $3 for each podiatry visit.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3, and 42 CFR 440.60

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is an annual savings of $1,156 to the state general fund and $2,844 of federal funds as a result of this rulemaking.

❖ LOCAL GOVERNMENTS: There is no budget impact to local governments as a result of this rulemaking because there is no funding from local governments for podiatry services.

❖ OTHER PERSONS: There is an aggregate cost of $4,000 to other persons resulting from the increase in copayment from $2 to $3 for recipients.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is a $5 compliance cost per recipient based on the estimate of 5 visits per year by a single client. In addition, there are compliance costs to podiatrists who are unable or choose not to collect payments from recipients; however the amount is variable for each provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no significant fiscal impact on regulated businesses as a result of this rule. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Craig Devashrayee or Don Hawley at the above address, by phone at 801-538-6641 or 801-538-6483, by FAX at 801-538-6099 or 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov or dhawley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**
**R414-11. Podiatry Services.**
**[~~R414-11-0. Policy Statement.~~**

~~A. Podiatry services are available to eligible Medicaid recipients, and may be performed by a physician, osteopath or podiatrist as specified by the respective professional license.~~

~~B. Podiatric services include the examination, diagnosis and treatment of the human foot through medical, mechanical or surgical means. Podiatric service may be provided to Medicaid recipients when the recipient has a foot problem that causes:~~

~~1. difficulty walking or inability to walk;~~

~~2. painful or distressing impairment which limits independent function; or~~

~~3. crippling.~~

~~C. Reasonable and necessary diagnosis and treatment of symptomatic conditions such as osteoarthritis, bursitis (including bunion), tendinitis,"and other related conditions, "that result from, or are associated with, partial displacement of foot structures are covered services.~~

~~D. Surgical correction in the subluxated foot structure that is an integral part of the treatment of a foot injury is a benefit of the Medicaid program. Surgical correction undertaken to improve the function of the foot or to alleviate an associated symptomatic condition is also a covered service.~~

**~~R414-11-1. Authority and Purpose.~~**

~~A. Authority. Medicaid podiatry services are authorized under the provisions of 42 CFR 440.225 and 42 CFR 440.60. The Medicaid program is designed to provide services within financial limitations.~~

~~B. Purpose. The purpose of the program is to increase the functioning ability of the Medicaid patient.~~

**~~R414-11-2. Definitions.~~**

~~A. The "practice of podiatry" means the examination, diagnosis, or treatment medically, mechanically or surgically of the ailments of the human foot.~~

~~B. The medical term "subluxation" means a partial or complete dislocation.~~

~~C. The medical term "pes planus" means flatfoot.~~

~~D. "Retroactive eligibility" means that if payment for past medical expenses is requested, and eligibility exists, retroactive medical assistance may be approved.~~

**R414-11-3. Eligibility Requirements/Coverage.**

A. Podiatry services are available to children age 20 and younger and to pregnant adults. A more limited scope of services is available to adults age 21 and older as described in the Utah Medicaid Provider Manual.

B. Retroactive eligibility (See R414-11-8(D) below).

**R414-11-4. Program Access Requirements.**

The podiatry services are available to children age 20 and younger and pregnant adults. A more limited scope of services is available to adults age 21 and older as described in the Utah Medicaid Provider Manual.

**R414-11-5. Service Coverage.**

A. Procedures determined to be appropriate for the podiatry program are identified by CPT-4 codes found in the Health Common Procedure Coding System (HCPCS). These procedures include:

1. foot incision;

2. foot excision;

3. repair, revision or reconstruction;

4. surgery;

5. nail treatment;

6. laboratory procedures; and

7. radiology.

B. Laboratory procedures necessary for diagnosis and treatment of the patient may be performed by the podiatrist in the office when appropriate equipment is available. Laboratory services provided by an independent laboratory or hospital outpatient laboratory, on the order of a podiatrist, must be billed directly by the laboratory.

C. Treatment of a fungal (mycotic) infection of the toenail is a Medicaid benefit in the following circumstances:

1. There is clinical evidence of mycosis demonstrated by;

a. inflammation;

b. infection;

c. Erythema (redness of the skin due to congestion of capillaries); or

d. there is marked limitation of ambulation.

D. Nursing Home Care:

Medicaid recipients who reside in a nursing home may receive benefits from the podiatry program. Some of the benefits include:

1. excision of nail or nail matrix;

2. removal of partial or complete ingrown or deformed nails;

3. surgical procedures;

4. radiology procedures;

5. laboratory procedures;

6. the cutting or removal of corns, warts, callouses or nails of patients who are at risk due to complications from certain diseases such as diabetes, arteriosclerosis, or Buerger's Disease;

7. reasonable and necessary diagnosis and treatment of symptomatic conditions such as osteoarthritis, bursitis (including bunion), tendinitis, which result from or are associated with partial displacement of foot structures; or

8. surgical correction in the subluxated foot structure which is an integral part of the treatment of a foot injury, or if it is undertaken to improve the function of the foot or to alleviate an associated symptomatic condition.

E. Medical Supplies

1. Shoes are a Medicaid benefit only when:

a. attached to a brace or prosthesis; or

b. especially constructed to provide for a totally or partially missing foot.

2. Supplies and materials used by the podiatrist over and above those usually included for the surgery procedure may be billed separately. The materials provided must be listed.

3. Supplies for surgery performed in the office rather than a surgical center or outpatient hospital are a benefit of this service.

**R414-11-6. Standards of Care.**

A. The services must be considered under accepted standards of medical practice to be a specific and effective treatment for the recipient's condition.

B. The services must be:

1. of a level of complexity and sophistication, or the condition of the recipient must be such that services required can be safely and effectively performed only by a qualified podiatrist. To constitute podiatry, a service must, among other things, be reasonable and necessary to the treatment of the patient's illness. If the patient's expected health benefit would be insignificant in relation to the extent and duration of the patient's podiatry service, it would not be considered reasonable and necessary.

2. reasonable with regard to the amount, frequency and duration of services.

**R414-11-7. Limitations.**

A. General Limitation

1. Limitations which apply to the physicians program will also apply to the services provided by a podiatrist. If prior approval is required for a procedure performed by a physician, although it relates to the foot or foot structure, it requires prior authorization in the podiatry program.

2. Podiatric services are limited to examination, diagnosis, and treatment described in service coverage R414-11-5 above.

3. A person licensed to practice podiatry may not administer general anesthesia, and may not amputate the foot.

4. Palliative care must include the specific service and must be billed by the specific service and not by using an office call procedure code.

B. Specific Limitations

1. Routine Foot Care

a. The preventive maintenance care of the type ordinarily within the realm of self care or nursing home care considered to be routine, is not covered as a podiatry service. This includes:

(1) the cutting or removal of corns, warts or callouses, unless a danger to the patient exists (for example: diabetes, arteriosclerosis or Buerger's disease);

(2) the trimming of nails (including mycotic nails), except as specifically identified in R414-11-5, Service Coverage above;

(3) the cleaning and soaking of the feet;

(4) the use of massage or skin creams;

(5) any services performed in the absence of localized illness or injury;

(6) any application of topical medication or

(7) any treatment of fungal (mycotic) infection of the toenail, except as specifically documented.

2. Nursing Home Foot Care

a. Nursing home patient foot care is limited to one visit every two months. Services in excess of this standard require prior authorization and must be documented in sufficient detail to reasonably justify the necessity of the service.

~~b. Foot care which may be performed for a nursing home recipient by a nursing home employee is not a Medicaid benefit.~~

~~c. The debridement of mycotic toenails is limited to once every 60 days. Exceptions will be authorized if medical necessity is documented by the patient's physician and attached to the request for prior authorization.~~

~~3. Subluxation or Pes Planus:~~

~~Further services excluded from coverage are defined as:~~

~~1. The treatment, including evaluation, of subluxations of the feet. These are structural misalignments, or partial dislocation (other than fractures or complete dislocations) of the joints of the feet which require treatment only by nonsurgical methods regardless of underlying pathology.~~

~~2. The treatment, including evaluations and the prescriptions of supporting devices, of the local condition of flattened arches (pes planus) regardless of the underlying pathology.~~

~~C. Prosthetic Devices/Shoes/Orthotics~~

~~1. A "prosthetic device" means a replacement, corrective or supportive device prescribed by a physician or other licensed practitioner of the healing arts within the scope of his practice as defined by State law to:~~

~~a. artificially replace a missing portion of the body;~~

~~b. prevent or correct physical deformity or malfunctions (including promotion of adaptive functioning); or~~

~~c. support a weak or deformed portion of the body.~~

~~2. Orthotics, metatarsal head appliances, arch supports, are not benefits of Medicaid although they may generally fit the description of a prosthetic device.~~

~~D. Additional Limitations~~

~~The following services are excluded from coverage as a Medicaid benefit:~~

~~1. shoes, orthopedic shoes or other supportive devices for the feet, except when shoes are integral parts of leg braces or a prosthesis.~~

~~2. special shoes such as:~~

~~a. mismatched shoes (unless attached to a brace);~~

~~b. shoes to support an overweight individual;~~

~~c. trade name or brand name shoes considered "orthopedic" or "corrective";~~

~~d. "athletic" or "walking" shoes;~~

~~3. shoe repair except as it relates to external modification of an existing shoe to meet a medical need, i.e., leg length discrepancy requiring a shoe build up of one inch or more;~~

~~4. internal modifications of a shoe;~~

~~5. arch supports, foot pads, metatarsal head appliances or foot supports;~~

~~6. personal comfort items and services. Comfort items include, but are not limited to arch supports, foot pads, "cookies" or other accessories, shoes for comfort or athletic shoes;~~

~~7. manufacture, dispensing or services related to orthotics of the feet;~~

~~8. devices which do not artificially replace a missing portion of the body;~~

~~9. devices which do not prevent or correct physical deformity or malfunction;~~

~~10. devices which do not support a weak or deformed portion of the body;~~

~~11. office calls, house calls, nursing home calls, billed in addition to a service. Post payment claims review will be performed.~~

~~12. Services to adults age 21 and older are more limited as described in the Utah Medicaid Provider Manual.~~

**~~R414-11-8. Prior Authorization.~~**

~~A. "Prior authorization" means that degree of agency approval for payment of services required to be obtained by a provider. Such approval must be obtained precedent to service being provided. Services requiring prior authorization performed in life threatening or justifiable emergency situations are an exception. Approval of emergency service can be obtained after the fact with appropriate documentation.~~

~~1. Unlisted Services~~

~~a. All procedure codes which end in 99 and some which end in 49 have the nomenclature "unlisted service or procedure." These procedures require a prior authorization. They also require a "Special Report."~~

~~b. A special report is required because the procedure is rarely provided, unusual, variable or new. The special report must include:~~

~~(1) medical appropriateness;~~

~~(2) information covering need for the procedure;~~

~~(3) time, effort, equipment necessary;~~

~~(4) complexity of symptoms;~~

~~(5) final diagnosis;~~

~~(6) pertinent physical findings;~~

~~(7) diagnostic and therapeutic procedures previously completed or expected;~~

~~(8) concurrent problems;~~

~~(9) follow-up care.~~

~~2. Service to Nursing Home Patients:~~

~~a. Prior authorization is not necessary for the following procedures in behalf of a nursing home patient:~~

~~(1) excision of nail and/or nail matrix;~~

~~(2) excision of ingrown or deformed nail for permanent removal.~~

~~b. Surgical procedures in behalf of Medicaid recipients who reside in a nursing home will be subject to post payment review and recovery if not appropriate.~~

~~c. Prior authorization is required for the debridement of mycotic toenails in excess of once every 60 days.~~

~~d. Prior authorization is required if trimming corns, warts, callouses or nails is performed for any patient with diabetes, arteriosclerosis, or Buerger's Disease, more frequently than every 60 days.~~

~~B. Criteria for Approval of Requests~~

~~Prior approval for treatment or surgery that requires prior authorization will be reviewed and approved or denied based on the following criteria:~~

~~1. Services are for treatment of medical disorders or disabilities.~~

~~2. Services are provided for those disorders that are incapacitating for the patient and are reasonable and necessary for treatment of specific medical disorders or disabilities. Removing bunions for a bedfast patient would be disallowed;~~

~~3. Services are provided with the expectation that the condition under treatment will improve in a reasonable and generally predictable time.~~

~~4. Services are professionally appropriate under the standard in the field, utilizing professionally appropriate methods and materials in a professionally appropriate environment.~~

~~5. Services that are requested are justified with sufficient information for approval.~~

~~C. Request for Prior Authorization Form:~~

~~This form must include the following information:~~

~~1. the diagnosis and the severity of the condition;~~

~~2. the prognosis;~~

~~3. the expected independence of the recipient or benefit of the procedures;~~

~~4. the procedure code(s);~~

~~5. the patient x-rays (if applicable);~~

~~6. adequate clinical assessment of patient needs.~~

~~All requests for prior approval must be made before the surgery or service is performed, except for recipients made retroactively eligible for Medicaid.~~

~~D. Retroactive Eligibility~~

~~When a patient is made retroactively eligible for Medicaid and services have already been rendered which require prior approval, the following procedures must be followed:~~

~~1. The recipient must present a Medicaid Identification Card (ID Card), or an Interim Verification of Eligibility Form (695) which verifies the eligibility status of the recipient and the inclusive dates of eligibility.~~

~~2. The Request for Prior Approval Form must be completed.~~

~~3. The retroactive eligibility status of the recipient and appropriate documentation of the medical need for the procedure must be stated on the Request for Prior Approval Form.~~

~~4. The date of surgery or service must be within the dates of eligibility.~~

~~E. Out-of State~~

~~1. Any Medicaid request for out-of-state medical services or travel other than those listed below, must have prior authorization from the Division of Health Care Financing. There are four areas in which a Medicaid recipient may live (adjacent to the state line) and may go to another state, as stipulated, for medical services.~~

~~2. The following border towns have been identified by the Department of Social Services, Office of Assistance Payments, and entered into the Medicaid Provider File:~~

~~a. Rich County residents may go to Evanston, Wyoming; Riverton, Wyoming; Preston, Idaho; Paris, Idaho or Montpelier, Idaho.~~

~~b. San Juan County residents may go to Cortez, Del Norte, Dolores, Durango, Grand Junction and Montrose, Colorado; or to Shiprock or Farmington, New Mexico.~~

~~c. Residents of the Snake Valley area in Millard County, (Garrison, Gandy, Burbank and Eskdale), may go to Ely, Nevada and East Ely, Nevada.~~

**~~R414-11-9. Reimbursement for Podiatry Service.~~**

~~A. Introduction~~

~~There are numerous procedure codes listed in the Podiatrist Provider Manual for Medicaid services. Only the listed procedure codes are reimbursable by the Medicaid Medical Information System (MMIS).~~

~~B. Office Calls~~

~~Office calls are not designated by the time involved but by the service provided. The CPT identifies the elements and services included in each level of office call or house call. Utilizing these designations, the appropriate codes are identified in the podiatry index.~~

~~C. Nursing Home Patients~~

~~All surgical procedures provided for a nursing home recipient must be medically necessary and appropriate, and may be subject to post payment review.~~

~~D. Injection Procedures~~

~~Procedure codes with the J prefix are for injections. The J codes specifically identified for podiatric use are in the Podiatry Provider Manual.~~

~~E. Laboratory Procedures~~

~~Only those laboratory procedures for which the podiatrist or physician has the appropriate office equipment may be billed to Medicaid. Reimbursable laboratory procedure codes are listed in the Podiatry Provider Manual.~~

**~~R414-11-10. Co-payment Policy.~~**

~~This section establishes co-payment policy for podiatrist services for Medicaid clients who are not in any of the federal categories exempted from co-payment requirements. The rule is authorized by 42 CFR 447.15 and 447.50, Oct. 1, 2001 ed., which are adopted and incorporated by reference.~~

~~(1) The Department shall impose a co-payment in the amount of $2 for each podiatrist visit when a non-exempt Medicaid client, as designated on his Medicaid card, receives that podiatrist service. The Department shall limit the out-of-pocket expense of the Medicaid client to $100 annually. (Co-payments for pharmacy services will continue to be limited to $5 per month.)~~

~~(2) The Department shall deduct $2 from the reimbursement paid to the provider for each podiatrist visit, limited to one per day.~~

~~(3) The provider should collect the co-payment amount from the Medicaid client for each podiatrist visit, limited to one per day.~~

~~(4) Medicaid clients in the following categories are exempt from co-payment requirements:~~

~~(a) children;~~

~~(b) pregnant women;~~

~~(c) institutionalized individuals;~~

~~(d) individuals whose total gross income, before exclusions or deductions, is below the Temporary Assistance to Needy Families (TANF) standard payment allowance. These individuals must indicate their income status to their eligibility case worker on a monthly basis to maintain their exemption from the co-pay requirements.~~]

**R414-11-1. Introduction and Authority.**

Podiatry services are authorized by 42 CFR 440.60 and include the examination, diagnosis, or treatment of the foot. Podiatry services are optional and provided in accordance with 42 CFR 440.225.

**R414-11-2. Definitions.**

In this rule, "Subluxation" means a structural misalignment or partial dislocation of a joint or joints in the feet.

**R414-11-3. Client Eligibility Requirements.**

Podiatry services are available to categorically and medically needy individuals.

**R414-11-4. Service Coverage.**

(1) The Department covers the following podiatry services:

(a) foot incision and drainage of simple abcess;

(b) foot skin debridement;

(c) cutting benign or premalignant lesions;
(d) treatment of nail plate;
(e) injections for ganglion cysts;
(f) foot bone excisions;
(g) walking cast, Unna boots;
(h) radiologic exam of ankle or foot; and
(i) office visits.
(2) The Department covers the following podiatry-related medical supplies and equipment:
(a) shoes attached to a brace or prosthesis;
(b) shoes specially constructed to provide for a totally or partially missing foot; and
(c) additional supplies not regularly used for office surgery procedures.
(3) Shoe repair is covered if it relates to external modification of an existing shoe to accommodate a leg length discrepancy requiring a shoe build up of one inch or more.

**R414-11-5. Limitations.**
(1) Service limitations that apply to physicians also apply to podiatrists.
(2) Treatment of a fungal (mycotic) infection of the toenail is limited to recipients with documented clinical evidence of mycosis that shows inflammation, infection, erythema, or marked limitation of ambulation.
(3) Podiatry services in long-term care facilities are covered with the following limitations:
(a) podiatry visits are limited to once every 60 days;
(b) debridement of mycotic toenails is limited to once every 60 days;
(c) trimming corns, warts, callouses, or nails is limited to once every 60 days;
(d) podiatry visits that include only evaluation and management are not covered;
(4) Medicaid does not cover the administration of general anesthesia and foot amputations by podiatrists.
(5) The removal of corns, warts, or callouses is limited to patients endangered by diabetes, arteriosclerosis or Buerger's disease.

**R414-11-6. Non-Covered Services.**
(1) The following preventive or routine foot care services are not covered:
(a) the trimming, cutting, clipping, or debridement of nails outside of long-term care facilities;
(b) hygienic and preventive maintenance care, such as cleaning and soaking of the feet, the use of massage or skin creams to maintain skin tone of either ambulatory or bedfast patients, and any other service performed in the absence of localized illness or injury;
(c) any application of topical medication;
(2) Supportive devices that include arch supports, foot pads, foot supports, orthotic devices, or metatarsal head appliances are not covered.
(3) The following subluxation services are not covered:
(a) surgical correction of a subluxated foot structure, or surgical procedures performed to improve foot function and alleviate symptomatic conditions;
(b) treatment that includes evaluations and prescriptions of supporting devices, and the local condition of flattened arches regardless of the underlying pathology.
(4) Internal modification of a shoe is not covered.
(5) Shoes or other supportive devices for the feet that are not an integral part of a leg brace or prosthesis are not covered.
(6) Special shoes are not covered. These include:
(a) mismatched shoes (unless attached to a brace);
(b) shoes to support an overweight individual;
(c) "orthopedic" or "corrective" trade name or brand name shoes; and
(d) "athletic" or "walking" shoes.
(7) Personal comfort items such as "cookies" or other comfort accessories are not covered.

**R414-11-7. Reimbursement for Podiatry Services.**
(1) Reimbursement for services is limited to one podiatry office visit per day.
(2) A podiatrist may bill for laboratory procedures necessary for diagnosis and treatment of the patient if equipment necessary for the laboratory procedure is available in the podiatrist's office. Laboratory services requested by a podiatrist but provided by an independent laboratory or hospital outpatient laboratory must be billed directly by the laboratory.
(3) Palliative care is included in the specific service and must be billed by that service only, not through the use of an office call procedure code.
(4) Payments are based on the established fee schedule unless a lower amount is billed. The amount billed cannot exceed usual and customary charges to private pay patients. Fees are established by discounting historical charges, and by professional judgment to encourage efficient, effective and economical services.

**R414-11-8. Copayment Policy.**
(1) The Department requires a copayment in the amount of $3 for each podiatry visit when a non-exempt Medicaid client as designated on his Medicaid card, receives a podiatry service. Medicaid limits the out-of-pocket expense of the Medicaid client to $100 annually, which is a total aggregate cost for all Medicaid services.
(2) Medicaid deducts the copayment amount, limited to one amount per day from the reimbursement paid to the provider for each podiatry visit.
(3) The provider should collect the copayment amount from the Medicaid client for each podiatry visit.
(4) Medicaid clients in the following categories are exempt from copayment requirements:
(a) children;
(b) pregnant women;
(c) institutionalized individuals; and
(d) individuals whose total gross income, before exclusions or deductions, is below the Temporary Assistance to Needy Families (TANF) standard payment allowance.

**KEY: Medicaid**
**Date of Enactment or Last Substantive Amendment: [~~October 2, 2002~~]2006**
**Notice of Continuation: November 3, 2004**
**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3**

# Health, Health Systems Improvement, Emergency Medical Services
# R426-5-8
## Data Requirements for an Inclusive Trauma System

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 28725
FILED: 05/11/2006, 17:01

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes modify the rule to coincide with recent changes to the statute governing the trauma system.

SUMMARY OF THE RULE OR CHANGE: The rule change eliminates the sunset date (12/31/2006) for hospitals to report trauma registry data to the Department.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The state will continue to incur annual costs of approximately $200,000 for staff, hospital personnel grants, copying and mailing expenses for hospitals, data analysis, data collection system including software, maintenance, technical assistance, report writing and generation, and performance improvement processes.

❖ LOCAL GOVERNMENTS: Local government hospitals will experience no cost or savings because of this change. The expenses will continue to be reimbursed by the state.

❖ OTHER PERSONS: Other hospitals will experience no cost or savings because of this change. The expenses will continue to be reimbursed by the state.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons affected by this amendment will not experience any compliance costs as the costs will continue to be reimbursed by the state.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is supported by regulated entities and will not have a negative fiscal impact. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jolene Whitney at the above address, by phone at 801-538-6290, by FAX at 801-538-6808, or by Internet E-mail at jrwhitney@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

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**R426. Health, Health Systems Improvement, Emergency Medical Services.**
**R426-5. Statewide Trauma System Standards.**
**R426-5-8. Data Requirements for an Inclusive Trauma System.**

(1) All hospitals shall collect, and quarterly submit to the Department, Trauma Registry information necessary to maintain an inclusive trauma system[~~ until December 31, 2006~~]. The Department shall provide funds to hospitals, excluding designated trauma centers, for the data collection process. The inclusion criteria for a trauma patient is as follows:

(a) ICD9 Diagnostic Codes between 800 and 959.9 (trauma); or
760.5 (fetus or newborn affected by trauma); or
641.8 (antepartum history due to trauma); or
518.5 (pulmonary embolism due to trauma); and

(b) Any of the following patient conditions:

admitted to the hospital for 48 hours or longer; transferred in or out of your hospital; died; all air ambulance transports (including death in transport and patients flown in but not admitted to the hospital).

The information shall be in a standardized electronic format specified by the Department which includes:

(i) Demographics:
Database Record Number
Institution ID number
Medical Record Number
Social Security Number
Patient Home Zip Code
Sex
Date of Birth
Age Number and Units
(ii) Injury:
Date of Injury
Time of Injury
City of Injury
State of Injury
Zip Code of Injury
Blunt, Penetrating, or Burn Injury
Cause of Injury Description
Cause of Injury Code
Cause of Injury E-code
Site/Location of Injury
Work Related Injury (y/n)
(iii) Prehospital:
Name of EMS Service
Transport Origin Scene or Referring Facility

Trip Form Obtained (y/n)
Arrival Time at (First) Hospital
Arrival Date at Hospital
(iv) Referring Hospital:
Transfer from Another Hospital (y/n)
Name or Code
Arrival Date
Arrival Time
Discharge Date
Discharge time
Transfer Mode
Admitted or ER
Procedures
Pulse
Capillary Refill
Respiratory Rate
Respiratory Effort
Blood Pressure
Eye Movement
Verbal Response
Motor Response
Glascow Coma Score Total
Revised Trauma Score Total
(v) Emergency Department Information:
Mode of Transport
Arrival Date
Arrival Time
Discharge Time
Discharge Date
Pulse
Capillary Refill
Respiratory Rate
Respiratory Effort
Blood Pressure
Eye Movement
Verbal Response
Motor Response
Arrival Glascow Coma Score Total
Revised Trauma Score Total
(vi) Emergency Department Treatment:
Procedures Done (pick list)
Paralytics used prior to GCS (y/n)
Disposition
(vii) Admission Information:
Admit from ER or Direct Admit
Admitted from what Source
Time of Hospital Admission
Date of Hospital Admission
(viii) Hospital Diagnosis:
ICD9 Diagnosis Codes
AIS 90 or 95 Used?
AIS Score for Diagnosis (calculated)
Injury Severity Score
(ix) Operations/Procedures:
ICD9 Codes
(x) Quality Assurance Indicators:
None
(xi) Complications:
None
(xii) Outcome:
Discharge Time
Discharge Date
Total Days Length of Stay
Disposition from Hospital
Destination Facility
GCS Outcome Score
(xiii) Charges:
Payment Sources

**KEY: emergency medical services, trauma, reporting**
**Date of Enactment or Last Substantive Amendment: [~~September 21, 2005~~]2006**
**Notice of Continuation: October 30, 2002**
**Authorizing, and Implemented or Interpreted Law: 26-8a**

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# Health, Health Systems Improvement, Child Care Licensing

# R430-100

## Child Care Center

**NOTICE OF PROPOSED RULE**
(Repeal and Reenact)
DAR FILE NO.: 28733
FILED: 05/15/2006, 15:14

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes clarify the rule, make changes in response to industry requests, and make changes in response to an October 2005 Legislative Audit of the Bureau of Child Care Licensing.

SUMMARY OF THE RULE OR CHANGE: This rulemaking action clarifies existing language, provides additional detail for playgrounds safety requirements, modifies personnel requirements, and increases the group size allowance for school-aged children. Substantive provisions of the old version of the rule that will not appear in the new version include: requirements for food service and sanitation items that local health departments inspect to; a requirement that limits the minimum allowable age for caregivers to 18 years; and a requirement for two sinks in each infant care area. Substantive provisions that will appear in the new rule that did not appear in the old rule include: technical requirements for playgrounds and playground equipment; new options and requirements for educational qualifications for center directors; new required training topics for all caregivers; an added minimum hours per week center directors must be in the facility; and new requirements for activities to support children's healthy physical, social-emotional and cognitive-language development. In addition, new definitions were added to clarify many rules.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: ASTM Specification F 1292 and ASTM Specification F 1951 (2004 edition)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The changes do not materially change the state's work load in regulating child care centers and, as such, do not impose additional cost or create savings. The state continues to appropriate child care quality improvement funds for child care providers to make improvements.
❖ LOCAL GOVERNMENTS: Local governments that operate child care centers may see an increase in costs to comply with proposed playground rules. However, they may see savings related to other changes, such as allowing assistant caregivers, and an increased group size for school age children in care. However, the aggregate costs and savings are uncertain and difficult to quantify. Child care quality improvement funds will offset much of the costs associated with this rule.
❖ OTHER PERSONS: Child care center licensees may see an increase in costs to comply with proposed playground rules. However, they may see savings related to other changes, such as allowing assistant caregivers, and an increased group size for school age children in care. However, the aggregate costs and savings are uncertain and difficult to quantify. Child care quality improvement funds will offset much of the costs associated with this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Some child care providers may see an increase in costs to comply with proposed playground rules. These costs will fall within a very wide range up to $12,000 for each child care center. Child care quality improvement funds will offset much of the costs associated with this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Providers have had significant opportunities to comment on drafts of this rule. The rule as published has been changed in many cases in response to those comments. Costs, if any, are justified to protect children. David N. Sundwall, MD, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT,
CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teresa Whiting at the above address, by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at TWHITING@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

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**R430. Health, Health Systems Improvement, Child Care Licensing.**
**R430-100. Child Care Centers.**
**[~~R430-100-1. Legal Authority.~~**
~~This rule is promulgated pursuant to Title 26, Chapter 39.~~

**~~R430-100-2. Purpose.~~**
~~The purpose of this rule is to establish standards for the operation and maintenance of a child care center. This rule provides minimum requirements to ensure health and safety for children in child care centers.~~

**~~R430-100-3. Definitions.~~**
~~(1) "Accessible" means records are available for Department review within 10 days.~~
~~(2) "Direct supervision" means that the care giver can see and hear the children under age six, and is near enough to intervene when needed. Care givers must be able to hear school age children and be near enough to intervene.~~
~~(3) "Conditional enrollment" means that a child is admitted to a child care program and has received at least one dose of each required vaccine prior to enrollment and is on a schedule for subsequent vaccinations.~~
~~(4) "Group" means a number of children assigned to one or two care givers, occupying an individual classroom or an area segregated by furniture or other structure within a large room.~~
~~(5) "Immediately Accessible Records" means information contained within the client children's and staff members files, currently enrolled or employed, which shall be made available for Department review on-site or within a 24 hour period.~~
~~(6) "Infant" means any child 12 months of age and younger.~~
~~(7) "Toddler" means a child 13 to 24 months.~~

**~~R430-100-4. License Required.~~**
~~A person who provides child care in a place other than the person's home for five or more children for less than 24 hours per day, having a regularly scheduled, ongoing enrollment, for direct or indirect compensation must be licensed as a child care center program.~~

**~~R430-100-5. General Variance Provisions.~~**
~~(1) The Department may grant a variance to an individual rule when:~~
~~(a) A requirement does not apply to the center program; or~~
~~(b) The center program can satisfy the intent of the rule by other methods.~~
~~(2) The owner or director shall request a variance to a rule on a form provided by the Department. The request shall include:~~
~~(a) A justification for the requested variance; and~~
~~(b) An explanation of how the center program will satisfy the intent of the rule.~~
~~(3) The Department may not grant a variance to the rule:~~
~~(a) If the requirement is established by Title 26, Chapter 39; or other statute; or~~

~~(b) Unless the health, safety and well being of the children are ensured.~~

~~(4) The granting of a variance to a rule does not set a precedent, and the Department shall evaluate each request on its own merits.~~

~~(5) The time period for granting a variance shall be specified in the letter from the Department and shall be kept on site by the licensee.~~

**~~R430-100-6. Administration and Organization.~~**

~~(1) The licensee shall exercise supervision over the affairs of the facility and establish policies to comply with this rule.~~

~~(2) Duties and responsibilities of the licensee include the following:~~

~~(a) Compliance with federal, state, and local laws and for the overall organization, management, operation, and control of the facility;~~

~~(b) Establishment of written policies and procedures for the health and safety of children in the facility shall be available for review by parents and staff. The Department shall provide templates for all required policies and procedures and if the licensee elects to use the approved templates the rule is considered met. The policies and procedures shall address at least each of the following areas:~~

~~(i) training and education levels of care giver positions;~~

~~(ii) exclusion of care givers and children with infectious and communicable diseases;~~

~~(iii) supervision and protection of children when they are sleeping, using the bathroom, in a special mixed group activity, on the playground, and during off-site activities;~~

~~(iv) releasing children to authorized individuals;~~

~~(v) administration and storage of medications;~~

~~(vi) discipline of children;~~

~~(vii) transportation to and from school and to and from off-site activities;~~

~~(viii) emergency and disaster plans;~~

~~(ix) the use and presence of tobacco, alcohol, illegal substances and sexually explicit material; and~~

~~(x) hand washing~~

~~(xi) firearms; and~~

~~(xii) food service.~~

~~(c) Appoint, in writing, a qualified director who shall assume responsibility for the day-to-day operation and management of the facility.~~

~~(d) Keep the Department informed of the current center phone number.~~

~~(3) The director or designee of a child care center shall have sufficient freedom from other responsibilities to manage the facility and shall be on the premises during operating hours.~~

~~(4) The director of the child care center shall have the following qualifications:~~

~~(a) Be at least 21 years of age;~~

~~(b) Have knowledge of applicable laws and rules; and~~

~~(c) Except for directors of child care centers who are listed as director on a child care license before January 1, 1998, the child care center director must have a high school diploma or GED equivalent and one of the following:~~

~~(i) A bachelor's or associate's degree in Early Childhood or Child Development, or a bachelor's degree in a related field and proof of passing four higher education courses in child development; or~~

~~(ii) A national or state certification such as a Certified Childcare Professional (CCP), National Administrator Credential, Child Development Associate (CDA), or other credential that the licensee demonstrates to the Department as equivalent.~~

~~(5) Duties and responsibilities of the director, or the owner if the duties and responsibilities have not been delegated to the director, include the following:~~

~~(a) Designate, in writing, a competent care giver who is at least 21 years of age to act as director in his temporary absence;~~

~~(b) Recruit, employ, and train staff to meet the needs of the children;~~

~~(c) On the day of discovery, notify the local health department of any reportable communicable diseases among children or care givers, and any sudden or extraordinary occurrence of serious or unusual illness in accordance with Section R386-702-2; and~~

~~(d) Conduct regular inspections of the facility to ensure it is safe from potential hazards to children.~~

~~(6) The director, or the owner if the duties and responsibilities have not been delegated to the director, shall establish and enforce policies to ensure that the following are prohibited anywhere on the premises during the hours of operation:~~

~~(a) the use of tobacco;~~

~~(b) the use of alcohol;~~

~~(c) the use or possession of illegal substances; and~~

~~(d) the use or possession of sexually explicit material.~~

**~~R430-100-7. Personnel.~~**

~~(1) The director shall ensure that adequate direct supervision is maintained whenever the center is operating. The care giver-to-child ratios established in R430-100-9 are minimum requirements only. The director shall ensure that policies exist to adjust these ratios when the age and the number of children require additional care givers to maintain adequate levels of supervision and care.~~

~~(2) The director shall train all care givers to be able to service the needs of the children in their care, and organize staff efforts to achieve that end.~~

~~(3) All care givers who provide direct services in a child care center shall be at least 18 years of age or have completed high school or a GED. In addition to the required staff ratios, child care services may be provided by an individual who is 16 years old, if he works under the direct supervision of a care giver at least 18 years old, who has completed 20 hours of in-service training and meets all licensing requirements.~~

~~(a) All care givers shall have access to and have read and documented their understanding of the facility's policies and procedures;~~

~~(b) Each new care giver shall receive orientation training prior to being left unsupervised with children. Training shall be documented to show topic, date of completion, and the first date of working unsupervised with the children. Training shall cover the following topics:~~

~~(i) Job description;~~

~~(ii) Introduction and orientation to the children, which includes special conditions, e.g., allergies and medical conditions;~~

~~(iii) Procedures for releasing children to parents or guardians;~~

~~(iv) Center policies and procedures;~~

~~(v) Reporting requirements for witnessing or suspicion of abuse, neglect and exploitation, according to Section 62A-4a-403(1) and 62A-4a-411 and how to make necessary reports; and~~

(vi) Department Informational Guide to Parents which identifies the areas inspected annually and a contact telephone number for parents to report concerns.

(4) Each director shall ensure that all care givers are screened for tuberculosis by the Mantoux tuberculin skin test method within 30 days of assuming care giver responsibilities.

(a) If the Mantoux test is positive, the care giver will provide documentation of a negative chest radiograph.

(b) Tuberculin skin testing does not need to be repeated during the employment period unless the employee develops signs and symptoms of the disease, as determined by a health care professional.

(5) All care givers shall receive a minimum of 20 hours of documented in-service training annually. At least 10 hours of the in-service training shall be in person. The training shall include the following:

(a) Principles of good nutrition;

(b) Proper hand washing, OSHA requirements and sanitation techniques;

(c) Proper procedures in administration of medications;

(d) Recognizing early signs of illness and determining when there is a need for exclusion from the facility;

(e) Accident prevention and safety principles;

(f) Reporting requirements for communicable and infectious diseases;

(g) Reporting requirements for abuse, neglect and exploitation according to Section 62A-4a-403(1) and 62A-4a-411; and

(h) Positive guidance for the management of children.

(6) If the center provides infant care, the following in-service training is required as part of the required in-service hours:

(a) Preventing Shaken Baby Syndrome;

(b) Preventing Sudden Infant Death Syndrome;

(c) Coping with crying babies; and

(d) Development of the brain.

**R430-100-8. Records.**

(1) Records shall be appropriately stored and protected against access by unauthorized individuals.

(a) Care givers shall not disclose or discuss personal information regarding children and their relatives with any unauthorized person.

(b) Confidential information shall only be seen and discussed with care givers who need the information to provide services.

(c) The director shall obtain written permission from parents or legal guardians before sharing information except as provided in paragraph a and b above.

(2) The licensee and director shall maintain written records.

(a) The following records shall be maintained on-site:

(i) Policies and procedures;

(ii) Records for each enrolled child to include:

(A) Utah School Immunization record;

(B) transportation and medical treatment releases;

(C) an admission agreement that includes the child's name, date of birth, date of enrollment; the parent or guardian's name, address and phone number; the name, address and phone number of a person to be notified in the event of an emergency when the parent or guardian cannot be located; and the names of people authorized to pick up the child; and

(D) current medication administration release form.

(iii) Personnel records for each currently employed care giver and staff, which shall include:

(A) Employment application with emergency contact information; and

(B) Food Handler's permit for care givers who prepare or serve meals or snacks, obtained within 30 days of hire.

(iv) A log of the results of the past 12 months fire and disaster drills;

(v) A current Local Health Department inspection;

(vi) A current Local Fire Department inspection;

(vii) Required current animal vaccination records.

(b) The following records shall be available within 24 hours:

(i) For every enrolled child:

(A) a six week child attendance record;

(B) a six week record of injuries, incident, and accident reports; and

(C) a six week record of medications administered.

(ii) For each currently employed care giver and staff:

(A) date of employment;

(B) initial health evaluation form;

(C) criminal background screening initial clearance form or the waiver for annual renewal;

(D) a six week record of hours worked;

(E) results of TB screening, obtained within 30 days of hire;

(F) documented in-service training hours;

(G) documentation of orientation training completion; and

(H) first aide and CPR course completion.

(iii) All variance requests granted by the Department.

**R430-100-9. Care Giver to Child Ratio.**

(1) The licensee must maintain minimum care giver to child ratios as provided in Tables 1 and 2.

TABLE 1

Minimum Care Giver to Child Ratios

| Number of Staff | Children | Group Size | Ages |
|---|---|---|---|
| 1 | 4 | 8 | 0 to 12 months |
| 1 | 4 | 8 | 13 to 24 months |
| 1 | 7 | 14 | 2 year old |
| 1 | 12 | 24 | 3 year old |
| 1 | 15 | 30 | 4 year old |
| 1 | 20 | 35 | 5 years and over |

(2) There shall be at least two care givers at the center at all times when there are more than six children present or more than two infants present;

(3) Centers may maintain mixed age groups, and shall comply with Table 2 requirements and the following ratio requirements:

(a) Ratios and group size for mixed age groups shall be determined by averaging the ratios of the ages represented in the group;

(b) The ratio for the youngest children shall be utilized if more than half of the group is composed of children in the youngest age group.

TABLE 2

Minimum Care Giver to Child Ratios - Mixed Age Groups

| Ages | Ratio | Group Size |
|---|---|---|
| Two Ages Mixed | | |
| Infant and Toddlers | 1:4 | 8 |
| Toddlers and two year olds | 1:5 | 10 |
| Two and three year olds | 1:9 | 18 |
| Three and four year olds | 1:14 | 25 |
| Four years and older | 1:18 | 25 |
| Three Ages Mixed | | |
| Toddlers, two and three year olds | 1:7 | 14 |

| | | |
|---|---|---|
| Two, three and four year olds | 1:11 | 22 |
| Three, four and school age | 1:16 | 25 |
| Four Ages Mixed | | |
| Toddlers, two, three and four year olds | 1:9 | 18 |
| Two, three, four and school age | 1:13 | 25 |

(4) During nap time the child ratio may double for not more than two hours for children 24 months and older, if the children are in a restful or non-activity state and, if a means of communication is maintained with another care giver who is also on site.

(5) A child of an employee or owner age four or older will not be counted for determining care giver to child ratios.

(6) If child to care giver ratios are maintained an exception is granted to group size requirements when a center program has a planned activity and during transition times not to exceed two hours daily.

(7) A child care center constructed prior to January 1, 2004, and licensed and operated as a child care center continuously since January 1, 2004, may apply for a variance from the department for group size restrictions, if the child to care giver ratios are maintained and adequate square footage is maintained for the specific classroom. A variance granted under (7) is transferrable to subsequent licensed operators at the center if a licensed center is continuously maintained at the center.

**R430-100-10. Child Health.**

(1) Children admitted to the center shall have immunizations as required by the Utah School Immunization Law, Utah Code Section 53A-11-301. The director may not admit a child without proof of immunization, or evidence of conditional enrollment, or evidence of a personal, medical or religious exemption.

(a) The director shall have a current Utah School Immunization Record (USIR -Pink card) on file for each child.

(b) The director shall submit the Child Care Facilities Annual Summary Report to the Department of Health Immunization Program by November 30 of each year.

(2) The care givers shall not care for ill children except when the child shows signs of illness after arrival.

(a) The director shall ensure that children who develop signs of illness at the center are kept separate from other children.

(b) The director shall contact the parents of ill children and request that they be removed immediately from the center.

(c) The director shall inform parents in writing of communicable illnesses or parasites that are discovered at the center the same day the illness or parasite is discovered.

(d) The care giver shall convey information of illnesses in a manner that protects the confidentiality of care givers and children.

(3) The director shall require the parent or guardian to complete and sign a health assessment for each child in care. This form must be obtained upon enrollment of the child and be reviewed with the parent or guardian annually. The annual review shall be signed or initialed on the day of the review. The Health Assessment shall include the following:

(a) allergies and food sensitivities;

(b) chronic illnesses;

(c) medical conditions;

(d) disabilities;

(e) date of last physical examination;

(f) instructions for routine daily care;

(g) current medications; and

(h) instructions for emergency care.

**R430-100-11. Parent Notification/Child Security.**

(1) The Director shall distribute to parents and post a copy of the Department Informational Guide for Parents.

(2) The center shall be open to parents and guardians of enrolled children at all times during business hours.

(3) The director shall establish a procedure for ensuring that each child's attendance is accounted for which shall include:

(a) Persons bringing or picking up a child who is not school aged shall sign the child in and out of the center,

(i) The time of day shall be recorded on the sign-in and sign-out form, and

(ii) Personal identifiers, such as a signature, initials or electronic identification may be used to sign in and out.

(b) Care givers may sign-in and sign-out a child who is school-aged.

(4) Only parents or persons with written authorization from parents shall be allowed to take any child from the center, except that verbal authorization may be used in emergency situations, if the identity of the person giving verbal authorization can be confirmed.

(5) The director or owner shall review reports of every injury, incident, and accident to a child and document the corrective action taken. The report shall be signed by the director, care giver involved, and the parent of the child.

(6) In the case of a life threatening injury to a child, the director shall contact emergency personnel before contacting the parents or legal guardians. If the parents or legal guardians cannot be reached, the director shall then attempt to contact the child's emergency contact person.

(7) The director shall call the Department within 24 hours to report any fatality, hospitalization or emergency medical response unless the emergency medical transport was part of a child's medical treatment plan identified by the parents and licensee. A written report shall be mailed or faxed to the Department within five days of the incident.

**R430-100-12. Activities.**

(1) The director and care givers shall develop and follow a daily activity plan that is designed for the age, health, safety and welfare of the children. No activity plan is required for infant or toddler groups. The toys and equipment needed to carry out the plan shall be present.

(2) The activity plan shall be posted for parent and care giver review.

(3) There shall be areas for indoor play.

(a) Indoor play areas shall have at least 35 square feet per child of usable play space for each child utilizing the play area at any specific time. The space requirement includes licensee and care giver children who are not counted in the ratios. Usable floor space includes space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used by children, for the care of children, or to store classroom materials.

(b) Bathrooms, closets, lockers, staff desks, stationary storage units, hallways, corridors, alcoves, vestibules, kitchens or offices may not be included in calculating indoor play space.

(i) Play space does not include areas which are designated as a napping room.

(ii) Centers licensed prior to the effective date of the rule change 2001, may request a permanent variance to this rule as required by R430-100-5. The exception or variance will be assumable if a change of ownership occurs and the license is not interrupted.

(c) All indoor playground equipment, for example slides and climbers, shall be surrounded by cushioning materials, such as mats, in a six foot fall zone. The cushioning material shall meet the standards of the American Society for Testing and Materials (ASTM), current edition for all equipment over three feet.

(d) If children between the ages of three and six have access to indoor play equipment then the maximum height of any piece of indoor playground equipment shall not exceed five and one-half feet. If children under age three have access to indoor play equipment, then the maximum height of the equipment may not exceed three feet.

(4) Daily activities shall include outdoor play if weather permits.

(5) Outdoor play areas shall:

(a) have at least 40 square feet for each child, which may include space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used by children, for the care of children, or to store classroom materials to accommodate at least 33 percent of the licensed capacity at one time;

(b) be directly adjacent to the building;

(c) be enclosed with a four foot high fence, or have a natural barrier that provides protection from unsafe areas including water hazards;

(i) gaps in the fence shall not be more than three and one half inches.

(ii) the bottom edge of the fence shall not be more than three and one-half inches above the ground.

(d) be free of animal excrement and harmful objects such as trash, broken toys and equipment with rusty or sharp edges, glass, tools and standing water;

(e) have a shaded area to protect children from excessive sun and heat; and

(f) have a source of drinking water in the play area during play time when the outside air temperature is 75 degrees or higher.

(6) Outdoor play equipment shall:

(a) be surrounded by a resilient surface of loose cushioning consistent with the guidelines of the Consumer Product Safety Commission and standards of ASTM; and

(b) have a six foot fall zone surrounding all playground equipment.

(c) All variances granted to any facility granting relief from compliance with the Consumer Product Safety Commission Playground Safety guidelines or the ASTM standards expire by operation of this rule on December 31, 2004. A facility not in compliance with the Consumer Product Safety Commission Playground Safety guidelines or the ASTM standards of as December 31, 2004, shall submit a written phase-in plan to the Department by December 31, 2004.

(i) The facility phase-in plan must provide that some part of the playground come into compliance by June 30, 2005, and establish a plan for an orderly progression toward remediation of all out-of-compliance equipment and grounds by May 30, 2009.

(ii) The facility must submit verification of its compliance with its plan annually by June 1.

(7) Any particulate cushioning material, such as sand or gravel, within the fall zone of playground equipment shall be checked for packing due to rain or snow, and if compressed, weather permitting, shall be loosened to a depth of nine inches. If the cushioning material cannot be loosened, children shall not play on the equipment.

(8) If off-site activities are offered, care giver ratios must be maintained and:

(a) at least one of the care givers shall have a current first aid and CPR course completion;

(b) written parental consent shall be obtained for each type of activity in advance;

(c) the director shall notify the parents of any schedule changes;

(d) care givers shall take with them the emergency numbers and emergency treatment releases for each of the children in the group;

(e) children shall wear or carry with them the name and phone number of the center;

(f) children's names shall not be used on name tags;

(g) care givers shall provide a way for children to wash hands.

(9) If swimming activities are scheduled, care givers shall remain with the children during the activity. Lifeguards and pool personnel may not be counted towards care giver to child ratios.

**R430-100-13. Medications.**

(1) If medications are given, medications shall be administered to children only by a trained, designated care giver. A care giver who administers medication shall be trained to:

(a) check the label and confirm the name of the child,

(b) read the directions regarding measured doses, frequency, expiration date, and other administration guidelines, and

(c) properly document administration of medication records according to Subsection R430-100-13(3).

(2) The parent or guardian must complete a medication release form for each child receiving medications at the center that contains:

(a) the name of the medication;

(b) the dosage;

(c) the route of administration;

(d) the times and dates to be administered;

(e) the illness or condition being treated; and

(f) the parent or guardian signature.

(3) Medication records shall be maintained that include:

(a) The times, dates, and dosages of the medications given;

(b) The signature or initials of the care giver who administered the medication; and

(c) Documentation of any errors in administration or adverse reactions.

(4) The center director or designee shall report any adverse reaction to a medication or error in administration to the parent or legal guardian immediately upon recognizing the error or reaction.

(5) Medications shall be secured from access to children.

(6) The oral over-the-counter and all prescription medications must be in the original or pharmacy container, have the original label, include the child's name, have child proof caps and have written instructions for administration provided by the parents.

(7) Medications stored in refrigerators shall be in a covered container with a tight fitting lid.

(8) The director shall return unused prescription and over the counter medications to the parent or guardian. The director shall destroy out-of-date medications or return the medications to the parent or guardian.

**R430-100-14. Infection Control.**

(1) The director shall keep on-site and maintain a portable blood and bodily fluid clean-up kit. All care givers shall know the location and how to use the kit.

(a) The kit shall include: a portable container, disposable gloves, absorbent powder or clumping kitty litter, a plastic garbage bag, a miniature dustpan and hand broom, a paper towel and a small container of disinfectant.

(b) All care givers shall comply with the universal blood and bodily fluid precautions according to the OSHA Bodily Fluid Blood-Borne Pathogen standard.

(2) Personal hygiene items such as combs, hair accessories, and toothbrushes may not be shared between children.

(3) Indoor activity equipment, such as climbing structures and play houses, and toys shall be cleaned and sanitized weekly or more often as necessary. If some equipment is not cleanable the director or owner shall ensure children and care givers wash hands prior to using the equipment, card board puzzles, books, etc.

(4) Stuffed animals and dress up clothes shall be machine washed weekly.

(5) If water play tables are used, the care giver shall wash and sanitize the table daily and children shall wash their hands prior to engaging in the activity.

(6) In child care centers, hand washing procedures shall be posted at all hand washing sinks and followed.

(7) Written hand washing policies shall be established to include:

(a) Care givers and children shall wash and scrub their hands for 20 seconds with liquid soap and warm running water. A variance to using liquid soap may be requested as required by R430-100-5.

(b) The use of hand sanitizers shall not replace hand washing, except during off-site activities.

(c) Care givers shall teach children proper hand washing techniques and oversee hand washing whenever possible.

(d) Care givers and children shall wash their hands after using the toilet, before and after eating, upon returning from outdoor playtime, after wiping noses, after handling animals and before and after food preparation.

(e) Only single use towels from a covered dispenser or electric hand drying device may be used to dry hands.

**R430-100-15. Diapering.**

(1) Diapering procedures shall be posted by each diapering station and followed.

(2) Each diapering station shall be equipped with railings to prevent a child from falling. Children shall not be left unattended on the diapering surface.

(3) The diapering surface shall be non-absorbent, cleaned and sanitized after each diaper change.

(a) If a disposable paper covering is used, it shall be placed between the child and the diapering surface, and shall be disposed of following each diaper change.

(b) Sanitizers shall be used per product instruction or be commercially prepared. Sanitizer containers shall be labeled and stored in the diaper changing area, out of the reach of children.

(4) Soiled disposable diapers shall be placed in a container that is lined and has a tightly fitting lid.

(5) Diaper containers shall be cleaned and disinfected daily.

(6) Care givers shall wash their hands directly after changing a diaper and in between diaper changes.

(7) If cloth diapers are used for children, the following applies:

(a) Cloth diapers shall not be rinsed at the center;

(b) After a diaper change, the cloth diaper shall be placed directly into a container labeled with the child's name or diapering service container.

(8) Care givers whose designated responsibility is the care of diapered children, shall not prepare food for children or staff outside of the classroom area used by infants and toddlers.

(9) Staff who prepare food in the kitchen shall not change diapers or assist in toilet training.

**R430-100-16. Safety.**

(1) Spaces, toys, grounds, and equipment shall be maintained in a safe manner to prevent injury to children.

(2) Toys and equipment used by children must be in compliance with the guidelines of the Consumer Product Safety Commission.

(3) There shall be no firearms or other weapons accessible to children. Firearms and other weapons shall be stored separately from ammunition and all shall be in a locked cabinet or area, unless the use is in accordance with UCA 53-5-701 Concealed Weapons Act, UCA 76-10-523 Persons Exempt from Weapons Laws or as otherwise authorized by law.

(4) Electrical outlets accessible to children four years of age or younger shall have protective caps or safety devices when not in use.

(5) Glass surfaces within 36 inches from the floor shall be of safety glass or have a protective barrier in place.

(6) Care givers and staff shall store toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials in a locked or protected area to prevent access to children. All toxic or hazardous chemicals shall be stored in the original container, or labeled in the container.

(7) The center may not have portable space heaters, Fireplaces and wood burning stoves that are accessible to children when in use.

(8) Children shall not have access to poisonous plants.

(9) Strings and cords long enough to choke a child, such as those found on pull toys, window blinds, or drapery cords, shall be inaccessible to children four years of age and younger.

(10) Any structure built prior to 1978 which has peeling, flaking, chalking, or failing paint on the interior or exterior shall be tested for lead based paint. If paint lead levels are equal to or exceed 0.06% by weight, the structure must be remodeled by encapsulation or enclosure when possible or by complete removal of lead based paint by trained individuals.

(11) Hot water accessible to children shall not exceed the scalding standard of 120 degrees Fahrenheit.

**R430-100-17. Child Discipline.**

(1) The licensee shall inform all care givers, parents or guardians and children of conduct expected by setting clear and understandable rules.

(2) Disciplinary measures shall be implemented so as to encourage the child's self control to reduce risk of injury and any adverse health effects to self or others. Positive discipline measures include but are not limited to:

(a) positive behavioral rewards;

(b) other forms of positive guidance;

(c) redirection; or

(d) time out.

(3) Discipline measures shall not include any of the following:

(a) corporal punishment, including hitting, shaking, biting, pinching, or spanking;
(b) restraint of a child's movement by binding or tying;
(c) use of abusive, demeaning or profane language;
(d) force or withholding of food, rest or toileting; or
(e) confining a child in a locked closet, room, or similar area.
(4) The director shall provide each parent and legal guardian a copy of the discipline methods used at the center.

**R430-100-18. Food Service.**
(1) If food service is provided, the child care center's food service shall comply with the Utah Department of Health Food Service Sanitation Regulations, Rule R392-100, and with the local health department food service regulations.
(2) All food served in the center, including food brought in by parents or care givers, for service to other children, shall be commercially prepared.
(3) Food and drink brought in by parents for an individual child's use must be labeled with the child's full name and refrigerated if needed.
(4) All care givers who prepare or serve food and snacks must have a current food handlers permit approved for child care facilities by the local Health Department.
(5) Children's food shall be served on plates, napkins or other sanitary holders, which includes a high chair tray. Food shall not be placed on a bare table or eating surface.
(6) Facilities that provide food service shall meet the following requirements:
(a) A different menu shall be planned for each day of the week;
(b) Menus may be cycled;
(c) The current week's menu shall be posted for review by parents and guardians and all substitutions shall be noted on the menu and retained for one week. If substitutions are made, the menu must meet the requirement of the United States Department of Agriculture (USDA) Child Care Food Program guidelines;
(d) Menus shall comply with the USDA Child and Adult Care Food Program guidelines. Centers may use Department standard approved menus. Menus shall be individually approved by the Department, or be approved by a registered dietitian. Dietitian approval shall be noted on the menu;
(e) The director shall post a list of children's food allergies and sensitivities in the food preparation area and communicate special needs to staff serving food to the children unless otherwise requested in writing by the parents.
(f) The care givers shall provide meals and snacks according to the center policy but at least once every three hours.

**R430-100-19. Animals.**
(1) Any animal on the premises shall be clean and in good health.
(2) Dogs, cats and other animals shall have current immunization records available at the center for all diseases transmissible to humans.
(3) Animals not confined in enclosures shall be hand held, under leash control, or under voice control.
(4) No dangerous or aggressive animals are allowed on center premises.
(5) Animals are not allowed in food preparation, storage or dining areas.
(6) Animal cages, equipment, and surrounding areas shall be clean and sanitary. Animal cages and equipment shall not be cleaned in food preparation, food storage or dining areas at any time. Children shall not assist with the cleaning of animals, animal cages, pens or animal equipment.
(7) The director shall inform the parent or guardian of all animals kept at the center.
(8) Children shall not be permitted to handle reptiles, including turtles and lizards.

**R430-100-20. Transportation.**
(1) Any vehicle used for transporting children shall have a current vehicle registration and safety inspection.
(2) The director shall maintain all vehicles used to transport children in a safe and clean condition.
(3) Each vehicle shall:
(a) Contain a first aid and a body fluid clean-up kit;
(b) Be able to maintain temperatures between 60-90 degrees Fahrenheit;
(c) Be equipped with individual, size-appropriate safety restraints such as car seats and seat belts, which are defined in the federal motor vehicle safety standards contained in the Code of Federal Regulations, Title 49, Section 571.213, for each child that are appropriate to the vehicle type and are installed and used in the manner prescribed by the manufacturer;
(d) Be enclosed; and
(e) Be locked during transport.
(4) One person accompanying children during transport shall have current CPR and first aid course completion.
(5) The child care center shall have written policies and procedures to address transportation of children to and from school that are distributed to parents or posted that include:
(a) How long the children will be unattended at each school before the vehicle arrives or after the vehicle leaves in the morning;
(b) What steps staff will take if children fail to meet the vehicle; and
(c) When and how parents will be notified of delays or problems with transportation to and from school.
(6) Smoking in vehicles is prohibited at all times that children are present.
(7) Any vehicle used for transporting children shall be driven by an adult who holds a current state driver's license that authorizes the driver to operate the type of vehicle driven.
(8) No child shall be permitted to remain unattended in the vehicle. Children shall remain seated while the vehicle is in motion. Keys shall be removed from the vehicle at all times when the driver is not in the driver's seat.

**R430-100-21. Housekeeping and Maintenance.**
(1) There shall be adequate housekeeping services to maintain a clean and sanitary environment in the center.
(2) Laundry shall be washed with soap and water and be thoroughly dried in a clothes dryer.
(3) Clean laundry shall be stored in a manner that protects it from contamination.
(4) The center shall take effective and safe measures to prevent, control and eliminate the presence of insects, rodents, and other vermin on the premises.
(5) Draperies, carpets, and furniture shall be maintained in good repair.
(6) Cracks in plaster, peeling wallpaper or paint, damaged floor coverings, and missing tile shall be repaired promptly.

~~(7) Entrances, exits, steps, and outside walkways shall be maintained in a safe condition, free of ice, snow and other hazards.~~

**~~R430-100-22. Physical Environment.~~**

~~(1) All rooms and occupied areas in the facility shall have provisions for ventilation. Windows with screens may be used for ventilation when weather conditions permit, but mechanical ventilation shall be provided during periods of temperature extremes.~~

~~(2) The cooling system shall be capable of maintaining temperatures of 80 degrees Fahrenheit (F) in areas occupied by children.~~

~~(3) The heating system shall be capable of maintaining temperatures of 72 degrees F. in areas occupied by children.~~

~~(4) Adequate light intensity in all facilities shall be maintained by keeping lighting equipment in good working order.~~

~~(5) There shall be one toilet and one lavatory for every 15 children, excluding diapered children.~~

~~(6) For centers constructed after July 1, 1997, there shall be a hand washing sink in play areas.~~

**~~R430-100-23. Sleep Areas and Equipment.~~**

~~(1) A separate crib, cot, bed, or mat shall be provided for each child who will be present in the child care center during nap or rest periods.~~

~~(2) Sleeping equipment shall be spaced a minimum of two feet apart to allow for easy access, adequate ventilation and ease of exiting.~~

~~(3) Mats and mattresses shall be at least two inches thick and have waterproof, cleanable coverings.~~

~~(4) Mats and sleeping equipment shall be cleaned and sanitized as needed, but at least weekly, and prior to use by another child or there shall be a procedure to assign a mat or cot to each child.~~

~~(5) Each child shall have a sheet and a blanket, or an acceptable alternative, that are:~~

~~(a) used daily;~~

~~(b) clearly assigned to a child;~~

~~(c) stored separately from other children's when not in use, and~~

~~(d) laundered at least once weekly, and prior to use by another child.~~

~~(6) The center shall provide children with an opportunity for rest and sleep in an environment for sleeping that includes subdued lighting, low noise level, and freedom from distractions.~~

**~~R430-100-24. Emergency and Disaster.~~**

~~(1) The licensee shall have a written emergency and disaster plan for reporting and evacuating in cases of fire, flood, earthquake, blizzard, power failure or other disasters that could create structural damage or pose a health or safety hazard. The center shall have a written emergency plan that addresses steps to be followed by staff in case of:~~

~~(a) a missing child;~~

~~(b) a medical emergency or injury involving a child or staff person;~~

~~(c) the death of a child or staff person.~~

~~(2) The written plans shall be on site and immediately accessible to all staff.~~

~~(3) As required by R710-8, Public Safety, Fire Marshal, Day Care Rules the director shall hold simulated disaster drills semi-annually and simulated fire drills shall be held monthly for care givers and children.~~

~~(a) The director shall document all drills, including date and time of the drill, the time it took to evacuate, the number of participants, and any problems encountered.~~

~~(b) Drills shall be held on a variety of days and at various times of the day.~~

~~(4) Each child care center shall maintain a telephone in working order, unless there is a utility failure.~~

~~(5) The emergency plan shall contain:~~

~~(a) The names of the person in charge and persons with decision-making authority;~~

~~(b) The names of persons who shall be notified in an emergency in order of priority;~~

~~(c) The names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police, poison control and other appropriate agencies.~~

~~(d) Assignment of personnel to specific tasks during an emergency;~~

~~(e) The procedure to transport and evacuate children and staff to other locations; and~~

~~(f) Procedures to turn off gas, electricity, and water.~~

~~(6) The director shall post evacuation plans in prominent locations in each room or area of the center. The plan shall include evacuation routes, location of fire alarm boxes, and fire extinguishers.~~

~~(7) The licensee shall ensure that the center is inspected annually by the local fire authority and shall maintain a copy of the most recent inspection report at the center. Each fire extinguisher shall have a current tag and annual inspection.~~

~~(8) There shall be at least one care giver on duty in the center during business hours who has a current department approved course completion or certification in basic child and infant first aid and Cardiac Pulmonary Resuscitation (CPR).~~

~~(9) Each center shall maintain two accessible first aid kits, one kit for the center and one kit to be taken on field trips.~~

~~(a) Each first aid kit shall contain supplies as recommended by the American Red Cross First Aid Handbook, current edition, or the department provided list of contents.~~

~~(b) Each first aid kit shall contain a first aid manual.~~

~~(c) First aid kits shall be restocked after use and shall be stored in an area inaccessible to children.~~

**~~R430-100-25. Infant Care.~~**

~~(1) Infants and toddlers shall be cared for in separate areas and shall not use outdoor play areas at the same time as older children. Infant and toddler areas shall not be used as access to other areas or rooms by children and parents, unless the Department has given variance approval.~~

~~(2) Infants may be included in mixed age groups only when eight or fewer children are present in the center. No more than two infants shall be included in the mixed age group unless there are two care givers with the group.~~

~~(3) Each infant shall be allowed to follow his or her own pattern of sleeping and eating.~~

~~(4) Diapers shall be checked as needed but diaper checks shall not exceed every three hours. The child shall be changed when he is found to be wet or soiled.~~

~~(5) The center shall maintain a record of diapering activities, sleeping and feeding times for each infant. The care giver shall record each activity as it occurs. The records shall be maintained on site for the current month and be immediately accessible for Department review.~~

~~(6) If an infant is unable to sit upright and hold his own bottle, a care giver shall hold the infant during bottle feeding to prevent choking, baby bottle tooth decay, etc. Bottles shall not be propped.~~

~~(7) Each infant shall receive physical stimulation and positive verbal interaction at least every 30 minutes. Awake infants shall not be confined for more than 30 minutes in one piece of equipment, including but not limited to swings, high chairs, or cribs. Infants shall have freedom of movement in a safe area.~~

~~(8) Infant walkers with wheels are not permitted.~~

~~(9) High chairs will have T-shaped safety straps that are used whenever children are placed in the chair.~~

~~(10) High chair trays shall be washed, rinsed, and sanitized prior to each use. The sanitizer shall meet the standards in R392-100 for food contact surfaces.~~

~~(11) Baby food, infant formula, and breast milk for infants that are brought from home for an individual child's use shall be:~~

~~(a) marked with the child's name;~~

~~(b) marked with the date of preparation or opening of the container, such as a jar of baby food;~~

~~(c) kept refrigerated, if needed; and~~

~~(d) discarded within 24 hours of preparation or opening.~~

~~(12) Infant formula shall be discarded after feeding or within two hours of initiating a feeding. Powdered formula or dry foods which are opened, but not mixed, is not considered prepared.~~

~~(13) Infants shall sleep in equipment designed for them such as a crib, bassinet, porta-crib, or play pen.~~

~~(a) Only one infant shall occupy any one piece of equipment at any time.~~

~~(b) Infants shall be placed on their backs for sleeping, unless parents document a medical treatment requirement for a clinical condition.~~

~~(c) Infants less than 12 months shall not sleep on mats or cots.~~

~~(14) There shall be two sinks in each infant and toddler care area. Centers whose infant and toddler areas were constructed and licensed prior to July, 1997, shall be exempt from this rule.~~

~~(a) One sink shall be adjacent to the diapering areas and shall be used exclusively for hand washing after diapering and non-food activities.~~

~~(b) One sink shall be used exclusively for the preparation of food and bottles.~~

~~(15) Infant care areas shall maintain temperature at 70 degrees Fahrenheit at floor level.~~

~~(16) All toys used by infants and toddlers shall be washed daily and after being placed in a child's mouth or being contaminated by bodily fluids.~~

**~~R430-100-26. Penalty.~~**

~~The department may impose civil monetary penalties in accordance with Title 63, Chapter 46b, Administrative Procedures Act, if there has been a failure to comply with the provisions of this chapter, or rules promulgated pursuant to this chapter, as follows:~~

~~(1) if significant problems exist that are likely to lead to the harm of a child, the department may impose a civil money penalty of $50 to $1,000 per day; and~~

~~(2) if significant problems exist that result in actual harm to a child, the department may impose a civil money penalty of $1,050 to $5,000 per day.~~]

**R430-100-1. Authority and Purpose.**

This rule is promulgated pursuant to Title 26, Chapter 39. It establishes standards for the operation and maintenance of child care centers and requirements to protect the health and safety of children in child care centers.

**R430-100-2. Definitions.**

(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Body fluids" means blood, urine, feces, vomit, mucous, and saliva.

(4) "Caregiver" means an employee or volunteer who provides direct care to children.

(5) "CPSC" means the Consumer Product Safety Commission.

(6) "Department" means the Utah Department of Health.

(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that is designed for children to stand, walk, sit, or climb on, and is at least 2" by 2" in size.

(8) "Direct Supervision" for infants, toddlers, and preschoolers means the caregiver can see and hear all of the children in his or her assigned group, and is near enough to intervene when necessary. "Direct Supervision" for school age children means the caregiver must be able to hear school age children and must be near enough to intervene if needed.

(9) "Disinfect" means to eliminate most germs from inanimate surfaces through the use of chemicals registered with the U.S. Environmental Protection Agency as disinfectants in the manner described on the label, or through physical agents such as heat.

(10) "Emotional Abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning children, constant criticism, rejection, profane language, and inappropriate physical restraint.

(11) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

(12) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(13) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child can not get to.

(14) "Infant" means a child aged birth through 11 months of age.

(15) "Infectious Disease" means an illness that is capable of being spread from one person to another.

(16) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

(17) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies.

(18) "Parent" means the parent or legal guardian of a child in care.

(19) "Person" means an individual or a business entity.

(20) "Physical Abuse" means causing nonaccidental physical harm to a child.

(21) "Playground Equipment Platform" means a flat surface on a piece of playground equipment intended for more than one user to stand on, and upon which the users can move freely.

(22) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

(23) "Protective Barrier" means an enclosing structure such as bars, lattice, or a solid panel, around an elevated playground equipment platform that is intended to prevent a child from either accidently or deliberately passing through the barrier.

(24) "Provider" means either the licensee or a staff member to whom the licensee has delegated a duty under this rule.

(25) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

(26) "School Age" means kindergarten and older age children.

(27) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1.(1)(2).

(28) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

(29) "Toddler" means a child aged 12 months but less than 24 months.

(30) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

**R430-100-3. License Required.**

A person or persons must be licensed as a child care center under this rule if:

(1) they provide care in lieu of care ordinarily provided by a parent;

(2) they provide care in a place other than the provider's home or the child's home;

(3) they provide care for five or more children;

(4) they provide care for each individual child for less than 24 hours per day;

(5) the program has a regularly scheduled, ongoing enrollment; and

(6) they provide care for direct or indirect compensation.

**R430-100-4. Indoor Environment.**

(1) The licensee shall ensure that any building constructed prior to 1978 which has peeling, flaking, chalking, or failing paint on the interior or exterior of the building is tested for lead based paint. If lead based paint is found, the licensee shall contact the local health department and follow all required procedures for the removal of the lead based paint.

(2) There shall be one toilet and one sink for every fifteen children in the center, excluding diapered children.

(3) School age children shall have privacy when using the bathroom.

(4) For buildings constructed after 1 July 1997 there shall be a hand washing sink in each classroom.

(5) Each area where infants or toddlers area cared for shall meet one of the following criteria:

(a) There shall be two sinks in the room. One sink shall be used exclusively for the preparation of food and bottles and hand washing prior to food preparation, and the other sink shall be used exclusively for hand washing after diapering and non-food activities.

(b) There shall be one sink in the room which is used exclusively for hand washing, and all bottle and food preparation shall be done in the kitchen and brought to the infant and toddler area by a non-diapering staff member.

(6) Infant and toddler areas shall not be used as access to other areas or rooms.

(7) All rooms and occupied areas in the building shall be ventilated by windows that open and have screens or by mechanical ventilation.

(8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(9) The provider shall maintain adequate light intensity for the safety of children and the type of activity being conducted by keeping lighting equipment in good working condition.

(10) Glass surfaces within 36 inches from the floor shall be made of safety glass, or have a protective guard.

(11) There shall be at least 35 square feet of indoor space for each child, including the licensee's and employees' children who are not counted in the caregiver to child ratios.

(12) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

(a) by children;

(b) for the care of children; or

(c) to store classroom materials.

(13) Bathrooms, closets, staff lockers, hallways, corridors, lobbies, kitchens, or staff offices are not included when calculating indoor space for children's use.

**R430-100-5. Cleaning and Maintenance.**

(1) The provider shall maintain a clean and sanitary environment.

(2) The provider shall clean and disinfect bathroom surfaces daily, including toilets, sinks, faucets, and counters.

(3) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other vermin.

(4) The provider shall maintain ceilings, walls, floor coverings, draperies, blinds, furniture, fixtures, and equipment in good repair to prevent injury to children and the spread of disease.

(5) The provider shall maintain entrances, exits, steps and outside walkways in a safe condition, and free of ice, snow, and other hazards.

**R430-100-6. Outdoor Environment.**

(1) There shall be an outdoor play area for children that directly adjoins or borders the building with a common boundary.

(2) The outdoor play area shall have at least 40 square feet of space for each child.

(3) The outdoor play area shall accommodate at least 33 percent of the licensed capacity at one time or shall be at least 1600 square feet.

(4) The outdoor play area shall be enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.

(5) There shall be no gaps in fences greater than 3-1/2 inches at any point, nor shall gaps between the bottom of the fence and the ground be more than 3-1/2 inches.

(6) The outdoor play area shall be free of trash, animal excrement, harmful objects or substances, and standing water, such as ponds or wading pools.

(7) The outdoor play area shall have a shaded area to protect children from excessive sun and heat.

(8) An outdoor source of drinking water, such as a drinking fountain, individually labeled water bottles, or a pitcher of water and individual cups that are taken outside, shall be available to children whenever the outside temperature is 75 degrees or higher.

(9) There shall be no trampolines in the outdoor play area.

(10) All outdoor play equipment and areas shall comply with the following playground equipment safety standards by 1 June 2009:

(a) All stationary playground equipment used by infants, toddlers, and 2 year olds shall meeting the following requirements:

(i) There shall be no designated play surface that exceeds 3 feet in height.

(ii) If the height of a designated play surface of a piece of equipment, excluding swings, is greater than 18 inches, it shall have use zones that meet the following criteria:

(A) The use zone shall extend a minimum of 3 feet in all directions from the perimeter of each piece of equipment.

(B) Use zones may overlap if two pieces of stationary equipment are positioned adjacent to one another, with a minimum of 3 feet between the perimeters of the two pieces of equipment.

(C) The use zone in front of a slide may not overlap the use zone of any other piece of playground equipment.

(iii) The use zone in the front and rear of all swings shall extend a minimum distance of twice the height of the pivot point of the swing, and shall not overlap the use zone of any other piece of equipment.

(iv) The use zone for the sides of a single-axis swing may overlap the use zone for the sides of an adjacent single-axis swing.

(v) The use zone of a multi-axis swing shall extend a minimum distance of 3 feet plus the length of the suspending members, and shall never overlap the use zone of another piece of equipment.

(vi) The use zone for merry-go-rounds shall never overlap the use zone of another piece of equipment.

(vii) The use zone for spring rockers shall extend a minimum of 3 feet from the at-rest perimeter of the equipment.

(viii) Swings shall have enclosed seats.

(b) All stationary playground equipment used by children age three years old and older shall meet the following requirements for use zones:

(i) If the height of a designated play surface of a piece of equipment, excluding swings, is greater than 20 inches, it shall have use zones that meet the following criteria:

(A) The use zone shall extend a minimum of 6 feet in all directions from the perimeter of each piece of equipment.

(B) The use zones of two pieces of stationary playground equipment that are positioned adjacent to one another may overlap if the designated play surfaces of each structure are no more than 30 inches above the protective surfacing underneath the equipment. In such cases, there may be 6 feet between the adjacent pieces of equipment.

(C) There shall be a minimum use zone of 9 feet between adjacent pieces of stationary play equipment if the designated play surface of one or both pieces of equipment is more than 30 inches above the protective surfacing underneath the equipment.

(ii) The use zone in the front and rear of a single-axis swing shall extend a minimum distance of twice the height of the pivot point of the swing, and may not overlap the use zone of any other piece of equipment.

(iii) The use zone for the sides of a single-axis swing shall extend a minimum of 6 feet from the perimeter of the structure, and may overlap the side use zone of a separate adjacent single-axis swing.

(iv) The use zone of a multi-axis swing shall extend a minimum distance of 6 feet plus the length of the suspending members, and shall never overlap the use zone of another piece of equipment.

(v) The use zone for merry-go-rounds shall never overlap the use zone of another piece of equipment.

(vi) The use zone for spring rockers shall extend a minimum of 6 feet from the at rest perimeter of the equipment.

(c) Protective cushioning is required in all use zones.

(d) If loose fill materials are used, the depth of the protective cushioning material shall meet the CPSC guidelines in Table 1. The provider shall ensure that the material is periodically checked for compression, and if compressed, shall loosen it to the depth in Table 1. If the material cannot be loosened due to extreme weather conditions, the provider shall not allow children to play on the equipment until the material can be loosened to the required depth.

TABLE 1
Critical Heights of Playground Equipment
for Depth Protective Cushioning

| MATERIAL | UNCOMPRESSED DEPTH 6 Inches of Cushioning |
|---|---|
| Wood Chips | less than or equal to 7' |
| Double Shredded Bark Mulch | less than or equal to 6' |
| Engineered Wood Fibers | less than or equal to 6' |
| Fine Sand | less than or equal to 5' |
| Coarse Sand | less than or equal to 5' |
| Fine Gravel | less than or equal to 6' |
| Medium Gravel | less than or equal to 5' |
| Shredded Tires | 10-12' |

| MATERIAL | UNCOMPRESSED DEPTH 9 Inches of Cushioning |
|---|---|
| Wood Chips | greater than 7' less than or equal to 10' |
| Double Shredded Bark Mulch | greater than 6' less than or equal to 10' |
| Engineered Wood Fibers | greater than 6' less than or equal to 7' |
| Fine Sand | 5' |
| Coarse Sand | 5' |
| Fine Gravel | greater than 6' less than or equal to 7' |
| Medium Gravel | 5' |
| Shredded Tires | N/A |

| MATERIAL | UNCOMPRESSED DEPTH 12 Inches of Cushioning |
|---|---|
| Wood Chips | greater than 10' less than or equal to 11' |
| Double Shredded Bark Mulch | greater than 10' less than or equal to 11' |
| Engineered Wood Fibers | greater than 7' less than or equal to 12' |
| Fine Sand | greater than 5' less than or equal to 9' |
| Coarse Sand | greater than 5' less than or equal to 6' |
| Fine Gravel | greater than 7' less than or equal to 10' |
| Medium Gravel | greater than 5' less than or equal to 6' |
| Shredded Tires | N/A |

| | COMPRESSED DEPTH |
|---|---|
| | 9 Inches of Cushioning |
| MATERIAL | |
| Wood Chips | 10' |
| Double Shredded Bark Mulch | 7' |
| Engineered Wood Fibers | 6' |
| Fine Sand | 5' |
| Coarse Sand | 4' |
| Fine Gravel | 6' |
| Medium Gravel | 5' |
| Shredded Tires | N/A |

(e) If a unitary cushioning material, such as rubber mats or poured rubber-like materials is used as protective cushioning, the licensee shall ensure that the material meets the standard established in ASTM Specification F 1292 (2004 edition), which is incorporated by reference. The provider shall maintain documentation from the manufacturer that the materials meet these specifications.

(f) The licensee shall ensure that the protective cushioning within the use zone of each play structure is installed in accordance ASTM Specification F 1292 appropriate for the fall height of each structure and Specification F 1951, which is incorporated by reference, where applicable. The provider shall maintain documentation from the installer that the installation meets these specifications.

(g) Stationary play equipment that has a designated play surface less than the height specified in Table 2 may be placed on grass, but shall not be placed on concrete, asphalt, dirt, or any other hard surface.

TABLE 2
Heights of Designated Play Surfaces
That May Be Placed on Grass

| INFANTS and TODDLERS | PRESCHOOLERS | SCHOOL AGE |
|---|---|---|
| Less than 18" | Less than 20" | Less than 30" |

(h) On playground equipment used by infants and toddlers, protective barriers shall be provided on all playground equipment platforms that are over 18 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 24 inches above the surface of the platform.

(i) On playground equipment used by preschoolers, protective barriers shall be provided on all playground equipment platforms that are over 30 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 29 inches above the surface of the platform.

(j) On playground equipment used by school age children, protective barriers shall be provided on all playground equipment platforms that are over 48 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 38 inches above the surface of the platform.

(k) No component or group of components of any structure or equipment on the playground shall have openings greater than 3-1/2 x 6-1/4 inches and less than 9 inches in diameter.

(l) There shall be no protrusion or entanglement hazards in or adjacent to the use zone of any piece of stationary play equipment.

(m) There shall be no pinch, crush, shearing, or sharp edge hazards in or adjacent to the use zone of any piece of stationary play equipment.

(n) There shall be no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

(o) The provider shall maintain playgrounds and playground equipment to protect children's safety.

(p) The provider shall prepare a phase-in plan identifying the center's schedule to comply with R430-100-7(10) by June 1, 2009. The plan shall be submitted to the Department no later than June 30, 2007.

**R430-100-7. Personnel.**

(1) The center must have a director who is at least 21 years of age and who has one of the following educational credentials:

(a) an associates, bachelors or graduate degree from an accredited college and successful completion of at least 12 semester credit hours of early childhood development courses;

(b) valid proof of a level 8, 9, or 10 Utah Early Childhood Career Ladder certification issued by the Utah Office of Child Care or the Utah Child Care Professional Development Institute.

(c) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, or other credential that the licensee demonstrates as equivalent to the Department;

(d) a currently valid National Administrator's Credential (NAC) issued by the National Child Care Association, plus one of the following:

(i) valid proof of successful completion of 12 semester credit hours of early childhood development courses from an accredited college; or

(ii) valid proof of completion of the following six Utah Early Childhood Career Ladder courses offered through Child Care Resource and Referral: Child Development Ages and Stages, Learning in the Early Years, A Great Place for Kids, Strong and Smart, Learning to Get Along, and Advanced Child Development.

(e) Center directors who used only the National Administrator Credential (NAC) to meet the director qualifications prior to 1 July 2006 have until June 30, 2011 to obtain the required additional training in early childhood development.

(2) All caregivers shall be at least 18 years of age.

(3) All assistant caregivers shall be at least 16 years of age, and shall work under the immediate supervision of a caregiver who is at least 18 years of age.

(4) Assistant caregivers may be included in caregiver to child ratios, but shall not be left unsupervised with children.

(5) Assistant caregivers shall meet all of the caregiver requirements under this rule, except the caregiver age requirement of 18 years.

(6) There shall be at least one caregiver in each group of children at all times who can demonstrate the literacy skills needed to care for children and respond to emergencies.

(7) Each new caregiver, assistant caregiver, and volunteer shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented in the caregiver's file and shall include the following topics:

(a) job description and duties;

(b) the center's written policies and procedures;

(c) the center's emergency and disaster plan;
(d) child care licensing rules for:
(i) Supervision and Ratios. R430-100-11;
(ii) Injury Prevention. R430-100-12;
(iii) Parent Notification and Child Security. R430-100-13;
(iv) Child Health. 430-100-14;
(v) Child Nutrition. R430-100-15;
(vi) Infection Control. R430-100-16;
(vii) Medications. R430-100-17;
(viii) Napping. R430-100-18;
(ix) Child Discipline. R430-100-19;
(x) Activities. R430-100-20;
(xi) Transportation, R430-100-21, if the center provides transportation;
(xii) Animals, R430-100-22, if the center permits animals;
(xiii) Diapering, R430-100-23, if the center diapers children; and
(xiv) Infant and Toddler Care, R430-100-24, if the center cares for infants or toddlers.
(e) introduction and orientation to the children assigned to the caregiver;
(f) a review of the information in the health history for each child in their assigned group;
(g) procedure for releasing children to authorized individuals only;
(h) proper clean up of body fluids;
(i) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;
(j) obtaining assistance in emergencies, as specified in the center's emergency and disaster plan.
(8) The center director and all caregivers shall complete a minimum of 20 hours of training each year, based on the center's license date.
(a) Documentation of annual training shall be kept in each caregiver's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.
(b) Caregivers who begin employment partway through the license year shall complete a proportionate number of training hours based on the number of months worked prior to the center's relicense date.
(c) Annual training hours shall include the following topics:
(i) a review of all of the current child care licensing rules for:
(A) Supervision and Ratios. R430-100-11;
(B) Injury Prevention. R430-100-12;
(C) Parent Notification and Child Security. R430-100-13;
(D) Child Health. 430-100-14;
(E) Child Nutrition. R430-100-15;
(F) Infection Control. R430-100-16;
(G) Medications. R430-100-17;
(H) Napping. R430-100-18;
(I) Child Discipline. R430-100-19;
(J) Activities. R430-100-20;
(K) Transportation, R430-100-21, if the center provides transportation;
(L) Animals, R430-100-22, if the center permits animals;
(M) Diapering, R430-100-23, if the center diapers children; and
(N) Infant and Toddler Care, R430-100-24, if the center cares for infants or toddlers.
(ii) a review of the center's written policies and procedures and emergency and disaster plans, including any updates;
(iii) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;
(iv) principles of child growth and development, including development of the brain; and
(v) positive guidance.
(d) If the center provides infant care, annual training topics for the center director and all infant and toddler caregivers shall also include:
(i) preventing shaken baby syndrome and coping with crying babies; and
(ii) preventing sudden infant death syndrome.
(9) A minimum of 10 hours of the required annual in-service training shall be face-to-face instruction.

**R430-100-8. Administration.**
(1) The licensee is responsible for all aspects of the operation and management of the center.
(2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care center.
(3) Either the center director or a designee with written authority to act on behalf of the center director shall be present at the facility whenever the center is open for care.
(4) Director designees shall be at least 21 years of age, and shall have completed their orientation training.
(5) The center director shall be on-site at the center for at least 20 hours per week, in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.
(6) The center director must have sufficient freedom from other responsibilities to manage the center and respond to emergencies.
(7) There shall be a working telephone at the facility, and the center director shall inform a parent and the Department of any changes to the center's telephone number within 48 hours of the change.
(8) The provider shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's medical treatment plan identified by the parents. The provider shall also mail or fax a written report to the Department within five days of the incident.
(9) The duties and responsibilities of the center director include the following:
(a) appoint, in writing, one or more caregivers to be a director designee, with authority to act on behalf of the center director in his or her absence;
(b) train and supervise staff to:
(i) ensure their compliance with this rule;
(ii) ensure they meet the needs of the children in care as specified in this rule; and
(iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.
(10) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:
(a) supervision and protection of children at all times, including when they are sleeping, using the bathroom, in a mixed group activity, on the playground, and during off-site activities;

(b) maintaining required caregiver to child ratios when the center has more than the expected number of children, or fewer than the scheduled number of caregivers;
(c) procedures to account for each child's attendance and whereabouts;
(d) procedures to ensure that the center releases children to authorized individuals only;
(e) confidentiality and release of information;
(f) the use of videos and video or computer games, including what industry ratings the center allows;
(g) recognizing early signs of illness and determining when there is a need for exclusion from the center;
(h) ensuring that food preparation and handwashing are not done in the same sink in infant and toddler areas;
(i) discipline of children, including behavioral expectations of children and discipline methods used;
(j) transportation to and from off-site activities, or to and from home, if the center offers these services; and
(k) if the program offers transportation to or from school, policies addressing:
(i) how long children will be unattended before and after school;
(ii) what steps will be taken if children fail to meet the vehicle;
(iii) how and when parents will be notified of delays or problems with transportation to and from school; and
(iv) the use of size-appropriate safety restraints.
(11) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.

**R430-100-9. Records.**
(1) The provider shall maintain the following records on-site for review by the Department:
(a) the center's written policies and procedures;
(b) documentation of the previous 12 months of fire and disaster drills as specified in R430-10(11)(12)(13)(14);
(c) current animal vaccination records as required in R430-100-22(3);
(d) a six week record of child attendance;
(e) all current variances granted by the Department;
(f) a current local health department inspection;
(g) a current local fire department inspection;
(h) the most recent "Request for Annual Renewal of CBS/MIS Criminal History Information for Child Care"
(i) records for each currently enrolled child, including the following:
(i) an admission form containing the following information for each child:
(A) name;
(B) date of birth;
(C) date of enrollment;
(D) the parent's name, address, and phone number, including a daytime phone number;
(E) the names of people authorized by the parent to pick up the child;
(F) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent;
(G) the name, address, and phone number of an out of area/state emergency contact person for the child, if available; and
(H) current emergency medical treatment and emergency medical transportation releases with the parent's signature;
(ii) a current annual health assessment form as required in R430-100-14(5);
(iii) current immunization records or documentation of a legally valid exemption, as specified in R430-100-14(4);
(iv) a transportation permission form, if the center provides transportation services;
(v) a six week record of medication permission forms, and a six week record of medications actually administered; and
(vi) a six week record of incident, accident, and injury reports; and
(j) records for each staff member, including the following:
(i) date of initial employment;
(ii) results of initial TB screening;
(iii) approved initial "CBS/MIS Consent and Release of Liability for Child Care" form;
(iv) the most recent "Disclosure Statement" for a criminal background check, if the employee has worked at the facility since the last license renewal;
(v) a six week record of days and hours worked;
(vi) orientation training documentation for caregivers, and for volunteers who work at the center at least once each month;
(vii) annual training documentation for caregivers; and
(viii) current first aid and CPR certification, if applicable as required in R430-100-10(2), R430-100-20(5)(d), and R430-100-21(2).
(2) The provider shall ensure that information in children's files is not released without parental permission.

**R430-100-10. Emergency Preparedness.**
(1) The provider shall post emergency numbers, including ambulance, fire, police, and poison control, near each telephone in the center.
(2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification.
(3) The center shall maintain at least one readily available first aid kit, and a second first aid kit for field trips if the center takes children on field trips. The first aid kit shall include the following items:
(a) disposable gloves;
(b) assorted sizes of bandaids;
(c) gauze pads and roll;
(d) adhesive tape;
(e) antiseptic or a topical antibiotic;
(f) tweezers; and
(g) scissors.
(4) Each first aid kit shall be in a closed container, readily accessible to staff but inaccessible to children.
(5) The provider shall have a written emergency and disaster plan which shall include at least the following:
(a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;
(b) procedures for responding to fire, earthquake, flood, power failure, and water failure;
(c) the location of and procedure for emergency shut off of gas, electricity, and water;
(d) an emergency exit plan;

(e) an emergency relocation site where children may be housed if the center is uninhabitable;

(f) a means of posting the relocation site address in a conspicuous location that can be seen even if the center is closed;

(g) the transportation route and means of getting staff and children to the emergency relocation site;

(h) a means of accounting for each child's presence in route to and at the relocation site;

(i) a means of accessing children's emergency contact information and emergency releases; including contact information for an out of area/state emergency contact person for the child, if available;

(j) provisions for emergency supplies, including at least food, water, a first aid kit, diapers if the center cares for diapered children, and a cell phone;

(k) procedures for ensuring adequate supervision of children during emergency situations, including while at the center's emergency relocation site; and

(l) staff assignments for specific tasks during an emergency.

(6) The provider shall ensure that the emergency and disaster plan is followed in the event of an emergency.

(7) The provider shall review the emergency and disaster plan annually, and update it as needed. The provider shall note the date of reviews and updates to plan on the plan.

(8) The emergency and disaster plan shall be available for immediate review by staff, parents, and the Department during business hours.

(9) The provider shall post emergency exit plans in conspicuous locations in each area or classroom occupied by children or staff. The emergency exit plan shall identify the reader's location within the building, and shall show the exit paths and the locations of the fire extinguishers and fire alarm pulls.

(10) The provider shall conduct fire evacuation drills monthly. Drills shall include complete exit of all children and staff from the building.

(11) The provider shall document all fire drills, including:

(a) the date and time of the drill;

(b) the number of children participating;

(c) the name of the person supervising the drill;

(d) the total time to complete the evacuation; and

(e) any problems encountered.

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

(13) The provider shall document all disaster drills, including:

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

(b) the date and time of the drill;

(c) the number of children participating;

(d) the name of the person supervising the drill; and

(e) any problems encountered.

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

**R430-100-11. Supervision and Ratios.**

(1) The provider shall ensure that caregivers provide and maintain direct supervision of all children at all times.

(2) Caregivers shall actively supervise children on the playground to minimize the risk of injury to a child.

(3) There shall be at least two caregivers with the children at all times when there are more than 8 children or more than 2 infants present.

(4) The licensee shall maintain the minimum caregiver to child ratios and group sizes in Table 3 for single age groups of children.

TABLE 3
Minimum Caregiver to Child Ratios and Group Sizes

| Ages of Children | # of Caregivers | # of Children | Maximum Group Size |
|---|---|---|---|
| birth - 23 months | 1 | 4 | 8 |
| 2 years old | 1 | 7 | 14 |
| 3 years old | 1 | 12 | 24 |
| 4 years old | 1 | 15 | 30 |
| 5 years old and school age | 1 | 20 | 40 |

(5) A Center constructed prior to January 1, 2004 which has been licensed and operated as a child care center continuously since January 1, 2004 is exempt from maximum group size requirements, if the required caregiver to child ratios are maintained, and the required square footage for each classroom is maintained.

(6) Ratios and group sizes for mixed age groups are determined by averaging the ratios and group sizes of the ages represented in the group, with the following exception: if more than half of the group is composed of children in the youngest age group, the caregiver to child ratio and group size for the youngest age shall be maintained.

(7) Table 4 represents the caregiver to child ratios and group size for common mixed age groups.

TABLE 4
Minimum Caregiver to Child Ratios and Group Sizes
for Mixed Age Groups

| TWO MIXED AGES | # of Caregivers | # of Children | Maximum Group Size |
|---|---|---|---|
| 2 and 3 years | 1 | 10 | 19 |
| 3 and 4 years | 1 | 14 | 27 |
| 4 and 5 years and school age | 1 | 18 | 35 |

| THREE MIXED AGES | # of Caregivers | # of Children | Maximum Group Size |
|---|---|---|---|
| 2, 3, and 4 years | 1 | 11 | 23 |
| 3, 4, and 5 years and school age | 1 | 16 | 31 |

| FOUR MIXED AGES | # of Caregivers | # of Children | Maximum Group Size |
|---|---|---|---|
| 2, 3, 4 and 5 years and school age | 1 | 13 | 27 |

(8) Infants and toddlers may be included in mixed age groups only when 8 or fewer children are present at the center.

(9) If more than 2 infants or toddlers are included in a mixed age group, there shall be at least 2 caregivers with the group.

(10) During nap time the caregiver to child ratio may double for not more than two hours for children age 18 months and older, if the children are in a restful or non-active state, and if a means of communication is maintained with another caregiver who is on-site. The caregiver supervising the napping children must be able to contact the other on-site caregiver without having to leave children unattended in the napping area.

(11) The children of the licensee or any employee, age four or older, are not counted in the caregiver to child ratios when the licensee or employee is working at the center, but are counted in the maximum group size.

**R430-100-12. Injury Prevention.**

(1) The provider shall ensure that the building, grounds, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The provider shall conduct a daily inspection of the building and grounds to ensure the premises is safe and free from potential hazards to children.

(3) The provider shall ensure that the indoor environment is free of tripping hazards such as unsecured flooring or cords.

(4) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that children could pull down on themselves.

(5) The following items shall be inaccessible to children:

(a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a locked cabinet or area, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;

(b) when in use, portable space heaters, fireplaces, and wood burning stoves;

(c) toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials;

(d) poisonous plants;

(e) matches or cigarette lighters;

(f) sharp objects, edges, corners, or points which could cut or puncture skin;

(g) for children age 4 and under, strings and cords long enough to encircle a child's neck, such as those found on pull toys, window blinds, or drapery cords;

(h) for children age 4 and under, plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(i) for children under age 3 and under, toys or other items with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches, or objects with removable parts that have a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches.

(6) The provider shall store all toxic or hazardous chemicals in a container labeled with its contents.

(7) Electrical outlets and surge protectors accessible to children age four and younger shall have protective caps or safety devices when not in use.

(8) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(9) High chairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

(10) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children under age 3 shall not have a designated play surface that exceeds 3 feet in height.

(a) If such equipment has an elevated designated play surface less than 18 inches in height, it shall be surrounded by cushioning materials, such as mats at least 1 inch thick, in a 3 foot use zone.

(b) Mats surrounding indoor stationary play equipment with a designated play surface over 18 inches in height shall be at least 2 inches thick, or shall meet ASTM Standard F1292.

(11) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children age 3 and older shall not have a designated play surface that exceeds 5-1/2 feet in height.

(a) If such equipment has an elevated designated play surface less than 3 feet in height, it shall be surrounded by protective cushioning material, such as mats at least 1 inch thick, in a six foot use zone.

(b) The cushioning material surrounding indoor stationary play equipment with a designated play surface over 3 feet in height shall meet ASTM Standard F1292.

(12) There shall be no trampolines in the indoor play area.

**R430-100-13. Parent Notification and Child Security.**

(1) The provider shall post a copy of the Department's child care guide in the center for parents' review during business hours.

(2) Parents shall have access to the center and their child's classroom at all times their child is in care.

(3) The provider shall establish and follow a procedure for ensuring that persons dropping off or picking up a child sign the child in and out of the center.

(4) Caregivers may sign school age children out of the center when they leave for school, and into the center when they arrive from school.

(5) The sign-in and sign-out record shall include the time of day each child is signed in and out.

(6) Persons signing children in and out of the center shall use identifiers, such as a signature, initials, or electronic code.

(7) Only parents or persons with written authorization from parents may take any child from the center. In an emergency, the provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.

(8) Persons picking up a child from the center shall provide proper identification.

(9) The provider shall give parents a written report of every incident, accident, or injury involving their child on the day of occurrence. The caregivers involved, the center director, and the parent shall sign the report on the day of occurrence.

(10) In the case of a life threatening injury to a child, the provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached, the provider shall attempt to contact the child's emergency contact person.

**R430-100-14. Child Health.**

(1) No child may be subjected to physical, emotional, or sexual abuse while in care.

(2) All staff shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The use of tobacco, alcohol, illegal substances, or sexually explicit material on the premises or in center vehicles is prohibited any time that children are in care.

(4) The provider shall not admit any child to the center without documentation of:

(a) proof of current immunizations, as required by Utah law;

(b) proof of receiving at least one dose of each required vaccine prior to enrollment, and a written schedule to receive all subsequent required vaccinations; or

(c) written documentation of an immunization exemption due to personal, medical or religious reasons.

(5) The provider shall not admit any child to the center without a signed health assessment completed by the parent which shall include:

(a) allergies;

(b) food sensitivities;

(c) acute and chronic medical conditions;

(d) instructions for special or non-routine daily health care;
(e) current medications; and,
(f) any other special health instructions for the caregiver.
(6) The provider shall ensure that each child's health assessment is reviewed, updated, and signed or initialed by the parent at least annually.

**R430-100-15. Child Nutrition.**
(1) If food service is provided:
(a) The provider shall ensure that the center's meal service complies with local health department food service regulations.
(b) Menus for centers not currently participating in good standing with the USDA Child and Adult Care Food Program (CACFP) shall comply with the nutritional requirements of the CACFP. The licensee shall either use standard Department-approved menus, menus provided by the CACFP, or menus approved by a registered dietician. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years.
(c) The provider shall post the current week's menu for parent review, and shall note any substitutions on the menus.
(2) The provider shall offer meals or snacks at least once every three hours.
(3) The provider shall serve children's food on dishes, napkins, or sanitary high chair trays. The provider shall not place food on a bare table.
(4) The provider shall post a list of children's food allergies and sensitivities in the food preparation area, and shall ensure that caregivers who serve food to children are aware of this information for the children in their assigned group.
(5) The provider shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's full name, and refrigerated if needed.

**R430-100-16. Infection Control.**
(1) Staff shall wash their hands thoroughly for at least 20 seconds with liquid soap and warm running water at the following times:
(a) before handling or preparing food or bottles;
(b) before and after eating meals and snacks or feeding children;
(c) before and after diapering a child;
(d) after using the toilet or helping a child use the toilet;
(e) before and after diapering a child;
(f) before administering medication;
(g) after coming into contact with body fluids;
(h) after playing with or handling animals;
(i) when coming in from outdoors; and
(j) after cleaning or taking out garbage.
(2) The provider shall ensure that children wash their hands thoroughly for at least 20 seconds with liquid soap and warm running water at the following times:
(a) before and after eating meals and snacks
(b) after using the toilet;
(c) after coming into contact with body fluids;
(d) after playing with animals; and
(e) when coming in from outdoors.
(3) Only single use towels from a covered dispenser or an electric hand-drying device may be used to dry hands.
(4) The provider shall post handwashing procedures at each handwashing sink, and they and shall be followed.
(5) Caregivers shall teach children proper hand washing techniques and oversee hand washing whenever possible.
(6) Personal hygiene items such as combs, hair accessories, and toothbrushes shall not be shared by children or used by staff on more than one child, and shall be stored so that they do not touch each other.
(7) The provider shall clean and sanitize all washable toys and materials weekly, or more often if necessary.
(8) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The provider shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows or covers weekly.
(9) If water play tables or tubs are used, they shall be washed and sanitized daily, and children shall wash their hands prior to engaging in the activity.
(10) The licensee shall ensure that all employees are tested for tuberculosis (TB) within two weeks of hire by the Mantoux Method of skin testing and follow-up.
(11) If the Mantoux test is positive, the caregiver shall provide documentation from a health care provider detailing:
(a) the reason for the positive reaction;
(b) whether or not the person is contagious; and
(c) if needed, how the person is being treated.
(12) Persons with contagious TB shall not work in the center.
(13) An employee having a medical condition which contra-indicates a TB test must provide documentation from a health care provider indicating they are exempt from testing, with an associated time frame, if applicable. The provider shall maintain this documentation in the employee's file.
(14) Children's clothing shall be changed promptly if they have a toileting accident.
(15) Children's clothing which is wet or soiled from body fluids:
(a) shall not be rinsed or washed at the center; and
(b) shall be placed in a leakproof container, labeled with the child's name, and returned to the parent.
(16) If the center uses potty chairs, the provider shall clean and disinfect them after each use.
(17) Staff who prepare food in the kitchen shall not change diapers or assist in toileting children.
(18) The center shall have a portable body fluid clean up kit.
(a) All staff shall know the location of the kit and how to use it.
(b) The provider shall use the kit to clean up spills of body fluids.
(c) The provider shall restock the kit as needed.
(19) The center shall not care for children who are ill with an infectious disease, except when a child shows signs of illness after arriving at the center.
(20) The provider shall separate children who develop signs of an infectious disease after arriving at the center from the other children in a safe, supervised location.
(21) The provider shall contact the parents of children who are ill with an infectious disease and ask them to immediately pick up their child. If the provider cannot reach the parent, the provider shall contact the individuals listed as emergency contacts for the child and ask them to pick up the child.
(22) The provider shall notify the local health department, on the day of discovery, of any reportable infectious diseases among children or caregivers, or any sudden or extraordinary occurrence of

a serious or unusual illness, as required by the local health department.

(23) The provider shall post a parent notice at the center when any staff or children have an infectious disease or parasite.

(a) The provider shall post the notice in a conspicuous location where it can be seen by all parents.

(b) The provider shall post and date the notice the same day the disease or parasite is discovered, and the notice shall remain posted for at least 5 days.

**R430-100-17. Medications.**

(1) If medications are given, they shall be administered to children only by a provider trained in the administration of medications.

(2) All over-the-counter and prescription medications shall:

(a) be labeled with the child's name;

(b) be kept in the original or pharmacy container;

(c) have the original label; and,

(d) have child-safety caps.

(3) All non-refrigerated medications shall be inaccessible to children and stored in a container or area that is locked, such as a locked room, cupboard, drawer, or a lockbox. The provider shall store all refrigerated medications in a covered container with a tight fitting lid.

(4) The provider shall have a written medication permission form completed and signed by the parent prior to administering any over-the-counter or prescription medication to a child. The permission form must include:

(a) the name of the medication;

(b) written instructions for administration; including:

(i) the dosage;

(ii) the method of administration;

(iii) the times and dates to be administered; and

(iv) the disease or condition being treated; and

(c) the parent signature and the date signed.

(5) If the provider keeps over-the-counter medication at the center that is not brought in by a parent for their child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given.

(6) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication prior to the time the medication needs to be given.

(7) When administering medication, the provider administering the medication shall:

(a) wash their hands;

(b) check the medication label to confirm the child's name;

(c) compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;

(d) administer the medication; and

(e) immediately record the following information:

(i) the date, time, and dosage of the medication given;

(ii) the signature or initials of the provider who administered the medication; and,

(iii) any errors in administration or adverse reactions.

(8) The provider shall report any adverse reaction to a medication or error in administration to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.

(9) The provider shall not keep medications at the center for children who are no longer enrolled.

**R430-100-18. Napping.**

(1) The center shall provide children with a daily opportunity for rest or sleep in an environment that provides subdued lighting, a low noise level, and freedom from distractions.

(2) Scheduled nap times shall not exceed two hours daily.

(3) A separate crib, cot, or mat shall be used for each child during nap times.

(4) Mats and mattresses used for napping shall be at least 2 inches thick and shall have a smooth, waterproof surface.

(5) The provider shall maintain sleeping equipment in good repair.

(6) If sleeping equipment is clearly assigned to and used by an individual child, the provider must clean and disinfect it as needed, but at least weekly.

(7) If sleeping equipment is not clearly assigned to and used by an individual child, the provider must clean and disinfect it prior to each use.

(8) The provider must either store sleeping equipment so that the surfaces children sleep on do not touch each other, or else clean and disinfect sleeping equipment prior to each use.

(9) A sheet and blanket or acceptable alternative shall be used by each child during nap time. These items shall be:

(a) clearly assigned to one child;

(b) stored separately from other children's when not in use; and,

(c) laundered as needed, but at least once a week, and prior to use by another child.

(10) The provider shall space cribs, cots, and mats a minimum of 2 feet apart when in use, to allow for adequate ventilation, easy access, and ease of exiting.

(11) Cots and mats may not block exits.

**R430-100-19. Child Discipline.**

(1) The provider shall inform caregivers, parents, and children of the center's behavioral expectations for children.

(2) The provider may discipline children using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(3) Caregivers may use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others or from destroying property.

(4) Discipline measures shall not include any of the following:

(a) any form of corporal punishment such as hitting, spanking, shaking, biting, pinching, or any other measure that produces physical pain or discomfort;

(b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds that specified in Subsection (3) above.

(c) shouting at children;

(d) any form of emotional abuse;

(e) forcing or withholding of food, rest, or toileting; and,

(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

**R430-100-20. Activities.**

(1) The provider shall post a daily schedule for preschool and school-age groups. The daily schedule shall include, at a minimum, meal, snack, nap, and outdoor play times.

(2) The provider shall offer activities to support each child's healthy physical, social-emotional, and cognitive-language development. The provider shall post a current activity plan for parent review listing these activities in preschool and school age groups.

(3) Daily activities shall include outdoor play if weather permits.

(4) The provider shall make the toys and equipment needed to carry out the activity plan accessible to children.

(5) If off-site activities are offered:

(a) the provider shall obtain written parental consent for each activity in advance;

(b) caregivers shall take written emergency information and releases with them for each child in the group, which shall include:

(i) the child's name;

(ii) the parent's name and phone number;

(iii) the name and phone number of a person to notify in the event of an emergency if the parent cannot be contacted;

(iv) the names of people authorized by the parents to pick up the child; and

(v) current emergency medical treatment and emergency medical transportation releases;

(c) the provider shall maintain required caregiver to child ratios and direct supervision during the activity;

(d) at least one caregiver present shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification;

(e) children shall wear or carry with them the name and phone number of the center, but children's names shall not be used on name tags, t-shirts, or other identifiers; and

(f) caregivers shall provide a way for children to wash their hands as specified in R430-100- 16(2).

(6) If swimming activities are offered, caregivers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the caregiver to child ratio.

**R430-100-21. Transportation.**

(1) Any vehicle used for transporting children shall:

(a) be enclosed;

(b) be equipped with individual, size appropriate safety restraints, properly installed and in working order, for each child being transported;

(c) have a current vehicle registration and safety inspection;

(d) be maintained in a safe and clean condition;

(e) maintain temperatures between 60-90 degrees Fahrenheit when in use;

(f) contain a first aid kit; and

(g) contain a body fluid clean up kit.

(2) At least one adult in each vehicle transporting children shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification.

(3) The adult transporting children shall:

(a) have and carry with them a current valid Utah driver's license, for the type of vehicle being driven, whenever they are transporting children;

(b) have with them written emergency contact information for all of the children being transported;

(c) ensure that each child being transported is wearing an appropriate individual safety restraint;

(d) ensure that no child is left unattended by an adult in the vehicle;

(e) ensure that all children remain seated while the vehicle is in motion;

(f) ensure that keys are never left in the ignition when the driver is not in the driver's seat; and,

(g) ensure that the vehicle is locked during transport.

**R430-100-22. Animals.**

(1) The provider shall inform parents of the types of animals permitted at the facility.

(2) All animals at the facility shall be clean and in good health.

(3) All animals at the facility shall have current immunizations for all vaccine preventable diseases that are transmissible to humans. The center shall have documentation of the vaccinations.

(4) There shall be no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.

(5) Children shall not assist with the cleaning of animals or animal cages, pens, or equipment.

(6) There shall be no animals or animal equipment in food preparation or eating areas.

(7) Children shall not handle reptiles or amphibians.

**R430-100-23. Diapering.**

If the center diapers children, the following applies:

(1) Caregivers shall change children's diapers at a diaper changing station. Diapers shall not be changed on surfaces used for any other purpose.

(2) Each diapering station shall be equipped with railings to prevent a child from falling when being diapered.

(3) Caregivers shall not leave children unattended on the diapering surface.

(4) The diapering surface shall be smooth, waterproof, and in good repair.

(5) The provider shall post diapering procedures at each diapering station and ensure that they are followed.

(6) Caregivers shall clean and disinfect the diapering surface after each diaper change.

(7) Caregivers shall wash their hands before and after each diaper change.

(8) Caregivers shall place soiled disposable diapers in a container that has a plastic lining and a tightly fitting lid.

(9) The provider shall daily clean and disinfect containers where soiled diapers are placed.

(10) If cloth diapers are used:

(a) they shall not be rinsed at the center; and

(b) after a diaper change, the caregiver shall place the cloth diaper directly into a leakproof container labeled with the child's name, or a leakproof diapering service container.

(11) Caregivers shall change children's diapers promptly when they are wet or soiled, and shall check diapers at least once every two hours.

(12) Caregivers shall keep a written record daily for each child documenting their diaper changes. The record shall include the time of each diaper change and whether the diaper was wet, soiled, or both.

(13) Care givers whose designated responsibility includes the care of diapered children shall not prepare food for children or staff outside of the classroom area used by the diapered children.

**R430-100-24. Infant and Toddler Care.**

If the center cares for infants or toddlers, the following applies:

(1) The provider shall not mix infants and toddlers with older children, unless there are 8 or fewer children present at the center.
(2) Infants and toddlers shall not use outdoor play areas at the same time as older children.
(3) If an infant is not able to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.
(4) The provider shall clean and sanitize high chair trays prior to each use.
(5) The provider shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter. The provider shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.
(6) Baby food, infant formula, and breast milk for infants that is brought from home for an individual child's use must be:
(a) labeled with the child's name;
(b) labeled with the date and time of preparation or opening of the container, such as a jar of baby food;
(c) kept refrigerated if needed; and
(d) discarded within 24 hours of preparation or opening, except that powdered formula or dry foods which are opened, but are not mixed, are not considered prepared.
(7) Infant formula and milk, including breast milk, shall be discarded after feeding, or within two hours of initiating a feeding.
(8) Breast milk shall not be microwaved.
(9) Pacifiers, bottles, and non-disposable drinking cups shall be labeled with each child's name, and shall not be shared.
(10) Only one infant shall occupy any one piece of equipment at any time, unless the equipment has individual seats for more than one child.
(11) Infants shall sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or play pen. Infants shall not be placed to sleep on mats or cots, or in bouncers, swings, car seats, or other similar pieces of equipment.
(12) Infant cribs must:
(a) have tight fitting mattresses;
(b) have slats spaced no more than 2-3/8 inches apart;
(c) have at least 20 inches from the top of the mattress to the top of the crib rail; and
(d) not have strings, cords, ropes, or other entanglement hazards strung across the crib rails.
(13) Infants shall be placed on their backs for sleeping, unless there is documentation from a health care provider for treatment of a medical condition.
(14) Each infant and toddler shall follow their own pattern of sleeping and eating.
(15) Caregivers shall keep a written record daily for each infant documenting their eating and sleeping patterns.
(16) Infant walkers with wheels are prohibited.
(17) Infants and toddlers shall not have access to objects made of styrofoam.
(18) Caregivers shall respond as promptly as possible to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness.
(19) Awake infants and toddlers shall receive positive physical stimulation and positive verbal interaction with a caregiver at least once every 20 minutes.
(20) Awake infants shall not be confined for more than 30 minutes in one piece of equipment, such as swings, high chairs, cribs, play pens, or other similar pieces of equipment.
(21) Mobile infants and toddlers shall have freedom of movement in a safe area.
(22) To stimulate their healthy development, there shall be safe toys accessible to infants and toddlers. There shall be enough toys for each child in the group to be engaged in play with toys.
(23) All toys used by infants and toddlers shall be cleaned and sanitized:
(a) weekly;
(b) after being put in a child's mouth; and
(c) after being contaminated by body fluids.

**R430-100-25. Penalty.**
The Department may impose civil money penalties in accordance with Title 63, Chapter 46b, Administrative Procedures Act, if there has been a failure to comply with the provisions of this chapter, or rules promulgated pursuant to this chapter.

**KEY: child care facilities, child care, child care centers**
**Date of Enactment or Last Substantive Amendment: [~~August 27, 2004~~]2006**
**Notice of Continuation: January 15, 2003**
**Authorizing, Implemented, or Interpreted Law: 26-39**

# Human Services, Services for People with Disabilities
# R539-2-4
## Waiting List

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 28719
FILED: 05/08/2006, 09:19

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to provide the Division of Services for People with Disabilities and the Department of Health with the authority to make limited exceptions to the priority rankings on the Division Waiting List for services.

SUMMARY OF THE RULE OR CHANGE: To preserve the Medicaid Waiver and state-wide service infrastructure, exceptions may be made to the person's ranking on the waiting list when authorized by the Division Director and the Department of Health. Federal law requires that services must be provided statewide.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-5-102 and 62A-5-103, and 42 U.S.C. 1396(a)(1)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: This amendment will not increase cost or savings. The goal of the rule amendment is to assure cost neutrality by allowing the Division and Department of Health to make some decisions about the ranking on the waiting list that preserve cost neutrality. The same number of individuals will

be served. This rule affects the priority of individuals on the waiting list but will not increase or decrease the services received in total or the amount of funding expended.

❖ LOCAL GOVERNMENTS: After a careful review of potential costs or savings to local governments, the Division has determined that local governments will not be affected. Services are provided directly to persons served by the Division. Priority on the waiting list is established solely by the Division. Local governments are not involved in establishing priority on the waiting list, providing the services or acting as intermediaries and will not experience additonal costs or savings.

❖ OTHER PERSONS: After a careful review of potential costs or savings to other persons, the Division has determined that other persons will not be affected. Services are provided directly to persons served by the Division. Other persons are not involved in establishing priority on the waiting list, providing the services or acting as intermediaries and will not experience additional costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: After a careful review of potential compliance costs or savings to affected persons, the Division has determined that affected persons will not have any compliance costs. The only exception would be if an affected person elects to hire a representative or an attorney to represent them in any aspect of the Division priority process, then an affected person would incur those costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment assures that the Division can meet the overall requirements of the Medicaid Waiver, and support the businesses who are contract providers in all areas of the state who assist people with disabilities. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
SERVICES FOR PEOPLE WITH DISABILITIES
Room 411
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steven Bradford at the above address, by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at sbradford@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: George Kelner, Director

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**R539. Human Services, Services for People with Disabilities.**
**R539-2. Service Coordination.**
**R539-2-4. Waiting List.**

(1) Pursuant to Subsection 62A-5-102(3), the Division shall determine a Person's eligibility for service, followed by a determination of that Person's priority relative to others who are also eligible. Each region shall use a standardized Needs Assessment to score and prioritize the Person's level of need. Persons with the highest scores shall receive support first. The Support Coordinator shall assess with the Person the array of services that may be needed. If funding is not immediately available, the Person shall be placed on a waiting list for support. Persons who have been determined eligible for the Division's Medicaid Waivers can choose to wait for Division Support services or seek services available through Medicaid in an approved facility.

(2) If the Person requires, and could use, support services on the day of intake, the Person has an immediate need; otherwise, the Person has a future need.

(3) A Needs Assessment Form 2-2 shall be completed for all Persons with an immediate need for support services. The Needs Assessment calculates the score of each Person by using the following criteria:

(a) severity of the disabling condition;
(b) needs of the Person and/or family;
(c) length of time on the waiting list, if applicable;
(d) appropriate alternatives available; and
(e) other factors determined by the Region to reflect accurately on the Person's need:
(i) family composition;
(ii) skills and stress of primary caregiver;
(iii) finances and insurances;
(iv) ability to be self-directing;
(v) special medical needs;
(vi) problem behaviors;
(vii) protective service issues;
(viii) resources/supports needed;
(ix) projected deterioration issues; and
(x) time on immediate need waiting list.

(4) The Region Needs Assessment Committee determines the Person's score, rank orders the scores, and enters the Person's name and score on the statewide waiting list.

(5) A Person's ranking may change if the Person's needs change or as Needs Assessments are completed for new Applicants.

(6) No age limitations apply to a Person placed on the waiting list for community living support or family support.

(7) To preserve the Medicaid Waiver and state-wide service infrastructure, exceptions may be made to the person's ranking on the waiting list when authorized by the Division Director and the Department of Health.

**KEY: services, people with disabilities**
**Date of Enactment or Last Substantive Amendment: [~~May 17, 2005~~]2006**
**Authorizing, and Implemented or Interpreted Law: 62A-5-102; 62A-5-103**

# Labor Commission, Industrial Accidents
# R612-2-5
## Regulation of Medical Practitioner Fees

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 28729
FILED: 05/15/2006, 10:11

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the proposed rule change is to update references to the 2006 edition of the National Centers for Medicare and Medicaid Services (CMS) for the Medicare Physician Fee Schedule (MPFS) Resource-Based Relative Value Scale (RBRVS) and the 2006 edition of the American Medial Association's CPT-4 coding guidelines. The proposed rule change also makes some clerical corrections.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment adopts and incorporates the 2006 edition of the National Centers for Medicare and Medicaid Services' RBRVS, as well as the 2006 edition of the American Medical Association's CPT-4 coding guidelines. The updated RBRVS and CPT-4 clarify provisions for payment of SSEP monitoring and chiropractic treatment provided by physical therapists. The amendment also makes some nonsubstantive clerical corrections.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-2-101 et seq., 34A-3-101 et seq., and 34A-1-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: National Centers for Medicare and Medicaid Services (CMS) for the Medicare Physician Fee Schedule (MPFS) Resource-Based Relative Value Scale 2006 edition; and the American Medical Association's CPT-4 2006 edition coding guidelines

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no aggregate cost or savings to the State budget. The amendment will impose no new costs of enforcement or administration on the Labor Commission. With respect to the State's expense in its capacity as an employer of injured workers, the proposed changes are of minor impact and will produce no overall savings or costs.

❖ LOCAL GOVERNMENTS: There will be no aggregate cost or savings to local governments. In local government's capacity as employers of injured workers, the proposed changes are of minor impact and will produce no overall savings or costs.

❖ OTHER PERSONS: There will be no aggregate cost or savings to other persons. The proposed changes are of minor impact and will produce no overall savings or costs to the employers, insurance carriers, or medical providers that are subject to the changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment reflects a minor refinement and updating of existing standards. On balance, the amendments are fiscally neutral and will impose no additional compliance costs on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment will have no fiscal impact on business. Businesses are currently subject to the requirement of previous versions of the RBRVS and CPT-4. The proposed amendment reflects a minor refinement and updating of existing standards, but with no overall additional cost. R. Lee Ellertson, Commissioner

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joyce Sewell at the above address, by phone at 801-530-6988, by FAX at 801-530-6804, or by Internet E-mail at jsewell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: R Lee Ellertson, Commissioner

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**R612. Labor Commission, Industrial Accidents.**
**R612-2. Workers' Compensation Rules-Health Care Providers.**
**R612-2-5. Regulation of Medical Practitioner Fees.**

Pursuant to Section 34A-2-407:

A. The Labor Commission of Utah:

1. Establishes and regulates fees and other charges for medical, surgical, nursing, physical and occupational therapy, mental health, chiropractic, naturopathic, and osteopathic services, or any other area of the healing arts as required for the treatment of a work-related injury or illness.

2. Adopts and by this reference incorporates the National Centers for Medicare and Medicaid Services (CMS) for the Medicare Physician Fee Schedule (MPFS) "Resource-Based Relative Value Scale" (RBRVS), 200[~~5~~]6 edition, as the method for calculating reimbursement and the American Medical Association's CPT-4, 200[~~5~~]6 edition, coding guidelines. The non-facility total unit value will apply in calculating the reimbursement, except that procedures provided in a facility setting shall be reimbursed at the facility total unit value and the facility may bill a separate facility charge. The CPT-4 coding guidelines and RBRVS are subject to the Utah Labor Commission's Medical Fee Guidelines and Codes and the following

Labor Commission conversion factors for medical care rendered for a work-related injury or illness, effective July [~~1~~]11, 200[~~5~~]6: (Conversion Rates below EFFECTIVE July 11, 2006, to be used with the RBRVS procedural Unit value as per specialty.)

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

Medicine E and M $44.00;

Pathology and Laboratory 150% of Utah's published Medicare carrier;

Radiology $53.00;

Restorative [~~Medicine~~]Services $44.00, with Utah code 97001 and 97003 at a 1.5 relative value unit and Utah code 97002 and 97004 at a 1.0 of relative value unit.

Surgery $37.00;

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

3. Adopts and incorporates by this reference the Utah Labor Commission's Medical Fee Guidelines and Codes, as of July [~~1~~]11, 200[~~5~~]6. The Utah Medical Fee Guidelines and Codes can be obtained from the division for a fee sufficient to recover costs of development, printing, and mailing or can be downloaded at the Labor Commission's website at www.laborcommission.utah.gov/indacc/indacc.htm.

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

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

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

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

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

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

**KEY: workers' compensation, fees, medical practitioner**
**Date of Enactment or Last Substantive Amendment: [~~July 2, 2005~~]2006**
**Notice of Continuation: May 28, 2003**
**Authorizing, and Implemented or Interpreted Law: 34A-2-101 et seq.; 34A-3-101 et seq.; 34A-1-104**

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# Labor Commission, Industrial Accidents
# R612-2-22
## Medical Records

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 28730
FILED: 05/15/2006, 10:12

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment clarifies the authority of administrative law judges to authorize gathering of medical records in cases pending before the Adjudication Division.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment adds a provision to the existing rule that authorizes administrative law judges to act on requests for medical records in cases pending before the Adjudication Division.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-2-101 et seq., 34A-3-101 et seq., and 34A-1-1-4

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no cost or savings to the State budget. The proposed amendment imposes no additional costs on the State, either with respect to the Labor Commission's administration of the amendment, or with respect to the State's compliance with the amendment. While the proposed amendment will simplify the process of gathering medical evidence and, therefore, tend to reduce the cost of that process, such savings should be minimal.

❖ LOCAL GOVERNMENTS: There will be no cost or savings to local government. The proposed amendment imposes no additional costs on local governments in their capacity as litigants before the Commission. While the proposed amendment will simplify the process of gathering medical evidence and, therefore, tend to reduce the cost of that process, such savings should be minimal.

❖ OTHER PERSONS: There will be no cost or savings to other persons. The proposed amendment imposes no additional costs on local governments in their capacity as litigants before the Commission. While the proposed amendment will simplify the process of gathering medical evidence and, therefore, tend to reduce the cost of that process, such savings should be minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment requires no additional action from affected persons. Consequently, there are no compliance costs associated with the amendment. The proposed amendment simply clarifies the circumstances under which different agents of the Commission are authorized to approve requests for medical records.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment represents a procedural simplification and clarification that should ease the process for litigants to obtain necessary medical records. The proposal will have no negative fiscal impose on business. R. Lee Ellertson, Commissioner

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joyce Sewell at the above address, by phone at 801-530-6988, by FAX at 801-530-6804, or by Internet E-mail at jsewell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: R Lee Ellertson, Commissioner

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**R612. Labor Commission, Industrial Accidents.**
**R612-2. Workers' Compensation Rules-Health Care Providers.**
**R612-2-22. Medical Records.**

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

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

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

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

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

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

c. The Uninsured Employers' Fund;

d. The Employers' Reinsurance Fund; or

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

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

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

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

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

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

d. The Uninsured Employers Fund;

e. The Employers' Reinsurance Fund;

f. The Labor Commission;

g. The injured worker;

h. An injured workers' personal representative;

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

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

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

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

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

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

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

D. A medical provider, who has treated an injured worker for a work related injury or illness, shall disclose information to an injured workers' employer as to when and what restrictions an injured worker may return to work.

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

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

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

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

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

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

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

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

c. As otherwise authorized by the injured worker.

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

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

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

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

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

3. Actual costs of postage payable after the records have been prepared an sent. Actual cost of postage are deemed to be the cost of regular mail unless the requesting party has requested the delivery of the records by special mail or method.

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

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

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

1. History and physical;

2. Operative reports of surgery;

3. Hospital discharge summary;

4. Emergency room records;

5. Radiological reports;

6. Specialized test results; and

7. Physician SOAP notes, progress notes, or specialized reports.

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

**KEY: workers' compensation, fees, medical practitioner**
**Date of Enactment or Last Substantive Amendment: [~~July 2, 2005~~]2006**
**Notice of Continuation May 28, 2003**
**Authorizing, and Implemented or Interpreted Law: 34A-2-101 et seq.; 34A-3-101 et seq.; 34A-1-104**

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# Labor Commission, Industrial Accidents
# R612-7-3
## Method of Rating

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 28728
FILED: 05/15/2006, 10:11

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment adopts and incorporates by reference the 2006 version of the Utah Impairment Guides, prepared by the Commission's Impairment Guide Committee.

SUMMARY OF THE RULE OR CHANGE: The 2006 Utah Impairment Guides incorporated by the proposed amendment include minor changes in forms to be used and also clarifies the manner of billing for impairment ratings. The Guides provide general guidance for raters and adds ratings for chronic pain syndromes resulting from amputations, headaches secondary to sever head trauma, and pos-paraplegic pain. The Guides also provide a new methodology for rating impairments that result from burns.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-1-104 and 34A-2-412

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Utah's 2006 Impairment Guides, published by the Labor Commission

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no cost or savings to the State budget. The proposed amendment imposes no additional costs on the State, either with respect to the Labor Commission's administration of the amendment, or with respect to the State's compliance with the amendment. Most of the proposed changes are technical and/or clerical in nature. While the proposed amendment does add ratings for limited types of pain, such ratings are generally within the framework of existing rating schedules.

❖ LOCAL GOVERNMENTS: There will be not cost or savings to local government. Most of the proposed changes are technical and/or clerical in nature. While the proposed amendment does add ratings for limited types of pain, such ratings are generally within the framework of existing rating schedules.

❖ OTHER PERSONS: There will be no cost or savings to other persons. Most of the proposed changes are technical and/or clerical in nature. While the proposed amendment does add ratings for limited types of pain, such ratings are generally within the framework of existing rating schedules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons affected by this amendment are already subject to the Commission's existing rule for rating the impairments suffered by injured workers. As such, such affected persons are familiar with the Commission's general rating methodology. The changes proposed by this amendment are generally consistent with the existing methodology and, for the most part, should ease the burden of compliance. Consequently, the Commission anticipates no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As already noted, the Commission's rating standards have been accepted and followed for several years. The proposed amendment updates those standards to conform with current medical knowledge and experience, but imposes only modest changes. On balance, the amendment will have no fiscal impact on businesses. R. Lee Ellertson, Commissioner

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joyce Sewell at the above address, by phone at 801-530-6988, by FAX at 801-530-6804, or by Internet E-mail at jsewell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: R Lee Ellertson, Commissioner

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**R612. Labor Commission, Industrial Accidents.**
**R612-7. Impairment Ratings for Industrial Injuries and Diseases.**
**R612-7-3. Method for Rating.**

A. For rating all impairments, which are not expressly listed in Section 34A-2-412, the Commission incorporates by reference "Utah's 200[~~2~~]6 Impairment Guides" as published by the Commission for all injuries rated on or after [~~January 1, 2002~~]July 11, 2006. For those conditions not found in "Utah's 200[~~2~~]6 Impairment Guides," the American Medical Association's "Guides to the Evaluation of Permanent Impairment, Fifth Edition" are to be used.

**KEY: workers' compensation, impairment ratings**
**Date of Enactment or Last Substantive Amendment: [~~January 15, 2002~~]2006**
**Notice of Continuation: May 28, 2003**
**Authorizing, and Implemented or Interpreted Law: 34A-1-104; 34A-2-412**

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# Natural Resources, Wildlife Resources
# R657-5
## Taking Big Game

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 28718
FILED: 05/05/2006, 16:50

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council meetings and the Wildlife Board meeting conducted for taking public input and reviewing the big game rule, with focus on antlerless species/hunts, and the antlerless addendum. Changes were made that enable hunters to obtain bonus points for antlerless moose, and to obtain preference points for antlerless deer, antlerless elk and doe pronghorn. A handful of other changes were made to add consistency and clarity throughout this important rule.

SUMMARY OF THE RULE OR CHANGE: Changes were made that enable hunters to obtain bonus points for antlerless moose, and to obtain preference points for antlerless deer, antlerless elk, and doe pronghorn. A handful of other changes were made to add consistency and clarity throughout this important rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The Division of Wildlife Resources (DWR) determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget. The state budget is not directly impacted with the proposed changed because they (the changes) only alter a small portion of the rule associated with antlerless bonus point and preference points. This determination was made by considering costs, which are none, associated with the proposed changes.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ OTHER PERSONS: None--DWR determined that these amendments do not create a cost or savings impact to other persons because they are not directly affected by the rule. This determination was made by considering costs, which are none, associated with the proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determined that these amendments will create additional costs for individuals who decide to participate in the bonus point and preference point program for antlerless moose, antlerless deer, antlerless elk, and doe pronghorn. Participation is voluntary and the rule amendments do not create a cost or savings impact to individuals who do not participate in the point programs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Robin Thomas at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at robinthomas@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: James F Karpowitz, Director

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**R657. Natural Resources, Wildlife Resources.**
**R657-5. Taking Big Game.**
**R657-5-[~~37.~~]37A. Bonus [~~Point System and Preference~~ ]Point System.**

(1) Bonus points are used to improve odds for drawing permits.

(2)(a) A bonus point is awarded for:

(i) each valid unsuccessful application when applying for permits in the big game or antlerless drawing; or

(ii) each valid application when applying for bonus points in the big game or antlerless drawing.

(b) Bonus points are awarded by species[~~.~~

~~(c) Bonus points are awarded~~] for:

(i) premium limited entry, limited entry and cooperative wildlife management unit buck deer;

(ii) premium limited entry, limited entry and cooperative wildlife management unit bull elk;

(iii) limited entry and cooperative wildlife management unit buck pronghorn;[~~ and~~]

(iv) all once-in-a-lifetime species; and

(v) antlerless moose.

(3) A person may apply for a bonus point for:

(a) only one of the following species:

(i) buck deer - premium limited entry, limited entry and cooperative wildlife management unit;

(ii) bull elk - limited entry and cooperative wildlife management unit; or

(iii) buck pronghorn - limited entry and cooperative wildlife management unit;[~~ and~~]

(iv) antlerless moose, and

(b) only one once-in-a-lifetime, including once-in-a-lifetime cooperative wildlife management unit.

(4)(a) A person may not apply in the drawing for both a premium limited entry or limited entry bonus point and a premium limited entry or limited entry permit.

(b) A person may not apply in the drawing for a once-in-a-lifetime bonus point and a once-in-a-lifetime permit.

(c) A person may not apply in the drawing for an antlerless moose bonus point and an antlerless moose permit.

(d) A person may not apply for a bonus point if that person is ineligible to apply for a permit for the respective species.

[~~(d)~~](e) A person may only apply for bonus points in the big game [~~drawing.~~]and antlerless drawings.

[~~(e)~~](f) Group applications will not be accepted when applying for bonus points.

(5)(a) Fifty percent of the permits for each hunt unit and species will be reserved for applicants with bonus points.

(b) Based on the applicant's first choice, the reserved permits will be designated by a random drawing number to eligible applicants with the greatest number of bonus points for each species.

(c) If reserved permits remain, the reserved permits will be designated by a random number to eligible applicants with the next greatest number of bonus points for each species.

(d) The procedure in Subsection (c) will continue until all reserved permits have been issued or no applications for that species remain.

(e) Any reserved permits remaining and any applicants who were not selected for reserved permits will be returned to the big game drawing.

(6)(a) Each applicant receives a random drawing number for:

(i) each species applied for; and

(ii) each bonus point for that species.

(7) Bonus points are forfeited if a person obtains a permit through the drawing for that bonus point species as provided in Subsection (2)(c), including any permit obtained after the drawing.

(8) Bonus points are not forfeited if:

(a) a person is successful in obtaining a conservation permit or sportsman permit;

(b) a person obtains a landowner or a cooperative wildlife management unit permit from a landowner; or

(c) a person obtains a poaching-reported reward permit.

(9) Bonus points are not transferable.

(10) Bonus points are averaged and rounded down when two or more applicants apply together on a group application.

(11)(a) Bonus points are tracked using social security numbers or division-issued [~~hunter~~]customer identification numbers.

(b) The division shall retain paper copies of applications for three years prior to the current big game [~~drawing~~]and antlerless drawings for the purpose of researching bonus point records.

(c) The division shall retain electronic copies of applications from 1996 to the current big game drawing for the purpose of researching bonus point records.

(d) Any requests for researching an applicant's bonus point records must be requested within the time frames provided in Subsection (b) and (c).

(e) Any bonus points on the division's records shall not be researched beyond the time frames provided in Subsection (b) and (c).

(f) The division may eliminate any bonus points earned that are obtained by fraud or misrepresentation.

**R657-5-37B. Preference Point System.**

(1)[~~(12)~~] Preference points are used in the big game [~~drawing for general buck deer permits~~]and antlerless drawings to ensure that applicants who are unsuccessful in the drawing [~~for general buck deer permits, ~~]will have first preference in the next year's drawing.

[~~(13)~~](2)(a) A preference point is awarded for:

[~~(a)~~](i) each valid unsuccessful application when applying for a general buck deer[~~, permit; or~~], antlerless deer, antlerless elk, or doe pronghorn permit; or

[~~(b)~~](ii) each valid application when applying only for a preference point in the big game [~~drawing.~~]or antlerless drawing.

[~~(14)(a)~~](b) Preference points are awarded by species for:

(i) general buck deer;

(ii) antlerless deer;

(iii) antlerless elk; and

(iv) doe pronghorn.

(3)(a) A person may not apply in the drawing for both a [~~general buck deer~~ ]preference point and [~~a general buck deer permit~~]permit for the species listed in (13)(b).

(b) A person may not apply for a preference point if that person is ineligible to apply for a permit.

(c) Preference points shall not be used when obtaining remaining permits after the big game or antlerless drawing.

[~~(15)~~](4) Preference points are forfeited if a person obtains a general buck deer, antlerless deer, antlerless elk or doe pronghorn permit through the drawing.

[~~(16)(a)~~](5)(a) Preference points are not transferable.

(b) Preference points shall only be applied to the big game and antlerless drawing.

[~~(17)~~](6) Preference points are averaged and rounded down when two or more applicants apply together on a group application.

[~~(18)(a)~~](7)(a) Preference points are tracked using social security numbers or division-issued hunter identification numbers.

(b) The division shall retain [~~paper~~ ]copies of paper applications for three years prior to the current big game [~~drawing~~]and antlerless drawings for the purpose of researching preference point records.

(c) The division shall retain [~~electronic~~ ]copies of electronic applications from 2000 to the current big game drawing for the purpose of researching preference point records.

(d) Any requests for researching an applicant's preference point records must be requested within the time frames provided in Subsection (b) and (c).

(e) Any preference points on the division's records shall not be researched beyond the time frames provided in Subsection (b) and (c).

(f) The division may eliminate any preference points earned that are obtained by fraud or misrepresentation.

**R657-5-42. Antlerless Deer Hunts.**

(1) To hunt an antlerless deer, a hunter must obtain an antlerless deer permit.

(2)(a) An antlerless deer permit allows a person to take one antlerless deer, per antlerless deer tag, using any legal weapon within the area and season as specified on the permit and in the antlerless addendum.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless deer permit for a cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless deer permit may not hunt during any other antlerless deer hunt or obtain any other antlerless deer permit.

(4)(a) A person who obtains an antlerless deer permit and any of the permits listed in Subsection (b)[~~, or any permit valid during the general archery deer hunt,~~] may use the antlerless deer permit during the established season for the antlerless deer permit and during the established season for the permits listed in Subsection (b) provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used if hunting with an archery permit;

(iii) the appropriate muzzleloader equipment is used if hunting with a muzzleloader permit.

(b)(i) General archery deer;

(ii) general muzzleloader deer;

(iii) limited entry archery deer; or

(iv) limited entry muzzleloader deer.

**R657-5-48. Antlerless Elk Hunts.**

(1) To hunt an antlerless elk, a hunter must obtain an antlerless elk permit.

(2)(a) An antlerless elk permit allows a person to take one antlerless elk using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless elk permit for a cooperative wildlife management unit as specified on the permit.

(3)(a) A person may obtain two elk permits each year, provided one or both of the elk permits is an antlerless elk permit.

(b) For the purposes of obtaining two elk permits, a hunter's choice elk permit may not be considered an antlerless elk permit.

(4)(a) A person who obtains an antlerless elk permit and any of the permits listed in Subsection (b)[~~, or any permit valid during the general archery deer hunt,~~] may use the antlerless elk permit during the established season for the antlerless elk permit and during the established season for the permits listed in Subsection (b) provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used if hunting with an archery permit;

(iii) the appropriate muzzleloader equipment is used if hunting with a muzzleloader permit.

(b)(i) General archery deer;

(ii) general archery elk;

(iii) general muzzleloader deer;

(iv) general muzzleloader elk;

(v) limited entry archery deer;

(vi) limited entry archery elk;

(vii) limited entry muzzleloader deer; or

(viii) limited entry muzzleloader elk.

**R657-5-53. Bison Hunts.**

(1) To hunt bison, a hunter must obtain a bison permit.

(2) A person who has obtained a bison permit may not obtain any other bison permit or hunt during any other bison hunt.

(3) The bison permit allows a person using any legal weapon to take a bison of either sex within the area and season as specified on the permit.

(4)(a) An orientation course is required for bison hunters who draw a an Antelope Island bison permit. Hunters shall be notified of the orientation date, time and location.

(b) The Antelope Island hunt is administered by the Division of Parks and Recreation.

(5) A Henry Mountain cow bison permit allows a person to take one cow bison using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(6) An orientation course is required for bison hunters who draw Henry Mountain cow bison permits. Hunters will be notified of the orientation date, time and location.

[~~(6)(a)~~](7)(a) A person who has obtained a bison permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bison.

(b) Bison permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

**R657-5-55. Rocky Mountain Goat Hunts.**

(1) To hunt Rocky Mountain goat, a hunter must obtain a Rocky Mountain goat permit.

(2) A person who has obtained a Rocky Mountain goat permit may not obtain any other Rocky Mountain goat permit or hunt during any other Rocky Mountain goat hunt.

(3) [~~Any goat~~]A Rocky Mountain goat of either sex may be legally taken on a hunter's choice permit[~~, however, permittees~~]. Permittees are encouraged to take a mature goat. A mature goat is a goat older than two years of age, as determined by counting the annual rings on the horn.

(4) The goat permit allows a person using any legal weapon to take one goat within the area and season specified on the permit.

(5) All goat hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting goats. The terrain inhabited by Rocky Mountain goat is extremely rugged making this hunt extremely strenuous. The goat's pelage may be higher quality later in the hunting season.

(6) A female-goat only permit allows a person to take one female-goat using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(7) An orientation course is required for Rocky Mountain goat hunters who draw female-goat only [~~goat~~]permits. Hunters will be notified of the orientation date, time and location.

[~~(7)(a)~~](8)(a) A person who has obtained a Rocky Mountain goat permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a Rocky Mountain goat.

(b) Rocky Mountain goat permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

**KEY: wildlife, game laws, big game seasons**
**Date of Enactment or Last Substantive Amendment: [~~January 18, 2006~~]July 11, 2006**
**Notice of Continuation: November 21, 2005**
**Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-16-5; 23-16-6**

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## Tax Commission, Administration

# R861-1A-39

## Penalty for Failure to File a Return Pursuant to Utah Code Ann. Sections 10-1-405, 59-1-401, 59-12-118, and 69-2-5

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 28731
FILED: 05/15/2006, 12:21

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the proposed rule section is to define when a return is filed and tax is paid for purposes of the penalty for failure to file a return.

SUMMARY OF THE RULE OR CHANGE: The proposed rule states that a sales tax, municipal license telecomm tax, or E-911 tax return that does not have distribution necessary for the commission to make a correct distribution to counties, cities, and towns is not considered a filed return; similarly, a tax is not paid (even if remitted) if not accompanied by one of the above-mentioned returns or by one of the above-mentioned returns that is subject to the penalty for failure to a file return.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 10-1-405, 59-1-401, 59-12-118, and 69-2-5

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There may be a minimal increase. The commission may waive this penalty if the necessary information is provided.

❖ LOCAL GOVERNMENTS: None--However, with penalty as incentive, businesses may file necessary information sooner, leading to a more prompt distribution to local government.
❖ OTHER PERSONS: There may be a minimal decrease. The Commission may waive this penalty if the necessary information is provided.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Statutes require affected businesses to identify the localities to which they deliver their services. The proposed rule would subject a business to penalty only if the business refused to provide statutorily required information.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not require any more from a taxpayer than what is already required in statute.
Pam Hendrickson, Commission Chair

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
ADMINISTRATION
210 N 1950 W
SALT LAKE CITY UT 84134-0002, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sheri McFall at the above address, by phone at 801-297-3901, by FAX at 801-297-3919, or by Internet E-mail at sherimcfall@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: Pam Hendrickson, Commission Chair

**R861. Tax Commission, Administration.**
**R861-1A. Administrative Procedures.**
**R861-1A-39. Penalty for Failure to File a Return Pursuant to Utah Code Ann. Sections 10-1-405, 59-1-401, 59-12-118, and 69-2-5.**

(1)(a) Subject to Subsection (1)(b), "failure to file a tax return," for purposes of the penalty for failure to file a tax return under Subsection 59-1-401(1) includes a tax return that does not contain information necessary for the commission to make a correct distribution of tax revenues to counties, cities, and towns.
(b) Subsection (1)(a) applies to a tax return filed under:
(i) Chapter 12, Sales and Use Tax Act;
(ii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act; or
(iii) Title 69, Chapter 2, Emergency Telephone Service Law.
(2)(a) "Unpaid tax," for purposes of the penalty for failure to file a tax return under Subsection 59-1-401(1) includes tax remitted to the commission under Subsection (2)(b) that is:
(i) not accompanied by a tax return; or
(ii) accompanied by a tax return that is subject to the penalty for failure to file a tax return.
(b) Subsection (2)(a) applies to a tax remitted under:
(i) Chapter 12, Sales and Use Tax Act;
(ii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act; or
(iii) Title 69, Chapter 2, Emergency Telephone Service Law.

**KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements**
**Date of Enactment or Last Substantive Amendment: [~~March 6,~~ ]2006**
**Notice of Continuation: April 22, 2002**
**Authorizing, and Implemented or Interpreted Law: 10-1-405; 59-1-401; 59-12-118; 69-2-5**

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

## NOTICES OF
# CHANGES IN PROPOSED RULES

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

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

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

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends July 3, 2006. At its option, the agency may hold public hearings.

From the end of the waiting period through September 29, 2006, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

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

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

# Insurance, Title and Escrow Commission

# R592-3

## Submission of a Title Schedule of Filing

**NOTICE OF CHANGE IN PROPOSED RULE**
DAR File No.: 28508
Filed: 05/15/2006, 14:35

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of the hearing and comments received during the first comment period, additional changes are being proposed.

SUMMARY OF THE RULE OR CHANGE: The title of the "Schedule of Escrow Charges" form is being changed to "Schedule of Minimum Charges for Escrow Services" to emphasize that these are minimum charges. It has also been determined that marketing information does not need to be filed with the department. As a result, all references to "marketing information" have been eliminated from the rule. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the March 1, 2006, issue of the Utah State Bulletin, on page 36. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes to this rule will reduce the work of department's title specialists who will not be required to review and file marketing information filed by title agencies. The elimination of this filing will also save on storage for the documents. These changes will not affect department revenues or budget.

❖ LOCAL GOVERNMENTS: The changes to this rule will have no effect on local government since the changes deal only with the relationship between the department and their licensees.

❖ OTHER PERSONS: There will be no added expense to licensees or consumers as a result of the proposed changes. There will be a savings in time and postage in the elimination of the requirement for title agencies to file marketing information with the department. This change should not affect consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added expense to licensees or consumers as a result of the proposed changes. There will be a savings in time and postage in the elimination of the requirement for title agencies to file marketing information with the department. This change should not affect consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes to this rule will save title agencies time and postage.
D. Kent Michie, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
TITLE AND ESCROW COMMISSION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

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**R592. Insurance, Title and Escrow Commission.**
**R592-3. [~~Submission of~~]Filing a [~~Title~~ ]Schedule of Minimum Charges for Escrow Services[~~Charges Filing~~].**
**R592-3-1. Authority.**
This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404.

**R592-3-2. Purpose and Scope.**
(1) The purpose of this rule is to set forth the procedures for filing a Schedule of Minimum[~~Escrow~~] Charges for Escrow Services pursuant to Section 31A-19a-209.
(2) This rule applies to all title insurers, agencies and producers providing escrow services in Utah.

**R592-3-3. Required Documents.**
(1) The department requires that the documents described in this rule shall be used for all filings. Actual copies may be used or you may adapt them to your word processing system. If adapted, the content, size, font, and format must be similar.
(2) The following filing documents are available on the department's web site, http://www.insurance.utah.gov/RF-Flgs.html.
(a) "Schedule of Minimum[~~Escrow~~] Charges for Escrow Services;"
(b) [~~"Title Marketing Information Package Filing Schedule;" and~~
~~(c)~~ ]"Transmittal Document for Title Agency or Title Producer."

**R592-3-4. Definitions.**
In addition to the definitions of Sections 31A-1-301, 31A-2-402,and 31A-19a-102, the following definitions shall apply for the purpose of this rule:

(1) "Certification" means that a filing being submitted is in compliance with the Utah Insurance Code.

(2) "File and Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(3) "File Before Use" means a filing can be used, sold, or offered for sale after it has been filed with the department and a stated period of time has elapsed from the date filed.

(4) "Filer" means a person or entity who submits a filing.

(5) [~~"Marketing Information Package" means an information packet, a listing kit, a farm package or any other form of title evidence beyond that which is readily available in public records in the county in which the property is located.~~

~~(6)~~ ]"Order to Prohibit Use" means an order issued by the commissioner that forbids the use of a filing.

([~~7~~]6) "Rejected" means a filing is:

(a) not submitted in accordance with Utah laws and rules;

(b) returned to the filer by the department with the reasons for rejection; and

(c) not considered filed with the department.

**R592-3-5. General Filing Information.**

(1) Each filing submitted must be accurate, consistent, complete, and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) Insurers and filers are responsible for assuring compliance with Utah laws and rules. Filings not in compliance with Utah laws and rules are subject to regulatory action under Section 31A-2-308.

(3) Charges, supplementary information, and forms applying to a specific program or product may be submitted as one filing.

(4) A filing that does not comply with this rule will be rejected as incomplete and returned to the filer. A rejected filing is not considered filed with the department.

(5) Prior filings will not be researched to determine the purpose of the current filing.

(6) The department does not review or proofread every filing.

(a) A filing may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

(iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is not in compliance with Utah laws and rules, an ORDER TO PROHIBIT USE will be issued to the filer. The commissioner may require the filer to disclose deficiencies in forms or rating practices to affected consumers.

(7) Filing correction.

(a) No filing transmittal is required when clerical or typographical corrections are made to a filing previously filed if the corrected filing is submitted within 30 days of the date "Filed" with the department. The filer will need to reference the original filing.

(b) A new filing is required if the clerical or typographical corrections are made more than 30 days after the filed date of the original filing. The filer will need to reference the original filing.

(8) Filing withdrawal. A filer must notify the department when the filer withdraws a previously filed form, charge, or supplementary information.

**R592-3-6. Filing Requirements.**

(1) Only an individual who is authorized to act on behalf of the insurer, agency or producer can submit a filing.

(2) A complete filing consists of the following documents submitted in the following order:

(a) Utah Transmittal Document for Title Agency or Title Producer; and

(b) Schedule of Minimum[~~Escrow~~] Charges for Escrow Services;

[~~(c) Title Marketing Information Package Filing Schedule, if filing includes a marketing information package;~~

~~]~~(3) Description of Filing. The filer must:

(a) indicate whether the filing is new, amending or replacing a previous filing, or contains charges that have been previously filed and are included for informational purposes;

(b) describe the filing and the purpose of the filing in detail in the Filing Description section of the transmittal; and

(c) if the filing is amending or replacing a previous filing:

(i) provide a detailed description of the changes; and

(ii) highlight the changed provisions.

(4) Transmittal Document for Title Agency or Title Producer. The entire transmittal form must be properly completed.

(5) Schedule of Minimum[~~Escrow~~] Charges for Escrow Services.

(a) An initial Schedule of Minimum[~~Escrow~~] Charges for Escrow Services filing is a file and use filing.

(b) A revised Schedule of Minimum[~~Escrow~~] Charges for Escrow Services filing is a use and file filing and is effective:

(i) thirty calendar days after the revised Schedule of Minimum[~~Escrow~~] Charges for Escrow Services is filed; or

(ii) a date specified by the filer that is later than 30 calendar days after the revised Schedule of Minimum[~~Escrow~~] Charges for Escrow Services is filed.[

~~(c) Marketing Information.~~

~~(i) Marketing information must be submitted using the Title Marketing Information Package Filing Schedule.~~

~~(ii) The initial charge or a revision to an initial charge for a marketing information package must be submitted using the Transmittal Document for Title Agency or Title Producer and a Title Marketing Information Package Filing Schedule.~~

~~(iii) The filing must include a copy of the marketing information package being filed.~~

~~(iv) The filer must maintain a record copy of each filed Marketing Information Package.~~]

(6) Return Notification Materials.

(a) Return notification materials are limited to:

(i) a copy of the transmittal; and

(ii) a self-addressed, stamped envelope.

(b) Notice of filing will not be provided unless return notification materials are submitted.

(c) Any extra information will be discarded.

(7) Certification.

(a) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(b) A filing will be rejected if the certification is missing or incomplete.

(c) A certification that is inaccurate may subject the filer to administrative action.

. . . . . .

**KEY: title escrow filings**
**Date of Enactment or Last Substantive Amendment: 2006**
**Authorizing, and Implemented or Interpreted Law: 31A-2-404**

# Insurance, Title and Escrow Commission
# R592-4
# Standards for Charges for Title Escrow Settlement Services and Title Fees

**NOTICE OF CHANGE IN PROPOSED RULE**
DAR File No.: 28507
Filed: 05/15/2006, 14:35

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of the hearing and comments received during the first comment period, additional changes are being proposed.

SUMMARY OF THE RULE OR CHANGE: The title of the "Schedule of Escrow Charges" form is being changed to "Schedule of Minimum Charges for Escrow Services" to emphasize that these are minimum charges. It has also been determined that marketing information does not need to be filed with the department. As a result, all references to "marketing information" have been eliminated from the rule. The definition of "Other Settlement Services" is being re-defined, the definition of "Pass through fee" has been eliminated, and Section R592-4-6 is being eliminated. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the March 1, 2006, issue of the Utah State Bulletin, on page 38. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-204

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes to this rule will reduce the work of the department's title specialists who will not be required to review and file marketing information filed by title agencies. The elimination of this filing will also save on storage for documents. These changes will not affect department revenues and budget.

❖ LOCAL GOVERNMENTS: The changes to this rule will have no effect on local government since the changes deal only with the relationship between the department and their licensee.

❖ OTHER PERSONS: There will be no added expense to licensees or consumers as a result of the proposed changes. There will be a savings in time and postage in the elimination of the requirement for title agencies to file marketing information with the department. The change should not affect consumers at all.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added expense to licensees or consumers as a result of the proposed changes. There will be a savings in time and postage in the elimination of the requirement for title agencies to file marketing information with the department. The change should not affect consumers at all.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes to this rule will save title agencies time and postage. D. Kent Michie, Commissioner

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

INSURANCE
TITLE AND ESCROW COMMISSION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/03/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 07/11/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

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**R592. Insurance, Title and Escrow Commission.**
**R592-4. Standards for Minimum Charges for [~~Title~~ ]Escrow [~~Settlement~~ ]Services[~~ and Title Fees~~].**
**R592-4-1. Authority.**

This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-[~~204~~]404.

**R592-4-2. Purpose and Scope.**

(1) The purpose of this rule is to set forth standards for [~~creating the~~]minimum charges for [~~title~~ ]escrow [~~settlement~~ ]services [~~and title fees for pass through services and other services submitted~~ ]on the Schedule of Minimum[~~Escrow~~] Charges for Escrow Services.

(2) This rule applies to all title insurers, agencies and producers providing escrow services in Utah.

**R592-4-3. Definitions.**

In addition to the definitions of Sections 31A-1-301, 31A-2-402 and 31A-19a-102, the following definitions shall apply for the purposes of this rule:

(1) "Additional escrow work" means escrow settlement services that are rendered in excess of the escrow settlement services not specifically shown in the minimum escrow charges listed in the Schedule of Minimum[~~Escrow~~] Charges for Escrow Services.

(2) "Charge" means a dollar amount charged for a service rendered by a title insurer, title agency, or title producer.

(3) "Document Preparation" means the preparation or compilation of documents in connection with escrow [~~settlement~~ ]services.

(4) "Escrow charge" means a dollar amount charged for an escrow service shown in the Schedule of Minimum[~~Escrow~~] Charges for Escrow Services.

(5) "Schedule of Minimum[~~Escrow~~] Charges for Escrow Services " means the standardized form submitted with a title escrow charge filing.

(6) "Escrow [~~Settlement~~ ]Services" means those services to settle real estate transactions.

(7) "Long-term Escrow" means For Benefit Of (FBO) accounts that are for the purpose of payment collection and administration of seller-financed transactions.

[~~(8) "Marketing Information Package" means an information package, a listing kit, a farm package or any other form of title evidence beyond that which is readily available in public records in the county in which the property is located.~~

~~(9)~~](8) "Mini Escrow" means an escrow settlement service done by a title agency to clear a title, obtain payoffs and record necessary closing documents for a lender that performs his or her own closing service.

(9) "Other Settlement Services" means additional services not specifically listed in the Schedule of Minimum Charges for Escrow Services.[~~(10) "Other Service Fee" means a fee for services performed or documents prepared that are neither a title insurance product nor an escrow settlement service.~~

~~(11) "Pass through fee" means a third-party fee incurred by the agency in connection with the settlement of real property transactions that are passed on to the appropriate principal party to the transaction.~~]

**R592-4-4. Schedule of Minimum[~~Escrow~~] Charges for Escrow Services.**

(1) The Schedule of Minimum[~~Escrow~~] Charges for Escrow Services must be used when submitting:

(a) an initial Schedule of Minimum[~~Escrow~~] Charges for Escrow Services filing; or

(b) changes to a previously submitted Schedule of Minimum[~~Escrow~~] Charges for Escrow Services filing.

(2) All blank fields of the Schedule of Minimum[~~Escrow~~] Charges for Escrow Services must be completed.

(3) If a filer does not perform a service, the blank field must show "N/A" or "Not Applicable."

**R592-4-5. Charges.**

(1) Escrow [~~settlement~~ ]service charges.

(a) Escrow charge.

(i) In accordance with 31A-19a-209(3), no escrow charge may be filed or used that would cause the agency or producer to operate at less than the cost of doing the business of escrow.

(ii) Only minimum escrow charges shown in the Schedule of Minimum[~~Escrow~~] Charges for Escrow Services must be filed.[

~~(iii) Filed escrow charges are minimum charges.~~]

(b) [~~Additional escrow work charge~~]Other settlement services charge.

(i) An [~~additional escrow work~~]other settlement services charge will be used for [~~escrow charges~~]services not specifically shown in the Schedule of Minimum[~~Escrow~~] Charges for Escrow Services.

(ii) An [~~additional escrow work~~]other settlement service charge must be filed as a per hour charge.

(c) Document preparation charge.[

~~(i)~~] Only document charges shown in the Schedule of Minimum[~~Escrow~~] Charges for Escrow Services must be filed.

[~~(ii) The additional escrow work charge will be used for preparation of documents not specifically shown in the Schedule of Escrow Charges.~~

~~(2) Marketing information package.~~

~~(a) A marketing information package charge can be no less than the cost to produce one copy of the marketing information package.~~

~~(b) A marketing information package charge will be stated as a per copy charge.~~

~~(c) Each separate marketing information package must have its own charge.~~](2) Other services which are not specifically listed on the Schedule of Minimum Charges for Escrow Services may be rendered provided a justifiable charge is made.

**[~~R592-4-6. Fees.~~**

~~(1) Other service fee must be filed as a per hour fee.~~

~~(2) A pass through fee is:~~

~~(i) not filed; and~~

~~(ii) must be equal to the third-party fee for providing the service.~~

**]R592-4-[~~7~~]6. Penalties.**

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R592-4-[~~8~~]7. Enforcement Date.**

The commissioner will begin enforcing this rule 90 days from the rule's effective date.

**R592-4-[~~9~~]8. Severability.**

If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remaining provisions to other persons or circumstances shall not be affected.

**KEY: title escrow charges**
**Date of Enactment or Last Substantive Amendment: 2006**
**Authorizing, and Implemented or Interpreted Law: 31A-2-204**

# NOTICES OF
# 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the 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 (*Utah Code* Subsection 63-46a-7(1) (2001)).

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. A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, 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 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by *Utah Code* Section 63-46a-7 (2001); and *Utah Administrative Code* Section R15-4-8.

## Human Services, Services for People with Disabilities
## R539-1-8
## Non-waiver Services for People with Brain Injury

**NOTICE OF 120-DAY (EMERGENCY) RULE**
DAR FILE NO.: 28716
FILED: 05/05/2006, 13:46

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to establish criteria for receiving brain injury services.

SUMMARY OF THE RULE OR CHANGE: This change provides comprehensive definitions for evaluating applicants for brain injury services.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-5-101

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This change clarifies definitions as they apply to eligibility and ongoing services for brain injury services. These definition assure that applicants are properly classified for the services that the Division provides. These classifications do not make any savings or cause additional costs. There will be no cost or savings as the result of this change.

❖ LOCAL GOVERNMENTS: The Division provides these services directly to persons eligible for services. The Division has evaluated the possible role of local government and has concluded that local governments do not provide any assistance or financial support to the persons with disabilities receiving brain injury services. Local governments are not affected by the definitions in this rule. Local governments do not provide these types of services and will not have any cost or savings because of this change.

❖ OTHER PERSONS: The Division provides these services directly to persons eligible for services. The Division has evaluated the possible role of other persons and has concluded that other persons do not provide any assistance or financial support to the persons with disabilities receiving brain injury services. Other persons do not provide these services will not have any cost or savings because of this change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs to apply for these services or to receive these services or to comply with eligibility requirements for this service. There will be no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Private businesses provide brain injury services under contract with the Department of Human Services and the Division of Services for People with Disabilities. Lisa-Michele Church, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.
H.B. 213 was passed during the 2006 General Session and made significant changes to the definitions that determine eligibility for Division brain injury services. H.B. 213 is effective on 05/01/2006 and applicants must be adjudicated according to the new statutory standards. This rule provides comprehensive definitions need to determine applicant eligibility. (DAR NOTE: H.B. 213 is found at Chapter 351, Laws of Utah 2006, and was effective 05/01/2006.)

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

HUMAN SERVICES
SERVICES FOR PEOPLE WITH DISABILITIES
Room 411
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven Bradford at the above address, by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 05/05/2006

AUTHORIZED BY: George Kelner, Director

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**R539. Human Services, Services for People with Disabilities.**
**R539-1. Eligibility.**
**R539-1-8. Non-Waiver Services for People with Brain Injury.**

(1) The Division will serve those Applicants who meet the eligibility requirements for brain injury services. To be determined eligible for non-waiver brain injury services the Applicant must:

(a) have a documented acquired neurological brain injury;

(b) Be 18 years of age or older;

(c) score between 40 and 120 on the [~~Brain Injury~~ ]Comprehensive Brain Injury Assessment Form 4-1.

(d) meet at least three of the functional limitations listed under number (4).

(2) Applicants with functional limitations due solely to mental illness, substance abuse or deteriorating diseases like Multiple Sclerosis, Muscular Dystrophy, Huntington's Chorea, Ataxia or Cancer [~~as a primary diagnosis~~ ]are ineligible for [~~these~~ ]non-waiver services.

(3) Applicants with mental retardation or related conditions are ineligible for these non-waiver services.

(4) In addition to the definitions in Section 62A-5-101(3) and (5), eligibility for brain injury services will be evaluated according to the Applicant's functional limitations as described in the following definitions:

(a) Memory or Cognition means the Applicant's brain injury resulted in substantial problems with recall of information, concentration, attention, planning, sequencing, executive level skills, or orientation to time and place.

(b) Activities of Daily Life means the Applicant's brain injury resulted in substantial dependence on others to move, eat, bathe, toilet, shop, prepare meals, or pay bills.

(c) Judgment and Self-protection means the Applicant's brain injury resulted in substantial limitation of the ability to:

(i) provide personal protection;

(ii) provide necessities such as food, shelter, clothing, or mental or other health care;

(iii) obtain services necessary for health, safety, or welfare;

(iv) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(d) Control of Emotion means the Applicant's brain injury resulted in substantial limitation of the ability to regulate mood, anxiety, impulsivity, agitation, or socially appropriate conduct.

(e) Communication means the Applicant's brain injury resulted in substantial limitation in language fluency, reading, writing, comprehension, or auditory processing.

(f) Physical Health means the Applicant's brain injury resulted in substantial limitation of the normal processes and workings of the human body.

(g) Employment means the Applicant's brain injury resulted in substantial limitation in obtaining and maintaining a gainful occupation without ongoing supports.

([~~4~~]5) The Applicant shall be provided with information concerning service options available through the Division and a copy of the Division's Guide to Services.

([~~5~~]6) The Applicant or the Applicant's Guardian must be physically present in Utah and provide evidence of residency[~~a resident of the State of Utah~~] prior to the [~~Division's final~~] determination of eligibility.

([~~6~~]7) It is the Applicant's or Applicant's Representative's responsibility to provide the intake worker with documentation of brain injury, signed by a licensed physician;

([~~7~~]8) The intake worker will complete or compile the following documents as needed to make an eligibility determination:

(a) [~~Brain Injury Intake, Screening and~~ ]Comprehensive Brain Injury Assessment Form 4-1, Part I through Part VII; and

(b) Brain Injury Social History Summary Form 824BI, completed or updated within one year of eligibility determination;

([~~8~~]9) If eligibility documentation is not completed within 90 calendar days of initial contact, a written notification letter shall be sent to the Applicant or the Applicant's Representative indicating that the intake case will be placed in inactive status.

(a) The Applicant or Applicant's Representative may activate the application at anytime thereafter by providing the remaining required information.

(b) The Applicant or Applicant's Representative shall be required to update information.

([~~9~~]10) When all necessary eligibility documentation is received from the Applicant or Applicant's Representative, region staff shall determine the Applicant eligible or ineligible for funding for brain injury supports.

([~~10~~]11) A Notice of Agency Action, Form 522-I, and a Hearing Request, Form 490S, shall be mailed to each Applicant or Applicant's Representative upon completion of the determination of eligibility or ineligibility for funding. The Notice of Agency Action, Form 522, shall inform the Applicant or Applicant's Representative of eligibility determination and placement on the waiting list. The Applicant or Applicant's Representative may challenge the Notice of Agency Action by filing a written request for an administrative hearing before the Department of Human Services, Office of Administrative Hearings.

(12) Persons receiving Brain Injury services will have their eligibility re-determined on an annual basis. Persons who are determined to no longer be eligible for services will have a transition plan developed to discontinue services and ensure that health and safety needs are met.

**KEY: human services, disability**
**Date of Enactment or Last Substantive Amendment: May 5, 2006**
**Notice of Continuation: December 18, 2002**
**Authorizing, and Implemented or Interpreted Law: 62A-5-103; 62A-5-105**

# Human Services, Services for People with Disabilities
# R539-9
# Supported Employment Pilot Program

**NOTICE OF 120-DAY (EMERGENCY) RULE**
DAR FILE NO.: 28715
FILED: 05/05/2006, 13:34

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this proposed emergency rule is to establish procedures and standards to determine eligibility for the pilot program to provide supported employment for Persons on the Division's waiting list.

SUMMARY OF THE RULE OR CHANGE: This rule establishes the Supported Employment Pilot Program within the Division of Services for People with Disabilities and establishes eligibility standards for Persons who apply for participation.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-5-103.1

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The Supported Employment Pilot Program will be administered within the $150,000 appropriation for this program and does not create an entitlement related to a Medicaid Waiver.
❖ LOCAL GOVERNMENTS: The Division has evaluated all local government agencies as they relate to employment services for persons with disabilities. The Supported Employment Pilot Program does not impact cost or savings to local governments. This program involves the Division and the persons who directly receive services. No agency of any local government provides support, or financial assistance to the persons eligible for this program.
❖ OTHER PERSONS: The Division has reviewed all possible other persons as they relate to employment services for persons with disabilities. The Supported Employment Pilot Program does not impact cost or savings for other persons. No other person provides support, or financial assistance to the persons eligible for this program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for affected persons. Affected persons are assisted by Division staff to apply for the services and if eligible for the program, are provided services. There are no costs to apply for the services or to receive services or to comply with the eligibility requirements for the services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Supported Employment services are provided by private businesses to Persons who meet the eligibility standards for the pilot program. Services will be provided by businesses under contract with the Department of Humans Services, Division of Services for People with Disabilities. Lisa-Michele Church, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.
The Supported Employment Pilot Program was created by H.B. 31 in the 2006 Legislative Session and is time-limited to two years. The program is effective 07/01/2006. It is necessary to have the rule in place on 05/05/2006, in order to evaluate prospective participants for the project and determine their eligibility by the 07/01/2006 starting date of the project. The Legislature has asked for an interim report in 2007 to evaluate the effectiveness of the pilot project and determine if it should be converted to an ongoing program within the Division. In order to adequately comply with this reporting requirement, the Division must operate the pilot project from the effective date of the statute and report on the pilot project with enough participation and evaluation to make a meaningful report to the Legislature in 2007. (DAR NOTE: H.B. 31 (2006) is found at Chapter 133, Laws of Utah 2006, and was effective 05/01/2006.)

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
SERVICES FOR PEOPLE WITH DISABILITIES
Room 411
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steven Bradford at the above address, by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 05/05/2006

AUTHORIZED BY: George Kelner, Director

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**R539. Human Services, Services for People with Disabilities.**
**R539-9. Supported Employment Pilot Program.**
**R539-9-1. Purpose and Authority.**
(1) The purpose of this rule is to provide:
(a) procedures and standards for the determination of eligibility for the Division's pilot program to provide supported employment services for Persons on the Division's Waiting List as specified in R539-2-4.
(2) This rule is authorized by Section 62A-5-103.1.

**R539-9-2. Definitions.**

(1) Terms used in this rule are defined in Section 62A-5-101, and

(2) "T score" means a standardized score used to determine a person's priority on the waiting list.

(3) "Supported Employment" means "competitive work" in integrated work settings or employment in "integrated work" settings where individuals are working toward competitive employment, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities.

(4) "Competitive Work" means employment in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

(5) "Integrated Work means job sites where most employees are not disabled, where a client interacts on a regular basis, in the performance of job duties, with employees who are not disabled. If a client is part of a distinct work group of only individuals with disabilities, the work group consists of no more than eight individuals.

(6) "Extended Services" means on-going support services and other appropriate services, needed to support and maintain an individual with a most significant disability in employment. They are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment. Extended services are based on a determination of the needs of an eligible individual. Extended services may include natural supports, such as volunteers, family members, co-workers, employer, supervisors, students, and PASS or IRWE.

**R539-9-3. Eligibility.**

(1) A Person who meets the eligibility requirements listed in Section 62A-5-103.1 may participate in the supported employment pilot program provided that:

(2) the person agrees to enter services under the conditions listed in Section 62A-5-103.1,

(3) the person is found eligible for Division of Rehabilitation Services, Supported Employment funding,

(4) the person agrees to use an approved provider,

(5) the person agrees to follow through with instructions from rehabilitation counselors, services for people with disabilities support coordinators and service brokers and private provider staff,

(6) the person has an Office of Education, Rehabilitation Services, Referral and Services Report form 58 completed signed by a rehabilitation counselor and a support coordinator,

(7) the person agrees that the person's need for extended services will be met solely by the provision of supported employment services,

(8) the person will provide a tax incentive for any business who hires the person through P.L. 104-188, Federal Welfare to Work, Internal Revenue Service, IRS Form 8850 or Utah Code Annotated Section 59-10-109, Credit for Employers Who Hire Persons with Disabilities, Form TC-40HD, and

(9) the person has a T score less than 50.

**R539-9-4. Priority.**

(1) First priority will be given to Persons on the waiting list for supported employment services and no other services who have T scores below 50 and who currently receive Division of Rehabilitation funding.

(2) Second priority will be given to Persons on the waiting list for supported employment services and no other services who have T scores below 50.

(3) Third priority will be given to persons who currently receive Division of Rehabilitation services who are referred to the Division of Services for People with Disabilities using form 58 and found eligible for supported employment under the pilot.

(4) Fourth priority will be given to students who are transitioning from high school who have received vocational training as part of the school curriculum and who meet general eligibility requirements for both Division of Rehabilitation and Division of Services for People with Disabilities and are found to be eligible for supported employment under the pilot program.

**KEY: disability, supported employment**
**Date of Enactment or Last Substantive Amendment: May 5, 2006**
**Authorizing, and Implemented or Interpreted Law: 62A-5-103.1**

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**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 responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

## Capitol Preservation Board (State), Administration
## R131-4
## Procurement of Construction

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28727
FILED: 05/12/2006, 10:38

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 63C-9-301(3)(a), 63C-9-301(4), and 63C-9-402(15) provide for and authorize the State Capitol Preservation Board to adopt rules governing the procurement of construction. Section 63C-9-401 and Subsection 63C-9-402(15) authorize the Executive Director to assist the State Capitol Preservation Board in performing their duties.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no written comments received during and since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to carry out the duties required by Section 63C-9-301 to provide for the procurement of construction for the buildings and grounds on Capitol Hill. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CAPITOL PRESERVATION BOARD (STATE) ADMINISTRATION
Room E110 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2110, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sarah Whitney at the above address, by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at swhitney@utah.gov

AUTHORIZED BY: David H. Hart, AIA, Executive Director

EFFECTIVE: 05/12/2006

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## Commerce, Administration
## R151-46b
## Department of Commerce Administrative Procedures Act Rules

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28709
FILED: 05/03/2006, 14:25

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is adopted pursuant to the rulewriting authority granted to this agency under Sections 13-1-2 and 13-1-6 and pursuant to the Utah Administrative Procedures Act, Subsection 63-46b-1(6), which provides that agencies may enact rules affecting or governing their adjudicative proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes the procedures that the agency will follow in all adjudicative proceedings.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Masuda Medcalf at the above address, by phone at 801-530-7663, by FAX at 801-530-6446, or by Internet E-mail at mmedcalf@utah.gov

AUTHORIZED BY: Francine Giani, Executive Director

EFFECTIVE: 05/03/2006

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## Corrections, Administration
# R251-111
## Government Records Access and Management

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28713
FILED: 05/04/2006, 12:39

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Sections 63-2-204 and 63-2-904, which authorize government agencies to make rules specifying where, and to whom, requests for access to government records shall be directed.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued so that the public and other government agencies have a process to follow when requesting records from Corrections.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 05/04/2006

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## Corrections, Administration
# R251-702
## Inmate Communication: Telephones

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28705
FILED: 05/03/2006, 13:39

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 64-13-10, which requires and authorizes Corrections to enact programs and rules as required to accomplish its purposes.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it provides the policies, procedures, and requirements for inmate telephone communications within Correction's facilities, and helps ensure the safety and security of those facilities.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 05/03/2006

## Corrections, Administration
# R251-708
## Perimeter Patrol

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28706
FILED: 05/03/2006, 13:40

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Sections 64-13-10 and 64-13-14 which authorize programs and rules, and requires Corrections to maintain and operate secure correctional facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because maintaining a secure perimeter at correctional facilities is critical to the safety and security of the facility, the staff, and the public.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 05/03/2006

## Corrections, Administration
# R251-711
## Admission and Intake

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28707
FILED: 05/03/2006, 13:40

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Sections 64-13-10, 64-13-14, and 64-13-15 which authorize and require Corrections to use programs and policies to maintain and operate secure correctional facilities, including admission and commission of individuals by other agencies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because agencies delivering individuals committed to correctional facilities require policies and programs which will ensure facility safety and security.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 05/03/2006

# Environmental Quality, Radiation Control

# R313-26

## Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 28720

FILED: 05/09/2006, 10:10

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Radiation Control Act, Section 19-3-104, provides the Radiation Control Board authority to make rules to protect the public and environment from significant sources of radiation. Section 19-3-106.4 requires a generator or broker of Low-level radioactive waste to obtain a site access permit prior to transferring or shipping waste to a commercial radioactive waste treatment or disposal facility. The purpose of this rule is to establish procedures, criteria, and terms and conditions upon which the Executive Secretary issues permits to generators accessing a land disposal facility located within the State. This rule also contains requirements for persons who ship radioactive waste to a broker or land disposal facility.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: An amendment to Rule R313-26 was filed on 05/14/2003, with an effective date of 08/08/2003. A public comment period was held from 06/01/2003 to 07/01/2003. During this public comment period, no written comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule because it establishes the requirements for accessing commercial radioactive waste facilities in Utah. The rule also provides regulation for compliance inspections of shipments.

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Hultquist at the above address, by phone at 801-536-4623, by FAX at 801-536-4250, or by Internet E-mail at jhultquist@utah.gov

AUTHORIZED BY: Dane Finerfrock, Director

EFFECTIVE: 05/09/2006

# Insurance, Administration

# R590-208

## Uniform Application for Certificates of Authority

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 28726

FILED: 05/12/2006, 09:33

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 gives the commissioner the authority to write rules to implement Title 31A of the Utah Code. Subsection 31A-2-202(2) authorizes the commissioner to require financial reporting on forms provided by the National Association of Insurance Commissioners. This rule requires insurance companies applying for a license to sell insurance in Utah do so on uniform forms provided by the National Association of Insurance Commissioners (NAIC).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is important because it ensures the licensing process in Utah is consistent with other states. Consistency is important to enhance interstate commerce and to help ensure the federal government does not assume regulatory responsibility over insurers in Utah. Without this rule there would be no guidance on which forms should be used for licensure in Utah. The rule designates the Uniform Certificate of Authority Application (UCAA) produced by the NAIC in Cooperation with other states as the proper forms for licensure in Utah.

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 05/12/2006

## Natural Resources; Oil, Gas and Mining; Oil and Gas
# R649-10
## Administrative Procedures

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28724
FILED: 05/11/2006, 15:50

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The informal Adjudicative Proceedings act is authorized by the Legislature of the State of Utah as set forth in the Oil and Gas Conservation Act, Section 40-6-10 and in the Administrative Procedures Act, Title 63, Chapter 46b.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: An e-mail comment was received stating that the interested party agreed with renewing the rule. The comment was received from one of the members of the Informal Rules Review Group, which is list of interested parties maintained by the Division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule exists as a vehicle for rulings of the Division to be appealed to the Board of Oil, Gas and Mining should disagreements about Division rulings arise between the public and the Division. It is also the method that the Division uses to begin the process of Informal Adjudicative Proceedings and thereby enforce its own established rules and therefore, the rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING; OIL AND GAS
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Michael Hebertson at the above address, by phone at 801-538-5333, by FAX at 801-538-3940, or by Internet E-mail at michaelhebertson@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 05/11/2006

## Natural Resources, Water Rights
# R655-10
## Dam Safety Classifications, Approval Procedures and Independent Reviews

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28710
FILED: 05/03/2006, 17:31

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule has been established under the authority of Title 73, Chapter 5a. The statute specifically directs the State Engineer to establish these rules in order to define dam classifications and definitions pertinent to design, create formal approval procedures, and specify independent consultant participation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Title 3, Chapter 5a, specifically directs the State Engineer to establish these rules. In order to implement the requirements of the statute, the rule needs to be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
WATER RIGHTS
Room 220
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gail Nelson at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at gailnelson@utah.gov

AUTHORIZED BY: Jerry Olds, Director

EFFECTIVE: 05/03/2006

## Natural Resources, Water Rights
# R655-11
## Requirements for the Design, Construction and Abandonment of Dams

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28711
FILED: 05/03/2006, 17:31

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule has been established under the authority of Title 73, Chapter 5a. The statute specifically directs the State Engineer to establish these rules in order to define the design standards, as well as construction and abandonment requirements for dams.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Title 3, Chapter 5a, specifically directs the State Engineer to establish these rules. In order to implement the requirements of the statute, the rules need to be continued.

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

NATURAL RESOURCES
WATER RIGHTS
Room 220
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gail Nelson at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at gailnelson@utah.gov

AUTHORIZED BY: Jerry Olds, Director

EFFECTIVE: 05/03/2006

## Natural Resources, Water Rights
# R655-12
## Requirements for Operational Dams

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28712
FILED: 05/03/2006, 17:32

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule has been established under the authority of Title 73, Chapter 5a. The statute specifically directs the State Engineer to establish these rules in order to establish the contents of Standard Operating, Emergency Action, and Initial Filling Plans. The rules also establish operational requirements and the minimum standards for existing dams.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Title 3, Chapter 5a, specifically directs the State Engineer to establish these rules. In order to implement the requirements of the statute, the rules need to be continued.

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

NATURAL RESOURCES
WATER RIGHTS
Room 220
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gail Nelson at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at gailnelson@utah.gov

AUTHORIZED BY: Jerry Olds, Director

EFFECTIVE: 05/03/2006

## Workforce Services, Unemployment Insurance

# R994-302

## Payment by Employer

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 28721

FILED: 05/09/2006, 18:30

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to inform employers of procedures for payment of unemployment taxes and other responsibilities and therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Tani Downing, Executive Director

EFFECTIVE: 05/09/2006

## Workforce Services, Unemployment Insurance

# R994-308

## Bond or Security Requirement

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 28722

FILED: 05/09/2006, 18:36

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to establish a procedure for requiring a bond or security deposit from employers when the Department fears unemployment taxes will not be paid and therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Tani Downing, Executive Director

EFFECTIVE: 05/09/2006

# NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

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

Commerce
Administration
No. 28542 (AMD): R151-14. New Automobile Franchise Act Rule.
Published: April 1, 2006
Effective: May 2, 2006

No. 28543 (AMD): R151-35. Powersport Vehicle Franchise Act Rule.
Published: April 1, 2006
Effective: May 2, 2006

Environmental Quality
Environmental Response and Remediation
No. 28516 (AMD): R311-200. Underground Storage Tanks: Definitions.
Published: March 1, 2006
Effective: May 15, 2006

No. 28517 (AMD): R311-205-2. Site Assessment Protocol.
Published: March 1, 2006
Effective: May 15, 2006

No. 28518 (AMD): R311-207-5. Responsible Parties' Standard Liability and Customary, Reasonable and Legitimate Expenses.
Published: March 1, 2006
Effective: May 15, 2006

No. 28519 (AMD): R311-211. Corrective Action Cleanup Standards Policy - UST and CERCLA Sites.
Published: March 1, 2006
Effective: May 15, 2006

Radiation Control
No. 28541 (AMD): R313-32. Medical Use of Radioactive Material.
Published: April 1, 2006
Effective: May 10, 2006

Labor Commission
Adjudication
No. 28547 (AMD): R602-2-1. Pleadings and Discovery.
Published: April 1, 2006
Effective: May 5, 2006

Occupational Safety and Health
No. 28548 (AMD): R614-1-4. Incorporation of Federal Standards.
Published: April 1, 2006
Effective: May 2, 2006

**End of the Notices of Rule Effective Dates Section**

# RULES INDEX
# BY AGENCY (CODE NUMBER)
# AND
# BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2006, including notices of effective date received through May 15, 2006, the effective dates of which are no later than June 1, 2006. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (http://www.rules.utah.gov/).

## RULES INDEX - BY AGENCY (CODE NUMBER)

**ABBREVIATIONS**

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

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| R27-1-2 | Definitions | 28368 | NSC | 01/01/2006 | Not Printed |
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| R33-1-1 | Definitions | 28445 | AMD | 02/21/2006 | 2006-2/3 |
| R33-2-101 | Delegation of Authority of the Chief Procurement Officer | 28437 | NSC | 02/22/2006 | Not Printed |
| R33-3 | Source Selection and Contract Formation | 28447 | AMD | 02/21/2006 | 2006-2/5 |
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| R33-5 | Construction and Architect-Engineer Selection | 28448 | NSC | 02/22/2006 | Not Printed |
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| R68-18 | Quarantine Pertaining to Karnal Bunt | 28505 | 5YR | 02/10/2006 | 2006-5/48 |
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| R151-35 | Powersport Vehicle Franchise Act Rule | 28543 | AMD | 05/02/2006 | 2006-7/3 |
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| R156-22 | Professional Engineers and Professional Land Surveyors Licensing Act Rules | 28444 | CPR | 04/03/2006 | 2006-5/45 |
| R156-22 | Professional Engineers and Professional Land Surveyors Licensing Act Rules | 28444 | AMD | 04/03/2006 | 2006-2/17 |
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| R156-37 | Utah Controlled Substances Act Rules | 28310 | CPR | 02/16/2006 | 2006-2/35 |
| R156-44a | Nurse Midwife Practice Act Rules | 28352 | AMD | 01/05/2006 | 2005-23/4 |
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| R156-47b | Massage Therapy Practice Act Rules | 28478 | 5YR | 01/31/2006 | 2006-4/35 |
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| R156-56-711 | Statewide Amendments to the IRC | 28427 | NSC | 02/23/2006 | Not Printed |
| R156-60d | Substance Abuse Counselor Act Rules | 28605 | 5YR | 04/10/2006 | 2006-9/39 |
| R156-63-503 | Administrative Penalties | 28345 | AMD | 01/10/2006 | 2005-23/5 |
| R156-74 | Certified Shorthand Reporters Licensing Act Rules | 28428 | AMD | 02/16/2006 | 2006-2/24 |
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| R162-204 | Residential Mortgage Record Keeping Requirements | 28497 | AMD | 04/05/2006 | 2006-5/8 |
| R162-205 | Residential Mortgage Unprofessional Conduct | 28498 | AMD | 04/05/2006 | 2006-5/9 |
| R162-207-3 | Renewal Process | 28451 | AMD | 03/09/2006 | 2006-3/5 |
| R162-209 | Administrative Proceedings | 28476 | 5YR | 01/30/2006 | 2006-4/36 |

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| R202-100 | Community Services Block Grant Rules | 28353 | NSC | 01/01/2006 | Not Printed |
| R202-201 | Energy Assistance: General Provisions | 28359 | NSC | 01/01/2006 | Not Printed |
| R202-202 | Energy Assistance Programs Standards | 28385 | NSC | 01/01/2006 | Not Printed |
| R202-203 | Energy Assistance Income Standards, Income Eligibility, and Payment Determination | 28386 | NSC | 01/01/2006 | Not Printed |
| R202-204 | Energy Assistance: Asset Standards | 28387 | NSC | 01/01/2006 | Not Printed |
| R202-205 | Energy Assistance: Program Benefits | 28388 | NSC | 01/01/2006 | Not Printed |
| R202-206 | Energy Assistance: Eligibility Determination | 28389 | NSC | 01/01/2006 | Not Printed |
| R202-207 | Energy Assistance: Records and Benefit Management | 28390 | NSC | 01/01/2006 | Not Printed |
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| R207-2 | Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collections | 28362 | NSC | 01/01/2006 | Not Printed |
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| R212-12 | Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds | 28411 | NSC | 01/01/2006 | Not Printed |
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| R251-708 | Perimeter Patrol | 28706 | 5YR | 05/03/2006 | 2006-11/94 |
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| R277-716 | Alternative Language Services for Utah Students | 28522 | NEW | 04/03/2006 | 2006-5/10 |
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| R426-8 | Emergency Medical Services Per Capita Grants Program Rules | 28472 | 5YR | 01/24/2006 | 2006-4/38 |
| Health Systems Improvement, Child Care Licensing | | | | | |
| R430-2 | General Licensing Provisions, Child Care Facilities | 28245 | AMD | 02/06/2006 | 2005-20/14 |
| R430-2 | General Licensing Provisions, Child Care Facilities | 28245 | CPR | 02/06/2006 | 2005-24/33 |
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| R430-3 | General Child Care Facility Rules Inspection and Enforcement | 28246 | CPR | 02/06/2006 | 2005-24/35 |
| R430-4 | General Certificate Provisions | 28248 | AMD | 02/06/2006 | 2005-20/23 |
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**ABBREVIATIONS**

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

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| **affordable housing** | | | | | |
| Community and Culture, Olene Walker Housing Trust Fund | 28492 | R235-1 | NSC | 03/01/2006 | Not Printed |
| | 28402 | R235-1 | NEW | 03/01/2006 | 2006-1/9 |
| **air pollution** | | | | | |
| Environmental Quality, Air Quality | 28226 | R307-170 | AMD | 01/05/2006 | 2005-19/6 |
| | 28549 | R307-415-7d | NSC | 03/28/2006 | Not Printed |
| | 28468 | R307-801-5 | NSC | 02/22/2006 | Not Printed |
| **air quality** | | | | | |
| Environmental Quality, Air Quality | 28501 | R307-204 | AMD | 04/07/2006 | 2006-5/18 |
| | 28602 | R307-204 | 5YR | 04/07/2006 | 2006-9/40 |
| | 28459 | R307-204 | NSC | 04/07/2006 | Not Printed |
| **alcohol** | | | | | |
| Public Safety, Highway Patrol | 28342 | R714-500 | AMD | 01/05/2006 | 2005-23/59 |
| **alcoholic beverages** | | | | | |
| Alcoholic Beverage Control, Administration | 28431 | R81-10A-7 | NSC | 01/01/2006 | Not Printed |

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| **alternative language services** | | | | | |
| Education, Administration | 28522 | R277-716 | NEW | 04/03/2006 | 2006-5/10 |
| **alternative licensing** | | | | | |
| Education, Administration | 28590 | R277-503 | AMD | 05/16/2006 | 2006-8/10 |
| **alternative onsite wastewater systems** | | | | | |
| Environmental Quality, Water Quality | 28596 | R317-4 | AMD | 05/19/2006 | 2006-8/14 |
| **anatomical gift** | | | | | |
| Public Safety, Driver License | 28566 | R708-38 | 5YR | 03/20/2006 | 2006-8/77 |
| **annuity replacement** | | | | | |
| Insurance, Administration | 28527 | R590-93-6 | NSC | 03/06/2006 | Not Printed |
| **antipoverty programs** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28353 | R202-100 | NSC | 01/01/2006 | Not Printed |
| **appellate procedures** | | | | | |
| Administrative Services, Fleet Operations | 28475 | R27-2 | 5YR | 01/30/2006 | 2006-4/33 |
| Corrections, Administration | 28576 | R251-104 | 5YR | 03/28/2006 | 2006-8/72 |
| **appraisals** | | | | | |
| Tax Commission, Property Tax | 28432 | R884-24P-19 | AMD | 03/06/2006 | 2006-2/31 |
| **ARC** | | | | | |
| Administrative Services, Fleet Operations | 28469 | R27-7 | 5YR | 01/20/2006 | 2006-4/34 |
| **archaeology** | | | | | |
| Community and Economic Development, Community Development, History | 28407 | R212-4 | NSC | 01/01/2006 | Not Printed |
| **architects** | | | | | |
| Commerce, Occupational and Professional Licensing | 28604 | R156-3a | 5YR | 04/10/2006 | 2006-9/39 |
| | 28429 | R156-3a | AMD | 04/03/2006 | 2006-2/15 |
| | 28429 | R156-3a | CPR | 04/03/2006 | 2006-5/44 |
| | 28671 | R156-3a-501 | NSC | 05/10/2006 | Not Printed |
| **art donations** | | | | | |
| Community and Economic Development, Community Development, Fine Arts | 28362 | R207-2 | NSC | 01/01/2006 | Not Printed |
| **art financing** | | | | | |
| Community and Economic Development, Community Development, Fine Arts | 28361 | R207-1 | NSC | 01/01/2006 | Not Printed |
| **art in public places** | | | | | |
| Community and Economic Development, Community Development, Fine Arts | 28361 | R207-1 | NSC | 01/01/2006 | Not Printed |
| | 28362 | R207-2 | NSC | 01/01/2006 | Not Printed |
| **art loans** | | | | | |
| Community and Economic Development, Community Development, Fine Arts | 28362 | R207-2 | NSC | 01/01/2006 | Not Printed |

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| **art preservation**<br>Community and Economic Development, Community Development, Fine Arts | 28361 | R207-1 | NSC | 01/01/2006 | Not Printed |
| **art work**<br>Community and Economic Development, Community Development, Fine Arts | 28362 | R207-2 | NSC | 01/01/2006 | Not Printed |
| **asbestos**<br>Environmental Quality, Air Quality | 28468 | R307-801-5 | NSC | 02/22/2006 | Not Printed |
| **asbestos hazard emergency response**<br>Environmental Quality, Air Quality | 28468 | R307-801-5 | NSC | 02/22/2006 | Not Printed |
| **assisted living facilities**<br>Public Safety, Fire Marshal | 28578 | R710-3-3 | AMD | 05/16/2006 | 2006-8/43 |
| **athletics**<br>Education, Administration | 28701 | R277-517 | 5YR | 05/01/2006 | 2006-10/87 |
| **automobiles**<br>Commerce, Administration | 28542 | R151-14 | AMD | 05/02/2006 | 2006-7/2 |
| **banking law**<br>Money Management Council, Administration | 28606 | R628-10 | 5YR | 04/11/2006 | 2006-9/42 |
| | 28600 | R628-12 | NSC | 05/10/2006 | Not Printed |
| **bear**<br>Natural Resources, Wildlife Resources | 28457 | R657-33 | AMD | 03/06/2006 | 2006-3/25 |
| **benefits**<br>Community and Economic Development, Community Development, Community Services | 28388 | R202-205 | NSC | 01/01/2006 | Not Printed |
| | 28390 | R202-207 | NSC | 01/01/2006 | Not Printed |
| **bids**<br>Transportation, Operations, Construction | 28559 | R916-1-7 | AMD | 05/16/2006 | 2006-8/51 |
| **big game seasons**<br>Natural Resources, Wildlife Resources | 28379 | R657-5 | AMD | 01/18/2006 | 2005-24/11 |
| **bituminous-asphaltic sands**<br>School and Institutional Trust Lands, Administration | 28483 | R850-22-900 | AMD | 03/20/2006 | 2006-4/15 |
| **boards**<br>Administrative Services, Finance | 28384 | R25-5 | AMD | 01/25/2006 | 2005-24/2 |
| **boating**<br>Natural Resources, Parks and Recreation | 28622 | R651-201 | 5YR | 04/18/2006 | 2006-10/89 |
| | 28623 | R651-202 | 5YR | 04/18/2006 | 2006-10/89 |
| | 28626 | R651-203 | 5YR | 04/18/2006 | 2006-10/90 |
| | 28624 | R651-204 | 5YR | 04/18/2006 | 2006-10/90 |
| | 28625 | R651-205 | 5YR | 04/18/2006 | 2006-10/91 |
| | 28509 | R651-206 | 5YR | 02/13/2006 | 2006-5/48 |
| | 28648 | R651-207 | NSC | 05/10/2006 | Not Printed |

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| | 28628 | R651-208 | 5YR | 04/18/2006 | 2006-10/92 |
| | 28649 | R651-208 | NSC | 05/10/2006 | Not Printed |
| | 28650 | R651-210 | NSC | 05/10/2006 | Not Printed |
| | 28629 | R651-210 | 5YR | 04/18/2006 | 2006-10/92 |
| | 28630 | R651-211 | 5YR | 04/18/2006 | 2006-10/93 |
| | 28631 | R651-212 | 5YR | 04/18/2006 | 2006-10/93 |
| | 28632 | R651-213 | 5YR | 04/18/2006 | 2006-10/94 |
| | 28651 | R651-213 | NSC | 05/10/2006 | Not Printed |
| | 28633 | R651-214 | 5YR | 04/18/2006 | 2006-10/94 |
| | 28510 | R651-215 | 5YR | 02/13/2006 | 2006-5/49 |
| | 28634 | R651-216 | 5YR | 04/18/2006 | 2006-10/95 |
| | 28652 | R651-216 | NSC | 05/10/2006 | Not Printed |
| | 28653 | R651-217 | NSC | 05/10/2006 | Not Printed |
| | 28635 | R651-217 | 5YR | 04/18/2006 | 2006-10/95 |
| | 28636 | R651-218 | 5YR | 04/18/2006 | 2006-10/96 |
| | 28654 | R651-218 | NSC | 05/10/2006 | Not Printed |
| | 28637 | R651-219 | 5YR | 04/18/2006 | 2006-10/96 |
| | 28638 | R651-220 | 5YR | 04/18/2006 | 2006-10/97 |
| | 28655 | R651-220 | NSC | 05/10/2006 | Not Printed |
| | 28656 | R651-221 | NSC | 05/10/2006 | Not Printed |
| | 28639 | R651-221 | 5YR | 04/18/2006 | 2006-10/97 |
| | 28511 | R651-222 | 5YR | 02/13/2006 | 2006-5/49 |
| | 28512 | R651-224 | 5YR | 02/13/2006 | 2006-5/50 |
| | 28657 | R651-226 | NSC | 05/10/2006 | Not Printed |
| | 28640 | R651-226 | 5YR | 04/18/2006 | 2006-10/98 |
| **boilers** | | | | | |
| Labor Commission, Safety | 28515 | R616-2 | NSC | 02/27/2006 | Not Printed |
| | 28257 | R616-2-3 | AMD | 01/01/2006 | 2005-20/43 |
| | 28564 | R616-2-3 | AMD | 05/17/2006 | 2006-8/42 |
| **bonding requirements** | | | | | |
| Money Management Council, Administration | 28533 | R628-4-2 | NSC | 03/07/2006 | Not Printed |
| Transportation, Operations, Construction | 28559 | R916-1-7 | AMD | 05/16/2006 | 2006-8/51 |
| Workforce Services, Unemployment Insurance | 28722 | R994-308 | 5YR | 05/09/2006 | 2006-11/98 |
| **brachytherapy** | | | | | |
| Environmental Quality, Radiation Control | 28541 | R313-32 | AMD | 05/10/2006 | 2006-7/13 |
| **brain injury** | | | | | |
| Human Services, Services for People with Disabilities | 28716 | R539-1-8 | EMR | 05/05/2006 | 2006-11/88 |
| **breath testing** | | | | | |
| Public Safety, Highway Patrol | 28342 | R714-500 | AMD | 01/05/2006 | 2005-23/59 |
| **building codes** | | | | | |
| Commerce, Occupational and Professional Licensing | 28286 | R156-56 | AMD | 01/01/2006 | 2005-21/6 |

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| | 28285 | R156-56-707 | AMD | 01/01/2006 | 2005-21/25 |
| | 28427 | R156-56-711 | NSC | 02/23/2006 | Not Printed |
| **building inspection**<br>Commerce, Occupational and Professional Licensing | 28286 | R156-56 | AMD | 01/01/2006 | 2005-21/6 |
| | 28285 | R156-56-707 | AMD | 01/01/2006 | 2005-21/25 |
| | 28427 | R156-56-711 | NSC | 02/23/2006 | Not Printed |
| **burial**<br>Community and Economic Development, Community Development, History | 28411 | R212-12 | NSC | 01/01/2006 | Not Printed |
| **capacity**<br>Transportation, Administration | 28358 | R907-68 | NEW | 01/04/2006 | 2005-23/61 |
| **care receiver**<br>Human Services, Aging and Adult Services | 28190 | R510-401 | AMD | 02/23/2006 | 2005-18/37 |
| | 28190 | R510-401 | CPR | 02/23/2006 | 2005-22/46 |
| **caregiver**<br>Human Services, Aging and Adult Services | 28190 | R510-401 | AMD | 02/23/2006 | 2005-18/37 |
| | 28190 | R510-401 | CPR | 02/23/2006 | 2005-22/46 |
| **cash management**<br>Money Management Council, Administration | 28534 | R628-16 | NSC | 03/07/2006 | Not Printed |
| **cemetery**<br>Community and Economic Development, Community Development, History | 28411 | R212-12 | NSC | 01/01/2006 | Not Printed |
| **certification**<br>Labor Commission, Safety | 28515 | R616-2 | NSC | 02/27/2006 | Not Printed |
| | 28257 | R616-2-3 | AMD | 01/01/2006 | 2005-20/43 |
| | 28564 | R616-2-3 | AMD | 05/17/2006 | 2006-8/42 |
| | 28256 | R616-3-3 | AMD | 02/08/2006 | 2005-20/44 |
| **certified court reporter**<br>Commerce, Occupational and Professional Licensing | 28428 | R156-74 | AMD | 02/16/2006 | 2006-2/24 |
| **certified nurse midwife**<br>Commerce, Occupational and Professional Licensing | 28352 | R156-44a | AMD | 01/05/2006 | 2005-23/4 |
| **charity**<br>Commerce, Consumer Protection | 28573 | R152-22-3 | AMD | 05/16/2006 | 2006-8/9 |
| **child care**<br>Workforce Services, Employment Development | 28561 | R986-700-705 | NSC | 04/17/2006 | Not Printed |
| | 28481 | R986-700-709 | AMD | 04/12/2006 | 2006-4/31 |
| **child care facilities**<br>Health, Health Systems Improvement, Child Care Licensing | 28593 | R430-2 | AMD | 05/25/2006 | 2006-8/33 |
| | 28245 | R430-2 | AMD | 02/06/2006 | 2005-20/14 |
| | 28245 | R430-2 | CPR | 02/06/2006 | 2005-24/33 |

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| | 28246 | R430-3 | CPR | 02/06/2006 | 2005-24/35 |
| | 28248 | R430-4 | AMD | 02/06/2006 | 2005-20/23 |
| | 28248 | R430-4 | CPR | 02/06/2006 | 2005-24/37 |
| | 28594 | R430-4 | AMD | 05/25/2006 | 2006-8/34 |
| | 28249 | R430-6 | AMD | 02/06/2006 | 2005-20/26 |
| | 28249 | R430-6 | CPR | 02/06/2006 | 2005-24/41 |
| **child support** | | | | | |
| Human Services, Recovery Services | 28412 | R527-35 | AMD | 02/22/2006 | 2006-1/27 |
| | 28670 | R527-200 | 5YR | 04/24/2006 | 2006-10/88 |
| **civil procedure** | | | | | |
| Human Services, Recovery Services | 28752 | R527-800 | 5YR | 05/24/2006 | Not Printed |
| **client rights** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28359 | R202-201 | NSC | 01/01/2006 | Not Printed |
| **coal mining** | | | | | |
| Natural Resources, Oil, Gas and Mining; Coal | 28742 | R645-106 | 5YR | 05/17/2006 | Not Printed |
| **communicable diseases** | | | | | |
| Human Services, Administration | 28598 | R495-862 | 5YR | 04/04/2006 | 2006-9/41 |
| **community action programs** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28353 | R202-100 | NSC | 01/01/2006 | Not Printed |
| **community development** | | | | | |
| Community and Economic Development, Community Development | 28350 | R199-11 | NSC | 01/01/2006 | Not Printed |
| Community and Culture, Housing and Community Development | 28647 | R199-11 | 5YR | 04/19/2006 | 2006-10/86 |
| **complaint** | | | | | |
| Human Services, Child Protection Ombudsman (Office of) | 28401 | R515-1 | NEW | 02/01/2006 | 2006-1/26 |
| **concealed firearm permit** | | | | | |
| Public Safety, Criminal Investigations and Technical Services, Criminal Identification | 28250 | R722-300 | AMD | 01/09/2006 | 2005-20/48 |
| | 28296 | R722-300-13 | NSC | 01/09/2006 | Not Printed |
| **concern** | | | | | |
| Natural Resources, Wildlife Resources | 28751 | R657-48 | 5YR | 05/24/2006 | Not Printed |
| **confidentiality of information** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28359 | R202-201 | NSC | 01/01/2006 | Not Printed |
| **connections** | | | | | |
| Environmental Quality, Drinking Water | 28422 | R309-550-5 | AMD | 03/08/2006 | 2006-1/20 |
| **consumer protection** | | | | | |
| Commerce, Consumer Protection | 28574 | R152-1 | AMD | 05/16/2006 | 2006-8/7 |

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| | 28573 | R152-22-3 | AMD | 05/16/2006 | 2006-8/9 |
| **continuous monitoring** | | | | | |
| Environmental Quality, Air Quality | 28226 | R307-170 | AMD | 01/05/2006 | 2005-19/6 |
| **contractors** | | | | | |
| Commerce, Occupational and Professional Licensing | 28286 | R156-56 | AMD | 01/01/2006 | 2005-21/6 |
| | 28285 | R156-56-707 | AMD | 01/01/2006 | 2005-21/25 |
| | 28427 | R156-56-711 | NSC | 02/23/2006 | Not Printed |
| **contracts** | | | | | |
| Capitol Preservation Board (State), Administration | 28727 | R131-4 | 5YR | 05/12/2006 | 2006-11/92 |
| Transportation, Operations, Construction | 28559 | R916-1-7 | AMD | 05/16/2006 | 2006-8/51 |
| **controlled substances** | | | | | |
| Commerce, Occupational and Professional Licensing | 28310 | R156-37 | AMD | 02/16/2006 | 2005-22/8 |
| | 28310 | R156-37 | CPR | 02/16/2006 | 2006-2/35 |
| Tax Commission, Collections | 28539 | R867-2B | 5YR | 03/07/2006 | 2006-7/35 |
| **cooperative agreement** | | | | | |
| Natural Resources, Forestry, Fire and State Lands | 28525 | R652-122 | NSC | 03/07/2006 | Not Printed |
| **corrections** | | | | | |
| Corrections, Administration | 28576 | R251-104 | 5YR | 03/28/2006 | 2006-8/72 |
| | 28705 | R251-702 | 5YR | 05/03/2006 | 2006-11/93 |
| | 28706 | R251-708 | 5YR | 05/03/2006 | 2006-11/94 |
| | 28707 | R251-711 | 5YR | 05/03/2006 | 2006-11/94 |
| | 28577 | R251-712 | 5YR | 03/28/2006 | 2006-8/72 |
| **court reporting** | | | | | |
| Commerce, Occupational and Professional Licensing | 28428 | R156-74 | AMD | 02/16/2006 | 2006-2/24 |
| **criminal background checks** | | | | | |
| Education, Rehabilitation | 28521 | R280-204 | NEW | 04/03/2006 | 2006-5/16 |
| **criminal records** | | | | | |
| Corrections, Administration | 28713 | R251-111 | 5YR | 05/04/2006 | 2006-11/93 |
| **cultural resources** | | | | | |
| Community and Economic Development, Community Development, History | 28403 | R212-7 | NSC | 01/01/2006 | Not Printed |
| **curricula** | | | | | |
| Education, Administration | 28467 | R277-705 | AMD | 03/06/2006 | 2006-3/18 |
| **dam safety** | | | | | |
| Natural Resources, Water Rights | 28710 | R655-10 | 5YR | 05/03/2006 | 2006-11/96 |
| | 28712 | R655-12 | 5YR | 05/03/2006 | 2006-11/97 |
| **damages** | | | | | |
| Natural Resources, Wildlife Resources | 28455 | R657-24 | AMD | 03/06/2006 | 2006-3/24 |

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| **dams** | | | | | |
| Natural Resources, Water Rights | 28710 | R655-10 | 5YR | 05/03/2006 | 2006-11/96 |
| | 28711 | R655-11 | 5YR | 05/03/2006 | 2006-11/97 |
| | 28712 | R655-12 | 5YR | 05/03/2006 | 2006-11/97 |
| **DCFS** | | | | | |
| Human Services, Child Protection Ombudsman (Office of) | 28401 | R515-1 | NEW | 02/01/2006 | 2006-1/26 |
| **debt** | | | | | |
| Human Services, Recovery Services | 28739 | R527-936 | 5YR | 05/16/2006 | Not Printed |
| **definitions** | | | | | |
| Administrative Services, Fleet Operations | 28474 | R27-1 | 5YR | 01/30/2006 | 2006-4/33 |
| | 28279 | R27-1 | NSC | 01/30/2006 | Not Printed |
| | 28368 | R27-1-2 | NSC | 01/01/2006 | Not Printed |
| **depository** | | | | | |
| Money Management Council, Administration | 28606 | R628-10 | 5YR | 04/11/2006 | 2006-9/42 |
| **developmentally disabled** | | | | | |
| Agriculture and Food, Administration | 28553 | R51-4 | 5YR | 03/16/2006 | 2006-8/69 |
| | 28430 | R861-1A-37 | AMD | 03/06/2006 | 2006-2/29 |
| **disabilities** | | | | | |
| Human Services, Services for People with Disabilities | 28716 | R539-1-8 | EMR | 05/05/2006 | 2006-11/88 |
| | 28715 | R539-9 | EMR | 05/05/2006 | 2006-11/90 |
| **disclosure requirements** | | | | | |
| Tax Commission, Administration | 28430 | R861-1A-37 | AMD | 03/06/2006 | 2006-2/29 |
| **discrimination** | | | | | |
| Agriculture and Food, Administration | 28553 | R51-4 | 5YR | 03/16/2006 | 2006-8/69 |
| **drinking water** | | | | | |
| Environmental Quality, Drinking Water | 28416 | R309-105-9 | AMD | 03/08/2006 | 2006-1/11 |
| | 28417 | R309-150-6 | AMD | 03/08/2006 | 2006-1/12 |
| | 28418 | R309-405-4 | AMD | 03/08/2006 | 2006-1/14 |
| | 28419 | R309-510-9 | AMD | 03/08/2006 | 2006-1/16 |
| | 28420 | R309-540-6 | AMD | 03/08/2006 | 2006-1/18 |
| | 28421 | R309-545-7 | AMD | 03/08/2006 | 2006-1/19 |
| | 28422 | R309-550-5 | AMD | 03/08/2006 | 2006-1/20 |
| | 28392 | R309-600 | NSC | 01/01/2006 | Not Printed |
| | 28380 | R309-605 | NSC | 01/01/2006 | Not Printed |
| **driver education** | | | | | |
| Public Safety, Driver License | 28565 | R708-18 | 5YR | 03/20/2006 | 2006-8/75 |
| **driver licenses** | | | | | |
| Public Safety, Driver License | 28569 | R708-6 | 5YR | 03/23/2006 | 2006-8/74 |
| **drug stamps** | | | | | |
| Tax Commission, Collections | 28539 | R867-2B | 5YR | 03/07/2006 | 2006-7/35 |

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| **earthquakes** | | | | | |
| Natural Resources, Water Rights | 28711 | R655-11 | 5YR | 05/03/2006 | 2006-11/97 |
| **education** | | | | | |
| Education, Administration | 28591 | R277-709 | AMD | 05/16/2006 | 2006-8/12 |
| **educational program evaluation** | | | | | |
| Education, Administration | 28465 | R277-501 | AMD | 03/06/2006 | 2006-3/10 |
| **educator** | | | | | |
| Education, Administration | 28592 | R277-510 | NSC | 04/12/2006 | Not Printed |
| | 28466 | R277-510 | NEW | 03/06/2006 | 2006-3/15 |
| **educator license renewal** | | | | | |
| Education, Administration | 28465 | R277-501 | AMD | 03/06/2006 | 2006-3/10 |
| **elderly** | | | | | |
| Human Services, Aging and Adult Services | 28190 | R510-401 | AMD | 02/23/2006 | 2005-18/37 |
| | 28190 | R510-401 | CPR | 02/23/2006 | 2005-22/46 |
| **electric assisted bicycle headgear** | | | | | |
| Public Safety, Driver License | 28560 | R708-33 | 5YR | 03/17/2006 | 2006-8/76 |
| **elevators** | | | | | |
| Labor Commission, Safety | 28256 | R616-3-3 | AMD | 02/08/2006 | 2005-20/44 |
| **emergency medical services** | | | | | |
| Health, Health Systems Improvement, Emergency Medical Services | 28470 | R426-7 | 5YR | 01/24/2006 | 2006-4/37 |
| | 28472 | R426-8 | 5YR | 01/24/2006 | 2006-4/38 |
| **emission fee** | | | | | |
| Environmental Quality, Air Quality | 28549 | R307-415-7d | NSC | 03/28/2006 | Not Printed |
| **employer liability** | | | | | |
| Workforce Services, Unemployment Insurance | 28721 | R994-302 | 5YR | 05/09/2006 | 2006-11/98 |
| **employment** | | | | | |
| Human Services, Services for People with Disabilities | 28715 | R539-9 | EMR | 05/05/2006 | 2006-11/90 |
| **energy assistance** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28385 | R202-202 | NSC | 01/01/2006 | Not Printed |
| | 28386 | R202-203 | NSC | 01/01/2006 | Not Printed |
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| **energy industries** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28391 | R202-208 | NSC | 01/01/2006 | Not Printed |

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| **enforcement** | | | | | |
| Human Services, Recovery Services | 28752 | R527-800 | 5YR | 05/24/2006 | Not Printed |
| **engineering** | | | | | |
| Education, Administration | 28523 | R277-717 | AMD | 04/03/2006 | 2006-5/13 |
| **engineers** | | | | | |
| Commerce, Occupational and Professional Licensing | 28444 | R156-22 | CPR | 04/03/2006 | 2006-5/45 |
| | 28444 | R156-22 | AMD | 04/03/2006 | 2006-2/17 |
| **environmental health** | | | | | |
| Environmental Quality, Drinking Water | 28392 | R309-600 | NSC | 01/01/2006 | Not Printed |
| | 28380 | R309-605 | NSC | 01/01/2006 | Not Printed |
| **environmental protection** | | | | | |
| Environmental Quality, Air Quality | 28549 | R307-415-7d | NSC | 03/28/2006 | Not Printed |
| Environmental Quality, Drinking Water | 28417 | R309-150-6 | AMD | 03/08/2006 | 2006-1/12 |
| | 28418 | R309-405-4 | AMD | 03/08/2006 | 2006-1/14 |
| **exemption** | | | | | |
| Natural Resources, Oil, Gas and Mining; Coal | 28742 | R645-106 | 5YR | 05/17/2006 | Not Printed |
| **exhibitions** | | | | | |
| Agriculture and Food, Marketing and Development | 28558 | R65-8 | 5YR | 03/16/2006 | 2006-8/70 |
| **facility** | | | | | |
| Human Services, Substance Abuse and Mental Health, State Hospital | 28738 | R525-8 | 5YR | 05/16/2006 | Not Printed |
| **family employment program** | | | | | |
| Workforce Services, Employment Development | 28537 | R986-200 | AMD | 05/01/2006 | 2006-6/19 |
| **fees** | | | | | |
| Natural Resources, Parks and Recreation | 28513 | R651-611 | 5YR | 02/13/2006 | 2006-5/50 |
| | 28169 | R651-611 | AMD | 01/01/2006 | 2005-18/46 |
| Public Safety, Driver License | 28565 | R708-18 | 5YR | 03/20/2006 | 2006-8/75 |
| **filing fees** | | | | | |
| School and Institutional Trust Lands, Administration | 28562 | R850-4-300 | AMD | 05/16/2006 | 2006-8/48 |
| **financial disclosures** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28387 | R202-204 | NSC | 01/01/2006 | Not Printed |
| **financial institutions** | | | | | |
| Money Management Council, Administration | 28600 | R628-12 | NSC | 05/10/2006 | Not Printed |

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| **fire** | | | | | |
| Environmental Quality, Air Quality | 28602 | R307-204 | 5YR | 04/07/2006 | 2006-9/40 |
| **fire prevention** | | | | | |
| Public Safety, Fire Marshal | 28579 | R710-4 | AMD | 05/16/2006 | 2006-8/45 |
| | 28461 | R710-9 | AMD | 03/06/2006 | 2006-3/27 |
| | 28292 | R710-9 | AMD | 01/10/2006 | 2005-21/38 |
| **fire training** | | | | | |
| Public Safety, Fire Marshal | 28460 | R710-10 | NEW | 03/06/2006 | 2006-3/33 |
| | 28581 | R710-10-7 | NSC | 04/12/2006 | Not Printed |
| **firearms** | | | | | |
| Administrative Services, Fleet Operations, Surplus Property | 28496 | R28-2 | 5YR | 02/07/2006 | 2006-5/47 |
| **fires** | | | | | |
| Environmental Quality, Air Quality | 28459 | R307-204 | NSC | 04/07/2006 | Not Printed |
| **fish** | | | | | |
| Natural Resources, Wildlife Resources | 28303 | R657-13 | AMD | 01/18/2006 | 2005-22/41 |
| **fishing** | | | | | |
| Natural Resources, Wildlife Resources | 28303 | R657-13 | AMD | 01/18/2006 | 2005-22/41 |
| **floods** | | | | | |
| Natural Resources, Water Rights | 28711 | R655-11 | 5YR | 05/03/2006 | 2006-11/97 |
| **food inspection** | | | | | |
| Agriculture and Food, Animal Industry | 28506 | R58-10 | AMD | 04/03/2006 | 2006-5/2 |
| Agriculture and Food, Plant Industry | 28504 | R68-4 | 5YR | 02/10/2006 | 2006-5/47 |
| Agriculture and Food, Regulatory Services | 28555 | R70-330 | 5YR | 03/16/2006 | 2006-8/71 |
| **food inspections** | | | | | |
| Agriculture and Food, Regulatory Services | 28556 | R70-370 | 5YR | 03/16/2006 | 2006-8/71 |
| | 28557 | R70-380 | 5YR | 03/16/2006 | 2006-8/72 |
| | 28471 | R70-410 | 5YR | 01/24/2006 | 2006-4/35 |
| | 28485 | R70-410-1 | AMD | 03/20/2006 | 2006-4/4 |
| **food sales tax refunds** | | | | | |
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| **forensic** | | | | | |
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| **franchises** | | | | | |
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| | 28543 | R151-35 | AMD | 05/02/2006 | 2006-7/3 |

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| | 28442 | R182-1 | NSC | 01/01/2006 | Not Printed |
| **game laws** | | | | | |
| Natural Resources, Wildlife Resources | 28379 | R657-5 | AMD | 01/18/2006 | 2005-24/11 |
| | 28382 | R657-17 | AMD | 01/18/2006 | 2005-24/17 |
| | 28454 | R657-19 | AMD | 03/06/2006 | 2006-3/22 |
| | 28377 | R657-23 | AMD | 01/18/2006 | 2005-24/19 |
| | 28457 | R657-33 | AMD | 03/06/2006 | 2006-3/25 |
| **generator radioactive waste permit** | | | | | |
| Environmental Quality, Radiation Control | 28720 | R313-26 | 5YR | 05/09/2006 | 2006-11/95 |
| **government documents** | | | | | |
| Administrative Services, Records Committee | 28462 | R35-1 | AMD | 03/14/2006 | 2006-3/3 |
| Agriculture and Food, Administration | 28552 | R51-3 | 5YR | 03/16/2006 | 2006-8/69 |
| | 28442 | R182-1 | NSC | 01/01/2006 | Not Printed |
| Community and Economic Development, Community Development, Community Services | 28390 | R202-207 | NSC | 01/01/2006 | Not Printed |
| **government hearings** | | | | | |
| Commerce, Administration | 28709 | R151-46b | 5YR | 05/03/2006 | 2006-11/92 |
| Commerce, Occupational and Professional Licensing | 28673 | R156-46b | 5YR | 04/25/2006 | 2006-10/86 |
| **government purchasing** | | | | | |
| Administrative Services, Purchasing and General Services | 28436 | R33-1 | NSC | 02/22/2006 | Not Printed |
| | 28445 | R33-1-1 | AMD | 02/21/2006 | 2006-2/3 |
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| | 28448 | R33-5 | NSC | 02/22/2006 | Not Printed |
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| **government records** | | | | | |
| Corrections, Administration | 28713 | R251-111 | 5YR | 05/04/2006 | 2006-11/93 |
| **grant programs** | | | | | |
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| | 28434 | R203-5 | NSC | 01/01/2006 | Not Printed |
| **grants** | | | | | |
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| **grievance procedures** | | | | | |
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| **grievances** | | | | | |
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| **habitat designation** | | | | | |
| Natural Resources, Wildlife Resources | 28751 | R657-48 | 5YR | 05/24/2006 | Not Printed |
| **hazardous waste** | | | | | |
| Environmental Quality, Solid and Hazardous Waste | 28346 | R315-102 | AMD | 01/20/2006 | 2005-23/38 |
| **health facilities** | | | | | |
| Health, Health Systems Improvement, Licensing | 28500 | R432-31 | AMD | 04/13/2006 | 2006-5/35 |
| | 28312 | R432-100-24 | AMD | 01/05/2006 | 2005-22/34 |
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| | 28311 | R432-100-38 | AMD | 01/05/2006 | 2005-22/38 |
| | 28301 | R432-106 | AMD | 01/05/2006 | 2005-22/39 |
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| **hearings** | | | | | |
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| Labor Commission, Adjudication | 28547 | R602-2-1 | AMD | 05/05/2006 | 2006-7/14 |
| **HEAT** | | | | | |
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| **higher education** | | | | | |
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| **highly qualified** | | | | | |
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| **highways** | | | | | |
| Transportation, Program Development | 28538 | R926-9 | NEW | 04/20/2006 | 2006-6/17 |
| **historic preservation** | | | | | |
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| **historic sites** | | | | | |
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| **holidays**<br>Human Resource Management, Administration | 28443 | R477-7 | EMR | 01/01/2006 | 2006-2/40 |
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| **housing**<br>Community and Economic Development, Community Development, History | 28410 | R212-11 | NSC | 01/01/2006 | Not Printed |
| **housing development**<br>Community and Culture, Olene Walker Housing Trust Fund | 28492 | R235-1 | NSC | 03/01/2006 | Not Printed |
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| **hunter education**<br>Natural Resources, Wildlife Resources | 28377 | R657-23 | AMD | 01/18/2006 | 2005-24/19 |
| **hunting**<br>Natural Resources, Wildlife Resources | 28371 | R657-38 | AMD | 01/18/2006 | 2005-24/22 |
| **hunting and fishing licenses**<br>Natural Resources, Wildlife Resources | 28382 | R657-17 | AMD | 01/18/2006 | 2005-24/17 |
| **hydropneumatic systems**<br>Environmental Quality, Drinking Water | 28420 | R309-540-6 | AMD | 03/08/2006 | 2006-1/18 |
| **impacted area programs**<br>Community and Economic Development, Community Development | 28349 | R199-10 | NSC | 01/01/2006 | Not Printed |
| **incidental extraction**<br>Natural Resources, Oil, Gas and Mining; Coal | 28742 | R645-106 | 5YR | 05/17/2006 | Not Printed |
| **incidents**<br>Administrative Services, Fleet Operations | 28469 | R27-7 | 5YR | 01/20/2006 | 2006-4/34 |
| **income eligibility**<br>Community and Economic Development, Community Development, Community Services | 28386 | R202-203 | NSC | 01/01/2006 | Not Printed |
| **Indian affairs**<br>Community and Economic Development, Indian Affairs | 28441 | R230-1 | NSC | 01/01/2006 | Not Printed |
| | 28479 | R230-1 | 5YR | 01/31/2006 | 2006-4/37 |
| **individual home booster pumps**<br>Environmental Quality, Drinking Water | 28420 | R309-540-6 | AMD | 03/08/2006 | 2006-1/18 |
| **informal procedures**<br>Community and Economic Development, Community Development, Library | 28343 | R223-1 | NSC | 01/01/2006 | Not Printed |
| **inmates**<br>Corrections, Administration | 28705 | R251-702 | 5YR | 05/03/2006 | 2006-11/93 |

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| **insurance** | | | | | |
| Insurance, Administration | 28551 | R590-144 | 5YR | 03/14/2006 | 2006-7/34 |
| | 28269 | R590-166-4 | AMD | 01/24/2006 | 2005-20/40 |
| | 28587 | R590-177 | 5YR | 03/31/2006 | 2006-8/73 |
| | 28588 | R590-177 | NSC | 04/12/2006 | Not Printed |
| **insurance certificate of authority** | | | | | |
| Insurance, Administration | 28726 | R590-208 | 5YR | 05/12/2006 | 2006-11/95 |
| **insurance law** | | | | | |
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| | 28117 | R590-85 | CPR | 01/31/2006 | 2005-20/61 |
| | 28117 | R590-85 | CPR | 01/31/2006 | 2005-24/44 |
| | 28267 | R590-98 | CPR | 01/31/2006 | 2005-24/46 |
| | 28267 | R590-98 | AMD | 01/31/2006 | 2005-20/39 |
| | 28528 | R590-99 | NSC | 03/06/2006 | Not Printed |
| | 28495 | R590-131-4 | NSC | 02/24/2006 | Not Printed |
| | 28589 | R590-200 | 5YR | 03/31/2006 | 2006-8/73 |
| **Internet access** | | | | | |
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| **intoxilyzer** | | | | | |
| Public Safety, Highway Patrol | 28342 | R714-500 | AMD | 01/05/2006 | 2005-23/59 |
| **investigation** | | | | | |
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| **judicial conduct commission** | | | | | |
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| **juvenile corrections** | | | | | |
| Human Services, Juvenile Justice Services | 28378 | R547-13 | AMD | 01/18/2006 | 2005-24/8 |
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| **land manager** | | | | | |
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| **land managers** | | | | | |
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| **lease operations** | | | | | |
| School and Institutional Trust Lands, Administration | 28484 | R850-24-300 | AMD | 03/20/2006 | 2006-4/16 |
| **lease provisions** | | | | | |
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| | 28483 | R850-22-900 | AMD | 03/20/2006 | 2006-4/15 |
| **leave benefits** | | | | | |
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| | 28429 | R156-3a | CPR | 04/03/2006 | 2006-5/44 |
| | 28429 | R156-3a | AMD | 04/03/2006 | 2006-2/15 |
| | 28671 | R156-3a-501 | NSC | 05/10/2006 | Not Printed |
| | 28530 | R156-17b | AMD | 04/17/2006 | 2006-6/2 |
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| **medically underserved** | | | | | |
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| **minerals reclamation** | | | | | |
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| | 28338 | R647-2 | AMD | 02/23/2006 | 2005-23/48 |
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| **minority education** | | | | | |
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| **monitoring** | | | | | |
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| **nuclear medicine** | | | | | |
| Environmental Quality, Radiation Control | 28541 | R313-32 | AMD | 05/10/2006 | 2006-7/13 |
| **nurses** | | | | | |
| Commerce, Occupational and Professional Licensing | 28365 | R156-31b | AMD | 01/23/2006 | 2005-24/3 |
| **occupational licensing** | | | | | |
| Commerce, Occupational and Professional Licensing | 28673 | R156-46b | 5YR | 04/25/2006 | 2006-10/86 |
| **off road vehicles** | | | | | |
| Commerce, Administration | 28543 | R151-35 | AMD | 05/02/2006 | 2006-7/3 |
| **off-highway vehicles** | | | | | |
| Natural Resources, Parks and Recreation | 28642 | R651-401 | 5YR | 04/18/2006 | 2006-10/98 |
| | 28641 | R651-405 | 5YR | 04/18/2006 | 2006-10/99 |

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| | 28658 | R651-405 | NSC | 05/10/2006 | Not Printed |
| | 28659 | R651-406 | NSC | 05/10/2006 | Not Printed |
| | 28643 | R651-406 | 5YR | 04/18/2006 | 2006-10/99 |
| **oil and gas law**<br>Natural Resources, Oil, Gas and Mining; Oil and Gas | 28724 | R649-10 | 5YR | 05/11/2006 | 2006-11/96 |
| **oil gas and hydrocarbons**<br>School and Institutional Trust Lands, Administration | 28482 | R850-21-900 | AMD | 03/20/2006 | 2006-4/14 |
| **oil shale**<br>School and Institutional Trust Lands, Administration | 28483 | R850-22-900 | AMD | 03/20/2006 | 2006-4/15 |
| **Olene Walker Housing Loan Fund**<br>Community and Culture, Olene Walker Housing Trust Fund | 28492 | R235-1 | NSC | 03/01/2006 | Not Printed |
| | 28402 | R235-1 | NEW | 03/01/2006 | 2006-1/9 |
| **ombudsman**<br>Human Services, Child Protection Ombudsman (Office of) | 28401 | R515-1 | NEW | 02/01/2006 | 2006-1/26 |
| **onsite wastewater systems**<br>Environmental Quality, Water Quality | 28596 | R317-4 | AMD | 05/19/2006 | 2006-8/14 |
| **opening and closing dates**<br>Community and Economic Development, Community Development, Community Services | 28385 | R202-202 | NSC | 01/01/2006 | Not Printed |
| **operating permit**<br>Environmental Quality, Air Quality | 28549 | R307-415-7d | NSC | 03/28/2006 | Not Printed |
| **operations**<br>School and Institutional Trust Lands, Administration | 28482 | R850-21-900 | AMD | 03/20/2006 | 2006-4/14 |
| **operator certification**<br>Public Safety, Highway Patrol | 28342 | R714-500 | AMD | 01/05/2006 | 2005-23/59 |
| **overflow and drains**<br>Environmental Quality, Drinking Water | 28421 | R309-545-7 | AMD | 03/08/2006 | 2006-1/19 |
| **overpayments**<br>Workforce Services, Unemployment Insurance | 28480 | R994-406-302 | NSC | 02/22/2006 | Not Printed |
| **parks**<br>Natural Resources, Parks and Recreation | 28513 | R651-611 | 5YR | 02/13/2006 | 2006-5/50 |
| | 28169 | R651-611 | AMD | 01/01/2006 | 2005-18/46 |
| **payment determination**<br>Community and Economic Development, Community Development, Community Services | 28386 | R202-203 | NSC | 01/01/2006 | Not Printed |
| **penalties**<br>Environmental Quality, Drinking Water | 28418 | R309-405-4 | AMD | 03/08/2006 | 2006-1/14 |

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| Administrative Services, Finance | 28384 | R25-5 | AMD | 01/25/2006 | 2005-24/2 |
| **performing arts** | | | | | |
| Community and Economic Development, Community Development, Fine Arts | 28361 | R207-1 | NSC | 01/01/2006 | Not Printed |
| **permits** | | | | | |
| Natural Resources, Wildlife Resources | 28376 | R657-42 | AMD | 01/18/2006 | 2005-24/27 |
| Transportation, Motor Carrier, Ports of Entry | 28415 | R912-11 | AMD | 02/08/2006 | 2006-1/28 |
| **personal property** | | | | | |
| Tax Commission, Property Tax | 28432 | R884-24P-19 | AMD | 03/06/2006 | 2006-2/31 |
| **petroleum** | | | | | |
| Environmental Quality, Environmental Response and Remediation | 28516 | R311-200 | AMD | 05/15/2006 | 2006-5/26 |
| | 28517 | R311-205-2 | AMD | 05/15/2006 | 2006-5/28 |
| | 28518 | R311-207-5 | AMD | 05/15/2006 | 2006-5/31 |
| | 28519 | R311-211 | AMD | 05/15/2006 | 2006-5/32 |
| **pharmacies** | | | | | |
| Commerce, Occupational and Professional Licensing | 28530 | R156-17b | AMD | 04/17/2006 | 2006-6/2 |
| **pharmacists** | | | | | |
| Commerce, Occupational and Professional Licensing | 28530 | R156-17b | AMD | 04/17/2006 | 2006-6/2 |
| **physicians** | | | | | |
| Health, Health Systems Improvement, Primary Care and Rural Health | 28331 | R434-100-6 | NSC | 01/01/2006 | Not Printed |
| **plant disease** | | | | | |
| Agriculture and Food, Plant Industry | 28505 | R68-18 | 5YR | 02/10/2006 | 2006-5/48 |
| **plots** | | | | | |
| Community and Economic Development, Community Development, History | 28411 | R212-12 | NSC | 01/01/2006 | Not Printed |
| **powersport vehicles** | | | | | |
| Commerce, Administration | 28543 | R151-35 | AMD | 05/02/2006 | 2006-7/3 |
| **prescriptions** | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 28356 | R414-63 | REP | 01/04/2006 | 2005-23/44 |
| **preservation** | | | | | |
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| **primary health care** | | | | | |
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| **prisons** | | | | | |
| Corrections, Administration | 28705 | R251-702 | 5YR | 05/03/2006 | 2006-11/93 |
| | 28706 | R251-708 | 5YR | 05/03/2006 | 2006-11/94 |
| | 28707 | R251-711 | 5YR | 05/03/2006 | 2006-11/94 |

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| **private probation provider** | | | | | |
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| **private security officers** | | | | | |
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| **probation** | | | | | |
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| **procurement** | | | | | |
| Capitol Preservation Board (State), Administration | 28727 | R131-4 | 5YR | 05/12/2006 | 2006-11/92 |
| **professional competency** | | | | | |
| Education, Administration | 28700 | R277-513 | 5YR | 05/01/2006 | 2006-10/87 |
| | 28606 | R628-10 | 5YR | 04/11/2006 | 2006-9/42 |
| **professional engineers** | | | | | |
| Commerce, Occupational and Professional Licensing | 28444 | R156-22 | CPR | 04/03/2006 | 2006-5/45 |
| | 28444 | R156-22 | AMD | 04/03/2006 | 2006-2/17 |
| **professional land surveyors** | | | | | |
| Commerce, Occupational and Professional Licensing | 28444 | R156-22 | CPR | 04/03/2006 | 2006-5/45 |
| | 28444 | R156-22 | AMD | 04/03/2006 | 2006-2/17 |
| **property tax** | | | | | |
| Tax Commission, Property Tax | 28432 | R884-24P-19 | AMD | 03/06/2006 | 2006-2/31 |
| **public buildings** | | | | | |
| Capitol Preservation Board (State), Administration | 28727 | R131-4 | 5YR | 05/12/2006 | 2006-11/92 |
| Community and Economic Development, Community Development, Energy Services | 28433 | R203-4 | NSC | 01/01/2006 | Not Printed |
| | 28434 | R203-5 | NSC | 01/01/2006 | Not Printed |
| Public Safety, Fire Marshal | 28579 | R710-4 | AMD | 05/16/2006 | 2006-8/45 |
| **public education** | | | | | |
| Commerce, Consumer Protection | 28574 | R152-1 | AMD | 05/16/2006 | 2006-8/7 |
| **public investments** | | | | | |
| Money Management Council, Administration | 28606 | R628-10 | 5YR | 04/11/2006 | 2006-9/42 |
| | 28600 | R628-12 | NSC | 05/10/2006 | Not Printed |
| | 28534 | R628-16 | NSC | 03/07/2006 | Not Printed |
| **public library** | | | | | |
| Community and Economic Development, Community Development, Library | 28344 | R223-2 | NSC | 01/01/2006 | Not Printed |
| **public meetings** | | | | | |
| Natural Resources, Wildlife Resources | 28453 | R657-39 | 5YR | 01/09/2006 | 2006-3/39 |
| **public records** | | | | | |
| Agriculture and Food, Administration | 28552 | R51-3 | 5YR | 03/16/2006 | 2006-8/69 |

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| **public schools**<br>Education, Administration | 28463 | R277-410 | AMD | 03/06/2006 | 2006-3/7 |
| **public treasurers**<br>Money Management Council, Administration | 28533 | R628-4-2 | NSC | 03/07/2006 | Not Printed |
| **public utilities**<br>Public Service Commission, Administration | 28139 | R746-345 | AMD | 02/08/2006 | 2005-17/31 |
| | 28139 | R746-345 | CPR | 02/08/2006 | 2005-24/47 |
| **pumps**<br>Environmental Quality, Drinking Water | 28420 | R309-540-6 | AMD | 03/08/2006 | 2006-1/18 |
| **quality control**<br>Agriculture and Food, Regulatory Services | 28503 | R70-101 | AMD | 04/03/2006 | 2006-5/3 |
| **radioactive materials**<br>Environmental Quality, Radiation Control | 28541 | R313-32 | AMD | 05/10/2006 | 2006-7/13 |
| **radiopharmaceutical**<br>Environmental Quality, Radiation Control | 28541 | R313-32 | AMD | 05/10/2006 | 2006-7/13 |
| **railroads**<br>Transportation, Preconstruction | 28489 | R930-5 | R&R | 04/25/2006 | 2006-4/18 |
| **rates**<br>Administrative Services, Finance | 28384 | R25-5 | AMD | 01/25/2006 | 2005-24/2 |
| Labor Commission, Industrial Accidents | 28458 | R612-4 | 5YR | 01/12/2006 | 2006-3/39 |
| | 28298 | R612-4-2 | AMD | 01/01/2006 | 2005-22/41 |
| School and Institutional Trust Lands, Administration | 28562 | R850-4-300 | AMD | 05/16/2006 | 2006-8/48 |
| **real estate business**<br>Commerce, Real Estate | 28494 | R162-10-1 | AMD | 04/19/2006 | 2006-5/7 |
| **reclamation**<br>Natural Resources, Oil, Gas and Mining; Coal | 28742 | R645-106 | 5YR | 05/17/2006 | Not Printed |
| **records appeal hearings**<br>Administrative Services, Records Committee | 28462 | R35-1 | AMD | 03/14/2006 | 2006-3/3 |
| **recreation**<br>Natural Resources, Wildlife Resources | 28371 | R657-38 | AMD | 01/18/2006 | 2005-24/22 |
| **recreational vehicles**<br>Commerce, Administration | 28542 | R151-14 | AMD | 05/02/2006 | 2006-7/2 |
| **refugee resettlement program**<br>Workforce Services, Employment Development | 28425 | R986-300-305 | AMD | 03/01/2006 | 2006-1/31 |
| **regional advisory councils**<br>Natural Resources, Wildlife Resources | 28453 | R657-39 | 5YR | 01/09/2006 | 2006-3/39 |

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| Natural Resources, Wildlife Resources | 28456 | R657-40 | 5YR | 01/10/2006 | 2006-3/40 |
| **reservoirs** | | | | | |
| Natural Resources, Water Rights | 28710 | R655-10 | 5YR | 05/03/2006 | 2006-11/96 |
| | 28711 | R655-11 | 5YR | 05/03/2006 | 2006-11/97 |
| | 28712 | R655-12 | 5YR | 05/03/2006 | 2006-11/97 |
| **residency requirements** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28385 | R202-202 | NSC | 01/01/2006 | Not Printed |
| **residential mortgage loan origination** | | | | | |
| Commerce, Real Estate | 28499 | R162-202-10 | AMD | 04/05/2006 | 2006-5/7 |
| | 28450 | R162-203 | AMD | 03/09/2006 | 2006-3/4 |
| | 28497 | R162-204 | AMD | 04/05/2006 | 2006-5/8 |
| | 28498 | R162-205 | AMD | 04/05/2006 | 2006-5/9 |
| | 28451 | R162-207-3 | AMD | 03/09/2006 | 2006-3/5 |
| | 28476 | R162-209 | 5YR | 01/30/2006 | 2006-4/36 |
| **Resource Development Coordinating Committee (RDCC)** | | | | | |
| Governor, Planning and Budget | 28295 | R361-1 | REP | 01/03/2006 | 2005-22/36 |
| **respite** | | | | | |
| Human Services, Aging and Adult Services | 28190 | R510-401 | AMD | 02/23/2006 | 2005-18/37 |
| | 28190 | R510-401 | CPR | 02/23/2006 | 2005-22/46 |
| **right of petition** | | | | | |
| Corrections, Administration | 28576 | R251-104 | 5YR | 03/28/2006 | 2006-8/72 |
| **risk management** | | | | | |
| Administrative Services, Risk Management | 28413 | R37-1 | AMD | 03/31/2006 | 2006-1/4 |
| **roads** | | | | | |
| Transportation, Administration | 28358 | R907-68 | NEW | 01/04/2006 | 2005-23/61 |
| **ropeways** | | | | | |
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| **rules and procedures** | | | | | |
| Public Service Commission, Administration | 28139 | R746-345 | AMD | 02/08/2006 | 2005-17/31 |
| | 28139 | R746-345 | CPR | 02/08/2006 | 2005-24/47 |
| **safety** | | | | | |
| Labor Commission, Occupational Safety and Health | 28548 | R614-1-4 | AMD | 05/02/2006 | 2006-7/18 |
| | 28514 | R614-1-5 | NSC | 02/27/2006 | Not Printed |
| Labor Commission, Safety | 28515 | R616-2 | NSC | 02/27/2006 | Not Printed |
| | 28257 | R616-2-3 | AMD | 01/01/2006 | 2005-20/43 |
| | 28564 | R616-2-3 | AMD | 05/17/2006 | 2006-8/42 |
| | 28256 | R616-3-3 | AMD | 02/08/2006 | 2005-20/44 |

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| **safety regulations** | | | | | |
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| **scholarships** | | | | | |
| Education, Administration | 28446 | R277-602 | AMD | 02/15/2006 | 2006-2/25 |
| **school personnel** | | | | | |
| Education, Administration | 28700 | R277-513 | 5YR | 05/01/2006 | 2006-10/87 |
| **schools** | | | | | |
| Education, Administration | 28464 | R277-477 | AMD | 03/06/2006 | 2006-3/8 |
| Environmental Quality, Air Quality | 28468 | R307-801-5 | NSC | 02/22/2006 | Not Printed |
| **science** | | | | | |
| Education, Administration | 28523 | R277-717 | AMD | 04/03/2006 | 2006-5/13 |
| **securities regulation** | | | | | |
| Money Management Council, Administration | 28534 | R628-16 | NSC | 03/07/2006 | Not Printed |
| **security guards** | | | | | |
| Commerce, Occupational and Professional Licensing | 28345 | R156-63-503 | AMD | 01/10/2006 | 2005-23/5 |
| **security measures** | | | | | |
| Corrections, Administration | 28713 | R251-111 | 5YR | 05/04/2006 | 2006-11/93 |
| | 28706 | R251-708 | 5YR | 05/03/2006 | 2006-11/94 |
| **seizure of property** | | | | | |
| Tax Commission, Collections | 28539 | R867-2B | 5YR | 03/07/2006 | 2006-7/35 |
| **self insurance plans** | | | | | |
| Public Safety, Driver License | 28572 | R708-19 | 5YR | 03/23/2006 | 2006-8/75 |
| **self-employment income** | | | | | |
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| **septic tanks** | | | | | |
| Environmental Quality, Water Quality | 28596 | R317-4 | AMD | 05/19/2006 | 2006-8/14 |
| **settlements** | | | | | |
| Labor Commission, Adjudication | 28547 | R602-2-1 | AMD | 05/05/2006 | 2006-7/14 |
| **shorthand reporter** | | | | | |
| Commerce, Occupational and Professional Licensing | 28428 | R156-74 | AMD | 02/16/2006 | 2006-2/24 |
| **signs** | | | | | |
| Transportation, Preconstruction, Right-of-Way Acquisition | 28490 | R933-2-3 | AMD | 03/31/2006 | 2006-4/29 |
| **single risk limitation** | | | | | |
| Insurance, Administration | 28486 | R590-234 | NEW | 03/22/2006 | 2006-4/12 |
| **smoke** | | | | | |
| Environmental Quality, Air Quality | 28602 | R307-204 | 5YR | 04/07/2006 | 2006-9/40 |

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| | 28501 | R307-204 | AMD | 04/07/2006 | 2006-5/18 |
| **social services**<br>Human Services, Administration | 28598 | R495-862 | 5YR | 04/04/2006 | 2006-9/41 |
| **solicitations**<br>Commerce, Consumer Protection | 28573 | R152-22-3 | AMD | 05/16/2006 | 2006-8/9 |
| **special needs students**<br>Education, Administration | 28446 | R277-602 | AMD | 02/15/2006 | 2006-2/25 |
| **species**<br>Natural Resources, Wildlife Resources | 28751 | R657-48 | 5YR | 05/24/2006 | Not Printed |
| **standards**<br>Natural Resources, Wildlife Resources | 28456 | R657-40 | 5YR | 01/10/2006 | 2006-3/40 |
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| **state employees**<br>Administrative Services, Finance | 28384 | R25-5 | AMD | 01/25/2006 | 2005-24/2 |
| **state HEAT office records**<br>Community and Economic Development, Community Development, Community Services | 28390 | R202-207 | NSC | 01/01/2006 | Not Printed |
| **state lands**<br>Community and Economic Development, Indian Affairs | 28441 | R230-1 | NSC | 01/01/2006 | Not Printed |
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| **state records committee**<br>Administrative Services, Records Committee | 28462 | R35-1 | AMD | 03/14/2006 | 2006-3/3 |
| **state register**<br>Community and Economic Development, Community Development, History | 28405 | R212-6 | NSC | 01/01/2006 | Not Printed |
| **state vehicle use**<br>Administrative Services, Fleet Operations | 28477 | R27-3 | 5YR | 01/30/2006 | 2006-4/34 |
| | 28280 | R27-3 | NSC | 01/30/2006 | Not Printed |
| **stock brokers**<br>Money Management Council, Administration | 28534 | R628-16 | NSC | 03/07/2006 | Not Printed |
| **storage tanks**<br>Environmental Quality, Drinking Water | 28421 | R309-545-7 | AMD | 03/08/2006 | 2006-1/19 |
| **student loans**<br>Regents (Board Of), Administration | 28676 | R765-649 | 5YR | 04/25/2006 | 2006-10/101 |
| **students**<br>Education, Administration | 28591 | R277-709 | AMD | 05/16/2006 | 2006-8/12 |

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| **surveyors** | | | | | |
| Commerce, Occupational and Professional Licensing | 28444 | R156-22 | CPR | 04/03/2006 | 2006-5/45 |
| | 28444 | R156-22 | AMD | 04/03/2006 | 2006-2/17 |
| **tax credit** | | | | | |
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| **taxation** | | | | | |
| Tax Commission, Administration | 28430 | R861-1A-37 | AMD | 03/06/2006 | 2006-2/29 |
| Tax Commission, Auditing | 28540 | R865-21U | 5YR | 03/07/2006 | 2006-7/34 |
| Tax Commission, Collections | 28539 | R867-2B | 5YR | 03/07/2006 | 2006-7/35 |
| Tax Commission, Property Tax | 28432 | R884-24P-19 | AMD | 03/06/2006 | 2006-2/31 |
| **teacher certification** | | | | | |
| Education, Administration | 28700 | R277-513 | 5YR | 05/01/2006 | 2006-10/87 |
| | 28701 | R277-517 | 5YR | 05/01/2006 | 2006-10/87 |
| **teachers** | | | | | |
| Education, Administration | 28590 | R277-503 | AMD | 05/16/2006 | 2006-8/10 |
| **telecommunications** | | | | | |
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| **telephone utility regulation** | | | | | |
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| **terms of office** | | | | | |
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| **tickets** | | | | | |
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| **tolls** | | | | | |
| Transportation, Program Development | 28538 | R926-9 | NEW | 04/20/2006 | 2006-6/17 |
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| **tramway permits** | | | | | |
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| **tramways** | | | | | |
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| Transportation, Program Development | 28538 | R926-9 | NEW | 04/20/2006 | 2006-6/17 |
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| **transportation commission** | | | | | |
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| **underground storage tanks** | | | | | |
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| | 28519 | R311-211 | AMD | 05/15/2006 | 2006-5/32 |
| **underserved** | | | | | |
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| | 28722 | R994-308 | 5YR | 05/09/2006 | 2006-11/98 |
| | 28480 | R994-406-302 | NSC | 02/22/2006 | Not Printed |
| **user tax** | | | | | |
| Tax Commission, Auditing | 28540 | R865-21U | 5YR | 03/07/2006 | 2006-7/34 |
| **utility rules** | | | | | |
| Transportation, Preconstruction | 28360 | R930-6 | AMD | 01/27/2006 | 2005-24/31 |
| **vacations** | | | | | |
| Human Resource Management, Administration | 28443 | R477-7 | EMR | 01/01/2006 | 2006-2/40 |
| | 28571 | R477-7 | EMR | 04/01/2006 | 2006-8/64 |
| **victim compensation** | | | | | |
| Crime Victim Reparations, Administration | 28355 | R270-1 | AMD | 01/04/2006 | 2005-23/6 |
| | 28473 | R270-1-4 | NSC | 02/22/2006 | Not Printed |
| **victims of crime** | | | | | |
| Crime Victim Reparations, Administration | 28355 | R270-1 | AMD | 01/04/2006 | 2005-23/6 |

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| **victims of crimes** | | | | | |
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| **waiver** | | | | | |
| Health, Health Systems Improvement, Primary Care and Rural Health | 28331 | R434-100-6 | NSC | 01/01/2006 | Not Printed |
| **waste water** | | | | | |
| Environmental Quality, Water Quality | 28596 | R317-4 | AMD | 05/19/2006 | 2006-8/14 |
| **water conservation** | | | | | |
| Environmental Quality, Drinking Water | 28419 | R309-510-9 | AMD | 03/08/2006 | 2006-1/16 |
| **water hauling** | | | | | |
| Environmental Quality, Drinking Water | 28422 | R309-550-5 | AMD | 03/08/2006 | 2006-1/20 |
| **water safety rules** | | | | | |
| Natural Resources, Parks and Recreation | 28645 | R651-801 | 5YR | 04/18/2006 | 2006-10/100 |
| | 28660 | R651-801 | NSC | 05/10/2006 | Not Printed |
| | 28661 | R651-802 | NSC | 05/10/2006 | Not Printed |
| | 28646 | R651-802 | 5YR | 04/18/2006 | 2006-10/100 |
| **water skiing** | | | | | |
| Natural Resources, Parks and Recreation | 28512 | R651-224 | 5YR | 02/13/2006 | 2006-5/50 |
| **water system rating** | | | | | |
| Environmental Quality, Drinking Water | 28417 | R309-150-6 | AMD | 03/08/2006 | 2006-1/12 |
| **watershed management** | | | | | |
| Environmental Quality, Drinking Water | 28416 | R309-105-9 | AMD | 03/08/2006 | 2006-1/11 |
| **welfare fraud** | | | | | |
| Human Services, Recovery Services | 28752 | R527-800 | 5YR | 05/24/2006 | Not Printed |
| **wildland fire** | | | | | |
| Environmental Quality, Air Quality | 28501 | R307-204 | AMD | 04/07/2006 | 2006-5/18 |
| **wildland urban interface** | | | | | |
| Natural Resources, Forestry, Fire and State Lands | 28525 | R652-122 | NSC | 03/07/2006 | Not Printed |
| **wildlife** | | | | | |
| Natural Resources, Wildlife Resources | 28379 | R657-5 | AMD | 01/18/2006 | 2005-24/11 |
| | 28303 | R657-13 | AMD | 01/18/2006 | 2005-22/41 |
| | 28382 | R657-17 | AMD | 01/18/2006 | 2005-24/17 |
| | 28454 | R657-19 | AMD | 03/06/2006 | 2006-3/22 |
| | 28377 | R657-23 | AMD | 01/18/2006 | 2005-24/19 |
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| | 28457 | R657-33 | AMD | 03/06/2006 | 2006-3/25 |
| | 28371 | R657-38 | AMD | 01/18/2006 | 2005-24/22 |
| | 28456 | R657-40 | 5YR | 01/10/2006 | 2006-3/40 |
| | 28376 | R657-42 | AMD | 01/18/2006 | 2005-24/27 |
| **wildlife conservation** | | | | | |
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| **wildlife law** | | | | | |
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| **workers' compensation** | | | | | |
| Labor Commission, Adjudication | 28547 | R602-2-1 | AMD | 05/05/2006 | 2006-7/14 |
| Labor Commission, Industrial Accidents | 28458 | R612-4 | 5YR | 01/12/2006 | 2006-3/39 |
| | 28298 | R612-4-2 | AMD | 01/01/2006 | 2005-22/41 |
| **Workforce Investment Act** | | | | | |
| Workforce Services, Employment Development | 28400 | R986-600-604 | NSC | 01/01/2006 | Not Printed |