

UTAH STATE BULLETIN

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Kimberly K. Hood, Executive Director
Kenneth A. Hansen, Director
Nancy L. Lancaster, Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63-46a-10, *Utah Code Annotated* 1953.

Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.utah.gov/>

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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EDITOR'S NOTES

LEGISLATION AFFECTING ADMINISTRATIVE RULEMAKING

During the 2008 General Session, the Legislature passed the following bills that add requirements to the process or will require rulemaking.

H.B. 53. Impact of Administrative Rules on Small Businesses. Rep. S. Clark.

This bill is in response to another request from the U.S. Small Business Administration. This bill goes beyond H.B. 64 (2007), which required agencies to include in the rule analysis the anticipated cost or savings a rule may have on small businesses.

First Substitute H.B. 53 "requires a state agency to consider methods to minimize the impact of an agency's proposed administrative rule if the agency reasonably expects the rule will have a measurable negative fiscal impact on small businesses." The bill exempts the School and Institutional Trust Lands Administration from this process.

The Governor signed First Substitute H.B. 53 on 03/18/2008. It goes into effect on 05/05/2008. First Substitute H.B. 53 is available at: <http://le.utah.gov/~2008/htmdoc/hbillhtm/HB0053S01.htm>.

H.B. 63. Recodification of Title 63 State Affairs in General. Rep. D. Aagard.

This bill recodifies most of Title 63. It also changes references to Title 63 in other sections of the Utah Code.

Almost every agency is affected by this bill, representing 25% of the rules in the Utah Administrative Code. If an agency's rule references statutes in Title 63 -- the Government Records Access Act (GRAMA), the Administrative Procedures Act (UAPA), the Utah Administrative Rulemaking Act, to name a few -- the agency must now file a nonsubstantive change to update the references. The Division of Administrative Rules estimates that there are over 470 rules that require updated references.

The Governor signed H.B. 63 on 03/19/2008. It goes into effect on 05/05/2008. H.B. 63 is available at: <http://le.utah.gov/~2008/htmdoc/hbillhtm/HB0063.htm>.

H.B. 78. Title 78 Recodification and Revision. Rep. J. Biskupski.

This bill recodifies Title 78. It also changes references to Title 78 in other sections of the Utah Code.

H.B. 78 requires that Administrative Services, Commerce, Corrections, Education, Environmental Quality, Financial Institutions, Health, Human Services, Insurance, Judicial Conduct Commission, Labor Commission, Natural Resources, School and Institutional Trust Lands, and Workforce Services file nonsubstantive changes to update references in rules. The Division of Administrative Rules estimates that there are over 50 rules that require updated references.

The Governor signed H.B. 78 on 02/07/2008. It went into effect on 02/07/2008. H.B. 78 is available at: <http://le.utah.gov/~2008/htmdoc/hbillhtm/HB0078.htm>.

S.B. 43. Administrative Rules Reauthorization. Sen. H. Stephenson.

The reauthorization bill is the Administrative Rules Review Committee's annual bill required by Section 63-46a-11.5. S.B. 43 reauthorized all rules, except Section R525-6-1, Human Services, Substance Abuse and Mental Health, State Hospital, Prohibited Items and Devices; and Rule R722-300, Public Safety, Criminal Investigations and Technical Services Criminal Identification, Concealed Firearm Permit Rule.

The Department of Human Services, Division of Substance Abuse and Mental Health has already filed a rule to replace the version that was not reauthorized. The proposed new rule under DAR No. 31031 appears in the March 15, 2008, issue of the Utah State Bulletin. It is also available online at: <http://www.rules.utah.gov/publicat/bulletin/2008/20080315/31031.htm>.

EDITOR'S NOTES

The Governor signed S.B. 43 on 03/18/2008. Pursuant to Subsection 63-46a-11.5(2), S.B. 43 goes into effect on 05/01/2008. S.B. 43 is available at: <http://le.utah.gov/~2008/htmdoc/sbillhtm/SB0043.htm>.

Other Rules-Related Bills that Affect More than One Agency

H.B. 80. Administrative Rule Penalty Amendments. Rep. B. Ferry.

H.B. 80 is a continuation of the effort started by the Administrative Rules Review Committee with H.B. 317 (2006), which did not pass, and S.B. 138 (2007), which did pass.

Second Substitute H.B. 80 repeals statutes that impose a criminal penalty for violating the provisions of administrative rules issued by Alcoholic Beverage Control Commission, Department of Workforce Services, State Tax Commission, Public Service Commission, and Department of Public Safety.

The Governor signed Second Substitute H.B. 80 on 03/18/2008. It goes into effect on 05/05/2008. Second Substitute H.B. 80 is available at: <http://le.utah.gov/~2008/htmdoc/hbillhtm/HB0080S02.htm>.

Questions about these bills may be directed to Ken Hansen (801-538-3777).

End of the Editor's Notes 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 March 1, 2008, 12:00 a.m., and March 14, 2008, 11:59 p.m. are included in this, the April 1, 2008, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least May 1, 2008. 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 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 July 30, 2008, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE 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 Section 63-46a-4; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Health, Health Systems Improvement,
Child Care Licensing
R430-50
Residential Certificate Child Care
Standards

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
DAR FILE NO.: 31056
FILED: 03/12/2008, 15:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes reorganize the rule subsections and add some requirements in order to increase consistency in the health and safety requirements among all categories of child care rules. It also incorporates changes made the in the child care licensing statute.

SUMMARY OF THE RULE OR CHANGE: This rulemaking action clarifies existing language and increases consistency in the health and safety requirements among all categories of regulated child care providers. It also modifies personnel requirements based on changes to statute. Provisions of the old version of the rule that will not appear in the new version include a requirement for the certificate holder to have a high school diploma. Provisions of the new version of the rule that do not appear in the old version include: a requirement for ongoing annual training; a requirement to maintain current first aid and CPR certification; a minimum square footage per child requirement for new certificate holders; a requirement for monitoring sleeping infants; requirements for trampoline usage; a requirement for a four-foot fence around the outdoor play area if the certificate holder's residence is located near safety hazards, and new paperwork requirements; and new requirements for infant care. In addition, new definitions were added to clarify many rules.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The changes do not materially change the state's work load in regulating child care providers and, as such, do not impose additional cost or create savings.
- ❖ **LOCAL GOVERNMENTS:** The changes do not materially change the work load for local governments in regulating in-home child care providers, and, as such do not impose additional costs or create savings.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** All residential certificate child care providers are small businesses. Certificate holders who live near safety hazards and who do not have a four-foot fence surrounding their outdoor play area, or a six-foot fence surrounding a swimming pool, will be required to install one. However, the rule gives them three years to comply with this new requirement. The department does not know the number of home child care

providers who will need to install fencing. Certificate holders may have increased costs for annual training and maintaining current first aid and CPR certification, as required by statute. The provider may have increased costs for infant sleeping equipment if the provider accepts infants and does not already have infant sleeping equipment. The costs for providers will be extremely variable. For these reasons, the department cannot reasonably estimate the aggregate costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A certificate holder who lives near safety hazards and does not have a four-foot fence surrounding the licensee's outdoor play area, or a six-foot fence surrounding a swimming pool, will be required to install one. However, the rule gives three years to comply with this new requirement. Costs to an individual certificate holder may range from \$0 to \$5,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impacts for the fencing and training requirements that this rulemaking requires are necessary for the safety of children in child care. The delayed implementation will give providers time to absorb the costs over three years. A. Richard Melton, Acting 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 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2008

AUTHORIZED BY: Richard Melton, Deputy Director

R430. Health, Health Systems Improvement, Child Care Licensing.

~~**R430-50. Residential Certificate Child Care Standards.**~~

~~**R430-50-1. Legal Authority.**~~

~~— This rule is promulgated pursuant to Title 26, Chapter 39.~~

~~**R430-50-2. Purpose.**~~

~~— This rule establishes standards to protect the health and safety of children who receive services from a residential certificate child care provider.~~

R430-50-3. Definition.

— (1) "Residential certificate child care" means child care provided in the home of a provider for five to eight children, having a regularly scheduled, ongoing enrollment, for direct or indirect compensation.

— (2) "Supervision" means the function of observing, overseeing, and guiding a child or group of children.

R430-50-4. Voluntary Certificate.

— A provider of child care for less than five children in the providers home may request a residential certificate.

R430-50-5. Owner Qualifications.

— (1) To be eligible for an initial residential certificate the owner must:

- (a) be at least 18 years of age;
- (b) have a current course completion in basic first aid and Cardiac Pulmonary Resuscitation (CPR). First aid and CPR certification refers to courses given by the American Red Cross, the Utah Emergency Medical Training Council, or other courses that the licensee can demonstrate to the Department to be equivalent; and
- (c) meet at least one of the following:
 - (i) have a high school diploma or G.E.D.;
 - (ii) be an approved federal food program provider as of July 1, 1998; or
 - (iii) if (i) or (ii) cannot reasonably be met by the owner and an undue hardship is created, the owner may request a variance from the Department.

— (2) The owner shall complete a minimum of five hours of Department approved training within 90 days of initial certificate issuance. Documentation of training shall be maintained at the home of the owner. Training will be Department approved if it includes:

- (a) reporting requirements for witnessing or suspicion of abuse, neglect and exploitation;
- (b) proper hand washing and sanitation techniques;
- (c) recognizing early signs of illness and determining if there is a need to exclude a sick child from the home;
- (d) accident prevention and safety principles;
- (e) positive guidance for the management of children;
- (f) child development;
- (g) age appropriate activities for children; and
- (h) If child care is provided to children under the age of two, the training must also include:
 - (i) Preventing Shaken Baby Syndrome;
 - (ii) Coping with crying babies; and
 - (iii) Preventing Sudden Infant Death Syndrome.

— (3) The owner shall ensure that each care giver who has direct contact with or access to children successfully completes the required five hours of department approved training before starting assigned duties.

R430-50-6. Care Giver to Child Ratios.

— (1) The owner may not care for more than eight children including the owner's own children under age four. The owner also may not care for more than two children under age two, including the owner's own children under age two.

— (2) The owner or substitute care giver shall be physically present on-site and provide care and supervision of children at all times, both indoors and outdoors. This includes:

— (a) awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed; and

— (b) frequent in person observations of children sleeping in cribs and play pens.

— (3) The owner may permit a child to participate in supervised out of home activities without the care giver if:

- (a) the care giver has prior written permission from the child's parent or guardian for the child's participation; and
 - (b) the licensee has clearly assigned the responsibility for the child's whereabouts and supervision throughout the period of care
- (4) The owner may make arrangements for a substitute who is at least 18 years old and who is capable of providing care and supervision of children and handling emergencies in the absence of the care giver.

R430-50-7. Child Discipline.

— (1) The owner shall inform all care givers, parents or guardians and children of expected conduct by setting clear and understandable rules.

— (2) Disciplinary measures shall be implemented so as to encourage the child's self-control to reduce the 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) restraining a child's movement by binding or tying;
- (c) using abusive, demeaning or profane language;
- (d) withdrawal of food or bathroom opportunities; or
- (e) confining a child in a locked closet, room, or similar area; or
- (f) forcing or withdrawing food, rest, or bathroom opportunities.

R430-50-8. Records.

— (1) The owner shall obtain from the parent or legal guardian an admission agreement, which identifies the following:

- (a) child's full name and nickname;
- (b) parent or guardian's name, address and day time phone number;
- (c) name, address and phone number of at least one additional person to be notified in the event of an emergency if the parent or guardian cannot be located;
- (d) name, address and phone number of the child's primary source of emergency health and dental care;
- (e) description of any food sensitivities, allergies or special food needs; and
- (f) immunization record.

— (2) The owner shall obtain, in advance, from the parent or legal guardian the names, addresses and phone numbers of persons authorized to take the child from the residence.

— (3) The owner shall maintain documentation that all individuals in the home comply with R430-6, Background Clearance.

R430-50-9. Child Health and Medications.

— (1) The owner shall inform the parents or guardians of all injuries and incidents that occur during the child's stay at the home.

— (a) The owner shall immediately notify the parents or guardians if medical treatment is required.

—(b) For any emergency that requires a response by emergency medical treatment providers, fatality, or hospitalization of a child in care, the owner shall:

—(i) notify the Department within 24 hours of occurrence, either by phone or facsimile; and

—(ii) submit to the Department within five business days of occurrence a written injury and accident report.

—(2) If an owner chooses to administer medications, then 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.

—(a) The parent or guardian shall provide written permission for the administration of all medications.

—(b) The owner 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.

—(c) The owner shall ensure that all medications are secured from access to children. If medications are required to be refrigerated, then they shall be stored in spill-proof packaging.

—(d) The owner will return all unused and out-of-date medications to the parent or guardian.

—(3) The owner may not admit or provide care to a child without proof of current immunizations, or evidence of conditional enrollment, or evidence of a personal, medical or religious exemption. Conditional enrollment means that the child has received at least one dose of each required vaccine prior to enrollment and be on a schedule for subsequent immunizations.

—(4) The owner shall inform parents of communicable illnesses or parasites on the day of discovery.

—(5) The owner shall ensure that the use and accessibility to illegal substances or sexually explicit materials are prohibited by any person anywhere on the premises during the hours of operation when children are in care.

R430-50-10. Fire, Safety, and Sanitation.

—(1) The owner shall have a disaster plan in case of fire, flood, earthquake, blizzard, power failure or other disasters that could create structural damage to the facility or pose a health hazard. The owner shall also have an emergency plan in the case of a missing child, death or serious injury to a child, which includes the name of a substitute care giver in the event the owner must leave the residence for any reason.

—(a) A first aid kit shall be available in the home.

—(b) The owner shall maintain an operating telephone in the home, unless there is a utility failure.

—(c) The owner shall post the names and telephone numbers of the emergency medical personnel, fire department, police, and poison control by the telephone.

—(2) The owner shall maintain fire extinguishers and smoke detectors in good operating condition on each floor occupied by children. Two exits, leading to an open space at ground level, shall be present to permit the orderly evacuation of children. If the basement is used to provide child care, at least one exit shall be present leading to an open space at ground level.

—(3) Each home shall have an outdoor play space which is safe, free from hazards, located away from traffic or water hazards, and is available on the premises or is easily and safely accessible to the home. If a fence is required to protect children from any traffic or water hazards then the fence shall be at least four feet high. If local ordinances conflict, the owner may request a variance from the Department. Any gaps within the fence and the bottom edges of the

fence shall not be more than three and one-half inches above the ground.

—(4) If children are diapered at the home, then diapering shall occur in an area separate from food storage, food preparation, and eating area. A smooth nonabsorbent diaper changing surface and a sanitary container for soiled and wet diapers shall be available.

—(5) Care givers and children shall wash their hands after using the toilet, before and after eating and before and after food preparation.

—(6) Equipment and furniture must be durable, in good repair, structurally sound, and stable. Indoor and outdoor play spaces, toys and equipment shall be maintained in a safe manner to prevent injury to children.

—(7) Dangerous items, such as sharp objects, medicines, plastic bags, and poisonous plants and chemicals, including household supplies, must be stored out of reach of children.

—(8) Electrical outlets accessible to children four years of age and younger shall be protected or capped with safety devices.

—(9) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

—(10) There shall be adequate housekeeping to maintain a clean and sanitary home, to control, and eliminate the presence of insects, rodents, and other vermin on the premises.

—(11) 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 during times when children are on the premises, 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.

—(12) If the owner has pets at the home:

—(a) the animals shall be clean and in good health;

—(b) the animals shall have current vaccination records available for all diseases transmissible to humans;

—(c) the animals shall have no history of dangerous or aggressive behavior;

—(d) the children shall not clean nor assist with the cleaning of animals, animal cages, pens or equipment;

—(e) the animal cages and equipment shall not be cleaned in food preparation or food storage areas; and

—(f) Children shall not be permitted to handle reptiles, including turtles and lizards.

R430-50-11. Transportation.

—Only the owner may transport children in non-public vehicles. Children must be transported in the following manner:

—(1) The vehicle is licensed, registered and inspected.

—(2) The owner has a current Utah driver's license.

—(3) The vehicle and owner are insured.

—(4) The vehicle is equipped with individual, size-appropriate safety restraints.

R430-50-12. Food Service.

—(1) A meal or snack shall be served to the children at least every three hours. Infants shall be fed on demand or according to parent directions.

—(2) The food preparation area shall be clean and sanitary.

—(3) All care givers who prepare or serve food and snacks must have a current food handlers permit.

R430-50-13. Penalty.

—The Department may impose civil monetary penalties in accordance with Title 63, Chapters 46b, Administrative Procedures Act

and Section 26-39-108, 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.]

R430-50. Residential Certificate Child Care.

R430-50-1. Legal Authority and Purpose.

This rule is promulgated pursuant to Title 26, Chapter 39. This rule establishes standards for the operation and maintenance of residentially certified child care providers who care for one to eight children in their home. It establishes minimum requirements for the health and safety of children in the care of residentially certified providers.

R430-50-2. Definitions.

— (1) "Body fluids" means blood, urine, feces, vomit, mucus, saliva, and breast milk.

— (2) "Certificate holder" means the person holding a Department of Health child care certificate.

— (3) "Department" means the Utah Department of Health.

— (4) "Emotional abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

— (5) "Health care provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

— (6) "Inaccessible to children" means:

— (a) locked, such as in a locked room, cupboard or drawer;

— (b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

— (c) behind a child safety gate;

— (d) located in a cupboard or on a shelf more than 36 inches above the floor; or

— (e) not in any location in a bathroom where a child could reach, including by climbing on a toilet, bathtub, or counter.

— (7) "Infant" means a child aged birth through 11 months of age.

— (8) "Infectious disease" means an illness that is capable of being spread from one person to another.

— (9) "Over-the-counter medication" means medication that can be purchased without a written prescription. This includes herbal remedies.

— (10) "Parent" means the parent or legal guardian of a child in care.

— (11) "Physical abuse" means causing nonaccidental physical harm to a child.

— (12) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

— (13) "Protective cushioning" means stationary play equipment cushioning material that is approved by the American Society for Testing and Materials or the Consumer Products Safety Commission. For example, sand, pea gravel, or engineered wood fibers.

— (14) "Protrusion hazard" means a component or piece of hardware that could impale or cut a child if the child falls against it.

— (15) "Provider" means the certificate holder or a substitute.

— (16) "Related children" means children for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

— (17) "Sanitize" means to reduce the number of germs on a surface to such a level that disease transmission by that surface is unlikely.

— (18) "School age" means kindergarten and older age children.

— (19) "Sexual abuse" means abuse as provided in Utah Code, Section 76-5-404.1.

— (20) "Sexually explicit material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

— (21) "Stationary play equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

— (a) a sandbox;

— (b) a stationary circular tricycle;

— (c) a sensory table; or

— (d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

— (22) "Strangulation hazard" means something on which a child's clothes or something around a child's neck could become caught on a component of playground equipment. For example, bolt ends that extend more than two threads beyond the face of the nut, hardware configurations that form a hook or leave a gap or space between components, and open "S" type hooks.

— (23) "Supervision" means the function of observing, overseeing, and guiding a child or group of children.

— (24) "Substitute" means a person who assumes the certificate holder's duties under this rule when the certificate holder is not present. This includes emergency substitutes.

— (25) "Toddler" means a child aged 12 months but less than 24 months.

— (26) "Unrelated children" means children who are not related children.

— (27) "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.

— (28) "Volunteer" means a person who provides direct care to a child but does not receive direct or indirect compensation for doing so. A volunteer is not included in the provider to child ratio.

R430-50-3. Certificate Required.

— (1) A person must either be certified under this rule or licensed under R430-90, if he or she:

— (a) provides care in lieu of care ordinarily provided by a parent;

— (b) provides care for five or more unrelated children;

— (c) provides care for four or more hours per day;

— (d) has a regularly scheduled, ongoing enrollment; and

— (e) provides care for direct or indirect compensation.

— (2) The Department does not issue certificates, nor is a certificate required for:

— (a) a person who cares for related children only; or

— (b) a person who provides care on a sporadic basis only.

R430-50-4. Indoor Environment.

(1) The certificate holder shall ensure that any building or playground structure on the premises constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for lead based paint. If lead based paint is found, the certificate holder shall contact the local health department and follow all required procedures for the remediation of the lead based paint hazard.

(2) There shall be a working toilet and a working handwashing sink accessible to each child in care.

(3) Each school age child shall have privacy when using the bathroom.

(4) The home shall be ventilated by mechanical ventilation, or by windows that open and have screens.

(5) The certificate holder shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(6) The certificate holder shall maintain adequate light intensity for the safety of children and the type of activity being conducted and shall keep the lighting equipment in good working condition.

(7) For certificate holders who receive a new certificate after 1 July 2008 there shall be at least 35 square feet of indoor play space for each child, including the providers' related children who are not counted in the provider to child ratios.

(8) 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 children's materials.

(9) Bathrooms, closets, hallways, and entryways are not included when calculating indoor space for children's use.

R430-50-5. Cleaning and Maintenance.

(1) The certificate holder shall ensure that a clean and sanitary environment is maintained.

(2) The certificate holder shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other vermin.

(3) The certificate holder shall maintain ceilings, walls, floor coverings, draperies, blinds, furniture, fixtures, and equipment in good repair to prevent injury to children.

(4) The certificate holder shall ensure that entrances, exits, steps and outside walkways are maintained in a safe condition, and free of ice, snow, and other hazards.

R430-50-6. Outdoor Environment.

(1) There shall be an outdoor play area for children that is safely accessible to children.

(2) The outdoor play area shall have at least 40 square feet of space for each child using the space at one time.

(3) If the home is located near any safety hazard, such as heavy traffic, a water hazard, livestock, or machinery, the outdoor play area shall be enclosed within a 4 foot high fence or wall, or within a solid natural barrier that is at least 4 feet high. Certificate holders who do not currently have such a fence shall have until 1 July 2011 to meet this requirement.

(4) If a fence is required, there shall be no gaps in fences greater than 5 inches at any point, nor shall gaps between the bottom of the fence and the ground be more than 5 inches.

(5) The outdoor play area shall be free of trash, animal excrement, harmful plants or objects, toxic or hazardous substances, and standing water.

(6) If a wading pool is used:

(a) a provider must be at the pool supervising each child whenever there is water in the pool;

(b) each diapered child must wear a swim diaper or rubber pants while in the pool; and

(c) the pool shall be emptied and sanitized after each use.

(7) If there is a swimming pool on the premises that is not emptied after each use:

(a) the certificate holder shall ensure that the pool is enclosed within a fence or other solid barrier at least six feet high that is kept locked whenever the pool is not in use by any child in care, except that if the certificate holder currently has a fence at least four feet high surrounding the pool, he or she shall have until 1 July 2011 to meet the six foot fence requirement;

(b) the certificate holder shall maintain the pool in a safe manner;

(c) the certificate holder shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool; and

(d) if the pool is over six feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the certificate holder can demonstrate to the Department to be equivalent to Red Cross certification, any time any child in care has access to the pool.

(8) The outdoor play area shall have a shaded area to protect each child from excessive sun and heat.

(9) An outdoor source of drinking water, such as individually labeled water bottles, or a pitcher of water and individual cups that are taken outside, shall be available to each child whenever the outside temperature is 75 degrees or higher.

(10) If there is a trampoline on the premises that is accessible to any child in care, the certificate holder shall ensure compliance with the following requirements:

(a) A provider must be at the trampoline supervising its use whenever any child in care is on the trampoline.

(b) Only one person at a time may use a trampoline.

(c) No child in care shall be allowed to do somersaults or flips on the trampoline.

(d) The trampoline must have shock absorbing pads that completely cover its springs, hooks, and frame.

(e) The trampoline must be placed at least 6 feet away from any structure, including playground equipment, trees, and fences.

(f) There shall be no ladders near the trampoline.

(g) No child in care shall be allowed to play under an above ground trampoline when it is in use.

(h) A parent of each child in care who uses the trampoline shall sign a Department-approved permission form before his or her child uses the trampoline.

(11) Outdoor stationary play equipment used by any child in care shall be located over grass or 6" of protective cushioning.

(12) There shall be no openings of a size greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment where the feet of any child in care whose head is entrapped in the opening cannot touch the ground.

(13) There shall be no protrusion hazard or strangulation hazard in or adjacent to the use zone of any piece of stationary play equipment.

(14) There shall be no crush, shearing, or sharp edge hazards in or adjacent to the use zone of any piece of stationary play equipment.

(15) The certificate holder shall ensure that outdoor play areas and outdoor play equipment are maintained to protect each child's safety.

R430-50-7. Personnel.

(1) The certificate holder and all substitutes must:

(a) be at least 18 years of age; and
(b) have knowledge of and comply with all applicable laws and rules.

(2) The certificate holder may make arrangements for a substitute who is at least 18 years old and who is capable of providing care, supervising children, and handling emergencies in the absence of the certificate holder.

(3) Substitutes who care for children an average of 10 hours per week or more shall meet the training, first aid and CPR, and TB screening requirements of this rule.

(4) In an unforeseeable emergency, such as a medical emergency requiring immediate care at a hospital or at an urgent care center or a lost child, the certificate holder may assign an emergency substitute who has not had a criminal background screening to care for the children. The certificate holder may use an emergency substitute for up to 24 hours for each emergency event.

(a) The emergency substitute shall be at least 18 years of age.

(b) The emergency substitute is not required to meet the training, first aid and CPR, and TB screening requirements of this rule.

(c) The emergency substitute cannot be a person who has been convicted of a felony or misdemeanor or has been investigated for abuse or neglect by any federal, state, or local government agency. The emergency substitute must provide a signed, written declaration to the certificate holder that he or she is not disqualified under this subsection.

(d) During the term of the emergency, the emergency substitute may be counted as a provider for the purpose of maintaining the required provider to child ratios.

(e) The certificate holder shall make reasonable efforts to minimize the time that the emergency substitute has unsupervised contact with the children in care.

(5) Any new non-emergency substitute or volunteer shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented in the individual's file and shall include the following topics:

(a) specific job responsibilities;
(b) the certificate holder's emergency and disaster plan;
(c) child care certificate rules for:
(i) Supervision and Ratios, R430-50-11;
(ii) Injury Prevention, R430-50-12;
(iii) Parent Notification and Child Security, R430-50-13;
(iv) Child Health, 430-50-14;
(v) Child Nutrition, R430-50-15;
(vi) Infection Control, R430-50-16;
(vii) Medications, R430-50-17;
(viii) Napping, R430-50-18;
(ix) Child Discipline, R430-50-19;
(x) Activities, R430-50-20;
(xi) Transportation, R430-50-21, if any child in care is transported while in care;

(xii) Animals, R430-50-22, if there are animals on the premises that are accessible to any child in care;

(xiii) Diapering, R430-50-23, if the certificate holder accepts diapered children; and

(xiv) Infant and Toddler Care, R430-50-24, if the certificate holder accepts infants or toddlers for care.

(d) introduction and orientation to the children in care;

(e) a review of the information in the health assessment for each child in care;

(f) procedure for releasing children to authorized individuals only;

(g) proper clean up of body fluids;

(h) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(i) obtaining assistance in emergencies; and

(j) if the certificate holder accepts infants or toddlers for care, orientation training topics shall also include:

(i) preventing shaken baby syndrome and coping with crying babies; and

(ii) preventing sudden infant death syndrome.

(6) Substitutes who care for children an average of 10 hours per week or more and the certificate holder shall complete a minimum of 10 hours of training each year, based on the certificate date. A minimum of 5 hours of the required annual training shall be face-to-face instruction.

(a) Documentation of annual training shall be kept in each individual'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) All non-emergency substitutes who begin employment partway through the certificate year shall complete a proportionate number of training hours based on the number of months worked prior to the certificate renewal date.

(c) Annual training hours shall include the following topics at least once every two years:

(i) a review of all of the current child care certificate rules for:

(A) Supervision and Ratios, R430-50-11;
(B) Injury Prevention, R430-50-12;
(C) Parent Notification and Child Security, R430-50-13;
(D) Child Health, 430-50-14;
(E) Child Nutrition, R430-50-15;
(F) Infection Control, R430-50-16;
(G) Medications, R430-50-17;
(H) Napping, R430-50-18;
(I) Child Discipline, R430-50-19;
(J) Activities, R430-50-20;

(K) Transportation, R430-50-21, if any child in care is transported while in care;

(L) Animals, R430-50-22, if there are animals on the premises that are accessible to any child in care;

(M) Diapering, R430-50-23, if the certificate holder accepts diapered children; and

(N) Infant and Toddler Care, R430-50-24, if the certificate holder accepts infants or toddlers for care; and

(ii) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(iii) principles of child growth and development, including development of the brain; and

(iv) positive guidance; and
(d) if the certificate holder accepts infants or toddlers for care, required training topics shall also include:

(i) preventing shaken baby syndrome and coping with crying babies; and

(ii) preventing sudden infant death syndrome.

R430-50-8. Administration.

(1) The certificate holder is responsible for all aspects of the operation and management of the child care program.

(2) The certificate holder shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care program.

(3) The certificate holder shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

(4) The certificate holder shall take all reasonable measures to protect the safety of each child in care. The certificate holder shall not engage in activity or allow conduct that unreasonably endangers any child in care.

(5) Either the certificate holder or a substitute with authority to act on behalf of the certificate holder shall be present whenever there is a child in care.

(6) Each week, the certificate holder shall be present at the home at least 50% of the time that one or more children are in care.

(7) There shall be a working telephone in the home. The certificate holder shall inform the parents of each child in care and the Department of any changes to the certificate holder's telephone number within 48 hours of the change.

(8) The certificate holder 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 individualized medical treatment plan identified by the parent. The certificate holder shall also mail or fax a written report to the Department within five days of the incident.

R430-50-9. Records.

(1) The certificate holder shall maintain the following records on-site for review by the Department during any inspection:

(a) documentation of the previous 12 months of semi-annual fire drills and annual disaster drills as specified in R430-50-10(7) and R430-50-10(9);

(b) current animal vaccination records as required in R430-50-22(3);

(c) a six week record of child attendance, as required in R430-50-13(3);

(d) all current variances granted by the Department;

(e) a current local health department kitchen inspection;

(f) an initial local fire department clearance for all areas of the home being used for care;

(g) the most recent "Request for Annual Renewal of CBS/MIS Criminal History Information for Child Care";

(h) 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 certificate holder 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 or a statement from the parent that one is not available; and

(H) child health information, as required in R430-50-14(5);

(I) current emergency medical treatment and emergency medical transportation releases with the parent's signature;

(ii) current immunization records or documentation of a legally valid exemption, as specified in R430-50-14(4);

(iii) a completed transportation permission form, if transportation services are offered to any child in care;

(iv) a six week record of medication permission forms, and a six week record of medications actually administered, as specified in R430-50-17(4) and R430-50-17(6)(e), if medications are administered to any child in care; and

(i) records for the certificate holder and each non-emergency substitute, including the following:

(i) results of an initial TB screening, as required in R430-50-16(11) and (12);

(ii) approved initial "CBS/MIS Consent and Release of Liability for Child Care" form;

(iii) if the certificate holder has been certified for more than a year, the most recent criminal background "Disclosure Statement" for the certificate holder and each individual who has worked for or resided in the home of the certificate holder since the last certificate renewal date;

(iv) orientation training documentation for all non-emergency substitutes as required in R430-50-7(5);

(v) annual training documentation for the past two years, for the certificate holder and all non-emergency substitutes, as required in R430-50-7(6)(a); and

(vi) current first aid and CPR certification, as required in R430-50-10(2) and R430-50-20(2)(d); and

(j) records for the each volunteer, including the following:

(i) approved initial "CBS/MIS Consent and Release of Liability for Child Care" form;

(ii) if the certificate holder has been certified for more than a year, the most recent criminal background "Disclosure Statement" for each individual who has volunteered since the last certificate renewal date; and

(iii) orientation training documentation as required in R430-90-7(4).

(2) The certificate holder shall ensure that information in any child's file is not released without written parental permission.

R430-50-10. Emergency Preparedness.

(1) The certificate holder shall post the home's street address and emergency numbers, including ambulance, fire, police, and poison control, near the telephone.

(2) The certificate holder and all substitutes who care for children an average of 10 hours per week or more shall maintain a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification.

(3) The certificate holder shall maintain first aid supplies in the home.

(4) The certificate holder shall have an 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) procedures to be followed if a child is missing;

(e) the name and phone number of a substitute to be called in the event the certificate holder must leave the home for any reason; and

(f) an emergency relocation site where children will be housed if the certificate holder's home is uninhabitable.

(5) The certificate holder shall ensure that the emergency and disaster plan is followed in the event of an emergency.

(6) The certificate holder shall conduct fire evacuation drills semi-annually. Drills shall include complete exit of all children and staff from the home.

(7) The certificate holder shall document all fire drills, including:

(a) the date and time of the drill;

(b) the number of children participating;

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

(d) any problems encountered.

(8) The certificate holder shall conduct drills for disasters other than fires at least once every 12 months.

(9) The certificate holder shall document all disaster drills, including:

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

(b) the date and time of the drill;

(c) the number of children participating;

(d) any problems encountered.

(10) The certificate holder shall vary the days and times on which fire and other disaster drills are held.

R430-50-11. Supervision and Ratios.

(1) The certificate holder or a substitute shall be physically present on-site and provide care and direct supervision of each child at all times, both indoors and outdoors. Direct care and supervision of each child includes:

(a) awareness of and responsibility for the ongoing activity of each child, including being near enough to intervene if needed; and

(b) monitoring of each sleeping infant in one of the following ways:

(i) by placing each infant for sleep in a location where the infant is within sight and hearing of a provider;

(ii) by in person observation of each sleeping infant at least once every 15 minutes; or

(iii) by using a Department-approved infant sleep monitoring device.

(2) A provider shall actively supervise each child during outdoor play to minimize the risk of injury to a child. A provider may allow only school age children to play outdoors while the provider is indoors, if:

(a) a provider can hear the children playing outdoors; and

(b) the children playing outdoors are in an area completely enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.

(3) The certificate holder may permit a child to participate in supervised out of the home activities without the certificate holder if:

(a) the certificate holder has prior written permission from the child's parent for the child's participation; and

(b) the certificate holder has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts responsibility for the care and supervision of the child throughout the period of the out of home activity.

(4) The maximum allowed capacity for a residential certificate child care facility is 8 children, including the providers' own children under age 4.

(5) The certificate holder shall maintain the minimum provider to child ratio and group size in Table 1.

TABLE 1

CHILD CARE RATIO AND GROUP SIZE

| <u># of Providers' Related Children Ages 4-12 Present in the Home During Child Care Hours</u> | <u>Maximum Allowed Certified Capacity, Including the Providers' Children Under Age 4</u> | <u>Total # of All Children Through Age 12 in the Home During Child Care Hours</u> |
|---|--|---|
| 0 - 2 | 8 children, including no more than 2 children under age 2 | 10 |
| 3 | 7 children, including no more than 2 children under age 2 | 10 |
| 4 | 6 children, including no more than 2 children under age 2 | 10 |
| 5 | 5 children, including no more than 2 children under age 2 | 10 |
| 6 | 4 children, including no more than 2 children under age 2 | 10 |
| 7 | 3 children, including no more than 2 children under age 2 | 10 |
| 8 | 2 children | 10 |
| 9 | 1 child | 10 |

R430-50-12. Injury Prevention.

(1) The certificate holder shall ensure that the home, outdoor play area, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The certificate holder shall ensure that the indoor environment is free of tripping hazards such as unsecured flooring or cords.

(3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that a child could pull down on himself or herself.

(4) The following items shall be inaccessible to each child in care:

(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) tobacco, alcohol, illegal substances, and sexually explicit material;

(c) when in use: portable space heaters, fireplaces, and wood burning stoves;

(d) toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials;

(e) poisonous plants;

(f) matches or cigarette lighters;

(g) open flames;

(h) sharp objects, edges, corners, or points which could cut or puncture skin;

(i) for children age 4 and under, strings and cords long enough to encircle a child's neck, such as those found on window blinds or drapery cords;

(j) for children age 4 and under, empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(k) for children age 2 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.

(5) The certificate holder shall ensure that all toxic or hazardous chemicals are stored in a container labeled with its contents.

(6) Electrical outlets and surge protectors accessible to children age four and younger shall have protective caps or safety devices when not in use.

(7) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(8) High chairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

R430-50-13. Parent Notification and Child Security.

(1) The certificate holder shall either post or, upon enrollment, give each parent a copy of the Department's child care guide.

(2) Parents shall have access to the certificate holder's home and outdoor play area at all times their child is in care.

(3) The certificate holder shall ensure that a daily attendance record is maintained to document each enrolled child's attendance.

(4) Only parents or persons with written authorization from the parent may pick up any child. In an emergency, a 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.

(5) The certificate holder shall ensure that parents are informed of every incident, accident, or injury involving their child within 24 hours of occurrence.

(6) In the case of a life threatening incident or injury to a child, or an incident or injury that poses a threat of the loss of vision, hearing, or a limb, a provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, a provider shall attempt to contact the child's emergency contact person.

(7) If a child is injured and the injury appears serious but not life threatening, a provider shall contact the parent immediately.

R430-50-14. Child Health.

(1) The certificate holder shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.

(2) All providers 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 vehicles used to transport children is prohibited any time that a child is in care.

(4) The certificate holder shall not admit any child for care 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 certificate holder shall not admit any child for care without the following written health information from the parent:

(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 certificate holder.

(6) The certificate holder shall ensure that each child's parent reviews, updates, and signs or initials the child's health information at least annually.

R430-50-15. Child Nutrition.

(1) If food service is provided:

(a) The certificate holder shall ensure that his or her meal service complies with local health department food service regulations.

(b) The current week's menu shall be available for parent review.

(2) The certificate holder shall ensure that each child in care is offered a meal or a snack at least once every three hours.

(3) Providers shall serve each child's food on dishes, napkins, or sanitary high chair trays, except for individual serving size items, such as crackers, if they are placed directly in the child's hands. The provider shall not place food on a bare table.

(4) The certificate holder shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name, and refrigerated if needed.

R430-50-16. Infection Control.

(1) All providers and volunteers shall wash their hands with soap and running water at the following times:

(a) before handling or preparing food or bottles;

(b) before and after eating meals and snacks or feeding a child;

(c) after diapering each child;

(d) after using the toilet or helping a child use the toilet;

(e) after coming into contact with body fluids, including breast milk;

(f) after playing with or handling animals;

(g) when coming in from outdoors; and

(h) before administering medication.

(2) The certificate holder shall ensure that each child washes his or her hands with soap and 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) During outdoor play time, the requirements of subsections (1) and (2) may be met by having each provider, volunteer, and child clean his or her hands with individual disposable wet wipes and hand sanitizer.
(4) Only single-use paper towels or individually labeled cloth towels shall be used to dry a child's hands. If cloth towels are used, they shall not be shared by children, providers, or volunteers, and a provider shall wash the towels daily.
(5) The certificate holder shall ensure that toilet paper is accessible to each child, and that it is kept in a dispenser.
(6) The certificate holder shall ensure that children are taught proper hand washing techniques, and shall oversee hand washing whenever possible.
(7) Personal hygiene items such as toothbrushes, or combs and hair accessories that are not sanitized between each use, shall not be shared by children or used by a provider on more than one child. Each child's items shall be stored so that they do not touch another child's items.
(8) The certificate holder shall ensure that all washable toys and materials are cleaned and sanitized after each 5 days of use, or more often if needed.
(9) 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 certificate holder shall ensure that all stuffed animals, cloth dolls, dress-up clothes, and pillows or covers are washed after each 5 days of use, or more often if needed.
(10) If a water play table or tub is used, the certificate holder shall ensure that the table or tub is washed daily, and that each child washes his or her hands prior to engaging in the activity.
(11) The certificate holder, and all substitutes who work an average of 10 hours each week or more, shall be tested for tuberculosis (TB) prior to certification or within two weeks of hire by a skin testing method and follow-up acceptable to the Department.
(12) If the TB test is positive, the person shall provide documentation from a health care provider detailing:
(a) the reason for the positive reaction;
(b) whether the person is contagious; and
(c) if needed, how the person is being treated.
(13) Persons with contagious TB shall not work, assist with, or be present with any child in care.
(14) An individual having a medical condition which contraindicates a TB test must provide documentation from a health care provider indicating the individual is exempt from testing, with an associated time frame, if applicable. The certificate holder shall maintain this documentation in the individual's file.
(15) A provider shall promptly change a child's clothing if the child has a toileting accident.
(16) If a child's clothing is wet or soiled from body fluids, the certificate holder shall ensure that:
(a) the clothing is not rinsed or washed at the certificate holder's home; and
(b) the clothing is placed in a leakproof container, labeled with the child's name, and returned to the parent.
(17) If a child uses a potty chair, the certificate holder shall ensure that it is cleaned and sanitized after each use.

(18) The home shall have a portable body fluid clean up kit.
(a) The certificate holder and all non-emergency substitutes shall know the location of the kit and how to use it.
(b) The certificate holder shall ensure that the kit is used to clean up spills of body fluids.
(c) The certificate holder shall restock the kit as needed.
(19) The certificate holder shall ensure that any child who is ill with an infectious disease is separated from any other children in care in a safe, supervised location.
(20) The certificate holder shall ensure that the parents of any child who is ill are contacted as soon as the illness is observed or suspected.
(21) The certificate holder shall ensure that the parents of every child in care are informed when any person in the home or child in care has an infectious disease or parasite. Parents shall be notified the day the infectious disease or parasite is discovered.

R430-50-17. Medications.

(1) Only a provider trained in the administration of medications may administer medication to a child in care.
(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) The certificate holder shall ensure that all non-refrigerated over-the-counter and prescription medication is inaccessible to children. The certificate holder shall ensure that all refrigerated over-the-counter and prescription medication is placed in a waterproof container to avoid contamination between food and medication.
(4) The certificate holder shall have a written medication permission form completed and signed by the parent prior to the administering of any over-the-counter or prescription medication brought in by a parent for his or her 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 certificate holder keeps over-the-counter medication that is not brought in by a parent for his or her child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:
(a) prior written consent; or
(b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent signs upon picking up the child.
(6) When administering medication, the person administering the medication shall:
(a) wash his or her hands;
(b) if the parent supplies the medication, check the medication label to confirm the child's name;
(c) if the parent supplies the medication, 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) if the certificate holder supplies the medication, check the product package to ensure that a child is not given a dosage larger than that recommended by the manufacturer;

(e) administer the medication; and

(f) 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.

(7) The certificate holder shall ensure that any adverse reaction to a medication or any error in administration is reported to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.

(8) The certificate holder shall not keep medications in the home for any child who is no longer enrolled.

R430-50-18. Napping.

(1) The certificate holder shall ensure that children in care are offered a daily opportunity for rest or sleep in an environment that provides a low noise level and freedom from distractions.

(2) If the certificate holder has a scheduled nap time for children, it shall not exceed two hours daily.

(3) Sleeping equipment may not block exits at any time.

R430-50-19. Child Discipline.

(1) The certificate holder shall inform non-emergency substitutes, parents, and children of the certificate holder's behavioral expectations for children.

(2) Providers and volunteers may discipline children using positive reinforcement and redirection, and by setting clear limits that promote a child's ability to become self-disciplined.

(3) A provider may use gentle, passive restraint with a child only when it is needed to stop the child from injuring himself or herself or others or from destroying property.

(4) Disciplinary 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 any child;

(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.

R430-50-20. Activities.

(1) The certificate holder shall offer daily activities to support each child's healthy physical, social-emotional, and cognitive-language development.

(2) The certificate holder shall make the toys and equipment necessary to carry out the activities accessible to children.

(3) If off-site activities are offered:

(a) the certificate holder shall obtain parental consent for off-site activities in advance;

(b) the certificate holder shall accompany the children and 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 parent to pick up the child; and

(v) current emergency medical treatment and emergency medical transportation releases;

(c) the certificate holder shall maintain required provider to child ratios and direct supervision during the activity;

(d) at least one provider present shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification; and

(e) the certificate holder shall ensure that there is a way for each provider, volunteer, and child to wash his or her hands as specified in R430-50-16(1) and (2). If there is no source of running water, providers, volunteers, and children may clean their hands with individual disposable wet wipes and hand sanitizer.

(4) If swimming activities are offered, providers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the provider to child ratio.

R430-50-21. Transportation.

(1) Any vehicle used for transporting any child in care 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;

(2) The adult transporting any child in care shall:

(a) have and carry with them a current valid Utah driver's license, for the type of vehicle being driven, whenever he or she is transporting any child in care;

(b) have with him or her written emergency contact information for each child in care being transported;

(c) ensure that each child in care being transported is wearing an appropriate individual safety restraint;

(d) ensure that each child is always attended by an adult while 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.

R430-50-22. Animals.

(1) The certificate holder shall inform parents of the types of animals permitted on the premises.

(2) The certificate holder shall ensure that all animals on the premises and accessible to any child in care :

(a) are clean and free of obvious disease or health problems that could adversely affect any child in care; and

(b) have current vaccinations for all vaccine preventable diseases that are transmissible to humans. The certificate holder shall have documentation of the vaccinations.

(3) The certificate holder shall ensure that there is no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.

(4) The certificate holder shall ensure that no child in care assists with the cleaning of animals or animal cages, pens, or equipment.

(5) The certificate holder shall ensure that there is no animal or animal equipment in food preparation or eating areas during food preparation or eating times.

(6) The certificate holder shall ensure that no child in care handles reptiles or amphibians while in care.

R430-50-23. Diapering.

If children in care are diapered on the premises, the following applies:

(1) The diapering surface shall be smooth, waterproof, and in good repair.

(2) A provider shall clean and sanitize the diapering surface after each diaper change, or use a disposable non-permeable diapering surface that is thrown away after each diaper change.

(3) The provider shall wash his or her hands after each diaper change.

(4) The provider shall place soiled disposable diapers in a container that has a plastic lining and a tightly fitting lid, or place soiled diapers directly in an outdoor garbage container.

(5) A provider shall daily clean and sanitize indoor containers where soiled diapers are placed.

(6) If cloth diapers are used:

(a) they shall not be rinsed at the facility; and

(b) after a diaper change, the provider shall place the cloth diaper directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or a leakproof diapering service container.

(7) The certificate holder shall ensure that each child's diaper is checked at least once every two hours, and that each child's diaper is changed promptly if it is wet or soiled.

R430-50-24. Infant and Toddler Care.

If the certificate holder cares for infants or toddlers, the following applies:

(1) If an infant is not able to sit upright and hold his or her own bottle, a provider shall hold the infant during bottle feeding. Bottles shall not be propped.

(2) A provider shall clean and sanitize high chair trays prior to each use.

(3) A provider shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter. A provider shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(4) If there is more than one infant in care, baby food, infant formula, and breast milk for each infant that is brought from home must be labeled with the child's name or another unique identifier.

(5) Baby food, infant formula, and breast milk for infants that is brought from home for an individual child's use must be:

(a) kept refrigerated if needed; and

(b) 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.

(6) The certificate holder shall ensure that infant formula and milk, including breast milk, is discarded after each feeding, or within two hours of initiating a feeding.

(7) To prevent burns, a provider shall shake each heated bottle and test it for temperature before the bottle is fed to a child.

(8) If there is more than one infant or toddler in care, pacifiers and bottles shall be:

(a) labeled with each child's name or another unique identifier; or

(b) washed and sanitized after each individual use.

(9) The certificate holder shall ensure that only one infant occupies any one piece of equipment, such as a crib, playpen, stroller, or swing, at any time, unless the equipment has individual seats for more than one child.

(10) The certificate holder shall ensure that infants sleep in equipment designed for sleep, such as a crib, bassinet, porta-crib or play pen. The certificate holder shall ensure that infants are not placed to sleep on mats or cots, or in bouncers, swings, car seats, or other similar pieces of equipment, unless the certificate holder has written permission from the infant's parent.

(11) The certificate holder shall ensure that each infant crib:

(a) has a tight fitting mattress;

(b) has slats spaced no more than 2-3/8 inches apart;

(c) has at least 20 inches from the top of the mattress to the top of the crib rail; and

(d) does not have strings, cords, ropes, or other entanglement hazards strung upon the crib rails or within reach of the child.

(12) The certificate holder shall ensure that infants are not placed on their stomachs for sleeping, unless there is documentation from a health care provider for treatment of a medical condition.

(13) The certificate holder shall ensure that each infant and toddler is allowed to follow his or her own pattern of sleeping and eating.

(14) Infant walkers with wheels are prohibited.

(15) The certificate holder shall ensure that infants and toddlers do not have access to objects made of styrofoam.

(16) The certificate holder shall ensure that a provider responds 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.

(17) The certificate holder shall ensure that awake infants and toddlers receive positive physical stimulation and positive verbal interaction with a provider at least once every 20 minutes.

(18) The certificate holder shall ensure that awake infants are not 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.

(19) The certificate holder shall ensure that mobile infants and toddlers have freedom of movement in a safe area.

(20) To stimulate their healthy development, there shall be safe toys accessible to infants and toddlers. The certificate holder shall ensure that there are enough toys for each child in the group to be engaged in play with toys.

(21) The certificate holder shall ensure that all toys used by infants and toddlers are cleaned and sanitized:

(a) weekly;

(b) after being put in a child's mouth; and

(c) after being contaminated by body fluids.

KEY: child care facilities

Date of Enactment or Last Substantive Amendment: ~~February 15, 2002~~ **2008**

Notice of Continuation: July 7, 2003

Authorizing, and Implemented or Interpreted Law: 26-39

◆ ————— ◆

**Health, Health Systems Improvement,
Child Care Licensing
R430-90
Licensed Family Child Care**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
DAR FILE NO.: 31057
FILED: 03/12/2008, 15:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes reorganize the rule subsections and add some requirements in order to increase consistency in the health and safety requirements among all categories of child care rules.

SUMMARY OF THE RULE OR CHANGE: This rulemaking action clarifies existing language and increases consistency in the health and safety requirements among all categories of regulated child care providers. It also modifies personnel requirements. 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 now inspect for; and requirements for all caregivers to have a high school diploma. Provisions of the new version of the rule that do not appear in the old version include: allowing assistant caregivers to be 16 years of age; requiring those providers who do not already have a fence surrounding their outdoor play area to get one; new playground safety requirements; and requirements for trampoline usage. In addition, new definitions were added to clarify many rules.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The changes do not materially change the state's work load in regulating child care providers and, as such, do not impose additional cost or create savings.
- ❖ **LOCAL GOVERNMENTS:** The changes do not materially change the work load for local governments in regulating in-home child care providers and, as such, do not impose additional costs or create savings.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** All licensed family child care providers are small businesses. In-home child care licensees who care for more than 8 children may see savings related to allowing assistant caregivers age 16 and older instead of 18 and older. The department cannot estimate the number of licensees who will hire younger assistant caregivers. Licensees who do not have a four-foot

fence surrounding their outdoor play area or a six-foot fence surrounding a swimming pool will be required to install one. However, the rule gives them three years to comply with this new requirement. Licensees who do not have a three-foot use zone around outdoor play equipment will be required to have one. However, the rule gives them five years to meet this new requirement. The department does not know the number of home child care providers who will need to install fencing or rearrange their outdoor playground equipment. The costs for providers will be extremely variable. A majority of the providers already meet the fencing requirement. A provider whose outdoor play equipment does not meet the fall zone requirement may choose to alter the equipment configuration or not allow children to play on the equipment. For these reasons, the department cannot reasonably estimate the aggregate costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A licensee who does not have a four-foot fence surrounding the licensee's outdoor play area or a six-foot fence surrounding a swimming pool will be required to install one. However, the rule gives three years to comply with this new requirement. A licensee who does not have a three-foot use zone around outdoor play equipment will be required to have one. However, the rule gives five years to meet this new requirement. Costs to an individual licensee may range from \$0 to \$5,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impacts for the fencing, fall zone, and training requirements that this rulemaking requires are necessary for the safety of children in child care. The delayed implementation will give providers time to absorb the costs over three years. The costs may be partially offset by the savings that may be realized in hiring assistant caregivers who may now be 16 years old instead of 18. A. Richard Melton, Acting 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 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2008

AUTHORIZED BY: Richard Melton, Deputy Director

R430. Health, Health Systems Improvement, Child Care Licensing.

R430-90. Licensed Family Child Care.

~~R430-90-1. Legal Authority.~~

~~— This rule is promulgated pursuant to Title 26, Chapter 39.~~

~~R430-90-2. Purpose.~~

~~— The purpose of this rule is to establish standards for the operation and maintenance of licensed family child care providers who care for one to 16 children in their home. It establishes minimum requirements for the health and safety of children in licensed programs.~~

~~R430-90-3. Definitions.~~

~~— (1) "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 maintains a schedule for subsequent required vaccinations.~~

~~— (2) "Supervision" means the function of observing, overseeing, and guiding a child or group of children.~~

~~— (3) "Related children" means children whose child care is provided by their parents, legal guardians, grandparents, brothers, sisters, uncles or aunts.~~

~~— (4) "Infant" means a child younger than 13 months of age.~~

~~— (5) "Toddler" means a child 13 months and older, but less than 25 months of age.~~

~~R430-90-4. License Required.~~

~~— (1) A person who provides child care in a home for nine to 16 children unrelated to the licensee for less than 24 hours a day, with a regularly scheduled, on-going enrollment, for direct or indirect compensation must be licensed as a family group child care program.~~

~~— (2) A person who provides child care in a home for less than nine unrelated children for less than 24 hours per day, having a regularly scheduled, ongoing enrollment, for direct or indirect compensation may be licensed as a family child care program.~~

~~R430-90-5. Licensee Qualifications and Duties.~~

~~— (1) The licensee of the child care program must:~~

~~— (a) be at least 18 years of age; or~~

~~— (b) have a high school diploma or G.E.D.; and~~

~~— (c) have knowledge of and comply with applicable laws and rules.~~

~~— (2) The licensee shall establish and implement policies and procedures for the health and safety of children in the home.~~

~~— (3) The care giver shall be physically present on-site and provide care and supervision of children at all times, both indoors and outdoors. This includes:~~

~~— (a) awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed; and~~

~~— (b) frequent in person observation of children sleeping in cribs and play pens.~~

~~— (4) The licensee may permit a child to participate in supervised out of the home activities without the care giver if:~~

~~— (a) the care giver has prior written permission from the child's parent for the child's participation; and~~

~~— (b) the licensee has clearly assigned the responsibility for the child's whereabouts and supervision throughout the period of care.~~

~~— (5) The licensee may make arrangements for a substitute who is at least 18 years old and who is capable of providing care and~~

~~supervision of children and handling emergencies in the absence of the care giver.~~

~~R430-90-6. Care Giver Qualifications.~~

~~— (1) The licensee shall ensure that each care giver or volunteer who has direct contact with or access to children is oriented to the licensed program and successfully completes the required orientation training before starting assigned duties. The licensee shall document in a care giver's personnel record the date of completion of orientation training. The orientation training must include:~~

~~— (a) procedures for maintaining health and safety and handling emergencies and accidents;~~

~~— (b) specific job responsibilities;~~

~~— (c) child discipline procedures of R430-90-7;~~

~~— (d) reporting requirements if the care giver witnesses or suspects child abuse, neglect or exploitation; and~~

~~— (e) procedures for releasing children to authorized individuals.~~

~~— (2) All care givers who provide services shall be at least 18 years of age or have completed high school or a G.E.D.~~

~~— (3) There shall be at least one care giver at the home during business hours who has a current course completion in basic child and infant first aid and Cardiac Pulmonary Resuscitation (CPR), and training in the Heimlich Maneuver for treatment of an obstructed airway.~~

~~— (a) First aid and CPR refers to courses given by the American Red Cross, the Utah Emergency Medical Training Council, or other courses that the licensee of the program can demonstrate to the Department to be equivalent.~~

~~— (b) Documentation of the completed First Aid and CPR training must be in the care giver's personnel record.~~

~~— (4) The licensee must ensure that an annual documented in-service training plan is developed and carried out. The plan shall be pertinent to the ages of the children in the program and must address the following areas:~~

~~— (a) proper hand washing and sanitation techniques;~~

~~— (b) principles of good nutrition;~~

~~— (c) proper procedures in administration and storage of medications;~~

~~— (d) recognizing early signs of illness, communicable diseases and determining if there is a need to exclude a child from the program;~~

~~— (e) accident prevention and safety principles;~~

~~— (f) positive guidance for the management of children;~~

~~— (g) child development; and~~

~~— (h) age appropriate activities.~~

~~— (5) If child care is provided to children under age two, the following in-service topics are also required:~~

~~— (a) Preventing Shaken Baby Syndrome;~~

~~— (b) Coping with crying babies; and~~

~~— (c) Preventing Sudden Infant Death Syndrome.~~

~~— (6) The licensee shall ensure that they and all care givers complete a minimum of 20 hours of annual in-service training. At least ten hours of in-service training shall be person to person instruction.~~

~~— (7) The licensee shall document successful completion of in-service training and maintain a record for themselves and each care giver which includes:~~

~~— (a) the date training was completed;~~

~~— (b) the topics covered; and~~

~~— (c) the trainer's name and organizational affiliation.~~

—(8) Each care giver upon employment and each licensee shall have an initial health evaluation within the past six months and complete tuberculosis testing using the Mantoux tuberculin skin test method within two weeks of assuming care giver responsibilities. 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.

—(a) All care givers with skin tests that indicate potential exposure to tuberculosis shall receive a medical evaluation for tuberculosis disease.

—(b) All care givers who have documentation of previous positive reaction to the Mantoux tuberculin skin test shall present documentation of completion of therapy for tuberculosis infection or evidence of a negative chest radiograph within the past 12 months.

—(c) Repeated chest radiographs are not required unless the care giver develops signs and symptoms of tuberculosis disease, as determined by a health care professional.

R430-90-7. Child Discipline.

—(1) The licensee shall inform all care givers, parents or guardians and children of expected conduct 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) rewards for positive behavior;

—(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 withdrawing food, rest or bathroom opportunities;

or

—(e) confining a child in a locked closet, room, or similar area.

R430-90-8. Records.

—(1) The licensee shall obtain from the parent or legal guardian an admission agreement, which identifies the following:

—(a) child's full name and nickname;

—(b) parent or guardian's name, address and phone number;

—(c) name, address and phone number of additional persons to be notified in the event of an emergency when the parent or guardian cannot be located;

—(d) name, address and phone number of the child's primary source of emergency health and dental care.

—(2) The licensee shall ensure that children's records are organized and maintained to include the following:

—(a) immunization record (Utah School Immunization Record-USIR) according to R396-100;

—(b) child's health history required in R430-90-10(4) and any updates;

—(c) injury, accident and incident reports; and

—(d) medication administration records required in R430-90-10(6)(d).

—(3) The licensee of the program shall maintain care giver records to include:

—(a) background screening records;

—(b) initial health evaluations and TB testing;

—(c) food handler's permits;

—(d) first aid and CPR course completion; and

—(e) in-service training records.

—(4) The licensee shall ensure a record or log is maintained to document each enrolled child's attendance.

R430-90-9. Care Giver to Child Ratios.

—The minimum ratio of care givers to children permitted in licensed small family and family group child care are set forth in tables 1 and 2.

TABLE 1

Family Minimum Care Giver to Child Ratios

| Care giver | Children | Limits for Mixed Ages(a) |
|------------|----------|---|
| 1 | 8 | No more than two children under age 2 |
| 1 | 6 | No more than three children under age 2 |

—(a) The mixed ages include the care giver's children under age 4.

TABLE 2

Family Group Minimum Care giver to Child Ratios

| Care Giver | Children | Limits for Ages | Group Size(b)(c) |
|------------|----------|-----------------|------------------|
| 1 | 12 | All Children | 16 |
| | | School age | |
| 2 | 9-16 | Mixed ages, | 20 |
| | | only four under | |
| | | age 2 | |

—(b) There shall be at least two care givers in the licensed family group program at all times when there are nine or more children present, counting the care givers' own children, grand children, nieces, nephews, wards, step children, under age 12, or when more than two infants are present.

—(c) The care giver's own children, grand children, nieces, nephews, wards, step children are included in the maximum group size if they are under the age of 12.

R430-90-10. Child Health and Medications.

—(1) The licensee may not care for a child without proof of immunization, or evidence of conditional enrollment, or evidence of personal, medical or religious exemption. Each child shall have immunizations as required by the Utah School Immunization Law, R396-100.

—(2) The licensee shall observe each child daily for signs of illness:

—(a) The licensee shall notify the parent or legal guardian immediately when illness is observed or suspected.

—(b) The licensee must keep ill children separate from other children.

—(3) If a communicable illness or parasite is discovered, the owner shall notify the parent or legal guardian of all enrolled children on the day of discovery. Notification shall protect the confidentiality of care givers and children.

—(4) The parent or legal guardian shall provide a child health history upon admission which identifies:

—(a) known food sensitivities and allergies;

—(b) chronic illnesses, disabilities or medical conditions;

—(c) instructions for routine care; and

—(d) instructions for emergency care.

—(5) The parent or legal guardian shall annually review and update the child's health history with the licensee.

—(6) If the licensee chooses to administer prescribed or oral over the counter medications then:

—(a) Medications may be administered to children only by a designated care giver who does the following:

—(i) check the label and confirm the name of the child;

—(ii) read the directions regarding measured doses, frequency, expiration date, and other administration guidelines, and

—(iii) properly document administration of medication records according to subsection (d).

—(b) 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.

—(c) The parent or legal guardian must complete a medication release form for each child receiving medications that contains:

—(i) the name of the medication;

—(ii) the dosage;

—(iii) the route of administration;

—(iv) the times and dates to be administered;

—(v) the illness or condition being treated, and

—(vi) the parent's or legal guardian's signature.

—(d) The care giver who administers a child's medication shall maintain a medication record that includes:

—(i) the time, date, and dosage of the medication given;

—(ii) the signature or initials of the care giver who administered the medication; and

—(iii) documentation of any errors in administration or adverse reactions.

—(e) The licensee 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.

—(f) Medications shall be secured from access to children.

—(g) Medications stored in refrigerators shall be in spill proof packaging and shall be kept in a covered, leakproof storage container.

—(h) The licensee shall return all unused or out of date prescription and oral over the counter medications to the parent or legal guardian.

R430-90-11. Parent Notification and Child Security.

—(1) The licensee shall establish a procedure for care givers to check who has written authorization to pick up children. Only the parents, legal guardian, or persons with written authorization from a parent or legal guardian shall be allowed to take any child from the home, except that verbal authorization may be used in emergency situations.

—(2) The home of the licensee shall be accessible and open to parents or legal guardians during the hours of operation.

—(3) The licensee shall establish a procedure for ensuring that all children's attendance is accounted for, which shall include requiring a sign in and out procedure.

—(4) The licensee shall establish written policies and monitor care givers, visitors, and residents of the home to ensure that the use and accessibility of tobacco, alcohol, illegal substances or sexually explicit materials are prohibited by any person anywhere on the premises during the hours of operation when children are under care.

—(5) In the case of a serious injury to a child which requires immediate hospital treatment, the licensee shall contact the parents or legal guardians after emergency personnel have been contacted.

—(6) For any emergency that requires a response by emergency medical treatment providers, fatality, or hospitalization of a child in care, the licensee shall:

—(a) notify the Department within 24 hours of occurrence, either by phone or facsimile; and

—(b) submit to the Department within five business days of occurrence a written injury and accident report.

R430-90-12. Activities.

—(1) The licensee shall develop a daily activity plan that is designed for the age and development of the children accepted for care and ensure that there are sufficient supplies on hand.

—(2) There shall be a minimum of 35 square feet of indoor play area per child for each child in care under age 14. Toilet rooms, closets, hallways, and alcoves may not be included in calculating indoor play space. Play space does not include areas in the care giver home which are not included in the child care area.

—(3) Outdoor play areas shall have at least 40 square feet per child for each child in care under age 14. The total outdoor play area shall accommodate at least 40 percent of the licensed capacity at one time.

—(a) Outdoor play areas shall be fenced or have a natural barrier that provides protection from unsafe areas. Fences shall be at least four feet high. If local ordinances conflict with this requirement, the licensee may request a variance from the Department. Any gaps within the fence shall not be greater than three and one-half inches. The bottom edges of the fence shall not be more than three and one-half inches above the ground.

—(b) Outdoor play areas shall have a shaded area to protect children from excessive sun and heat. Drinking water shall be continuously accessible to children in the outdoor play area.

—(4) If off site activities are provided, parent or legal guardian permission is required for children to participate. Care givers shall take with them emergency phone numbers for each child attending the activity.

—(5) If swimming activities are planned, care givers shall accompany children at pool side and lifeguards and pool personnel are not counted in care giver ratios.

—(6) If care is provided to infants, a care giver shall provide physical and verbal stimulation every 30 minutes to each infant during waking hours, including the opportunity for physical activity. Physical activity may not confine an awake child to a single device, such as infant equipment which restricts active movements for more than 30 minutes.

R430-90-13. Transportation.

—(1) The licensee shall maintain documentation that any vehicle used for transporting children has a current vehicle registration, insurance for child care transportation, safety inspection and shall maintain the vehicle in a clean and safe manner.

—(2) Each vehicle shall:

—(a) have a first aid kit and body fluid clean up kit;

—(b) be equipped with individual, size appropriate safety restraints such as car seats or seat belts which are described 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;

—(c) be enclosed; and

—(d) be locked during transport.

—(3) Smoking in vehicles is prohibited at all times that children are in the vehicle.

—(4) 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.

—(5) The driver shall ensure that no child is unattended in the vehicle. The driver shall remove the keys whenever the driver is not in the driver's seat.

R430-90-14. Infection Control.

—(1) All care givers shall comply with the universal blood and bodily fluid precautions according to the OSHA Bodily Fluid Blood-Borne Pathogen Standard.

—(a) The licensee shall keep and maintain a portable blood and bodily fluid clean-up kit.

—(b) All care givers shall know the location of the kit and how to use it.

—(c) All care givers shall wear new disposable latex gloves or an approved equivalent listed in OSHA part 1910.1030 for first aid procedures involving blood or clean-up of blood-containing bodily fluids.

—(2) If children are admitted for care who require diapers, the following applies:

—(a) Care givers shall change a child's diaper on a clean, smooth, washable, non-absorbent diapering surface and sanitize the surface after each use.

—(b) The diapering area shall not be located in a food preparation area.

—(c) Care givers shall place soiled diapers in a container that is lined and has a tight fitting lid or take the diapers directly to an outside covered receptacle. Care givers shall clean and disinfect the inside diaper containers daily.

—(3) If a child's clothing is soiled by fecal material or urine, a care giver shall change the clothing promptly and place the clothing in a leakproof container to be sent home with the parent or legal guardian.

—(4) If personal hygiene items for children are maintained at the home such as combs or toothbrushes, they shall not be shared between children and shall be labeled and stored separately.

—(5) The licensee shall clean and sanitize indoor activity equipment and toys weekly or more often as necessary.

—(a) Stuffed animals shall be machine washable.

—(b) If four or more infants are present for care, the licensee shall clean and sanitize the indoor equipment and toys used by the infants during the day.

—(6) Care givers shall assure protection from contamination and the spread of microorganisms by implementing good hand washing practices. Care givers shall teach children proper hand washing techniques and oversee hand washing whenever possible. Care givers and children shall wash their hands after using the toilet, before and after eating, and before and after food preparation.

—(7) Single use paper towels or individually labeled cloth towels shall be used for drying hands. If cloth towels are used, the care giver shall wash the towels daily.

R430-90-15. Safety.

—(1) Indoor and outdoor play spaces, toys and equipment shall be maintained in a safe manner to prevent injury to children.

—(2) Infants and toddlers shall not have access to toys smaller than 1 1/4 inches in total diameter or length. Toys and equipment

used by children must comply with the guidelines of the Consumer Product Safety Commission.

—(3) High chairs shall have safety straps or devices to prevent children from falling out.

—(4) 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 during times when children are on the premises, 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.

—(5) Electrical outlets accessible to children four years of age and younger shall be protected or capped with safety devices.

—(6) Toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials shall be stored away from children in a locked or protected area. All toxic or hazardous chemicals shall be in the original container, or labeled in the container.

—(7) Fireplaces, open face heaters, and wood burning stoves shall be inaccessible to children when in use. Portable space heaters are not permitted when children are on the premises.

—(8) Outdoor play equipment shall be located over soft material or grass.

—(9) All water hazards such as a swimming pool, stationary wading pool, ditches, and fish ponds shall be fenced to prevent access by children.

—(10) Sharp objects, medicines, plastic bags, poisonous plants, lighters and matches must be stored out of reach and inaccessible to children.

—(11) Hot water accessible to children shall not exceed the scalding standard of 120 degrees Fahrenheit.

—(12) Strings and cords long enough to encircle a child's neck, such as those found on pull toys, window blinds, or drapery cords, shall be inaccessible to children under five years of age.

—(13) 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.

—(14) Infant walkers with wheels are not permitted.

—(15) The licensee shall provide separate sleep equipment for each infant designed for infant use, such as a crib, bassinet, porta-crib, or play pen. Infants shall be placed on their backs for sleeping.

R430-90-16. Fire, Emergency, and Disaster.

—(1) The licensee shall have a written emergency and disaster plan in case of fire, flood, earthquake, blizzard, power failure, or other disasters that could create structural damage to the home or pose a health hazard. The plan shall include the procedure to transport and evacuate children to another location and the procedures to turn off gas, electricity and water.

—(2) The licensee shall have an emergency plan in the case of a missing child or death or serious injury to a child, which includes the name of a substitute care giver in the event the owner must leave the residence for any reason.

—(3) The licensee shall hold simulated fire drills quarterly and an annual disaster drill. The licensee shall document the date of drills, participants, and the problems encountered.

—(4) Each home shall have fire extinguishers and smoke detectors in good operating condition on each floor occupied by children. Two exits leading to an open space at ground level, shall be present to permit the orderly evacuation of children. If the basement is used to provide child care, at least one exit at ground level shall be present leading to an open space.

—(5) The licensee shall ensure that the telephone service is in working order, unless there is a utility failure, and inform the Department of the current phone number. The names and telephone numbers of the emergency medical personnel, fire department, police, and poison control shall be posted by the telephone.

—(6) The licensee shall maintain a first aid kit at the residence.

R430-90-17. Housekeeping and Maintenance.

—(1) The licensee shall take effective and safe measures to prevent, control, and eliminate the presence of insects, rodents, and other vermin on the premises.

—(2) There shall be adequate housekeeping services to maintain a clean, odor free, and sanitary environment.

—(3) Entrances, exits, steps, and outside walkways shall be maintained in a safe condition, free of ice, snow, and other hazards.

—(4) The licensee shall maintain the home at air temperatures between 72 degrees Fahrenheit and 85 degrees Fahrenheit as measured 30 inches above the floor. Infant care areas shall maintain temperatures of at least 70 degrees Fahrenheit at floor level.

—(5) If sleeping equipment or mats for sleeping are provided, all mats and sleeping equipment shall be cleaned and sanitized weekly, and prior to use by another child.

—(6) The home shall be maintained to ensure that the equipment, fixtures, and furnishings are safe and in good repair.

—(7) Sand boxes and outdoor play areas shall be kept free of animal excrement and harmful objects.

R430-90-18. Animals.

—(1) If the licensee permits animals at the home:

—(a) the animals shall be clean and in good health;

—(b) the animals shall have current vaccination records available at the program for all diseases transmissible to humans; and

—(c) the animals shall have no history of dangerous or aggressive behavior.

—(2) Children shall not assist with the cleaning of animals, animal cages, pens or animal equipment. Animal cages and equipment shall not be cleaned in food preparation or food storage areas.

—(3) The licensee of the program shall inform the parent or legal guardian of the types of animals kept at the home.

—(4) Children shall not handle reptiles, including turtles and lizards.

R430-90-19. Food Service.

—(1) If the local health department completes an inspection, the inspection report shall be maintained at the home for review by the Department.

—(2) Food prepared by the care givers for the children in care shall be from an approved source as provided in R392-100.

—(a) Food brought in by parents or legal guardians to serve to other children must be from an approved source or commercially prepared;

—(b) Food brought in by parents or legal guardians for individual child use must be labeled.

—(c) Baby food must be refrigerated after opening, marked with the date and time of opening and discarded if not consumed within 24 hours of opening;

—(d) Infant formula and breast milk shall be discarded after feeding or within two hours of initiating a feeding;

—(3) All care givers who prepare or serve food and snacks must have a current food handler's permit.

—(4) Children's food shall be served on plates, napkins or other sanitary holders, which include a high chair tray. Multiple use sanitary holders shall be washed, rinsed, and sanitized with a sanitizer approved in R392-100 for food contact surfaces prior to each use. Food shall not be placed on a bare table or other eating surface.

—(5) Meals and snacks shall be served at least once every three hours, or according to the menu.

—(a) The current week's menu shall be posted for review by parents or 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;

—(b) Menus can be obtained from the Department or shall be Department approved, independently approved and signed by a registered dietitian, or approved through the United States Department of Agriculture Child and Adult Care Food Program; and

—(c) A different menu shall be planned for each day of the week and menus may be cycled.

—(6) Children and infants shall be served special diets, formula, breast milk, or food supplements in accordance with the written instructions from a parent or legal guardian.

—(7) If an infant is unable to sit upright and hold his own bottle, a care giver shall hold the infant during bottle feeding.

R430-90-20. Penalty.

—The Department may impose civil monetary penalties in accordance with Title 63, Chapter 46b, Administrative Procedures Act and Section 26-39-108, 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.]

R430-90-1. Legal Authority and Purpose.

This rule is promulgated pursuant to Title 26, Chapter 39. This rule establishes standards for the operation and maintenance of licensed family child care providers who care for one to 16 children in their home. It establishes minimum requirements for the health and safety of children in the care of licensed family providers.

R430-90-2. Definitions.

(1) "Body fluids" means blood, urine, feces, vomit, mucus, saliva, and breast milk.

(2) "Caregiver" means a person in addition to the licensee or substitute who provides direct care to a child in care.

(3) "Department" means the Utah Department of Health.

(4) "Emotional abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(5) "Health care provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(6) "Inaccessible to children" means:

(a) locked, such as in a locked room, cupboard or drawer;

(b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

(c) behind a child safety gate;

(d) located in a cupboard or on a shelf more than 36 inches above the floor; or

(e) not in any location in a bathroom where a child could reach, including by climbing on a toilet, bathtub, or counter.

(7) "Infant" means a child aged birth through 11 months of age.

(8) "Infectious disease" means an illness that is capable of being spread from one person to another.

(9) "Licensee" means the person holding a Department of Health child care license.

(10) "Over-the-counter medication" means medication that can be purchased without a written prescription. This includes herbal remedies.

(11) "Parent" means the parent or legal guardian of a child in care.

(12) "Physical abuse" means causing nonaccidental physical harm to a child.

(13) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

(14) "Protective cushioning" means stationary play equipment cushioning material that is approved by the American Society for Testing and Materials or the Consumer Products Safety Commission. For example, sand, pea gravel, or engineered wood fibers.

(15) "Protrusion hazard" means a component or piece of hardware that could impale or cut a child if the child falls against it.

(16) "Provider" means the licensee, a substitute, or a caregiver.

(17) "Related children" means children for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(18) "Sanitize" means to reduce the number of germs on a surface to such a level that disease transmission by that surface is unlikely.

(19) "School age" means kindergarten and older age children.

(20) "Sexual abuse" means abuse as provided in Utah Code, Section 76-5-404.1.

(21) "Sexually explicit material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

(22) "Stationary play equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

(23) "Strangulation hazard" means something on which a child's clothes or something around a child's neck could become caught on a component of playground equipment. For example, bolt ends that extend more than two threads beyond the face of the nut,

hardware configurations that form a hook or leave a gap or space between components, and open "S" type hooks.

(24) "Substitute" means a person who assumes the licensee's duties under this rule when the licensee is not present. This includes emergency substitutes.

(25) "Supervision" means the function of observing, overseeing, and guiding a child or group of children.

(26) "Toddler" means a child aged 12 months but less than 24 months.

(27) "Unrelated children" means children who are not related children.

(28) "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.

(29) "Volunteer" means a person who provides direct care to a child but does not receive direct or indirect compensation for doing so. A volunteer is not included in the provider to child ratio.

R430-90-3. License Required.

(1) A person must either be licensed under this rule or certified under R430-50, if he or she:

(a) provides care in lieu of care ordinarily provided by a parent;

(b) provides care for five or more unrelated children;

(c) provides care for four or more hours per day;

(d) has a regularly scheduled, ongoing enrollment; and

(e) provides care for direct or indirect compensation.

(2) The Department does not license, nor is a license required for:

(a) a person who cares for related children only; or

(b) a person who provides care on a sporadic basis only.

R430-90-4. Indoor Environment.

(1) The licensee shall ensure that any building or playground structure on the premises constructed prior to 1978 which has peeling, flaking, chalking, or failing paint 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 remediation of the lead based paint hazard.

(2) There shall be a working toilet and a working handwashing sink accessible to each child in care.

(3) Each school age child shall have privacy when using the bathroom.

(4) The home shall be ventilated by mechanical ventilation or by windows that open and have screens.

(5) The licensee shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(6) The licensee shall maintain adequate light intensity for the safety of children and the type of activity being conducted and shall keep the lighting equipment in good working condition.

(7) There shall be at least 35 square feet of indoor play space for each child, including providers' related children who are not counted in the provider to child ratios.

(8) 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 children's materials.

(9) Bathrooms, closets, hallways, and entryways are not included when calculating indoor space for children's use.

R430-90-5. Cleaning and Maintenance.

(1) The licensee shall ensure that a clean and sanitary environment is maintained.

(2) The licensee shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other vermin.

(3) The licensee shall maintain ceilings, walls, floor coverings, draperies, blinds, furniture, fixtures, and equipment in good repair to prevent injury to children.

(4) The licensee shall ensure that entrances, exits, steps and outside walkways are maintained in a safe condition, and free of ice, snow, and other hazards.

R430-90-6. Outdoor Environment.

(1) There shall be an outdoor play area for children that is safely accessible to children.

(2) The outdoor play area shall have at least 40 square feet of space for each child using the space at one time.

(3) The outdoor play area shall be enclosed within a 4 foot high fence or wall or within a solid natural barrier that is at least 4 feet high. Licensees licensed prior to 1 July 2008 who do not have a fence that meets this requirement shall have until 1 July 2011 to meet this requirement.

(4) There shall be no gaps in fences greater than 5 inches at any point, nor shall gaps between the bottom of the fence and the ground be more than 5 inches.

(5) The outdoor play area shall be free of trash, animal excrement, harmful plants or objects, toxic or hazardous substances, and standing water.

(6) If a wading pool is used:

(a) a provider must be at the pool supervising each child whenever there is water in the pool;

(b) each diapered child must wear a swim diaper or rubber pants while in the pool; and

(c) the pool shall be emptied and sanitized after each use.

(7) If there is a swimming pool on the premises that is not emptied after each use:

(a) the licensee shall ensure that the pool is enclosed within a fence or other solid barrier at least six feet high that is kept locked whenever the pool is not in use by any child in care, except that if the licensee currently has a fence at least four feet high surrounding the pool, he or she shall have until 1 July 2011 to meet the six foot fence requirement;

(b) the licensee shall maintain the pool in a safe manner;

(c) the licensee shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool; and

(d) if the pool is over six feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the licensee can demonstrate to the Department to be equivalent to Red Cross certification, any time any child in care has access to the pool.

(8) The outdoor play area shall have a shaded area to protect each child from excessive sun and heat.

(9) An outdoor source of drinking water, such as individually labeled water bottles or a pitcher of water and individual cups that are taken outside, shall be available to each child whenever the outside temperature is 75 degrees or higher.

(10) If there is a trampoline on the premises that is accessible to any child in care, the licensee shall ensure compliance with the following requirements:

(a) A provider must be at the trampoline supervising its use whenever any child in care is on the trampoline.

(b) Only one person at a time may use a trampoline.

(c) No child in care shall be allowed to do somersaults or flips on the trampoline.

(d) The trampoline must have shock absorbing pads that completely cover its springs, hooks, and frame.

(e) The trampoline must be placed at least 6 feet away from any structure, including playground equipment, trees, and fences.

(f) There shall be no ladders near the trampoline.

(g) No child in care shall be allowed to play under an above ground trampoline when it is in use.

(h) A parent of each child in care who uses the trampoline shall sign a Department-approved permission form before his or her child uses the trampoline.

(11) Outdoor stationary play equipment used by any child in care shall be located over grass or 6" of protective cushioning, in a 3' use zone. The licensee shall have until 1 July 2013 to meet the 3' requirement.

(12) There shall be no openings of a size greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment where the feet of any child in care whose head is entrapped in the opening cannot touch the ground.

(13) There shall be no protrusion hazard or strangulation hazard in or adjacent to the use zone of any piece of stationary play equipment.

(14) There shall be no crush, shearing, or sharp edge hazards in or adjacent to the use zone of any piece of stationary play equipment.

(15) 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.

(16) The licensee shall ensure that outdoor play areas and outdoor play equipment are maintained to protect each child's safety.

R430-90-7. Personnel.

(1) The licensee and all substitutes and caregivers must:

(a) be at least 18 years of age; and

(b) have knowledge of and comply with all applicable laws and rules.

(2) All assistant caregivers shall:

(a) be at least 16 years of age;

(b) work under the immediate supervision of a provider who is at least 18 years of age; and

(c) have knowledge of and comply with all applicable laws and rules.

(3) Assistant caregivers may be included in provider to child ratios, but only if there is also another provider present in the home who is 18 years of age or older.

(4) Assistant caregivers shall meet the training and TB screening requirements of this rule.

(5) The licensee may make arrangements for a substitute who is at least 18 years old and who is capable of providing care, supervising children, and handling emergencies in the absence of the licensee.

(6) Substitutes who care for children an average of 10 hours per week or more shall meet the training, first aid and CPR, and TB screening requirements of this rule.

(7) In an unforeseeable emergency, such as a medical emergency requiring immediate care at a hospital or at an urgent care center or a lost child, the licensee may assign an emergency substitute who has not had a criminal background screening to care for the children. A licensee may use an emergency substitute for up to 24 hours for each emergency event.

(a) The emergency substitute shall be at least 18 years of age.

(b) The emergency substitute is not required to meet the training, first aid and CPR, and TB screening requirements of this rule.

(c) The emergency substitute cannot be a person who has been convicted of a felony or misdemeanor or has been investigated for abuse or neglect by any federal, state, or local government agency. The emergency substitute must provide a signed, written declaration to the licensee that he or she is not disqualified under this subsection.

(d) During the term of the emergency, the emergency substitute may be counted as a provider for the purpose of maintaining the required provider to child ratios.

(e) The licensee shall make reasonable efforts to minimize the time that the emergency substitute has unsupervised contact with the children in care.

(8) Any new caregiver, volunteer, or non-emergency substitute shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented in the individual's file and shall include the following topics:

(a) specific job responsibilities;

(b) the licensee's written policies and procedures;

(c) the licensee's emergency and disaster plan;

(d) child care licensing rules for:

(i) Supervision and Ratios, R430-90-11;

(ii) Injury Prevention, R430-90-12;

(iii) Parent Notification and Child Security, R430-90-13;

(iv) Child Health, 430-90-14;

(v) Child Nutrition, R430-90-15;

(vi) Infection Control, R430-90-16;

(vii) Medications, R430-90-17;

(viii) Napping, R430-90-18;

(ix) Child Discipline, R430-90-19;

(x) Activities, R430-90-20;

(xi) Transportation, R430-90-21, if any child in care is transported while in care;

(xii) Animals, R430-90-22, if there are animals on the premises that are accessible to any child in care;

(xiii) Diapering, R430-90-23, if the licensee accepts diapered children; and

(xiv) Infant and Toddler Care, R430-90-24, if the licensee accepts infants or toddlers for care.

(e) introduction and orientation to the children in care;

(f) a review of the information in the health assessment for each child in care;

(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; and

(k) if the licensee accepts infants or toddlers for care, orientation training topics shall also include:

(i) preventing shaken baby syndrome and coping with crying babies; and

(ii) preventing sudden infant death syndrome.

(9) Substitutes who care for children an average of 10 hours per week or more, the licensee, and all caregivers shall complete a minimum of 20 hours of training each year, based on the license date. A minimum of 10 hours of the required annual training shall be face-to-face instruction.

(a) Documentation of annual training shall be kept in each individual'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) All caregivers and non-emergency substitutes 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 relicensure date.

(c) Annual training hours shall include the following topics at least once every two years:

(i) a review of all of the current child care licensing rules for:

(A) Supervision and Ratios, R430-90-11;

(B) Injury Prevention, R430-90-12;

(C) Parent Notification and Child Security, R430-90-13;

(D) Child Health, 430-90-14;

(E) Child Nutrition, R430-90-15;

(F) Infection Control, R430-90-16;

(G) Medications, R430-90-17;

(H) Napping, R430-90-18;

(I) Child Discipline, R430-90-19;

(J) Activities, R430-90-20;

(K) Transportation, R430-90-21, if any child in care is transported while in care;

(L) Animals, R430-90-22, if there are animals on the premises that are accessible to any child in care;

(M) Diapering, R430-90-23, if the licensee accepts diapered children; and

(N) Infant and Toddler Care, R430-90-24, if the licensee accepts infants or toddlers for care; and

(ii) a review of the licensee's written policies and procedures and emergency and disaster plan, 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; and

(d) if the licensee accepts infants or toddlers for care, required training topics shall also include:

(i) preventing shaken baby syndrome and coping with crying babies; and

(ii) preventing sudden infant death syndrome.

R430-90-8. Administration.

(1) The licensee is responsible for all aspects of the operation and management of the child care program.

(2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care program.

(3) The licensee shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

(4) The licensee shall take all reasonable measures to protect the safety of each child in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers any child in care.

(5) Either the licensee or a substitute with authority to act on behalf of the licensee shall be present whenever there is a child in care.

(6) Each week, the licensee shall be present at the home at least 50% of the time that one or more children are in care.

(7) There shall be a working telephone in the home. The licensee shall inform the parents of each child in care and the Department of any changes to the licensee's telephone number within 48 hours of the change.

(8) The licensee 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 individualized medical treatment plan identified by the parent. The licensee shall also mail or fax a written report to the Department within five days of the incident.

(9) The licensee shall establish, and all non-emergency substitutes, caregivers, and volunteers shall follow, written policies and procedures for the health and safety of each child in care. The written policies and procedures shall address at least the following areas:

(a) direct supervision and protection of each child at all times, including when he or she is sleeping, outdoors, and during off-site activities;

(b) procedures to account for each child's attendance and whereabouts;

(c) the use of television, movies, and video or computer games, including what industry ratings and television programs the licensee allows;

(d) recognizing early signs of illness and determining when there is a need for exclusion from care;

(e) discipline of children, including behavioral expectations of children and discipline methods used;

(f) transportation to and from off-site activities, or to and from home, if the licensee offers these services; and

(g) if the program offers transportation to or from school, policies addressing:

(i) how long a child will be unattended by a provider before school starts and after school lets out;

(ii) what steps will be taken if a child fails to meet the vehicle; and

(iii) how and when parents will be notified of delays or problems with transportation to and from school.

(10) The licensee shall ensure that the written policies and procedures are available for review by parents and the Department during business hours.

R430-90-9. Records.

(1) The licensee shall maintain the following records on-site for review by the Department during any inspection:

(a) documentation of the previous 12 months of quarterly fire drills and annual disaster drills as specified in R430-90-10(9) and R430-90-10(11);

(b) current animal vaccination records as required in R430-90-22(3);

(c) a six week record of child attendance, including sign-in and sign-out records, as required in R430-90-13(3) and (4);

(d) all current variances granted by the Department;

(e) a current local health department kitchen inspection;

(f) an initial local fire department clearance for all areas of the home being used for care;

(g) the most recent "Request for Annual Renewal of CBS/MIS Criminal History Information for Child Care";

(h) 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 a 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, or a statement from the parent that one is not available; and

(H) child health information, as required in R430-90-14(5);

(I) current emergency medical treatment and emergency medical transportation releases with the parent's signature;

(ii) current immunization records or documentation of a legally valid exemption, as specified in R430-90-14(4);

(iii) a completed transportation permission form, if transportation services are offered to any child in care;

(iv) a six week record of medication permission forms, and a six week record of medications actually administered as specified in R430-90-17(4) and R430-90-17(6)(e), if medications are administered to any child in care; and

(v) a six week record of incident, accident, and injury reports; and

(i) records for the licensee and each non-emergency substitute and caregiver, including the following:

(i) results of an initial TB screening, as required in R430-90-16(11) and (12);

(ii) approved initial "CBS/MIS Consent and Release of Liability for Child Care" form;

(iii) if the licensee has been licensed for more than a year, the most recent criminal background "Disclosure Statement" for the licensee and each individual who has worked for or resided in the home of the licensee since the last license renewal date;

(iv) orientation training documentation for all non-emergency substitutes and caregivers as required in R430-90-7(8);

(v) annual training documentation for the past two years, for the licensee and all non-emergency substitutes and caregivers, as required in R430-90-7(9)(a); and

(vi) current first aid and CPR certification, as required in R430-90-10(2), R430-90-20(3)(d), and R430-90-21(2); and

(j) records for the each volunteer, including the following:

(i) approved initial "CBS/MIS Consent and Release of Liability for Child Care" form;

(ii) if the licensee has been licensed for more than a year, the most recent criminal background "Disclosure Statement" for each individual who has volunteered since the last license renewal date; and

(iii) orientation training documentation as required in R430-90-7(8).

(2) The licensee shall ensure that information in any child's file is not released without written parental permission.

R430-90-10. Emergency Preparedness.

(1) The licensee shall post the home's street address and emergency numbers, including ambulance, fire, police, and poison control, near the telephone.

(2) The licensee and all substitutes who care for children an average of 10 hours per week or more shall maintain a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification.

(3) The licensee shall maintain first-aid supplies in the home.

(4) The licensee 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) procedures to be followed if a child is missing;

(e) the name and phone number of a substitute to be called in the event the licensee must leave the home for any reason;

(f) an emergency relocation site where children will be housed if the licensee's home is uninhabitable;

(g) provisions for emergency supplies, including at least food, water, a first aid kit, and diapers if the licensee accepts diapered children for care; and

(h) procedures for ensuring adequate supervision of children during emergency situations, including while at the emergency relocation site.

(5) The licensee shall ensure that the emergency and disaster plan is followed in the event of an emergency.

(6) The licensee shall review the emergency and disaster plan annually, and update it as needed. The licensee shall note the date of reviews and updates to the plan on the plan.

(7) The emergency and disaster plan shall be available for immediate review by parents and the Department during business hours.

(8) The licensee shall conduct fire evacuation drills quarterly. Drills shall include complete exit of all children and staff from the home.

(9) The licensee shall document all fire drills, including:

(a) the date and time of the drill;

(b) the number of children participating;

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

(d) any problems encountered.

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

(11) The licensee shall document all disaster drills, including:

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

(b) the date and time of the drill;

(c) the number of children participating;

(d) any problems encountered.

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

R430-90-11. Supervision and Ratios.

(1) The licensee or a substitute shall be physically present on-site and provide care and direct supervision of each child at all times, both indoors and outdoors. Direct care and supervision of each child includes:

(a) awareness of and responsibility for the ongoing activity of each child, including being near enough to intervene if needed; and

(b) monitoring of each sleeping infant in one of the following ways:

(i) by placing each infant for sleep in a location where the infant is within sight and hearing of a provider;

(ii) by in person observation of each sleeping infant at least once every 15 minutes; or

(iii) by using a Department-approved infant sleep monitoring device.

(2) A provider shall actively supervise each child during outdoor play to minimize the risk of injury to a child. A provider may allow only school age children to play outdoors while the provider is indoors, if:

(a) a provider can hear the children playing outdoors; and

(b) the children playing outdoors are in an area completely enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.

(3) The licensee may permit a child to participate in supervised out of the home activities without the licensee if:

(a) the licensee has prior written permission from the child's parent for the child's participation; and

(b) the licensee has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts responsibility for the care and supervision of the child throughout the period of the out of home activity.

(4) The maximum allowed capacity for a licensed family child care facility is 16 children, including providers' own children under age 4.

(5) The licensee shall maintain the minimum provider to child ratios and group sizes in Table 1 and Table 2.

TABLE 1

CHILD CARE RATIO AND GROUP SIZE WITH 1 PROVIDER

| # of Providers' Related Children Ages 4-12 Present in the Home During Child Care Hours | Maximum Allowed Licensed Capacity, Including the Providers' Children Under Age 4 | Total # of All Children Through Age 12 in the Home During Child Care Hours |
|--|--|--|
| 0 - 2 | 8 children, including no more than 2 children under age 2 | 10 |
| 0 - 2 | 6 children, including no more than 3 children under age 2 | 8 |
| 3 | 7 children, including no more than 2 children under age 2 | 10 |
| 4 | 6 children, including no more than 2 children under age 2 | 10 |
| 5 | 5 children, including no more than 2 children under age 2 | 10 |
| 6 | 4 children, including no more than 2 children under age 2 | 10 |

| | | |
|---|---|----|
| 7 | 3 children, including no more than 2 children under age 2 | 10 |
| 8 | 2 children | 10 |
| 9 | 1 child | 10 |

TABLE 2

CHILD CARE RATIO AND GROUP SIZE WITH 2 PROVIDERS

| # of Providers' Related Children Ages 4-12 Present in the Home During Child Care Hours | Maximum Allowed Licensed Capacity, Including the Providers' Children Under Age 4 | Total # of All Children Through Age 12 in the Home During Child Care Hours |
|--|--|--|
| 0 - 4 | 16 children, including no more than 4 children under age 2 | 20 |
| 5 | 15 children, including no more than 4 children under age 2 | 20 |
| 6 | 14 children, including no more than 4 children under age 2 | 20 |
| 7 | 13 children, including no more than 4 children under age 2 | 20 |
| 8 | 12 children, including no more than 4 children under age 2 | 20 |
| 9 | 11 children, including no more than 4 children under age 2 | 20 |
| 10 | 10 children, including no more than 4 children under age 2 | 20 |
| 11 | 9 children, including no more than 4 children under age 2 | 20 |
| 12 | 8 children, including no more than 4 children under age 2 | 20 |
| 13 | 7 children, including no more than 4 children under age 2 | 20 |
| 14 | 6 children, including no more than 4 children under age 2 | 20 |
| 15 | 5 children, including no more than 4 children under age 2 | 20 |
| 16 | 4 children | 20 |
| 17 | 3 children | 20 |
| 18 | 2 children | 20 |
| 19 | 1 child | 20 |

R430-90-12. Injury Prevention.

(1) The licensee shall ensure that the home, outdoor play area, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The licensee shall ensure that the indoor environment is free of tripping hazards such as unsecured flooring or cords.

(3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that a child could pull down on himself or herself.

(4) The following items shall be inaccessible to each child in care:

(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) tobacco, alcohol, illegal substances, and sexually explicit material;

(c) when in use: portable space heaters, fireplaces, and wood burning stoves;

(d) toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials;

(e) poisonous plants;

(f) matches or cigarette lighters;

(g) open flames;

(h) sharp objects, edges, corners, or points which could cut or puncture skin;

(i) for children age 4 and under, strings and cords long enough to encircle a child's neck, such as those found on window blinds or drapery cords;

(j) for children age 4 and under, empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(k) for children age 2 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.

(5) The licensee shall ensure that all toxic or hazardous chemicals are stored in a container labeled with its contents.

(6) Electrical outlets and surge protectors accessible to children age four and younger shall have protective caps or safety devices when not in use.

(7) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(8) High chairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

R430-90-13. Parent Notification and Child Security.

(1) The licensee shall either post or, upon enrollment, give each parent a copy of the Department's child care guide.

(2) Parents shall have access to the licensee's home and outdoor play area at all times their child is in care.

(3) The licensee shall ensure that a daily attendance record is maintained to document each enrolled child's attendance.

(4) A provider or parent shall sign each child in and out daily, including the date and the time the child arrives and leaves and when the child goes to and returns from school.

(5) Only parents or persons with written authorization from the parent may pick up any child. In an emergency, a 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.

(6) The licensee shall ensure that parents are given a written report of every serious incident, accident, or injury involving their child on the day of occurrence. A provider and the person picking up the child shall sign the report to acknowledge that he or she has received it.

(7) The licensee shall ensure that parents are notified verbally of minor accidents and injuries on the day of occurrence.

(8) In the case of a life threatening incident or injury to a child, or an incident or injury that poses a threat of the loss of vision, hearing, or a limb, a provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, a provider shall attempt to contact the child's emergency contact person.

(9) If a child is injured and the injury appears serious but not life threatening, a provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.

R430-90-14. Child Health.

(1) The licensee shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.

(2) All providers 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 vehicles used to transport children is prohibited any time that a child is in care.

(4) The licensee shall not admit any child for care 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 licensee shall not admit any child for care without the following written health information from the parent:

(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 licensee.

(6) The licensee shall ensure that each child's parent reviews, updates, and signs or initials the child's health information at least annually.

R430-90-15. Child Nutrition.

(1) If food service is provided:

(a) The licensee shall ensure that his or her meal service complies with local health department food service regulations.

(b) Foods served by license holders not currently participating and 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) License holders not currently participating and in good standing with the CACFP shall keep a six week record of foods served at each meal or snack.

(d) The current week's menu shall be available for parent review.

(2) The licensee shall ensure that each child in care is offered a meal or a snack at least once every three hours.

(3) Providers shall serve each child's food on dishes, napkins, or sanitary high chair trays, except for individual serving size items, such as crackers, if they are placed directly in the child's hands. Providers shall not place food on a bare table.

(4) The licensee shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name, and refrigerated if needed.

R430-90-16. Infection Control.

(1) All providers and volunteers shall wash their hands with soap and running water at the following times:

(a) before handling or preparing food or bottles;

(b) before and after eating meals and snacks or feeding a child;

(c) after diapering each child;

(d) after using the toilet or helping a child use the toilet;

(e) after coming into contact with body fluids, including breast milk;

(f) after playing with or handling animals;

(g) when coming in from outdoors; and

(h) before administering medication.

(2) The licensee shall ensure that each child washes his or her hands with soap and 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) During outdoor play time, the requirements of subsections (1) and (2) may be met by having each provider, volunteer, and child clean his or her hands with individual disposable wet wipes and hand sanitizer.

(4) Only single-use paper towels or individually labeled cloth towels shall be used to dry a child's hands. If cloth towels are used, they shall not be shared by children, providers, or volunteers, and a provider shall wash the towels daily.

(5) The licensee shall ensure that toilet paper is accessible to each child, and that it is kept in a dispenser.

(6) The licensee shall ensure that children are taught proper hand washing techniques, and shall oversee hand washing whenever possible.

(7) Personal hygiene items such as toothbrushes, or combs and hair accessories that are not sanitized between each use, shall not be shared by children or used by a provider on more than one child. Each child's items shall be stored so that they do not touch another child's items.

(8) The licensee shall ensure that all washable toys and materials are cleaned and sanitized after each 5 days of use, or more often if needed.

(9) 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 licensee shall ensure that all stuffed animals, cloth dolls, dress-up clothes, and pillows or covers are washed after each 5 days of use, or more often if needed.

(10) If a water play table or tub is used, the licensee shall ensure that the table or tub is washed daily, and that each child washes his or her hands prior to engaging in the activity.

(11) The licensee, all substitutes who work an average of 10 hours each week or more, and all caregivers shall be tested for tuberculosis (TB) prior to licensure or within two weeks of hire by a skin testing method and follow-up acceptable to the Department.

(12) If the TB test is positive, the person shall provide documentation from a health care provider detailing:

(a) the reason for the positive reaction;

(b) whether the person is contagious; and

(c) if needed, how the person is being treated.

(13) Persons with contagious TB shall not work, assist with, or be present with any child in care.

(14) An individual having a medical condition which contra-indicates a TB test must provide documentation from a health care provider indicating the individual is exempt from testing, with an associated time frame if applicable. The licensee shall maintain this documentation in the individual's file.

(15) A provider shall promptly change a child's clothing if the child has a toileting accident.

(16) If a child's clothing is wet or soiled from body fluids, the licensee shall ensure that:

(a) the clothing is not rinsed or washed at the licensee's home; and

(b) the clothing is placed in a leakproof container, labeled with the child's name, and returned to the parent.

(17) If a child uses a potty chair, the licensee shall ensure that it is cleaned and sanitized after each use.

(18) The home shall have a portable body fluid clean up kit.

(a) The licensee, all non-emergency substitutes, and all caregivers shall know the location of the kit and how to use it.

(b) The licensee shall ensure that the kit is used to clean up spills of body fluids.

(c) The licensee shall restock the kit as needed.

(19) The licensee shall ensure that any child who is ill with an infectious disease is separated from any other children in care in a safe, supervised location.

(20) The licensee shall ensure that the parents of any child who is ill are contacted as soon as the illness is observed or suspected.

(21) The licensee shall ensure that the parents of every child in care are informed when any person in the home or child in care has an infectious disease or parasite. Parents shall be notified the day the infectious disease or parasite is discovered.

R430-90-17. Medications.

(1) Only a provider trained in the administration of medications may administer medication to a child in care.

(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) The licensee shall ensure that all non-refrigerated over-the-counter and prescription medication is inaccessible to children. The licensee shall ensure that all refrigerated over-the-counter and prescription medication is placed in a waterproof container to avoid contamination between food and medication.

(4) The licensee shall have a written medication permission form completed and signed by the parent prior to the administering of any over-the-counter or prescription medication brought in by a parent for his or her 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's dated signature.

(5) If the licensee keeps over-the-counter medication that is not brought in by a parent for his or her child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:

(a) prior written consent; or

(b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent signs upon picking up the child.

(6) When administering medication, the person administering the medication shall:

(a) wash his or her hands;

(b) if the parent supplies the medication, check the medication label to confirm the child's name;

(c) if the parent supplies the medication, 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) if the licensee supplies the medication, check the product package to ensure that a child is not given a dosage larger than that recommended by the manufacturer;

(e) administer the medication; and

(f) 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.

(7) The licensee shall ensure that any adverse reaction to a medication or any error in administration is reported to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.

(8) The licensee shall not keep medications in the home for any child who is no longer enrolled.

R430-90-18. Napping.

(1) The licensee shall ensure that children in care are offered a daily opportunity for rest or sleep in an environment that provides a low noise level and freedom from distractions.

(2) If the licensee has a scheduled nap time for children, it shall not exceed two hours daily.

(3) If mats, cots, or other sleeping equipment is provided, the licensee shall meet the following requirements:

(a) The licensee shall maintain sleeping equipment in good repair.

(b) If sleeping equipment is clearly assigned to and used by an individual child, a provider must clean and sanitize it as needed, but at least weekly.

(c) If sleeping equipment is not clearly assigned to and used by an individual child, a provider must clean and sanitize it prior to each use.

(4) Sleeping equipment may not block exits at any time.

R430-90-19. Child Discipline.

(1) The licensee shall inform non-emergency substitutes, caregivers, parents, and children of the licensee's behavioral expectations for children.

(2) Providers and volunteers may discipline children using positive reinforcement and redirection, and by setting clear limits that promote a child's ability to become self-disciplined.

(3) A provider may use gentle, passive restraint with a child only when it is needed to stop the child from injuring himself or herself or others or from destroying property.

(4) Disciplinary 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 any child;

(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.

R430-90-20. Activities.

(1) The licensee shall develop a daily activity plan that offers activities to support each child's healthy physical, social-emotional, and cognitive-language development.

(2) The licensee shall ensure that the toys and equipment needed to carry out the activity plan are accessible to children.

(3) If off-site activities are offered:

(a) the licensee shall obtain parental consent for off-site activities in advance;

(b) the licensee shall accompany the children and 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 parent to pick up the child; and

(v) current emergency medical treatment and emergency medical transportation releases;

(c) the licensee shall maintain required provider to child ratios and direct supervision during the activity;

(d) at least one provider present shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification; and

(e) the licensee shall ensure that there is a way for each provider, volunteer, and child to wash his or her hands as specified in R430-90-16(1) and (2). If there is no source of running water, providers, volunteers, and children may clean their hands with individual disposable wet wipes and hand sanitizer.

(4) If swimming activities are offered, providers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the provider to child ratio.

R430-90-21. Transportation.

(1) Any vehicle used for transporting any child in care 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 any child in care shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification.

(3) The adult transporting any child in care shall:

(a) have and carry with them a current valid Utah driver's license for the type of vehicle being driven whenever he or she is transporting any child in care;

(b) have with him or her written emergency contact information for each child in care being transported;

(c) ensure that each child in care being transported is wearing an appropriate individual safety restraint;

(d) ensure that each child is always attended by an adult while 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.

R430-90-22. Animals.

(1) The licensee shall inform parents of the types of animals permitted on the premises.

(2) The licensee shall ensure that all animals on the premises and accessible to any child in care:

(a) are clean and free of obvious disease or health problems that could adversely affect any child in care; and

(b) have current vaccinations for all vaccine preventable diseases that are transmissible to humans. The licensee shall have documentation of the vaccinations.

(3) The licensee shall ensure that there is no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.

(4) The licensee shall ensure that no child in care assists with the cleaning of animals or animal cages, pens, or equipment.

(5) The licensee shall ensure that there is no animal or animal equipment in food preparation or eating areas during food preparation or eating times.

(6) The licensee shall ensure that no child in care handles reptiles or amphibians while in care.

R430-90-23. Diapering.

If children in care are diapered on the premises, the following applies:

(1) The diapering surface shall be smooth, waterproof, and in good repair.

(2) A provider shall clean and sanitize the diapering surface after each diaper change, or use a disposable non-permeable diapering surface that is thrown away after each diaper change.

(3) The provider shall wash his or her hands after each diaper change.

(4) The provider shall place soiled disposable diapers in a container that has a disposable plastic lining and a tightly fitting lid, or place soiled diapers directly in an outdoor garbage container.

(5) A provider shall daily clean and sanitize indoor containers where soiled diapers are placed.

(6) If cloth diapers are used:

(a) they shall not be rinsed at the facility; and

(b) after a diaper change, the provider shall place the cloth diaper directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or a leakproof diapering service container.

(7) The licensee shall ensure that each child's diaper is checked at least once every two hours, and that each child's diaper is changed promptly if it is wet or soiled.

R430-90-24. Infant and Toddler Care.

If the licensee accepts infants or toddlers for care, the following applies:

(1) If an infant is not able to sit upright and hold his or her own bottle, a provider shall hold the infant during bottle feeding. Bottles shall not be propped.

(2) A provider shall clean and sanitize high chair trays prior to each use.

(3) A provider shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter. A provider shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(4) If there is more than one infant in care, baby food, infant formula, and breast milk for each infant that is brought from home must be labeled with the child's name or another unique identifier.

(5) Baby food, infant formula, and breast milk for infants that is brought from home for an individual child's use must be:

(a) kept refrigerated if needed; and

(b) 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.

(6) The licensee shall ensure that infant formula and milk, including breast milk, is discarded after each feeding, or within two hours of initiating a feeding.

(7) To prevent burns, a provider shall shake each heated bottle and test it for temperature before the bottle is fed to a child.

(8) If there is more than one infant or toddler in care, pacifiers and bottles shall be:

(a) labeled with each child's name or another unique identifier; or

(b) washed and sanitized after each individual use.

(9) The licensee shall ensure that only one infant occupies any one piece of equipment, such as a crib, playpen, stroller, or swing, at any time, unless the equipment has individual seats for more than one child.

(10) The licensee shall ensure that infants sleep in equipment designed for sleep, such as a crib, bassinet, porta-crib or play pen. The licensee shall ensure that infants are not placed to sleep on mats or cots, or in bouncers, swings, car seats, or other similar pieces of equipment, unless the licensee has written permission from the infant's parent.

(11) The licensee shall ensure that each infant crib:

(a) has a tight fitting mattress;

(b) has slats spaced no more than 2-3/8 inches apart;

(c) has at least 20 inches from the top of the mattress to the top of the crib rail; and

(d) does not have strings, cords, ropes, or other entanglement hazards strung upon the crib rails or within reach of the child.

(12) The licensee shall ensure that infants are not placed on their stomachs for sleeping, unless there is documentation from a health care provider for treatment of a medical condition.

(13) The licensee shall ensure that each infant and toddler is allowed to follow his or her own pattern of sleeping and eating.

(14) Infant walkers with wheels are prohibited.

(15) The licensee shall ensure that infants and toddlers do not have access to objects made of styrofoam.

(16) The licensee shall ensure that a provider responds 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.

(17) The licensee shall ensure that awake infants and toddlers receive positive physical stimulation and positive verbal interaction with a provider at least once every 20 minutes.

(18) The licensee shall ensure that awake infants are not 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.

(19) The licensee shall ensure that mobile infants and toddlers have freedom of movement in a safe area.

(20) To stimulate their healthy development, there shall be safe toys accessible to infants and toddlers. The licensee shall ensure that there are enough toys for each child in the group to be engaged in play with toys.

(21) The licensee shall ensure that all toys used by infants and toddlers are cleaned and sanitized:

(a) weekly;

(b) after being put in a child's mouth; and

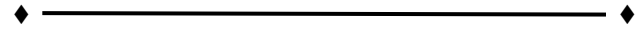
(c) after being contaminated by body fluids.

KEY: child care facilities

Date of Enactment or Last Substantive Amendment: ~~February 15, 2002~~2008

Notice of Continuation: July 29, 2003

Authorizing, and Implemented or Interpreted Law: 26-39



Human Services, Child and Family Services

R512-204

Child Protective Services, New Caseworker Training

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31043

FILED: 03/06/2008, 11:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish standards for caseworker training.

SUMMARY OF THE RULE OR CHANGE: This rule establishes information that must be included in caseworker training.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-4a-102, 62A-4a-105, and 62A-4a-107

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no increase in costs or savings to the state budget because this training will be delivered within the current budget.

❖ LOCAL GOVERNMENTS: There is not cost or savings to local government because this training will not directly affect them.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There is not cost or savings to small businesses and persons other than businesses because this training will not directly affect them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule will not affect anticipated compliance costs for affected persons because this training will be delivered within the current budget.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will not have a fiscal impact on businesses. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@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 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2008

AUTHORIZED BY: Duane Betournay, Director

**R512. Human Services, Child and Family Services.
R512-204. Child Protective Services, New Caseworker Training.
R512-204-1. Purpose and Authority.**

A. Pursuant to Section 62A-4a-107, the Division of Child and Family Services (Child and Family Services) mandates that before assuming significant independent casework responsibilities, all caseworkers shall successfully complete the core curriculum training.

B. Section 62A-4a-102 gives the Board of Child and Family Services rulemaking authority.

R512-204-2. Conflict Training.

The child welfare training coordinator for Child and Family Services is charged with the responsibility for ensuring that the core curriculum is inclusive of information about working with families where there is a conflictual relationship born out of divorce proceedings. This training must include information on fraudulent reporting in Child Protective Services investigations. Other training information must be provided that assists the caseworker in using a variety of techniques to develop a complete picture of the family dynamics and how this may impact the information gathered and the conclusions reached at the end of an investigation.

KEY: child welfare, child abuse, caseworker training
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 62A-4a-105; 62A-4a-107; 62A-4a-102

◆ ————— ◆
Human Services, Recovery Services
R527-231
Review and Adjustment of Child
Support Order

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31061

FILED: 03/14/2008, 14:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is to add the department and office authority for creating, amending, and enforcing administrative rules. The reference to the Utah Code was also changed due to the recodification of Title 78 under H.B. 78 (2008 General Session). (DAR NOTE: H.B. 78 (2008) is found at Chapter 3, Laws of Utah 2008, and was effective 02/07/2008.)

SUMMARY OF THE RULE OR CHANGE: The change is to add a new Section R527-231-1 that is the authority and purpose section to the existing rule. Subsection R527-231-1(1) indicate Sections 62A-1-111 and 62A-11-107 authorize the Department of Human Services and the Office of Recovery Services (ORS) to adopt, amend, and enforce rules as necessary. Subsection R527-231-1(2) was added to this rule to provide specific review and adjustment information (the purpose) as to why the rule was created. In addition, this rule was changed based on the renumbering of Title 78, Chapter 45. The rule reflects that Section 78-45-7.2 is now listed as Section 78B-12-210.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 78B-12-210, 62A-11-320.5, and 62A-11-320.6

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The proposed changes to the rule are for clarification purposes only and do not affect the current procedures. There is no anticipated change in cost or savings due to this amendment.

❖ **LOCAL GOVERNMENTS:** There is no anticipated change in cost or savings due to this amendment since administrative rules of the Office of Recovery Services/Child Support Services (ORS/CSS) do not apply to local government.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There will be no financial impact for small businesses due to the amendment of this rule since the basic requirements of the current rule will not change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no change in compliance costs since the procedures are not changing with the amendment of the current rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule provides guidelines to the office for when a review may be denied and the time frames involved once a review has terminated. There will be no fiscal impact on businesses due to this rule amendment. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shancie Lawton at the above address, by phone at 801-536-8191, by FAX at 801-536-8833, or by Internet E-mail at shanielawton@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 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2008

AUTHORIZED BY: Mark Brasher, Director

R527. Human Services, Recovery Services.

R527-231. Review and Adjustment of Child Support Order.

R527-231-1. Authority and Purpose.

1. The Department of Human Services is authorized to create rules necessary for the provision of social services by Section 62A-1-111. The Office of Recovery Services is authorized to adopt, amend, and enforce rules as necessary by Section 62A-11-107.

2. The purpose of this rule is to provide details as to when the Office of Recovery Services/Child Support Services (ORS/CSS) may conduct a review of a Child Support Order. It specifies when a review will not be conducted and if a review has terminated, when an order may be reviewed again.

R527-231-2. Review and Adjustment of Child Support Order.

1. If the child is within one year of emancipation, ~~the Office of Recovery Services/Child Support Services (ORS/CSS)~~ shall not be required to review the award for potential adjustment.

2. If the location of either parent is unknown, ORS/CSS shall not be required to review the support award for possible adjustment until both parents are located.

3. ORS/CSS shall pursue the setting of statutory child support guideline amounts in review and adjustment proceedings, based on the current and prospective incomes of the parties. If either parent is incarcerated, ORS/CSS shall not be required to review and pursue adjustment of a support award.

4. ORS/CSS shall pursue adjustment of a court order only for child support or medical support provisions. ORS/CSS shall not pursue modification of a court order for custody, visitation, property division or other non-child support related provisions.

5. If the parent requesting the review does not provide the necessary information for ORS/CSS to conduct the review, ORS/CSS

shall send notice to the address on record for the requesting and non-requesting parents that the review process will be terminated unless the non-requesting parent requests that the review process continue.

6. If the review process is terminated, ORS/CSS shall not be required to review the order for a period of one year.

KEY: child support

Date of Enactment or Last Substantive Amendment: ~~May 19, 2004~~ **2008**

Notice of Continuation: November 30, 2006

Authorizing, and Implemented or Interpreted Law: ~~78-45-7-2~~ **78B-12-210; 62A-11-320.5; 62A-11-320.6**

Human Services, Recovery Services **R527-258**

Enforcing Child Support When the Obligor is an Ex-Prisoner or in a Treatment Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31054

FILED: 03/11/2008, 14:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This purpose of this amendment is to clarify and specify the procedures for collection of IV-D child support and arrears payments after the obligor has been released from prison/jail or an in-patient treatment program. It also renumbers the annotation of Section 78-45-7.15 to Section 78B-12-212 as a result of H.B. 78 from the 2008 General Session. (DAR NOTE: H.B. 78 (2008) is found at Chapter 3, Laws of Utah 2008, and was effective 02/07/2008.)

SUMMARY OF THE RULE OR CHANGE: The amendments add a new Section R527-258-1 to show the department's authority and purpose of the rule and then renumbers the existing sections accordingly. The catchline of the new Section R527-258-2 has been changed from Non-Collection from Ex-Prisoners in the Half-way Back or Comparable Program to Non-collection from Ex-Prisoner. Subsection R527-258-2(1) has been changed to delete references to the half-way back or comparable program language and to add notification and date requirements. The new Section R527-258-3 has been changed to state the time frames and payment requirements for an incarcerated obligor to participate in the forgiveness program. Also, that the forgiveness program for incarceration can only occur one time. The new Section R527-258-4 has been changed to state the time frames and payment requirements for an obligor that is an in-patient and out-patient in a treatment program to participate in the forgiveness program. Also, that the forgiveness program for the obligor in a treatment program can only occur one time. The Utah Code references on the bottom of the rule text have been changed to the newly renumbered code citations.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-11-320(1) and Section 78B-12-212

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Passage of this rule will result in efficiencies gained for the Office of Recovery Services (ORS) child support staff (CSS) and enable them to work their cases more effectively. Incarcerated obligors can frequently accrue significant amounts of child support arrears. This proposed rule allows ORS to forgive arrears owed to the state if the former incarcerated parent makes regular payments upon release from prison. Efficiencies will be gained primarily by allowing ORS staff to focus their efforts on other cases.

❖ LOCAL GOVERNMENTS: There are no anticipated costs to the local government because administrative rules of the ORS/CSS do not apply to local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The enforcement of child support obligations in the case of ex-prisoners or treatment program recipients is an exclusive responsibility of ORS/CSS.

COMPLIANCE COSTS FOR AFFECTED PERSONS: ORS cannot provide firm figures because there is no way of knowing how many obligors' will have their support debts forgiven and what portion of each obligor's debt will be forgiven.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Passage of this proposed rule will have little to no fiscal impact on local businesses. Lisa-Michelle Church, Executive Director

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

LeAnn Wilber at the above address, by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@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 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2008

AUTHORIZED BY: Mark Brasher, Director

R527. Human Services, Recovery Services.

R527-258. Enforcing Child Support When the Obligor is an Ex-Prisoner or in a Treatment Program.

R527-258-1. Purpose and Authority.

1. The Office of Recovery Services is authorized to create rules necessary for the provision of social services by Section 62A-11-107.

2. The purpose of this rule is to specify the procedures for collection of IV-D child support and arrears payments after the obligor has been released from prison/jail or an in-patient treatment program.

R527-258-2. Non-Collection from Ex-Prisoners in the Half-way Back or Comparable Program.

1. If the obligor is incarcerated and notifies the Office of Recovery Services/Child Support Services (ORS/CSS) or the office is made aware of the release within 30 days of the release date~~[a participant in the Half-Way Back or comparable program]~~, no collection or enforcement action will be taken to collect the past-due support debt for six months after the incarceration release date~~[the duration of the treatment]~~.

2. The ~~[Office of Recovery Services/Child Support Services (ORS/CSS)]~~ will enforce a support order that requires the obligor to provide medical insurance coverage for the children, if appropriate.

R527-258-2]3. Enforcing Child Support When the Obligor is an Ex-Prisoner.

1. The federal title IV-A past-due support debt which accrued while the obligor was incarcerated may be forgiven if he makes both the full monthly current support payment and the full monthly assessed payment toward the past-due support debt for twelve consecutive months. The ~~[clock starts for the]~~twelve consecutive month period begins when~~[when: (a) the obligor is employed, or (b) six months after]~~ the obligor is released and they have contacted the office to make payment arrangements within the allotted 30 days~~[, whichever occurs first]~~.

2. ~~[During the first six months of a period of twelve consecutive months,]~~The office will use the federal income withholding notice and procedures to enforce and collect the current support and an arrears payment, when appropriate. The office will use the federal National Medical Support Notice and procedures to enforce insurance coverage for the children, if appropriate.

a. If the obligor does not make the full payment in each of the first six months, additional collection or enforcement action may ~~[begin in the seventh month]~~be taken.

b. If the obligor makes the full required payment each month for twelve consecutive months, the remaining IV-A support debt that accrued during~~[owed for]~~ the most recent period of incarceration shall be forgiven. IV-A debt forgiveness due to incarceration will only occur one time per obligor.

3. If the obligor owes IV-A arrears only, s/he must make twelve consecutive payments to the office based on an assessed amount determined by ORS/CSS.

4. The obligor's arrearage payment shall be reassessed by the office if his/her financial situation changes during the twelve-month period.

R527-258-3]4. Enforcement of Child Support for Obligor in Treatment Programs.

1. If the obligor is in a licensed mental health or substance abuse treatment program, no collection or enforcement action will be taken to collect the past-due support debt for the duration of the in-patient treatment or up to six months of out-patient treatment.

2. If the obligor is in an in-patient treatment program and notifies ORS/CSS or the office is made aware of the release within 30 days of the release date, no collection or enforcement action will be taken to collect the past-due support debt for six months after the in-patient program release date.

[2]3. [Up to six months of t]The federal title IV-A past-due support debt which accrued while the obligor was in an in-patient treatment program may be forgiven if the full monthly current support payment and the full monthly assessed payment toward the past-due support debt have been made for twelve consecutive months. The [clock starts for the] twelve consecutive month period [when: (a) the obligor is employed; (b) six months after the obligor is released from the in-patient treatment program; or (c) six months after] begins when the obligor has been released from an in-patient treatment program and s/he has contacted the office to make payment arrangements within the allotted 30 days [out-patient treatment begins, whichever occurs first].

3. If the obligor makes the full required payment each month for twelve consecutive months, up to six months of the remaining IV-A support debt that accrued during the most recent treatment period shall be forgiven. IV-A debt forgiveness due to participation in an in-patient or out-patient treatment program will only occur one time per obligor.

KEY: administrative law, child support

Date of Enactment or Last Substantive Amendment: [~~May 19, 2004~~]2008

Notice of Continuation: August 22, 2007

Authorizing, Implemented or Interpreted Law: [~~78-45-7.15~~]78B-12-212, 62A-11-320(1)[+]



Insurance, Administration R590-91

Credit Life Insurance and Credit Accident and Health Insurance

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31059

FILED: 03/13/2008, 08:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The primary reason for changing this rule is to use the standard reserve basis for credit insurance recommended by the National Association of Insurance Commissioners (NAIC).

SUMMARY OF THE RULE OR CHANGE: Subsections R590-91-4(C) through (E) are being changed to remove the state specific reserve basis for credit insurance. With removal of the reserving basis from the credit insurance rule, the valuation standard for credit insurance issued effective on or after 01/01/2008 will be as recommended by the NAIC in SSAP 59 and Accounting Practices Procedures Manual Appendices A-010 and A-818.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-201

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There will be no impact on the department or state's budget or workload because only the method of calculating reserves will change.

❖ **LOCAL GOVERNMENTS:** This rule will have no effect on local governments since it deals solely with the relationship between the department and their licensees.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Insurers will only need to change the way they calculate reserves, which will now be based on an accepted national standard instead of state specific. Insurers should already have this in place.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Insurers will only need to change the way they calculate reserves, which will now be based on an accepted national standard instead of state specific. Insurers should already have this in place. Using the national standard actually lowers reserves creating a monetary benefit for insurers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have no fiscal impact on the department, state, insurers, agencies, or individuals. D. Kent Michie, Commissioner

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-91. Credit Life Insurance and Credit Accident and Health Insurance.

R590-91-3. Rights and Treatment of Debtors.

A. Multiple Plans of Insurance. If a creditor makes available to the debtor more than one plan of credit life insurance or more than one plan of credit accident and health insurance, the debtor must be informed of the plans applicable to the specific loan transaction.

B. Substitution. If a creditor requires insurance, the debtor shall be given the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by the debtor or procuring and furnishing the required coverage through any insurer authorized to transact insurance business in this State. If this subsection is applicable, the debtor shall be informed by the creditor of the right to provide alternative coverage before the transaction is completed.

C. Evidence of Coverage.

(1) All credit insurance shall be evidenced by an individual policy, or, in the case of group insurance, by a certificate of insurance.

(a) The individual policy or certificate of insurance shall be delivered to the debtor in accordance with Section 31A-22-806(3) and 70C-6-104. The insurer shall promptly notify the debtor of any delay in providing the insurance.

(b) If the named insurer does not accept the risk, the insurer, if any, shall notify the debtor of the failure to provide the insurance. A substituted insurer, if any, shall deliver the policy or certificate in accordance with Section 31A-22-806(5).

(c) Subsequent certificates are not needed on open-end credit arrangements after the initial indebtedness.

(2) Each individual policy or certificate of insurance shall provide the information required by Section 31A-22-806.

(3) Each policy application must provide the information required by Section 31A-22-806(4)(b) and identify the agent, if any.

D. Claims Processing. All credit insurance claims shall be processed in accordance with Section 31A-26-302.

E. Termination of Group Credit Insurance Policy.

(1) If a debtor is covered by a group credit insurance policy providing for the payment of single premiums to the insurer, then provisions shall be made by the insurer that in the event of termination of the policy for any reason, insurance coverage with respect to any debtor insured under the policy shall be continued for the entire period for which the single premium has been paid.

(2) If a debtor is covered by a group credit insurance policy providing for the payment of premiums to the insurer on a monthly outstanding balance basis, then the policy shall provide that, in the event of termination of such policy, for whatever reason, termination notice shall be given to the insured debtor at least 30 days prior to the effective date of termination, except where replacement of the coverage by the same or another insurer in the same or greater amount takes place without lapse of coverage. The notice required in this paragraph shall be given by the insurer or, at the option of the insurer, by the creditor.

F. Interest on Premium. If the creditor adds identifiable insurance charges or premiums for credit insurance to the indebtedness, and any direct or indirect finance, carrying, credit, or service charge is made to the debtor on the insurance charges or premiums, the creditor must remit and the insurer shall collect the premium within 60 days after it is added to the indebtedness.

G. Renewal or Refinancing of Indebtedness. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited promptly to the debtor as provided in Section 8.

H. Maximum Aggregate Provisions. A provision in an individual policy or certificate that sets a maximum limit on total payments must apply only to that individual policy or certificate.

I. Voluntary Prepayment of Indebtedness. If a debtor prepays his indebtedness other than as a result of his death or through a lump sum accident and health payment:

(1) Any credit life insurance covering indebtedness shall be terminated and an appropriate refund of the credit life insurance premium shall be paid to the debtor in accordance with Section 8; and

(2) Any credit accident and health insurance covering indebtedness shall be terminated and an appropriate refund of the credit

accident and health insurance premium shall be paid to the debtor in accordance with Section 8. If a claim under this coverage is in progress at the time of prepayment, the amount of refund may be determined as if the prepayment did not occur until the payment of benefits terminates. No refund need be paid during any period of disability for which credit disability benefits are payable. A refund shall be computed as if prepayment occurred at the end of the disability period.

J. Involuntary Prepayment of Indebtedness. If an indebtedness is prepaid by the proceeds of a credit life insurance policy covering the debtor or by a lump sum payment of a disability claim under a credit insurance policy covering the debtor, then it shall be the responsibility of the insurer to see that the following are paid to the insured debtor if living or to the beneficiary, other than the creditor, named by the debtor or to the debtor's estate:

(1) In the case of prepayment by the proceeds of a credit life insurance policy, or by the proceeds of a lump sum total and permanent disability benefit under credit life coverage, an appropriate refund of the credit accident and health insurance premium in accordance with Section 8;

(2) In the case of prepayment by a lump sum disability claim, an appropriate refund of the credit life insurance premium in accordance with Section 8;

(3) In either case, the amount of the benefits in excess of the amount required to repay the indebtedness after crediting any unearned interest or finance charges.

K. Amounts to be Insured:

(1) Credit life insurance benefits shall be consistent with the premium charge.

The initial amount of credit life insurance may not exceed the total amount payable under the contract of indebtedness. Credit life insurance may provide benefits in amounts which do not exceed, but may be less than, the scheduled amount of indebtedness, including unearned interest or finance charges, or the actual amount of unpaid indebtedness, whichever is greater. Credit life insurance on preauthorized lines of credit not exceeding the commitment period may be written for the preauthorized amount on a nondecreasing or level term plan. The death benefit amount shall be that amount for which premiums are paid. Whenever the amount of insurance exceeds the unpaid indebtedness, that excess is payable to a beneficiary, other than the creditor, named by the debtor or to the debtor's estate.

(2) The total amount of indemnity payable by credit accident and health insurance in the event of disability, as defined in the policy, may not exceed, but may be less than the aggregate of the periodic scheduled unpaid installments of the indebtedness. The amount of each periodic indemnity payment may not exceed the total amount payable under the contract of indebtedness divided by the number of periodic installments.

L. Dividends on participating individual policies of credit insurance shall be payable to the individual insureds.

R590-91-4. Policy Forms, Filing and Reserves.

A. Permissible Forms. Credit life insurance and credit accident and health insurance shall be issued only in the forms defined in Section 31A-22-803.

B. Filing Requirements.

(1) All policy forms, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders to be delivered or issued for delivery in this State shall be filed with the commissioner as required by Sections 31A-21-201, 31A-22-807, and 31A-22-808[~~and 31A-19a-207~~].

(2) An actuarial memorandum, signed and dated, must be included in each rate and form filing. The memorandum must identify the following:

- (a) types of coverage: gross, net, decreasing, level, single life, joint life, full term or truncated;
- (b) types of loans to be insured: open-end, closed end;
- (c) durations of the loans and durations of the coverage. Refer to Section 31A-22-801(2)(a);
- (d) methods of premium charge: single premium or monthly outstanding balance;
- (e) schedules of premium rates and formulas for each type of coverage;
- (f) methods of refund calculation and formulas for each type of coverage; and
- (g) reserve bases.

(3) All filings are subject to the general filing requirements of the Utah Submission of Credit Life and Credit Accident and Health Insurance [Filing of Life and Disability] Form[s] and Rate[s] Filings, Rule R590-~~86~~228. The commissioner may ~~disapprove~~ prohibit a form if the benefits provided are not reasonable in relation to the premium charged.

C. The minimum reserve basis for credit life insurance issued to be effective prior to January 1, 2008 shall be the 1980 Commissioner's Standard Ordinary Table (1980 CSO) with interest at 5-1/2% per annum.

D. The minimum reserve basis for active lives on credit accident and health insurance issued to be effective prior to January 1, 2008 shall be the amount of the premium refund available to the insured.

E. The minimum reserve basis for disabled lives on credit accident and health insurance issued to be effective prior to January 1, 2008 shall be the 1987 Commissioner's Group Disability Table (1987 CGDT) with interest at 5-1/2% per annum.

R590-91-9. Experience Reports and Adjustment of Prima Facie Rates.

A. Each insurer doing Credit Insurance business in this state shall annually file with the commissioner and the NAIC Support and Services Office a report of credit life insurance and credit accident and health business written on a calendar year basis. Each insurer shall utilize the Credit Insurance Experience Exhibit as approved by the National Association of Insurance Commissioners. The report shall contain data separately for this state. The filing shall be made in accordance with and no later than the due date in the Instructions to the Annual Statement.

B. Whenever ~~he deems~~ deemed necessary, the commissioner will publish by order, after a hearing, Prima Facie Rates before September 1. The new prima facie rates shall be effective January 1 of the following year.

R590-91-15. Enforcement Date.

The commissioner will begin enforcing the revised provisions of this rule on the effective date.

KEY: insurance law

Date of Enactment or Last Substantive Amendment: ~~March 13, 2002~~ 2008

Notice of Continuation: December 1, 2006

Authorizing, and Implemented or Interpreted Law: 31A-2-201



Insurance, Administration **R590-131** Accident and Health Coordination of Benefits Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31062

FILED: 03/14/2008, 16:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Due to an improper filing and going beyond the last possible effective date for the amendment that was published in the November 15, 2007, Bulletin under DAR No. 30640 (which lapsed), in this amendment the department has combined the changes filed originally on 11/01/2007 for DAR No. 30640 and those changes made as a result of the comment period and hearing held 12/05/2007. This rule is being changed to adopt the revisions made to the National Association of Insurance Commissioners (NAIC) Model Regulation 120, "Coordination of Benefits Model Regulation". The model allows for uniformity throughout the United States when coordinating benefits in insurance policies. This will reduce cost to both insurers and insureds and provide greater efficiency in claims processing. The changes also provide insurers scenarios to help them better understand coordination rules. Some of these changes have been requested by the industry.

SUMMARY OF THE RULE OR CHANGE: The amendment makes grammatical corrections and updates code and rule citations. Section R590-131-2 specifies that it applies to all accident and health insurers, and that the purpose of the rule is to establish coordination of benefits. Section R590-131-3 makes revisions to the definition of "allowable Expense" to address high deductible health plans, and to the definition of "Custodial"; definitions are added for "Group Type Contract", "High Deductible Health Plan", "Child", "Closed Panel Plan", and "Conforming Plan"; clarifications have been made regarding health care that is provided under a contractual agreement; and benefits are being excluded from coordination if an insured does not comply with a plan's provisions. Section R590-131-4 is changed to clarify that insurers may not use a coordination of benefits (COB) provision to deny coverage when benefits under another plan do not exist. Section R590-131-5 explains how primary and secondary plans are to coordinate coverage for the insured. Section R590-131-6 adds a provision to coordinate when a court decree does not address health care expenses or coverage; provides for coordination when a child is receiving coverage from a guardian; requires the plans to share expenses equally if a rule does not address the insured situation; requires that if insurers do not come to an agreement within 30 days regarding a claim they must pay the claim in equal shares; and adds a coordination rule for COBRA policies. Section R590-131-8 changes the word "complying" to "conforming" in compliance with Section 31A-26-301.6. Section R590-131-9 adds fictitious scenarios at the request of insurers to

demonstrate the coordination rules. Section R590-131-10 provides for an effective date on existing contracts. Section R590-131-13 updates the enforcement date of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-22-619

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Each accident and health insurer will be required to file an endorsement form with the department which will be reviewed pursuant to Section 31A-21-201. Currently there are approximately 450 insurers affected by this rule. This will not create a change in the department's revenue. No new employees will be needed to handle these filings.

❖ LOCAL GOVERNMENTS: Since the rule deals solely with the relationship between the department, their licensees and their consumers, this rule will have no fiscal impact on local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Some people will be affected if their coordination policy changes. For the most part, consumers should not be affected since the rule sets guidelines on which insurer or policy is primary and secondary.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Carriers will need to file an endorsement form with the department to change their existing plans to comply with changes in this rule. They will incur a fee to submit their form electronically for a charge of \$15 per filing depending upon which filing provider is used. Currently there are around 450 health insurers that these changes will affect. There should be no additional mailing costs for an insurer because Section R590-131-10 delays the effective date for current contracts so carriers can mail the endorsement with the insured's renewal statement. The one coordination situation that will see a significant change is when there is a dispute over which insurer pays what in a claim. If there is no agreement after 30 days, they are required to pay equal amounts.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact on insurers should be offset by the efficiency in COB claims processing.
D. Kent Michie, Commissioner

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-131. Accident and Health Coordination of Benefits Rule. R590-131-2. Purpose and Applicability.

A. The purpose of this rule is to:

~~[A. permit, but not require, plans to include a coordination of benefits, or COB, provision;~~

~~— B. establish an order of priority in which plans pay their COB claims;~~

~~— C. provide the authority for the orderly transfer of information needed to pay COB claims promptly;~~

~~— D.] 1. establish a uniform order of benefit determination under which plans pay coordination of benefit claims;~~

~~— 2. reduce duplication of benefits by permitting a reduction of the benefits paid by a plan when the plan, pursuant to this rule, does not have to pay its benefits first; and~~

~~[— E. reduce COB claims payment delays; and~~

~~— F. make all contracts that contain a COB provision consistent with this rule.~~

~~] 3. provide greater efficiency in the processing of claims when a person is covered under more than one plan.~~

~~B. This rule applies to all accident and health insurance plans issued on or after the effective date of this rule.~~

R590-131-3. Definitions.

~~— For the purposes of this rule, the commissioner adopts the definitions in Sections 31A-1-301 and 31A-30-103, and the following:~~

~~A. "Allowable Expense" means[?] any health care expense, including coinsurance or copayments and without reduction for any applicable deductible, that is covered in full or in part by any of the plans covering the person.~~

~~1. [— The amount on which a plan would base its benefit payment for covered services in the absence of any other coverage.~~

~~— 2. When a plan provides benefits in the form of services, the reasonable cash value of each service will be considered as both an allowable expense and a benefit paid.~~

~~— 3. The difference between the cost of a private hospital room and the cost of a semi-private hospital room is not considered an allowable expense under the above definition unless the patient's stay in a private hospital room is medically necessary in terms of generally accepted medical practice.~~

~~— 4. When COB is restricted in its use to a specific coverage in a contract, for example, major medical or dental, the definition of allowable expense must include the corresponding expenses or services to which COB applies.] If an insurer is advised by a covered person that all plans covering the person are high-deductible health plans and the person intends to contribute to a health savings account established in accordance with Section 223 of the Internal~~

Revenue Code of 1986, the primary high-deductible health plan's deductible is not an allowable expense, except for any health care expense incurred that may not be subject to the deductible as described in Section 223(c)(2)(C) of the Internal Revenue Code of 1986.

2. An expense or a portion of an expense that is not covered by any of the plans is not an allowable expense.

3. Any expense that a provider, by law or in accordance with a contractual agreement, is prohibited from charging a covered person is not an allowable expense.

4. The following are examples of expenses that are not allowable expenses:

a. If a person is confined in a private hospital room, the difference between the cost of a semi-private room in the hospital and the private room is not an allowable expense, unless one of the plans provides coverage for private hospital room expenses.

b. If a person is covered by two or more plans that compute their benefit payments on the basis of usual and customary fees or relative value schedule reimbursement or other similar reimbursement methodology, any amount charged by the provider in excess of the highest reimbursement amount for a specified benefit is not an allowable expense.

c. If a person is covered by two or more plans that provide benefits or services on the basis of negotiated fees, any amount in excess of the highest of the negotiated fees is not an allowable expense.

d. If a person is covered by one plan that calculates its benefits or services on the basis of usual and customary fees, relative value schedule reimbursement, or other similar reimbursement methodology and another plan that provides its benefits or services on the basis of negotiated fees, the primary plan's payment arrangement shall be the allowable expense for all plans. However, if the provider has contracted with the secondary plan to provide the benefit or service for a specific negotiated fee or payment amount that is different than the primary plan's payment arrangement and if the provider's contract permits, that negotiated fee or payment shall be the allowable expense used by the secondary plan to determine its benefits.

e. The definition of "allowable expense" may exclude certain types of coverage or benefits such as dental care, vision care, or hearing aids.

i. A plan that limits the application of COB to certain coverages or benefits may limit the definition of allowable expense in its contract to expenses that are similar to the expenses that it provides.

ii. When COB is restricted to specific coverages or benefits in a contract, the definition of allowable expense shall include similar expenses to which COB applies.

f. When a plan provides benefits in the form of services, the reasonable cash value of each service will be considered an allowable expense and a benefit paid.

g. The amount of the reduction may be excluded from allowable expense when a covered person's benefits are reduced under a primary plan because the covered person does not comply with the plan provisions concerning second surgical opinions or pre-certification of admissions or services.

B. "Birthday" refers only to month and day in a calendar year[.] and does not include the year in which the person was born.

C. "Child" means a:

1. child as defined in Section 78-45-2; or

2. dependent child that is provided coverage pursuant to Sections 31A-22-610, 610.5 and 611.

D. "Claim" means a request that benefits of a plan be provided or paid. The benefits claimed may be in the form of:

1. services (including supplies);
2. payment for all or a portion of the expenses incurred;
3. a combination of (1) and (2) above; or
4. an indemnification.

E. "Closed Panel Plan" means a plan that provides health benefits to covered persons primarily in the form of services through a panel of providers that have contracted with or are employed by a plan, and that excludes benefits for services provided by other providers, except in the cases of emergency or referral by a panel member.

F. "Conforming Plan" means a plan that is subject to this rule.

G.~~[D-]~~ "Continuation Coverage" means coverage provided under right of continuation pursuant to the federal (COBRA) law, Utah mini-COBRA, or a~~the~~ state extension law. For the purposes of this rule, a person's eligibility status will maintain the same classification under continuation coverage.

H.~~[E-]~~ "Coordination of Benefits" or "COB" means a provision establishing an order in which plans pay their coordination of benefit claims, and permitting secondary plans to reduce their benefits so that the combined benefits of all plans do not exceed total allowable expenses~~[the process of determining which of two or more accident and health insurance policies, or other policies specifically included in this rule, covering a loss or claim, will have the primary responsibility to pay the loss or claim, and also the manner and extent to which the other policies shall pay or contribute].~~

I.~~[F-]~~ "Custodial Parent" means:~~[the parent awarded custody of a child by a court decree. In the absence of a court decree, the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation is the custodial parent.]~~

1. the legal custodial parent or physical custodial parent as awarded by a court decree; or

2. in the absence of a court decree, the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation.

J. "Group-type contract" means a contract that is not available to the general public and is obtained and maintained only because of membership in or a connection with a particular organization or group, including blanket coverage.

K. "High-deductible Health Plan" has the meaning given the term under Section 223 of the Internal Revenue Code of 1986, as amended by the Medicare Prescription Drug, Improvement and Modernization Act of 2003.

L.~~[G-]~~ "Hospital Indemnity Benefits" means benefits not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

M.~~[H-]~~ [~~"Noncomplying Plan"]~~ "Non-conforming Plan" means a plan that is not subject to this rule~~[Rule]~~.

N.~~[I-]~~ "Plan" means a form of coverage with which coordination is allowed.

1. Separate parts of a plan that are provided through alternative contracts that are intended to be part of a coordinated package of benefits are considered one plan and there is no COB among the separate parts of the plan.

2. If a plan coordinates benefits, its contract shall state the types of coverage that will be considered in applying the COB provision of that contract.

3. Whether a plan's contract uses the term "plan" or some other term such as "program," the contractual definition may be no broader than the definition of "plan."

4. Plan shall include:

a. individual and group accident and health insurance contracts and subscriber contracts except as provided by R590-131-3.L.5;

b. uninsured arrangements of group or group-type coverage;

c. coverage through closed panel plans;

d. group-type contracts;

e. medical care components of long-term care contracts, such as skilled nursing care; and

f. Medicare or other governmental benefits, as permitted by law.

5. Plan shall not include:

a. hospital indemnity coverage benefits or other fixed indemnity coverage;

b. accident only coverage;

c. specified disease or specified accident coverage;

d. limited benefit health coverage, as defined in Rule R590-126;

e. school accident-type coverages that cover students for accidents only, including athletic injuries, either on a twenty-four-hour basis or on a "to and from school" basis;

f. benefits provided in long-term care insurance policies for non-medical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;

g. Medicare supplement policies;

h. a state plan under Medicaid; or

i. a governmental plan, which, by law, provides benefits that are in excess of those of any private insurance plan or other non-governmental plan ~~The definition of plan in the contract must state the types of coverage, which will be considered in applying the COB provision of that contract.~~

~~1. This rule uses the term plan. However, a contract may, instead, use "Program" or some other term.~~

~~2. Plan shall include:~~

~~a. individual, group, or HMO health insurance contracts providing hospital expense or medical surgical expense benefits, except those explicitly excluded under Subsection R590-131-3.L.3.;~~

~~b. group, group type, and individual automobile "no fault" medical payment contracts, after statutory PIP limit 31A-22-306 through 309; and~~

~~c. Medicare or other governmental benefits, except as provided in Subsection R590-131-3.L.3.f. below. That part of the definition of plan may be limited to the hospital, medical, and surgical benefits of the governmental program.~~

~~3. Plan shall not include:~~

~~a. hospital indemnity coverage;~~

~~b. disability income protection coverage;~~

~~c. accident only coverage;~~

~~d. specified disease or specified accident coverage;~~

~~e. nursing home and long term care coverage;~~

~~f. a state plan under Medicaid, and shall not include a law or plan when, by state or federal law, its benefits are in excess of those of any private insurance plan or other non-governmental plan; and~~

~~g. Medicare supplement policies].~~

~~O. [F.] "Primary Plan" means a plan whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration~~ ~~[first according to R590-131-4-B]. A plan is a primary plan if~~ ~~[either of the following conditions is true]:~~

~~1. the plan has no order of benefit determination;~~

~~2. its rules differ from those permitted by this rule; or~~

~~3. all plans which cover the person use the order of benefit determination provisions of this rule and under those requirements the plan determines its benefits first.~~

~~P. [K.] "Secondary Plan" means~~ ~~[a]ny plan, which is not a primary plan.~~ ~~[If a person is covered by more than one secondary plan, the order of benefit determination rules of this rule decides the order in which their benefits are determined in relation to each other. The benefits of each secondary plan may take into consideration the benefits of the primary plan or plans and the benefits of any other plan, which, under the provisions of this rule, has its benefits determined before those of that secondary plan.]~~

~~Q. "Separated" means married persons who are legally separated.~~

R590-131-4. COB Contract Provisions.

A. A COB provision may not be used that permits a plan to reduce its benefits on the basis that:

1. another plan exists and the covered person did not enroll in that plan;

2. a person is or could have been covered under another plan; or

3. a person has elected an option under another plan providing a lower level of benefits than another option that could have been elected.

B. Under the terms of a closed panel plan, benefits are not payable if the covered person does not use the services of a closed panel provider for either plan.

1. In most instances, COB does not occur if a covered person is enrolled in two or more closed panel plans and obtains services from a provider in one of the closed panel plans. The closed panel plan whose providers were not used, has no liability.

2. COB may occur during the plan year when the covered person receives services from a provider who is on each closed panel, or emergency services that would have been covered by both plans. The secondary plan shall use the provisions of R590-131-7 to determine the amount it should pay for the benefit.

C. No plan may use a COB provision, or any other provision that allows it to reduce its benefits with respect to any other coverage its insured may have that does not meet the definition of a plan under R590-131-3.

R590-131-5. Rules for Coordination of Benefits.

When a person is covered by two or more plans, the rules for determining the order of benefit payments are as follows:

A. [General Rules:

1.]The primary plan shall ~~[must]~~ pay or provide its benefits as if the secondary plans or plan did not exist. ~~[A primary plan may not deny payment or a benefit on the grounds that a claim was not timely submitted if the claim was timely submitted to one or more secondary plans and was submitted to the primary plan within 36 months of the date of service. A plan that does not include a coordination of benefits provision may not take the benefits of another plan into account when it determines its benefits.~~

—2. A secondary plan may take the benefits of another plan into account only when, under these rules, it is secondary to that other plan.]

B. If the primary plan is a closed panel plan and the secondary plan is not a closed panel plan, the secondary plan shall pay or provide benefits as if it were the primary plan when a covered person uses a non-panel provider, except for emergency services or authorized referrals that are paid or provided by the primary plan.

C. When multiple contracts providing coordinated coverage are treated as a single plan under this rule, this section applies only to the plan as a whole, and coordination among the component contracts is governed by the terms of the contracts. If more than one insurer pays or provides benefits under the plan, the insurer designated as primary within the plan shall be responsible for the plan's compliance with this rule.

D. If a person is covered by more than one secondary plan, benefits are determined using the rules in R590-131-6. Each secondary plan shall take into considerations the benefits of the primary plan or plans and the benefits of any other plan, which, under the rules of this rule, has its benefits determined before those of the secondary plan.

E.1. Except as provided in R590-131-5.E.b., a plan that does not contain order of benefit determination provisions that are consistent with this regulation is always the primary plan unless the provisions of both plans, regardless of the provisions of this subsection, state that the complying plan is primary.

2. Coverage that is obtained by virtue of membership in a group and designed to supplement a part of a basic package of benefits may provide that the supplementary coverage shall be excess to any other parts of the plan provided by the contract holder. Examples of these types of situations are major medical coverages that are superimposed over base plan hospital and surgical benefits, and insurance type coverages that are written in connection with a closed panel plan to provide out-of-network benefits.

R590-131-6. Determining Order of Benefits.

Each plan determines its order of benefits using the first of the following rules that apply:

A. Non-dependent or Dependent.[4.]

The [benefits of the] plan that [which] covers the person other than [as an employee, member or subscriber, that is, other than] as a dependent, such as an employee, member, policyholder retiree or subscriber, is the primary plan and [are determined before those of] the plan that covers [which cover] the person as a dependent is the secondary plan.

B. Child Covered Under More Than One Plan.[2.—Dependent Child/Parents Married or Living Together.]

Unless there is a court decree stating otherwise, plans covering a child shall determine the order of benefits as follows:

1. For a [The rules for the order of benefits for a dependent] child whose [when the] parents are married or living together if they have never been married: [are as follows:]

a. The [benefits of the] plan of the parent whose birthday falls earlier in the calendar year is the primary plan; or [are determined before those of the plan of the parent whose birthday falls later in the year.]

b. If both parents have the same birthday, [the benefits of] the plan that has [which] covered the parent longest is the primary plan. [longer, are determined before those of the plan which covered the other parent for a shorter period of time.]

—c. If the other plan, R590-131-3.1.2b, does not have the rule described in R590-131-4.B.1., 2 and 3, but instead has a rule based upon another order, and if, as a result, the coordinating plans do not agree on the order of benefits, the rule of the other plan will determine the order of benefits.

—3. ~~Dependent Child/Parents Separated, Divorced or Not Living Together.~~ If two or more plans cover a person as a dependent child of parents divorced, separated or not living together, benefits for the child are determined in the following order:

—a. first, the plan of the custodial parent of the child;

—b. then, the plan of the spouse of the custodial parent of the child;

—c. the plan of the non-custodial parent; and

—d. finally, the plan of spouse of the non-custodial parent.]

2. For a child whose parents are divorced or separated or are not living together if they have never been married:

a.i. If a [the specific terms of a] court decree states [state] that one of the parents is responsible for the child's health care expenses or health care [insuranc] coverage, the responsible parent's [and the plan of that parent has actual knowledge of those terms, that] plan is primary.

ii. If the parent with responsibility has no health care coverage for the child's health care [services or] expenses, but the [that parent's] spouse of the responsible parent does have health care coverage for the child's health care expenses, the responsible parent's spouse's plan is the [spouse's plan is] primary plan. [—This subparagraph shall not apply with respect to any claim determination period or plan year during which benefits are paid or provided before the entity has actual knowledge.]

b.[ii.] If [the specific terms of] a court decree states [state] that both [the parents have joint custody, without stating that one of the] parents are [is] responsible for the child's health care expenses or health care [insuranc] coverage [of the child and the child's residency is split between the parents], the provisions of R590-131-6.B.1. shall determine the order of benefits [benefit determination rules outlined in Subsection R590-131-4 B.2. Dependent Child/Parents Married or Living Together shall apply. This subparagraph shall not apply with respect to any claim determination period or plan year during which benefits are paid or provided before the entity has actual knowledge].

c. If a court decree states that the parents have joint custody without stating that one parent has responsibility for the health care expenses or health care coverage of the child the provisions of R590-131-6.B.1. shall determine the order of benefits, or

d.[iii.] If there is no court decree allocating responsibility for the child's health care [services or] expenses or health care coverage, the order of benefits for the child are as follows [benefit determination among the plans of the parents and the parents' spouses, if any, is]:

i.[A:] the plan covering [of] the custodial parent;

ii.[B:] the plan covering [of] the custodial parent's spouse [of the custodial parent];

iii.[C:] the plan covering [of] the non-custodial parent; and then

iv.[D:] the plan covering [of the spouse of] the non-custodial parent's spouse [parent].

e. For a child covered under more than one plan, and one or more of the plans provides coverage for individuals who are not the parents of the child, such as a guardian, the order of benefits shall be determined under R590-131-6.B.1. or 2. as if those individuals were parents of the child.

C.[4-] Active, Retired, or Laid-Off Employee[/~~Inactive Employee, Member or Subscriber~~].

1. The[~~benefits of a~~] plan ~~that~~[~~-, which~~] covers a person as an active employee who is neither laid off, nor retired, nor a dependent of an active employee, is the primary plan[~~-, member, and subscriber, are determined before those of a plan, which cover that person as an inactive employee, member, or subscriber~~]. The plan covering that same person as a retired or laid-off employee or as a dependent of a retired or laid-off employee is the secondary plan.

2. If the other plan does not have this rule, and[~~-if, as a result,~~] the plans do not agree on the order of benefits, this rule[~~provision~~] is ignored.

3. This Subsection does not apply if the rule in Subsection 6.A. can determine the order of benefits.

D. COBRA or State Continuation Coverage.

1. If a person whose coverage is provided pursuant to COBRA or under a right of continuation pursuant to state or other federal law is covered under another plan, the plan covering the person as a employee, member, subscriber or retiree or covering the person as a dependent of an employee, member, subscriber or retiree is the primary plan and the plan covering that same person pursuant to COBRA or under a right of continuation pursuant to state or other federal law is the secondary plan.

2. If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this rule is ignored.

3. This rule does not apply if the rule in R590-131-6.A. can determine the order of benefits.

E.[5-] Longer or [~~7~~]Shorter Length of Coverage.

1. If the preceding[~~none of the above~~] rules do not determine the order of benefits, the[~~benefits of the~~] plan that covered the person for the longer period of time is the primary plan and the plan that covered the person for the shorter period of time is the secondary plan[~~which covered an employee, member, or subscriber longer are determined before those of the plan which covered that person for the shorter term~~].

2.a. To determine the length of time a person has been covered under a plan, two successive plans shall be treated as one if the claimant was eligible under the second within 24 hours after coverage under the first plan ended.

b. The start of a new plan does not include:

- i. a change in the amount or scope of a plan's benefits;
- ii. a change in the entity ~~that~~[~~which~~] pays, provides or administers the plan's benefits; or
- iii. a change from one type of plan to another, such as, from a single employer plan to [~~that of~~]a multiple employer plan.

c. The person's[~~claimant's~~] length of time covered under a plan is measured from the person's[~~claimant's~~] first date of coverage under that plan. If that date is not readily available, the date the person[~~claimant~~] first became a member of the group shall be used as the date from which to determine the length of time the person's[~~claimant's~~] coverage under the present plan has been in force.

F. If none of the above rules determine the primary plan, the allowable expenses shall be shared equally between the plans.

G. If the plans cannot agree on the order of benefits within 30 calendar days after the plans have received all of the information needed to pay the claim, the plans shall immediately pay the claim in equal shares and determine their relative liabilities following payment, except that no plan shall be required to pay more than it would have paid had it been the primary plan.

R590-131-7[5]. Procedure to be Followed by Secondary Plan to Calculate Benefits and Pay a Claim.

A. In determining the amount to be paid by the secondary plan on a claim, the secondary plan shall calculate the benefits, should the secondary plan wish to coordinate benefits, it would have paid on the claim in the absence of other health care coverage and apply that calculated amount to any allowable expense under its plan that is unpaid by the primary plan.[~~When it is determined, pursuant to Section R590-131-4 that the plan is a secondary plan, benefits may be reduced as follows:~~

— 1. when one of the plans has contracted for discounted provider fees, the secondary plan may limit payment to any copayments and deductibles owed by the insured after payment by the primary plan; or

— 2. if none of the plans have contracted for discounted provider fees, the secondary plan may reduce its benefits so that total benefits paid or provided by all plans for a covered service are not more than the highest allowable expense of any of the plans for that service.]

B. The secondary plan may reduce its payment amount so that when combined with the amount paid by the primary plan, the total benefits paid or provided by all plans for the claim do not exceed 100% of the total allowable expense for that claim.[~~must calculate the amount of benefits it would normally pay in the absence of coordination, including the application of credits to any policy maximums, and apply the payable amount to unpaid covered charges owed by the insured member after benefits have been paid by the primary plan. This amount must include deductibles, coinsurance and copays left owing by the insured member. The secondary plan can use its own deductibles, coinsurance and copays to figure the amount it would have paid in the absence of coordination, and a secondary plan is not required to pay a higher amount than what they would have paid in the absence of coordination. A secondary plan shall only apply its own deductibles, coinsurance and copays to the total allowable expenses, not to the amount left owing after payment by any primary plans.~~

— Insurers must coordinate with plans listed under Subsection R590-131-3.1.2.b. with the same provisions under Subsection R590-131-5.B.]

C. The secondary plan shall credit to its plan deductible any amounts it would have credited to its deductible in the absence of other health care coverage.[~~Nothing in this rule is intended to require a secondary plan to make payment for any service that is not covered as a benefit by the secondary plan.~~

R590-131-8[6]. Miscellaneous Provisions.

A. Reasonable Cash Value of Services.

1. A secondary plan which provides benefits in the form of services may recover the reasonable cash value of providing the services from the primary plan, to the extent that benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan.

2. Nothing in this provision may be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan, which provides benefits in the form of services.

B. Excess and Other [~~Nonconforming~~]Provisions.

1. No policy[~~]~~] or plan[~~as defined by this rule,~~] subject to this rule may contain a provision that its benefits are "excess" or "always secondary" to any other plan or policy.

2. A plan with COB[~~order of benefit determination~~] rules which comply with these rules[~~this rule~~], which is called a

~~conforming[complying]~~ plan, may coordinate~~[-its]~~ benefits with a plan which is "excess" or "always secondary" or which uses COB~~[order of benefit determination]~~ rules~~[-which are]~~ inconsistent with~~[-those contained in]~~ this rule, which is called a ~~non-conforming[noneomplying]~~ plan, on the following basis:

a. if the ~~conforming[complying]~~ plan is the primary plan, it shall pay or provide its benefits on a primary basis;

b. ~~[if the complying plan is the secondary plan, it shall pay or provide its benefits first, but the amount of the benefits payable shall be determined as-]if the conforming[complying] plan [is/were] the secondary plan, it shall pay or provide its benefits first, but the amount of the benefits payable shall be determined as if the conforming plan were the secondary plan.~~ In such a situation, ~~the[such]~~ payment shall be the limit of the ~~conforming[complying]~~ plan's liability; and

c. if the ~~non-conforming[noneomplying]~~ plan does not provide the information needed by the ~~conforming[complying]~~ plan to determine its benefits within a reasonable time after it is requested to do so, the ~~conforming[complying]~~ plan shall assume that the benefits of the ~~non-conforming[noneomplying]~~ plan are identical to its own~~[-]~~ and shall pay its benefits accordingly. ~~If within three years of payment, the conforming plan receives information as to the actual benefits of the non-conforming plan, it[- However, the complying plan] shall adjust any payments accordingly[it makes based on such assumption whenever information becomes available as to the actual benefits of the non-complying plan].~~

d.i.~~[3-]~~ If the ~~non-conforming[noneomplying]~~ plan reduces its benefits so that the ~~covered person[employee, subscriber, or member]~~ receives less in benefits than ~~the covered person[he or she]~~ would have received had the ~~conforming[complying]~~ plan paid or provided its benefits as the secondary plan, and the ~~non-conforming[noneomplying]~~ plan paid or provided its benefits as the primary plan~~[- and governing state law allows the right of subrogation set forth below]~~, then the ~~conforming[complying]~~ plan shall advance to ~~the covered person, or on behalf of the covered person[employee, subscriber, or member]~~ an amount equal to such difference.

ii.~~[a-]~~ In no event shall~~[may]~~ the ~~conforming[complying]~~ plan advance more than the ~~conforming[complying]~~ plan would have paid had it been the primary plan, less any amount it ~~had~~ previously paid.

iii.~~[b-]~~ In consideration of such advance, the ~~conforming[complying]~~ plan shall be subrogated to all rights of the ~~covered person[employee, subscriber, or member]~~ against the ~~non-conforming[noneomplying]~~ plan in the absence of subrogation.

C. ~~[Allowable Expense. A term such as "usual and customary," "usual and prevailing," or "reasonable and customary," may be substituted for the term "necessary, reasonable and customary." Terms such as "medical care" or "dental care" may be substituted for "health care" to describe the coverages to which the COB provisions apply.]If the plans cannot agree on the order of benefits within thirty calendar days after the plans have received all of the information needed to pay the claim, the plans shall immediately pay the claim in equal shares and determine their relative liabilities following payment, except that no plan shall be required to pay more than it would have paid had it been the primary plans.~~

D. Subrogation.

~~[The]COB [concept]~~ clearly differs from~~[-that of]~~ subrogation. Provisions for one may be included in health care ~~benefit[benefits]~~ contracts without compelling the inclusion or exclusion of the other.

E. Right To Receive and Release Needed Information. Certain facts are needed to apply these COB rules. An insurer has the right to decide which facts it needs. It may ~~obtain[get]~~ needed facts from or give them to any other organization or person. An insurer need not tell~~[-]~~ or ~~obtain[get the]~~ consent ~~from [of,] any person to do this.~~

To facilitate cooperation with insurers; guidelines for medical privacy issues are provided under U.A.R R590-206, and Title V of Gramm-Leach-Bliley Act of 1999. Each person claiming benefits under a plan shall give the insurer any facts it needs to pay the claim.

F. ~~[Facility of Payment. A payment made under another plan may include an amount, which should have been paid under the plan. If it does, the insurer may pay that amount to the organization, which made that payment. That amount will then be treated as though it were a benefit paid under the plan. The insurer will not have to pay that amount again. The term "payment made" includes providing benefits in the form of services, in which case "payment made" means reasonable cash value of the benefits provided in the form of services.~~

~~—G.—]Right of Recovery.~~

~~1. If the amount of the payments made by an insurer is more than it should have paid under the provisions of this rule, subject to 31A-26-301.6, it may recover the excess paid from one or more of the following, if they were paid by the insurer:~~

~~a.[1-] an[The insurer may recover from:~~

~~— a. The] insured,[- it has paid. However, reversals of payments made due to issues related to coordination of benefits are limited to a time period of 18 months from the date a payment is made unless the reversal is due to fraudulent acts, fraudulent statements, or material misrepresentation by the insured. It is the insurers responsibility to see that the proper adjustments between insurers and providers are made-]~~

~~b. a[The] non-contracted provider,[- it has paid. It is the insurers responsibility to see that the proper adjustments between insurers and providers are made. However, reversals of payments made due to issues related to coordination of benefits are limited to a time period of 36 months from the date a payment is made unless the reversal is due to fraudulent acts, fraudulent statements, or material misrepresentation by the insured.]~~

~~c. a[The] contracted provider, [providers it has paid. Subject to 31A-26-301.6(15)(a)(ii), it is the insurers responsibility to see that the proper adjustments between insurers and providers are made.]~~

~~d.[2-] other[The insurer may recover from] insurance companies,[-] or~~

~~e.[3- The insurer may recover from] other organizations.~~

~~2. Reversals of payments made due to issues related to this rule are limited to the time period stated in Section 31A-26-301.6, except as provided in Section 31A-21-313.~~

~~3. It is the insurer's responsibility to see that the proper adjustments between insurers and providers are made.~~

~~[H. The "amount of the payments made" includes the reasonable cash value of any benefits provided in the form of services.~~

~~I. A plan, whether primary or secondary, may not be required to pay a greater total benefit than would have been required had there been no other plan.~~

~~J. Exception to claim payment guidelines and timetables expressed under 31A-26-301.5(2)(b) and R590-192-7, for coordination of benefit claims are allowed by the secondary plan:~~

~~— 1. if the secondary plan has proof that they are the secondary plan; and~~

~~2. for only as long as a submitted claim is without an explanation of benefits from the primary plan.]~~

G. Notice to Covered Persons. A plan shall, in its explanation of benefits provided to covered persons, include the following language: "If you are covered by more than one health benefit plan, you should file all your claims with each plan."

H. If otherwise covered benefits are due to a loss subject to Section 31A-22-306, then an accident and health insurer may exclude benefits covered by personal injury protection described in Subsection 31A-22-307(1)(a), up to the:

1. personal injury protection benefit provided by motor vehicle insurance; or

2. minimum amount required by Section 31A-22-307, if motor vehicle insurance is not in effect.

I. Facility of Payment. A payment made under another plan may include an amount, which should have been paid under the plan. If it does, the insurer may pay that amount to the organization which made that payment. That amount will then be treated as though it were a benefit paid under the plan. The insurer will not have to pay that amount again. The term "payment made" includes providing benefits in the form of services, in which case "payment made" means reasonable cash value of the benefits provided in the form of services.

R590-131-9. COB Scenarios.

The following scenarios are provided to assist in demonstrating the use of the COB rule:

A. Parents Not Married, Living Together, No Court Decree. The order of benefits pursuant to R590-131-6.B.1. shall be:

1. the parent whose birthday falls earlier in the calendar year; then

2. the parent whose birthday falls later in the calendar year; or

3. if the parents have the same birthday, the plan that has covered the parent longest; then

4. the plan that has covered the parent the shortest.

B. Parents Divorced, Separated, Or Not Living Together.

1. The court decree gives joint custody with the father responsible for the child's health care expenses or health care coverage, and the father has health care coverage. The order of benefits pursuant to R590-131-6.B.2.a. shall be the:

a. natural father;

b. step-mother;

c. natural mother; then

d. step-father.

2. The court decree gives joint custody with father responsible for the child's health care expenses or health care coverage, the father does not have health care coverage, but his wife does. The order of benefits pursuant to R590-131-6.B.2.a. shall be the:

a. step-mother;

b. natural mother; then

c. step-father.

3. The court decree gives custody to the father and requires both parents to be responsible for health care expenses or coverage. The father's date of birth (DOB) 12/01, the step-mother's DOB 02/17, the mother's DOB 08/23, and the step-father's DOB 01/10. The order of benefits pursuant to R590-131-6.B.2.b. shall be the:

a. step-father;

b. step-mother;

c. natural mother; then

d. natural father.

4. A court decree awards joint custody and the father physical custody. The court decree does not address health care expenses or coverage. The father's DOB is 12/01, the step-mother's DOB is 02/17, the mother's DOB is 08/23, and the step-father's DOB is 01/10. The order of benefits pursuant to R590-131-6.B.2.c. shall be the:

a. step-father;

b. step-mother;

c. natural mother; then

d. natural-father.

5. A court decree awards joint custody and requires both parents to be responsible for health care expenses or coverage. The child lives with the mother 51% of the year. The father's DOB is 12/01, the step-mother's DOB is 02/17, the mother's DOB is 08/23, and the step-father's DOB is 01/10. The order of benefits pursuant to R590-131-6.B.2.b. shall be the:

a. step-father;

b. step-mother;

c. natural mother; then

d. natural father.

C. Parents Never Married.

1. The parents are not living together and no court decree exists. The order of benefits pursuant to R590-131-6.B.2.d shall be the:

a. plan covering the custodial parent;

b. plan covering the custodial parent's spouse;

c. plan covering the non-custodial parent; and then

d. plan covering the non-custodial parent's spouse.

2. The parents are not living together and the court decree awards custody to mother, but the decree does not address health care expenses or coverage. The order of benefits pursuant to R590-131-6.B.2.d. shall be the:

a. natural mother;

b. step-father;

c. natural father; then

d. step-mother.

D. Children No Longer Minors. A court decree orders that the natural father is to provide insurance for the minor children and custody is awarded to the natural mother. The dependents are age 18 and older. The order of benefits pursuant to R590-131-6.B.2.d shall be the:

1. natural mother;

2. step-father;

3. natural father; then

4. step-mother.

R590-131-10. Effective Date for Existing Contracts.

A. A contract that provides health care benefits issued before the effective date of this rule shall be brought into compliance with this rule no later than January 1, 2009.

R590-131-11[7]. Penalties.

Any insurer ~~that~~^{which} fails to comply with the provisions of this rule, shall be subject to the forfeiture and penalty provisions of Section 31A-2-308.

R590-131-12[8]. Separability.

If any provision of this rule or the application of it to any person is for any reason held to be invalid, the remainder of the rule

and the application of any provision to other persons or circumstances shall not be affected.

R590-131-13[9]. Enforcement Date.[Existing Contracts.]

The commissioner will begin enforcing the revised provisions of this rule January 1, 2009[45 days from the rule's effective date].

KEY: insurance law

Date of Enactment or Last Substantive Amendment: [~~August 22, 2002~~]**2008**

Notice of Continuation: October 31, 2007

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-21-307



Natural Resources, Wildlife Resources
R657-3
Collection, Importation, Transportation,
and Possession of Zoological Animals

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 31053
 FILED: 03/11/2008, 11:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted for taking public input and reviewing the Division of Wildlife Resources' (DWR) zoological animal program.

SUMMARY OF THE RULE OR CHANGE: The amendments to this rule clarify wording on native and nonnative species, and add classification status to additional fish, crustaceans, and mollusk species.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18, 23-14-19, 23-20-3, 23-13-14, and 63-30-1 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The amendment clarifies native and nonnative species and adds classification status to some species. Therefore, DWR determines that these amendments will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

❖ **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.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** These amendments clarify wording on native and nonnative species as well as add classification status for some species. Therefore, this rule does not impose any additional financial

requirements on persons, nor generate a cost or saving impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments are for clarification. DWR determines that there are no additional compliance costs associated with this amendment.

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:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@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 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.
R657-3. Collection, Importation, Transportation, and Possession of Zoological Animals.

R657-3-1. Purpose and Authority.

(1) Under Title 23, Wildlife Resources Code of Utah and in accordance with a memorandum of understanding with the Department of Agriculture and Food, Department of Health, and the Division of Wildlife Resources, this rule governs the collection, importation, exportation, transportation, and possession of [~~zoological~~] animals and their parts.

(2) Nothing in this rule shall be construed as superseding the provisions set forth in Title 23, Wildlife Resources Code of Utah. Any provision of this rule setting forth a criminal violation that overlaps a section of that title is provided in this rule only as a clarification or to provide greater specificity needed for the administration of the provisions of this rule.

(3) In addition to this rule, the Wildlife Board may allow the collection, importation, transportation, and possession of species of zoological animals under specific circumstances as provided in Rules R657-4 through R657-6, R657-9 through R657-11, R657-13, R657-14, R657-16, R657-19, R657-20 through R657-22, R657-33, R657-37, R657-40, R657-46 and R657-53. Where a more specific provision has been adopted, that provision shall control.

(4) Holding raccoons and coyotes in captivity is governed by the Department of Agriculture and Food under Section 4-23-11 and

Rule R58-14. The importation of coyotes and raccoons into Utah is governed by the Wildlife Board and is prohibited under this rule.

(5) This rule does not apply to division employees acting within the scope of their assigned duties.

R657-3-22. Classification and Specific Rules for ~~Invertebrates~~Crustaceans and Mollusks.

(1) Crustaceans are classified as follows:

(a) Asiatic (Mitten) Crab, Grapsidae Family (Eriocheir, All species) are prohibited for collection, importation and possession;

(b) Brine shrimp, Mysidae Family (All species) are classified as controlled for collection, and noncontrolled for importation and possession;

(c) Red-claw crayfish, Astacidae Family (Cherax quadricarinatus) is prohibited for collection, and controlled for importation and possession;

(d) Crayfish, Astacidae, Cambaridae and Parastacidae Families (All species except Cherax quadricarinatus) are prohibited for collection, importation and possession;

(e) Daphnia, Daphnidae Family (Daphnia lumholtzi) is prohibited for collection, importation and possession;

(f) Fishhook water flea, Cercopagidae Family (Cercopagis pengoi) is prohibited for collection, importation and possession; and

(g) Spiny water flea, Cercopagidae Family (Bythotrephes cederstroemii) is prohibited for collection, importation and possession.

(2) Mollusks are classified as follows:

(a) African giant snail, Achatinidae Family (Achatina fulica) is prohibited for collection, importation and possession;

(b) Brian head mountainsnail, Oreohelicidae Family (Oreohelix parawanensis) is controlled for collection, importation and possession;

(c) California floater, Anodontidae Family (Anodonta californiensis) is controlled for collection, importation and possession;

(d) Corrugated mountainsnail, Oreohelicidae Family (Oreohelix haydeni corrugata) is controlled for collection, importation and possession;

(e) Cummings' mountainsnail, Oreohelicidae Family (Oreohelix yavapai cummingsi) is controlled for collection, importation and possession;

(f) Deseret mountainsnail, Oreohelicidae Family (Oreohelix peripherica) is controlled for collection, importation and possession;

(g) Desert springsnail, Hydrobiidae Family (Pyrgulopsis deserta) is controlled for collection, importation and possession;

(h) Desert valvata, Valvatidae Family (Valvata utahensis) is prohibited for collection, importation and possession;

(i) Eureka mountainsnail, Oreohelicidae Family (Oreohelix eurekensis) is controlled for collection, importation and possession;

(j) Fat-whorled pondsnaill, Lymnaeidae Family (Stagnicola bonnevillensis) is controlled for collection, importation and possession;

(k) Fish lake physa, Physidae Family (Physella microstriata) is controlled for collection, importation and possession;

(l) Fish springs marshsnail, Lymnaeidae Family (Stagnicola pilsbryi) is prohibited for collection, importation and possession;

(m) Glossy valvata, Valvatidae Family (Valvata humeralis) is controlled for collection, importation and possession;

(n) Kanab ambersnail, Succineidae Family (Oxyloma kanabense) is prohibited for collection, importation and possession;

(o) Lyrate mountainsnail, Oreohelicidae Family (Oreohelix haydeni) is controlled for collection, importation and possession;

(p) New Zealand Mudsnaill, Hydrobiidae Family (Potamopyrgus antipodarum) is prohibited for collection, importation and possession;

(q) Quagga mussel, Dreissenidae Family (Dreissena bugenses) is prohibited for collection, importation and possession;

(r) Spruce snail, Thysanophoridae Family (Microphysula ingersolli) is controlled for collection, importation and possession;

(s) Thickshell pondsnaill, Lymnaeidae Family (Stagnicola utahensis) is prohibited for collection, importation and possession;

(t) Utah physa, Physidae Family (Physella utahensis) is controlled for collection, importation and possession;

(u) Wet-rock physa, Physidae Family (Physella zionis) is controlled for collection, importation and possession;

(v) Yavapai mountainsnail, Oreohelicidae Family (Oreohelix yavapai) is controlled for collection, importation and possession; and

(w) Zebra mussel, Dreissenidae Family (Dreissena polymorpha) is prohibited for collection, importation and possession.

(x) Red-Rimmed Melania, Thiaridae Family (Melanoides tuberculatus) is prohibited for collection, importation and possession.

(y) Western Pearlshell, Margaritiferidae Family (Margaritifera falcata) is prohibited for collection, importation and possession.

(3) All native species and subspecies of crustaceans and mollusks not listed in Subsection (1) and (2) are classified as noncontrolled for collection, importation and possession.

(~~3~~4) All nonnative species and subspecies of ~~invertebrates~~crustaceans and mollusks not listed in Subsection (1) and (2) are classified as ~~noncontrolled~~prohibited for collection, importation and possession.

R657-3-23. Classification and Specific Rules for Fish.

(1) All species of fish listed in Subsections (2) through (30) are classified as prohibited for collection, importation and possession, except:

(a) Koi, Cyprinidae Family (Cyprinus carpio) is prohibited for collection, and noncontrolled for importation and possession;

(b) all species and subspecies of ornamental fish not listed in Subsections (2) through (30) are classified as prohibited for collection, and noncontrolled for importation and possession; and

(c) all species and subspecies of non-ornamental fish (native and/or nonnative) not listed in Subsections (2) through (30) are classified as prohibited for collection, and controlled for importation and possession.

(2) Carp, including hybrids, Cyprinidae Family, (All species, except Koi).

(3) Catfish:

(a) Flathead catfish, Ictaluridae Family (Pylodictus olivaris);

(b) Giant walking catfish (airsac), Heteropneustidae Family (All species);

(c) Labyrinth catfish (walking), Clariidae Family (All species); and

(d) Parasitic catfish (candiru, carnero) Trichomycteridae Family (All species).

(e) Blue catfish, Ictaluridae Family (Ictalurus furcatus).

(4) Herring:

(a) Alewife, Clupeidae Family (Alosa pseudoharengus); and

(b) Gizzard shad, Clupeidae Family (Dorosoma cepedianum).

(5) Killifish, Fundulidae Family (All species).

- (6) Pike killifish, Poeciliidae Family (Belonesox belizanus).
- (7) Minnows:
- (a) Bonytail, Cyprinidae Family (Gila elegans);
- (b) Colorado pikeminnow, Cyprinidae Family (Ptychocheilus lucius);
- (c) Creek chub, Cyprinidae Family (Semotilus atromaculatus);
- (d) Humpback chub, Cyprinidae Family (Gila cypha);
- (e) Least chub, Cyprinidae Family (Iotichthys phlegethontis);
- (f) Northern Leatherside chub, Cyprinidae Family (Gila Lepidomeda copei);
- (g) Southern Leatherside chub, Cyprinidae Family (Lepidomeda aliciae);
- (~~g~~h) Red shiner, Cyprinidae Family (Cyprinella lutrensis);
- (~~h~~i) Reside shiner, Cyprinidae Family (Richardsonius balteatus);
- (~~i~~j) Roundtail chub, Cyprinidae Family (Gila robusta);
- (~~j~~k) Sand shiner, Cyprinidae Family (Notropis stramineus);
- (~~k~~l) Utah chub, Cyprinidae Family (Gila atraria);
- (~~l~~m) Virgin River chub, Cyprinidae (Gila seminuda); and
- (~~m~~n) Virgin spinedace, Cyprinidae Family (Lepidomeda mollispinis).
- (o) Emerald shiner, Cyprinidae Family (Notropis atherinoides).
- (~~p~~q) Woundfin, Cyprinidae Family (Plagopterus argentissimus).
- (8) Burbot, Lotidae Family (Lota lota).
- (9) Suckers:
- (a) Bluehead sucker, Catostomatidae Family (Catostomus discobolus);
- (b) Desert sucker, Catostomatidae Family (Catostomus clarki);
- (c) Flannelmouth sucker, Catostomatidae Family (Catostomus latipinnis);
- (d) June sucker, Catostomatidae Family (Chasmistes liorus);
- (e) Razorback sucker, Catostomatidae Family (Xyrauchen texanus);
- (f) Utah sucker, Catostomatidae Family (Catostomus ardens); and
- (g) White sucker, Catostomatidae Family (Catostomus commersoni).
- (10) White perch, Moronidae Family (Morone americana).
- (11) Cutthroat trout, Salmonidae Family (Oncorhynchus clarki)(All subspecies).
- (12) Bowfin, Amiidae Family (All species).
- (13) Bull shark, Carcharhinidae Family (Carcharhinus leucas).
- (14) Drum (freshwater forms), Sciaenidae Family (All species).
- (15) Gar, Lepidosteidae Family (All species).
- (16) Jaguar guapote, Cichlidae Family (Cichlasoma managuense).
- (17) Lamprey, Petromyzontidae Family (All species).
- (18) Mexican tetra, Characidae Family (Astyanax mexicanus, except blind form).
- (19) Mooneye, Hiodontidae Family (All species).
- (20) Nile perch, Centropomidae Family (Lates, lucioides) (All species).
- (21) Northern pike, Esocidae Family (Esox lucius).
- (22) Pirhana, Characidae Family (Serrasalmus, All species).
- (23) Round goby, Gobiidae Family (Neogobius melanostomus).
- (24) Ruffe, Percidae Family (Gymnocephalus cernuus).
- (25) Snakehead, Channidae Family (All species).
- (26) Stickleback, Gasterosteidae Family (All species).

- (27) Stingray (freshwater), Dasyatidae Family (All species).
- (28) Swamp eel, Synbranchidae Family (All species).
- (29) Tiger fish, guavinus, Erythrinidae Family (Hoplias malabaricus).
- (30) Tilapia, Cichlidae Family (Tilapia and Sarotherodon) (All species).

KEY: wildlife, animal protection, import restrictions, zoological animals

Date of Enactment or Last Substantive Amendment: [~~December 12, 2006~~2008

Notice of Continuation: March 11, 2008

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-20-3; 23-13-14 ; 63-30-1 et seq.



Natural Resources, Wildlife Resources R657-13-3 Fishing License Requirements and Free Fishing Day

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 31048

FILED: 03/11/2008, 07:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) fish and crayfish management program.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions: 1) remove the requirement to hold Free Fishing day on the second Saturday in June; and 2) allow the Wildlife Board to set the date annually.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This amendment clarifies stipulations currently in place. DWR determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

❖ **LOCAL GOVERNMENTS:** Since this amendment only clarifies restrictions already in place this should have little to no effect on local government. 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.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This amendment only clarifies the time restraint for setting Free Fishing Day annually. Therefore, this rule does not

impose any additional financial requirements on persons, nor generate a cost or saving impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that because these amendments only clarify restrictions currently set in rule, they do not create a cost or savings impact to individuals who participate in fishing.

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:
Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@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 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2008

AUTHORIZED BY: James F Karpowitz, Director

**R657. Natural Resources, Wildlife Resources.
R657-13. Taking Fish and Crayfish.
R657-13-3. Fishing License Requirements and Free Fishing Day.**

(1) A license is not required on free fishing day, [~~the second~~]a Saturday [~~of~~]in June, annually. All other laws and rules apply.

(2) A person 12 years of age or older shall purchase a fishing license before engaging in any regulated fishing activity pursuant to Section 23-19-18.

(3) A person under 12 years of age may fish without a license and take a full bag and possession limit.

KEY: fish, fishing, wildlife, wildlife law

Date of Enactment or Last Substantive Amendment: [January 7], 2008

Notice of Continuation: October 11, 2007

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-19-1; 23-22-3

◆ ————— ◆

Natural Resources, Wildlife Resources R657-42-8 Accepted Payment of Fees

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 31049
FILED: 03/11/2008, 08:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to fees, exchanges, surrenders, refunds, and reallocation of permits and other documents.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions create an amendment fee to be paid by hunters who wish to amend their permit applications. Like other fees, it must be paid by debit or credit card.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-19-1 and 23-19-38

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule amendment requires applicants to pay an amendment fee by credit or debit card only. This is consistent with the payment of all application fees. Therefore, DWR determines that these amendments will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

❖ LOCAL GOVERNMENTS: Since the amendment sets a standard for payment of application amendment fees and this is consistent with the current application payment criteria, 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.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This amendment sets criteria for payment of application amendment fees for hunters who wish to amend their permit applications, this may impose an additional financial requirement on persons who wish to change information previously submitted, and generate a cost or saving impact to other persons. The dollar amount of the amendment fee is set annually with the Division's fee schedule, currently the fee is set at \$25.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these amendments will create additional costs for residents and nonresidents who wish to amend a submitted

application. Currently the fee is set at \$25. DWR has no way of anticipating how many hunters will wish to amend their applications.

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:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@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 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-42. Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents.

R657-42-8. Accepted Payment of Fees.

(1) Personal checks, business checks, money orders, cashier's checks, and credit or debit cards are accepted for payment of wildlife documents.

(2) Personal or business checks drawn on an out-of-state account are not accepted.

(3) Third-party checks are not accepted.

(4) All payments must be made payable to the Utah Division of Wildlife Resources.

(5)(a) Credit or debit cards must be valid at least 30 days after any drawing results are posted.

(b) Checks, and credit or debit cards will not be accepted as combined payment on single or group applications.

(c) If applicable, if applicants are applying as a group, all fees for all applicants in that group must be charged to one credit or debit card.

(d) Handling fees and donations are charged to the credit or debit card when the application is processed.

(e) Application amendment fees must be paid by credit or debit card.

(f) Permit fees may be charged to the credit or debit card prior to the posting date of the drawings, if successful.

(g) The division shall not be held responsible for bank charges incurred for the use of credit or debit cards.

(6)(a) An application is voidable if the check is returned unpaid from the bank or the credit or debit card is invalid or refused.

(b) The division charges a returned check collection fee for any check returned unpaid.

(7)(a) A license or permit is voidable if the check is returned unpaid from the bank or the credit or debit card is invalid or refused.

(b) The Division may make attempt to contact the successful applicant by phone or mail to collect payment prior to voiding the license or permit.

(c) The Division shall reinstate the applicant's bonus points or preference points, whichever is applicable, and waive waiting periods, if applicable, when voiding a permit in accordance with Subsection (b).

(d) A permit which is deemed void in accordance with Subsection (b) may be reissued by the Division to the next person listed on the alternate drawing list.

(8)(a) A license or permit received by a person shall be deemed invalid if payment for that license or permit is not received, or a check is returned unpaid from the bank, or the credit or debit card is invalid or refused.

(b) A person must notify the division of any change of credit or debit card numbers if the credit or debit card is invalid or refused.

(9) Hunting with a permit where payment has not been received for that permit constitutes a violation of hunting without a valid permit.

(10) The division may require a money order or cashier's check to correct payment for a license, permit, or certificate of registration.

(11) Any person who fails to pay the required fee for any wildlife document, shall be ineligible to obtain any other wildlife document until the delinquent fees and associated collection costs are paid.

KEY: wildlife, permits

Date of Enactment or Last Substantive Amendment: ~~August 7, 2007~~ 2008

Notice of Continuation: May 14, 2003

Authorizing, and Implemented or Interpreted Law: 23-19-1; 23-19-38; 23-19-38.2



Natural Resources, Wildlife Resources

R657-45-2

Information Listed on the License, Permit, and Certificate of Registration Forms

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 31050

FILED: 03/11/2008, 08:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to wildlife license, permit, and Certificate of Registration forms.

SUMMARY OF THE RULE OR CHANGE: Provisions of this rule are being amended to delete the use of Social Security numbers on licenses and permits, and replace them with a customer identification number.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-19 and 23-19-2

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule is being amended to remove the requirement for Social Security numbers to be placed on licenses and permits and replaces them with customer identification numbers. DWR determines that because it only requires a small programming change to change from Social Security numbers to customer identification numbers and can be carried out with the existing budget, there is not a cost or savings impact to the state budget or DWR's budget associated with this amendment.

❖ 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.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The change from Social Security number to customer identification number requires no effort from small businesses or other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule is being amended to remove Social Security numbers on licenses and permits, and replace them with customer identification numbers. DWR determines that this requires no effort from affected persons and there would be no compliance costs associated with this amendment.

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:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@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 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-45. Wildlife License, Permit, and Certificate of Registration Forms.

R657-45-2. Information Listed on the License, Permit, and Certificate of Registration Forms.

(1) A License, Permit, and Certificate of Registration issued for hunting or fishing shall be made upon forms and in the manner prescribed by the Wildlife Board.

(2) The License, Permit, and Certificate of Registration forms shall include the licensee's customer identification number, name[, address], date of birth, [~~social security number~~]address, and any other information the Division of Wildlife may request.

KEY: license, permit, certificate of registration

Date of Enactment or Last substantive Amendment: ~~July 2, 2003~~2008

Notice of Continuation: May 14, 2003

Authorizing, and implemented or Interpreted Law: 23-19-2



Natural Resources, Wildlife Resources

R657-53

Amphibian and Reptile Collection, Importation, Transportation, and Possession

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31051

FILED: 03/11/2008, 08:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment is to clarify procedures, standards, and requirements for the collection, importation, transportation, and possession of amphibians and reptiles.

SUMMARY OF THE RULE OR CHANGE: The revisions to this rule: 1) change the classification status of tiger salamanders; and 2) change the classification status of Great Plains toad.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule amendment clarifies the classification status of two species. The Division of Wildlife Resources (DWR) determines that by modifying the provisions regarding amphibians and reptiles does not create a cost or savings impact to the state budget or DWR's budget.

❖ 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.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This rule amendment clarifies the classification status of two species. DWR determines that by modifying the provisions regarding amphibians and reptiles, it does not generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule clarifies the classification status of the tiger salamander and the Great Plains toad. DWR determines this amendment to the rule does not create an additional compliance cost to affected persons.

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:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@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 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-53. Amphibian and Reptile Collection, Importation, Transportation and Possession.

R657-53-21. Prohibited Collection Methods.

(1) Amphibians and reptiles may not be collected using any method prohibited in this rule and the proclamations of the Wildlife Board except as provided by a certificate of registration or the Wildlife Board.

(a) Lethal methods of collection are prohibited except as provided in Subsections R657-53-27(~~6~~) and (~~7~~) and R657-53-28(6), (8), and (9).

(b) The destruction of habitats such as breaking apart of rocks, logs or other shelters in or under which amphibians or reptiles may be found is prohibited.

(c) The use of winches, auto jacks, hydraulic jacks, crowbars and pry bars are prohibited.

(d) The use of gasoline or other potentially toxic substance is prohibited.

(e) The use of firearms, airguns or explosives is prohibited.

(f) The use of electrical or mechanical devices, or smokers is prohibited except as provided in Subsection (2)(b).

(g) The use of traps including pit fall traps, can traps, or funnel traps is prohibited.

(h) The use of fykes, seines, weirs, or nets of any description are prohibited except as provided in Subsection (2)(b).

(2)(a) Any logs, rocks, or other objects turned over or moved must be replaced in their original position.

(b) Dip nets less than 24 inches in diameter, snake sticks, and lizard nooses may be used.

R657-53-27. Classification and Specific Rules for Amphibians.

(1) Common and scientific nomenclature recognized and adopted by the Society for the Study of Amphibians and Reptiles (2003) will be utilized in Subsection (2).

(2) Amphibians are classified as follows:

(a) Frogs are classified as follows:

(i) American bullfrog, Ranidae Family (*Rana catesbeiana*) is

(A) prohibited for collection, possession and propagation of individuals from wild populations in Utah, except as provided in Subsection (~~7~~);

(B) prohibited for importation, possession and propagation of individuals legally obtained outside of Utah;

(ii) Canyon treefrog, Hylidae Family (*Hyla arenicolor*) is

(A) noncontrolled for collection and possession and controlled for propagation of individuals from wild populations in Utah;

(B) controlled for importation, possession and propagation of individuals legally obtained outside of Utah;

(iii) Clawed frog, Pipidae Family (*Xenopus*) (All species) is

(A) prohibited for importation, possession and propagation of individuals legally obtained outside of Utah;

(iv) Columbia spotted frog, Ranidae Family (*Rana luteiventris*) is

(A) prohibited for collection, possession and propagation of individuals from wild populations in Utah;

(B) prohibited for importation, possession and propagation of individuals legally obtained outside of Utah;

(v) Green frog, Ranidae Family (*Rana clamitans*) is

(A) prohibited for collection, possession and propagation of individuals from wild populations in Utah, except as provided in Subsection (7);

(B) prohibited for importation, possession and propagation of individuals legally obtained outside of Utah;

(vi) Lowland leopard frog, Ranidae Family (*Rana yavapaiensis*) is

(A) prohibited for collection, possession and propagation of individuals from wild populations in Utah;

(B) prohibited for importation, possession and propagation of individuals legally obtained outside of Utah;

(vii) Northern leopard frog, Ranidae Family (*Rana pipiens*) is

(A) controlled for collection, possession and propagation of individuals from wild populations in Utah;

(B) controlled for importation, possession and propagation of individuals legally obtained outside of Utah;

(viii) Pacific treefrog, Hylidae Family (*Pseudacris regilla*) is

(A) controlled for collection, possession and propagation of individuals from wild populations in Utah;

(B) controlled for importation, possession and propagation of individuals legally obtained outside of Utah;

(ix) Relict leopard frog, Ranidae Family (*Rana onca*) is

(A) prohibited for collection, possession and propagation of individuals from wild populations in Utah;

(B) prohibited for importation, possession and propagation of individuals legally obtained outside of Utah;

(x) Western chorus frog, Hylidae Family (*Pseudacris triseriata*) is

(A) noncontrolled for collection and possession and controlled for propagation of individuals from wild populations in Utah;

(B) controlled for importation, possession and propagation of individuals legally obtained outside of Utah;

(b) Spadefoots are classified as follows:

(i) Great basin spadefoot, Pelobatidae Family (*Spea intermontana*) is

(A) noncontrolled for collection and possession and controlled for propagation of individuals from wild populations in Utah;

(B) controlled for importation, possession and propagation of individuals legally obtained outside of Utah;

(ii) Mexican spadefoot, Pelobatidae Family (*Spea multiplicata*) is

(A) noncontrolled for collection and possession and controlled for propagation of individuals from wild populations in Utah;

(B) controlled for importation, possession and propagation of individuals legally obtained outside of Utah;

(iii) Plains spadefoot, Pelobatidae Family (*Spea bombifrons*) is

(A) noncontrolled for collection and possession and controlled for propagation of individuals from wild populations in Utah;

(B) controlled for importation, possession and propagation of individuals legally obtained outside of Utah;

(c) Salamanders are classified as follows:

(i) Tiger salamander, Ambystomatidae Family (*Ambystoma tigrinum*) is

(A) noncontrolled for collection and possession and controlled for propagation of individuals from wild populations in Utah[~~except as provided in Subsection (6);~~]

(B) controlled for importation, possession and propagation of individuals legally obtained outside of Utah;

(d) Toads are classified as follows:

(i) Arizona toad, Bufonidae Family (*Bufo microscaphus*) is

(A) controlled for collection, possession and propagation of individuals from wild populations in Utah;

(B) controlled for importation, possession and propagation of individuals legally obtained outside of Utah;

(ii) Cane (marine) toad, Bufonidae Family (*Bufo marinus*) is

(A) prohibited for importation, possession and propagation of individuals legally obtained outside of Utah;

(iii) Great [p]lains toad, Bufonidae Family (*Bufo cognatus*) is

(A) [~~noncontrolled~~]controlled for collection and possession and controlled for propagation of individuals from wild populations in Utah;

(B) controlled for importation, possession and propagation of individuals legally obtained outside of Utah;

(iv) Red-spotted toad, Bufonidae Family (*Bufo punctatus*) is

(A) noncontrolled for collection and possession and controlled for propagation of individuals from wild populations in Utah;

(B) controlled for importation, possession and propagation of individuals legally obtained outside of Utah;

(v) Western toad, Bufonidae Family (*Bufo boreas*) is

(A) prohibited for collection, possession and propagation of individuals from wild populations in Utah;

(B) prohibited for importation, possession and propagation of individuals legally obtained outside of Utah;

(t) Woodhouse's toad, Bufonidae Family (*Bufo woodhousii*) is

(A) noncontrolled for collection and possession and controlled for propagation of individuals from wild populations in Utah;

(B) controlled for importation, possession and propagation of individuals legally obtained outside of Utah.

(3)(a) Amphibians classified at the genus or family taxonomic level include all species and subspecies.

(b) Amphibians classified at the species taxonomic level include all subspecies.

(c) Amphibians classified at the subspecies taxonomic level do not include any other related subspecies.

(4) All species or subspecies of amphibians not listed in Subsection (2) are classified as noncontrolled for collection, importation, possession and propagation.

(5)(a) A person must obtain a certificate of registration to collect and possess more than three amphibians of each species or subspecies classified as noncontrolled for collection and possession within a calendar year, except as provided in Subsection (6).

(b) A person must obtain a certificate of registration to possess more than nine amphibians in aggregate classified as noncontrolled for collection and possession and collected within Utah, except as provided in Subsection (6).

(6)[~~A person may collect and possess for personal use up to 50 Tiger salamanders (*Ambystoma tigrinum*) without a certificate of registration.~~

—(7) A person may collect and possess any number of American bullfrogs (*Rana catesbeiana*) or Green frogs (*Rana clamitans*) without a certificate of registration provided they are either killed or released immediately. A person may not transport a live bullfrog or green frog from the point of capture without first obtaining a certificate of registration.

KEY: wildlife, import restrictions, amphibians, reptiles

Date of Enactment or Last Substantive Amendment: [May 22, 2007]2008

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-20-3; 23-13-14



Workforce Services, Employment
Development

R986-300-303

Eligibility, Income Standards, and
Amount of Assistance

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 31060

FILED: 03/14/2008, 12:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to comply with changes in federal law.

SUMMARY OF THE RULE OR CHANGE: Congress passed provisions in Pub. L. No. 110-161 and Pub. L. No. 110-181 which provide benefits for individuals granted Special Immigrant Visas from Iraq and Afghanistan. This rule reflects those changes to the federal law.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.
- ❖ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs or savings to any local government.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There will be no costs to small businesses to comply with these changes because this is a federally-funded program. There will be no costs to any persons to comply with these changes because there are no costs or fees associated with these proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This is a federally-funded program. There will be no compliance costs to any affected persons under this proposed change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any businesses. Kristen Cox, Executive Director

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

**WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2008

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.**R986-300. Refugee Resettlement Program.****R986-300-303. Eligibility, Income Standards, and Amount of Assistance.**

(1) An applicant for RRP must provide proof, in the form of documentation issued by the USCIS, of being or having been:

- (a) paroled as a refugee or asylee under Section 212(d)(5) of the INA;
- (b) admitted as a refugee under Section 207 of the INA;
- (c) granted asylum under Section 208 of the INA;
- (d) a Cuban or Haitian entrant, in accordance with the requirements of 45 CFR Part 401;
- (e) certain Amerasians from Vietnam who are admitted to the United States as immigrants pursuant to Public Law 100-202 and Public Law 100-461;
- (f) a victim of trafficking;[-øø]
- (g) admitted for permanent residence, provided the individual previously held one of the statuses listed in (a) through (f) of this section; or
- (h) admitted for permanent residence under Special Immigrant Visas and provided benefits under federal law and in accordance with that federal law.

(2) The following aliens are not eligible for assistance:

- (a) an applicant for asylum unless otherwise provided by federal law;
- (b) humanitarian parolees;
- (c) public interest parolees; and
- (d) conditional entrants admitted under Section 203(a)(7) of the INA.

(3) Refugees who are parents or specified relatives with dependent children must meet the eligibility and participation requirements, including cooperating with ORS to establish paternity and establish and enforce child support, of FEP or FEPTP and will be paid financial assistance under one of those programs.

(4) An applicant for RRP who voluntarily quit or refused appropriate employment without good cause within 30 calendar days prior to the date of application is ineligible for financial assistance for 30 days from the date of the voluntarily quit or refusal of employment. If the applicant is living with a spouse who is ineligible, the income and assets of the ineligible refugee will be counted in determining eligibility but the amount of financial assistance payment will be made as if the household had one less member.

(5) Refugees who are 65 years of age or older will be referred to SSA to apply for assistance under the SSI program.

(6) Income and asset eligibility and the amount of financial assistance available is determined under FEP rules, R986-200-230 through R986-200-240.

(7) If an otherwise eligible client demonstrates an urgent and immediate need for financial assistance, payment will be made on an expedited basis.

KEY: refugee resettlement program

Date of Enactment or Last Substantive Amendment: ~~August 1, 2006~~2008

Notice of Continuation: September 14, 2005

Authorizing, and Implemented or Interpreted Law: 35A-3-103



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 between paragraphs (· · · · ·) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the 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 May 1, 2008. At its option, the agency may hold public hearings.

From the end of the waiting period through July 30, 2008, 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 Section 63-46a-6; and Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

**Commerce, Occupational and
Professional Licensing
R156-61
Psychologist Licensing Act Rules**

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 30915
Filed: 03/04/2008, 09:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Following a public rule hearing and written comments received by the division, additional amendments are being proposed to the rule.

SUMMARY OF THE RULE OR CHANGE: Statute citation references are corrected in Sections R156-61-102 and R156-61-302a. In Subsection R156-61-102(6), the definition for "qualified faculty" is amended to delete the phrase "not including an adjunct faculty member". In Subsections R156-61-302b(1)(a) and (b), a change is made to the sentence structure so that it was more clear what is actually required. In Subsection R156-61-302e(3), added the term "full-time equivalent" to supervising not more than three supervisees which would allow for additional supervisees if considered part-time. In Subsection R156-61-302h(5)(f), amendments are made to clarify peer consultation which is used for continuing education credit. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the February 1, 2008, issue of the Utah State Bulletin, on page 6. 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 amendment 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 58-61-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The division anticipates no further costs or savings beyond those previously identified in the original proposed rule amendment filing.
- ❖ **LOCAL GOVERNMENTS:** These additional proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. The additional proposed amendments only apply to licensed psychologists, certified psychology residents, and applicants for licensure in either of those classifications.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** These additional proposed amendments will only apply to licensed psychologists, certified psychology residents, and applicants for licensure in either of those classifications. The division does not anticipate any further costs or savings beyond those previously identified in the original proposed rule amendment filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These additional proposed amendments will only apply to licensed psychologists, certified psychology residents, and applicants for licensure in either of those classifications. The division does not anticipate any further costs or savings beyond those previously identified in the original proposed rule amendment filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change to proposed rule clarifies the prior rule filing based upon comments received during the comment period. No fiscal impact to businesses is anticipated from such clarification. 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:

Rich Oborn or Noel Taxin at the above address, by phone at 801-530-6104 or 801-530-6621, by FAX at 801-530-6511 or 801-530-6511, or by Internet E-mail at roborn@utah.gov or ntaxin@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 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2008

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-61. Psychologist Licensing Act Rule.**

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R156-61-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 61, as used in Title 58, Chapters 1 and 61 or this rule:

- (1) "Approved diagnostic and statistical manual for mental disorders" means the "Diagnostic and Statistical Manual of Mental Disorders", 4th edition Text Revision (DSM-IV-TR), published by the American Psychiatric Association, or the ICD-10-CM published by Medicode or the American Psychiatric Association.
- (2) "CoA" means Committee on Accreditation of the American Psychological Association.
- (3)(a) "Predoctoral internship" refers to a formal training program that meets the minimum requirements of the Association of Psychology Postdoctoral and Internship Centers (APPIC) offered to culminate a doctoral degree in clinical, counseling, or school psychology.

(b) A training program may be a full-time one year program or a half-time two year program.

(4)(a) "Program accredited by the CoA", as used in Subsections R156-61-302a(1), means a psychology department program that is accredited at the time of completion of a doctoral psychology degree.

(b) No other accredited educational program at a degree granting institution is considered to meet the requirement in Subsections R156-61-302a(1), and in no case are departments or institutions of higher education considered accredited.

(5)(a) "Program of respecialization", as used in Subsection R156-61-302a(2)(3), is a formal program designed to prepare someone with a doctoral degree in psychology with the necessary skills to practice psychology.

(b) The respecialization activities must include substantial requirements that are formally offered as an organized sequence of course work and supervised practicum leading to a certificate (or similar recognition) by an educational body that offers a doctoral degree qualifying for licensure in the same area of practice as that of the certificate.

(6) "Qualified faculty", as used in Subsection 58-1-307(b), means a university faculty member ~~[-, not including an adjunct faculty member,]~~ who provides pre-doctoral supervision of clinical or counseling experience in a university setting who:

- (i) is licensed in Utah as a psychologist; and
- (ii) is training students in the context of a doctoral program leading to licensure.

(7) "Residency program", as used in Subsection 58-61-301(1)(b), means a program of post-doctoral supervised clinical training necessary to meet licensing requirements as a psychologist.

(8)(a) "Psychology training", as used in Subsection 58-61-304(1)(e), means practical training experience providing direct services in the practice of mental health therapy and psychology under supervision. All activities in full-time internships and full-time post-doctoral positions devoted solely to mental health delivery meet this definition.

(b) Activities not directly related to the practice of psychology, even if commonly performed by psychologists, do not meet the definition of psychology training under Subsection 58-61-304(1)(e). Examples of ineligible activities include psychology coursework, analog clinical activities (e.g. role plays), activities required for business purposes (e.g. billing), supervision of others engaged in activities other than practice of psychology (e.g. supervising adolescents in wilderness settings), and activities commonly performed by non-psychologists (e.g. teaching of psychology on topics not of a professional nature).

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R156-61-302a. Qualifications for Licensure - Education Requirements.

(1) In accordance with Subsection 58-61-304(1)(d), an institution or program of higher education awarding a psychology degree that qualifies an applicant for licensure as a psychologist shall be accredited by the CoA.

(a) An applicant must graduate from the actual program that is accredited by CoA. No other program within the department or institution qualifies unless separately accredited.

(b) If a transcript does not uniquely identify the qualifying CoA accredited degree program, it is the responsibility of the applicant to provide signed, written documentation from the

program director or department chair that the applicant did indeed graduate from the qualifying accredited degree program.

(2) In accordance with Subsection 58-61-304(1)(d), an institution or program of higher education awarding a psychology doctoral degree that is not accredited by CoA must meet the following criteria in order to qualify an applicant for licensure as a psychologist:

(a) if located in the United States or Canada, be accredited by a professional accrediting body approved by the Council for Higher Education of the American Council on Education, at the time the applicant received the required earned degree;

(b) if located outside of the United States or Canada, be equivalent to an accredited program under Subsection (a), and the burden to demonstrate equivalency shall be upon the applicant;

(c) result from successful completion of a program conducted or based on a college or university campus;

(d) result from a program which includes at least one year of residence at the educational institution;

(e) if located in the United States or Canada, be an institution having a doctoral psychology program meeting "Designation" criteria, as recognized by the Association of State and Provincial Psychology Boards/National Register Joint Designation Committee, at the time the applicant received the earned degree, or if located outside of the United States or Canada, meet the same criteria by which a program is recognized by the Association of State and Provincial Psychology Boards at the time the applicant received the earned degree;

(f) have an organized and clearly identified sequence of study to provide an integrated educational experience appropriate to preparation for the professional practice of psychology and licensure, and shall clearly identify those persons responsible for the program with clear authority and responsibility for the core and specialty areas regardless of whether or not the program cuts across administrative lines in the educational institution;

(g) clearly identify in catalogues or other publications the psychology faculty, demonstrate that the faculty is sufficient in number and experience to fulfill its responsibility to adequately educate and train professional psychologists, and demonstrate that the program is under the direction of a professionally trained psychologist;

(h) grant earned degrees resulting from a program encompassing a minimum of three academic years of full time graduate study with an identifiable body of students who are matriculated in the program for the purpose of obtaining a doctoral degree;

(i) include supervised practicum, internship, and field or laboratory training appropriate to the practice of psychology;

(j) require successful completion of a minimum of two semester/three quarter hour graduate level core courses including:

- (i) scientific and professional ethics and standards;
- (ii) research design and methodology;
- (iii) statistics; and
- (iv) psychometrics including test construction and measurement;

(k) require successful completion of a minimum of two graduate level semester hours/three graduate level quarter hours in each of the following knowledge areas. Course work must have a theoretical focus as opposed to an applied, clinical focus:

(i) biological bases of behavior such as physiological psychology, comparative psychology, neuropsychology, psychopharmacology, perception and sensation;

(ii) cognitive-affective bases of behavior such as learning, thinking, cognition, motivation and emotion;

(iii) social and cultural bases of behavior such as social psychology, organizational psychology, general systems theory, and group dynamics; and

(iv) individual differences such as human development, personality theory and abnormal psychology; and

(l) require successful completion of specialty course work and professional education courses necessary to prepare the applicant adequately for the practice of psychology.

(3) An applicant whose psychology doctoral degree training is not designed to lead to clinical practice or who wishes to practice in a substantially different area than the training of the doctoral degree shall complete a program of respecialization as defined in Subsection R156-61-102(~~6~~5), and shall meet requirements of Subsections R156-61-302a(2).

(4) In accordance with Subsection 58-61-304(1)(d), an applicant who has received a doctoral degree in psychology by completing the requirements of Subsections R156-61-302a(1)(a) through (2)(i), without completing the core courses required under Subsection R156-61-302a(2)(j), or the specialty course work required in Subsection (2)(l) may be allowed to complete the required course work post-doctorally. The supplemental course work shall consist of formal graduate level work meeting the requirements of Subsections (2)(j) and (2)(l) in regularly offered and scheduled classes. University based directed reading courses may be approved at the discretion of the board.

(5) The date of completion of the doctoral degree shall be the graduation date listed on the official transcript.

R156-61-302b. Qualifications for Licensure - Experience Requirements.

(1) Psychology training of a minimum of 4,000 hours qualifying an applicant for licensure as a psychologist under Subsection 58-61-304(1)(e), and mental health therapy training under Subsection 58-61-304(1)(f), to be approved by the division in collaboration with the board, shall:

(a) be completed in not less than two years;

~~(b) be completed in [and]~~not more than four years following the awarding of the doctoral degree;

~~(b)c~~ be completed while the applicant is enrolled in an approved doctoral program or licensed as a certified psychology resident;

~~(e)d~~ be completed while the applicant is under the supervision of a qualified psychologist meeting the requirements under Section R156-61-302d;

~~(f)e~~ supervision by a qualified faculty member who is not an approved psychology training supervisor in accordance with Subsection R156-61-302d, may not be credited toward the 4000 hours of psychology doctoral clinical training~~[-]~~;

~~(f)f~~ be completed as part of a supervised psychology training program as defined in Subsection R156-61-102(4) that does not exceed:

(i) 40 hours per week for full-time internships and full-time post doctoral positions; or

(ii) 20 hours of part-time internships and part-time post doctoral positions; and

~~(f)g~~ be completed while the applicant is under supervision of a minimum of one hour of supervision for every 20 hours of pre-doctoral training and experience and one hour for every 40 hours of post-doctoral training and experience.

(2) In accordance with Subsection 58-61-301(1)(b), an individual engaged in a post-doctoral residency program of supervised clinical training shall be certified as a psychology resident.

(3) An applicant for licensure may accrue any portion of the 4000 hours of psychology doctoral degree training and experience required in Subsection 58-61-304(1)(e) in a pre-doctoral program.

(4) An applicant who applies for licensure as a psychologist who completes the 4000 hours of psychology doctoral degree training and experience required in Subsection 58-61-304(1)(e) in a pre-doctoral program or post-doctoral residency, and meets qualifications for licensure, may be approved to sit for the examinations, and upon passing the examinations will be issued a psychologist license.

(5) An applicant for licensure as a psychologist who has commenced and completed all or part of the psychology or mental health therapy training requirements under Subsection R156-61-302b(1) outside the state, may receive credit for that training completed outside of the state if it is demonstrated by the applicant that the training is equivalent to the requirements for training under Subsections 58-61-304(1)(e) and (f), and Subsection R156-61-302b(1).

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R156-61-302e. Duties and Responsibilities of a Supervisor of Psychology Training and Mental Health Therapist Training.

The duties and responsibilities of a psychologist supervisor are further defined, clarified or established as follows. The psychologist supervisor shall:

(1) be professionally responsible for the acts and practices of the supervisee which are a part of the required supervised training, including supervision of all activities requiring a mental health therapy license;

(2) engage in a relationship with the supervisee in which the supervisor is independent from control by the supervisee, and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(3) supervise not more than three full-time equivalent supervisees unless otherwise approved by the Division in collaboration with the Board;

(4) make themselves available for advice, consultation, and direction consistent with the standards and ethics of the profession and the requirements suggested by the total circumstances including the supervisee's level of training, ability to diagnose patients, and other factors determined by the supervisor;

(5) comply with the confidentiality requirements of Section 58-61-602;

(6) provide timely and periodic review of the client records assigned to the supervisee;

(7) monitor the performance of the supervisee for compliance with laws, standards, and ethics applicable to the practice of psychology;

(8) submit appropriate documentation to the division with respect to work completed by the supervisee evidencing the performance of the supervisee during the period of supervised psychology training and mental health therapist training, including the supervisor's evaluation of the supervisee's competence in the practice of psychology and mental health therapy;

(9) ensure that the supervisee is certified by the Division as a psychology resident, or is enrolled in a psychology doctoral program

and engaged in a training experience authorized by the educational program;

(10) ensure the psychologist supervisor is legally able to personally provide the services which the psychologist supervisor is supervising; and

(11) ensure the psychologist supervisor meets all other requirements for supervision as described in this section.

.....

R156-61-302h. Continuing Education.

(1) There is hereby established a continuing professional education requirement for all individuals licensed or certified under Title 58, Chapter 61.

(2) During each two year period commencing on October 1 of each even numbered year:

(a) a licensed psychologist shall be required to complete not less than 48 hours of qualified professional education directly related to the licensee's professional practice;

(b) a certified psychology resident shall be required to complete not less than 24 hours of qualified professional education directly related to professional practice.

(3) The required number of hours of professional education for an individual who first becomes licensed during the two year period year shall be decreased in a pro-rata amount equal to any part of that two year period year preceding the date on which that individual first became licensed.

(4) Qualified professional education under this section shall:

(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a psychologist;

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training, and experience; and

(e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(5) Credit for professional education shall be recognized in accordance with the following:

(a) Unlimited hours shall be recognized for professional education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences.

(b) A maximum of ten hours per two year period may be recognized for teaching in a college or university, teaching qualified continuing education professional education courses in the field of psychology, or supervision of an individual completing his experience requirement for licensure as a psychologist[?].

(c) A minimum of six hours per two year period shall be completed in ethics/law.

(d) A maximum of six hours per two year period may be recognized for clinical readings directly related to practice as a psychologist.

(e) A maximum of 18 hours per two year period may be recognized for Internet or distance learning courses that includes an examination, a completion certificate and recognized by the American Psychological Association or a state or province psychological association.

(f) A maximum of six hours per two year period may be recognized for regular peer ~~supervision~~ consultation, review and meetings ~~[that are]~~ if properly documented ~~[noting the above]~~ that the peer consultation, review and meetings meet the following requirements ~~[in Section (4)].~~;

(i) have an identifiable clear statement of purpose and defined objective for the educational consultation/meeting directly related to the practice of a psychologist;

(ii) are relevant to the licensee's professional practice;

(iii) are presented in a competent, well organized manner consistent with the stated purpose and objective of the consultation/meeting;

(iv) are prepared and presented by individuals who are qualified by education, training and experience; and

(v) have associated with it a competent method of registration of individuals who attended.

(6) A licensee shall be responsible for maintaining competent records of completed qualified professional education for a period of four years after the close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain information with respect to qualified professional education to demonstrate it meets the requirements under this section.

.....

KEY: licensing, psychologists

Date of Enactment or Last Substantive Amendment: 2008

Notice of Continuation: June 10, 2004

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-61-101



**Health, Epidemiology and Laboratory Services, Environmental Services
R392-700**

Indoor Tanning Bed Sanitation

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 30612

Filed: 03/13/2008, 15:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments in this change in proposed rule address public comment received regarding the warning sign, sign placement, and age restriction of operators.

SUMMARY OF THE RULE OR CHANGE: In response to public comment, language has been deleted regarding age requirements of operators and placement of signs in tanning booths. The warning sign has been modified. The order of Sections R392-700-9 and R392-700-10 have been switched for added clarity. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the November 15, 2007, issue of the Utah State Bulletin, on page 65. 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: Sections 26-15-2 and 26-15-13, and 21 CFR 801, 21 CFR 1010.2, 21 CFR 1010.3, and 21 CFR 1040.20

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be costs to write and implement the proposed change in the new rule, but these costs will be covered by existing budgets.

❖ LOCAL GOVERNMENTS: There will be no cost increase or savings for local health departments due to changes made in the proposed rule because the changes do not substantially add or reduce workload requirements in enforcing the rule.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: All tanning facilities are small businesses with fewer than 50 employees. It is estimated that 500 persons under the age of 18 in the 334 tanning salons would have had their positions compromised due to this requirement. There will be some anticipated savings to operators due to lower wages paid to those under 18, versus wages which would have been required to pay employees 18 and older, and anticipated savings in training costs to replace employees under 18. These costs were not estimated in the original Notice of Proposed New rule. These cost savings have been estimated by surveying a small sample size of tanning salons and using this as a basis to estimate the costs to the 334 tanning salons in the state. The aggregate savings in wages to continue to allow 16-year-old persons to operate tanning equipment would be \$1,000/per hours worked (number of estimated employees under 18 (500) multiplied by the average wage difference per hour (\$2). The aggregate savings in training costs which now would not be required would be \$50,000 (estimated number of employees under 18 (500) multiplied by training costs, \$100). There will be additional savings related to purchase the required signs as one sign per facility is now required. The cost savings will depend on the method and materials required to print the sign. The rule does not specify the materials from which the sign must be constructed. A single, professionally produced plastic sign may cost as much as \$40 with considerable discount for multiple signs produced at the same time. The rule allows a facility operator to post paper signs, which may be produced from a Department of Health-provided Adobe Portable Document Format (PDF) file, which would reduce the cost substantially. Assuming all facilities needed 11 signs (one in the lobby and 10 beds) at \$40 per sign, the maximum cost would be \$146,960. Requiring one sign would now cost \$13,360, resulting in an aggregate savings of \$133,600. If all operators use the provided PDF file, have it printed and laminated at a copy shop at approximately \$3 per sign, the aggregate cost for the signs would be \$11,022. Requiring one sign would now cost of \$1,002, resulting in an aggregate savings of \$10,020.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is estimated through sample survey that the average number of employees under 18 hired in tanning salons is 1.5 persons per facility. The individual cost savings to continue to allow employees

under 18 to operate tanning equipment is estimated at \$2/hr per employee. The training cost savings by allowing employees under 18 to continue to operate tanning equipment would be estimated at \$100 per new employee hired. There will be an additional savings to purchase the required signs as one sign is now required per facility. The costs depend on the method and materials used to print the sign. Assuming a facility previously needed 11 signs and chose to obtain signs at \$40 per sign, the cost would be \$440. The cost with the requirement of one sign per facility would be \$40, with a cost savings of \$400 per facility. Assuming facility needed 11 signs and chose to use the provided PDF file, have it printed and laminated at a copy shop at approximately \$3 per sign, the cost for the signs would have been \$33. The cost with the requirement of one sign per facility would be \$3, with a cost savings of \$30/facility.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change is in response to public comment and should reduce any fiscal impact on regulated business. A. Richard Melton, Acting Executive Director

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
ENVIRONMENTAL 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:

Ronald Marsden at the above address, by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at rmarsden@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 05/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2008

AUTHORIZED BY: Richard Melton, Deputy Director

R392. Health, Epidemiology and Laboratory Services, Environmental Sanitation.
R392-700. Indoor Tanning Bed Sanitation.

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R392-700-4. Warning Sign Placement.

(1) The operator of a tanning facility shall post a warning sign that meets the requirements of this rule in a conspicuous location that is readily visible to a person about to use a tanning device.

(a) The operator shall place the warning sign so that all patrons are alerted to the hazard and informed before being exposed to UV radiation. At a minimum, the operator shall post the warning sign:

(i) in the line of sight of a person presenting at the reception or sales counter and no more than 10 feet from where a patron checks in or pays for the tanning session; and

(ii) on a vertical surface in the reception area so that the top border of the writing is between five and six feet above the patron floor level at the reception or sales counter area.]

~~— (b) The operator shall also place a warning sign in each tanning booth. For a tanning booth that has the patron control switch located separate from the device, the operator shall also post a warning sign adjacent to the tanning device patron control switch. For a tanning booth that has the patron control switch located on the tanning device, the operator shall also post a warning sign either:~~

~~— (i) on the wall opposite the entrance to the booth at a level and position easily visible by the patron; or~~

~~— (ii) on the wall opposite the normal position of the patron's head while using the device and in a manner that is easily visible by the patron.]~~

R392-700-5. Warning Sign Requirements.

(1) The warning sign required by R392-700-5 shall meet the requirements of this section. An Adobe Acrobat Portable Document Format, .pdf, file that meets the requirements of this section is available from the Department or the local health department.

(2) The sign shall be in a landscape format 11 inches high by 17 inches wide on a white background.

(3) All lettering shall be in ~~[a sans-serif font proportional thickness to height so as to be easily readable. Acceptable fonts are arial, arial bold, folio medium, franklin gothic, helvetica, helvetica bold, meta bold, news gothic bold, poster gothic, and universe]~~ Arial font as produced in Adobe Acrobat. In addition, the letters shall be:

- (a) black in color
- (b) ~~[capital letters]~~ all uppercase
- (c) adequately spaced and not crowded

(4) There must be a panel at the top of the sign. The background of the panel shall be safety orange in color and shall:

(a) be 3.3 centimeters, high and 42 centimeters wide, including a black line border that is 0.16 centimeter wide surrounding the safety orange background;

(b) have the word "WARNING" in capital letters that are 80 points in size (approximately two centimeters high); and

(c) have an internationally recognized safety alert symbol that is two centimeters high and placed immediately to the left of the word "WARNING"

(5) The safety alert symbol shall be black with a yellow field.

(6) The word "WARNING" and the symbol shall be vertically and horizontally centered within the orange panel.

(7) Immediately below the orange panel shall appear the words: "ULTRAVIOLET RADIATION" in letters that are 61 points in size (approximately 1.5 centimeters high) and centered between the vertical margins. The vertical space between the "WARNING" panel and the top of the words "ULTRAVIOLET RADIATION" shall be approximately 1.6 centimeters. The vertical space between the bottom of the words "ULTRAVIOLET RADIATION" and the top of the words of the first bulleted statement required in subsection (9) shall be approximately 1.6 centimeters.

(8) Beneath the "ULTRAVIOLET RADIATION" line shall appear the body wording of the sign in letters that are 39 points in size (approximately one centimeter high).

(9) The body of the sign shall be the following five bulleted statements:

~~[— WEAR PROTECTIVE EYEWEAR MAY CAUSE INJURY OR BLINDNESS~~

~~— DO NOT USE IF YOU ARE PREGNANT OR USING ORAL CONTRACEPTIVES~~

~~— TAKING CERTAIN MEDICATIONS OR USING CERTAIN COSMETICS MAY CAUSE YOU TO BURN MORE EASILY. TALK TO YOUR DOCTOR.~~

~~— AVOID FREQUENT OR LENGTHY EXPOSURE. MAY CAUSE PREMATURE AGING, DRYNESS, FRAGILITY AND EASY BRUISING OF THE SKIN.~~

~~— WAIT 48 HOURS BETWEEN TANNING SESSIONS.~~

]- WEAR EYE PROTECTION TO PREVENT BLINDNESS

- TALK TO YOUR DOCTOR IF YOU ARE PREGNANT OR USE ORAL CONTRACEPTIVES

- SOME COSMETICS OR MEDICINES MAY MAKE YOU BURN EASILY - TALK TO YOUR DOCTOR.

- FREQUENT OR LENGTHY EXPOSURE MAY CAUSE SKIN CANCER OR OTHER SEVERE SKIN DAMAGE

- YOU SHOULD WAIT 48 HRS BETWEEN TANNING SESSIONS

(10) The vertical spacing between each of the bulleted statements shall be approximately 1.6 centimeters. The margins to the right and left of the bulleted statements shall be no less than 4.4 centimeters.

(11) The vertical spacing between the last bulleted statement and the bottom margin of the paper shall be no less than two centimeters.

(12) Local health departments may add additional warning requirements that are applicable to all patrons of all tanning facilities.

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R392-700-7. Tanning Devices.

(1) A tanning facility may use only commercially available tanning devices manufactured and certified in compliance with 21 CFR 801.4, 21 CFR 1010.2 and 1010.3, and 21 CFR 1040.20.

(a) The operator shall follow all manufacturer safety instructions applicable to each tanning device.

(b) The operator shall not:

(i) operate any tanning device that has an ineffective or inoperable timing device or for which the timing device is missing;

(ii) exceed the manufacturer's maximum recommended exposure time; or

(iii) exceed the exposure time recommended by the manufacturer in compliance with 21 CFR 1040.20(d)(1)(iv).

(3) The operator shall maintain at the tanning facility the manufacturer's[-] operating instructions, exposure recommendations, and safety instructions for each tanning device.

(4) The operator shall centrally install and locate the timing device controls for each tanning device so that a patron may not set or reset the exposure time on any tanning device. ~~[— The operator shall not permit any person under age 18, including employees, to set or reset the exposure time on any tanning device.]~~

(5) The operator shall control the temperature of the consumer contact surfaces of a tanning device and the surrounding area so that it will not exceed 100 degrees Fahrenheit.

(6) The operator shall maintain the tanning devices in good repair.

(7) The operator shall provide physical barriers to protect patrons from possible injury which may be induced by touching or breaking tanning equipment lamps.

(8) The operator shall provide physical barriers or other methods, such as handrails or floor markings to indicate the proper exposure distance between ultraviolet lamps and the patron's skin.

(9) The operator shall replace defective or burned-out lamps or filters with lamps and filters that are clearly identified by brand and model designation by the replacement lamp by the lamp manufacturer. The operator shall maintain lamp manufacturer's labeling and user instructions at the facility that demonstrate the equivalence of any replacement lamp or filter.

(10) An operator shall not advertise or promote the use of any tanning equipment using wording such as "safe," "safe tanning," "no harmful rays," "no adverse effect," "free from risk," or similar wording or concept.

(11) The operator shall track each patron's usage to ensure that a patron does not use a tanning device more frequently than once each calendar day or in excess of the manufacturer's recommended exposure.

(12) The tanning device shall allow each patron to exit the tanning device without assistance from the operator.

(13) The operator shall assess each patron's skin type and sensitivity and consider the intensity of the radiation output of the tanning devices in the tanning facility when assigning a patron to use a particular tanning device.

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R392-700-9. Tanning Physical Facilities.

(1) The operator shall provide a restroom that includes a flushing toilet and a hand-washing sink with hot and cold running water accessible to patrons at each tanning facility. The operator shall ensure that tanning facility floors and walls in the toilet and hand-washing areas are constructed of smooth, non-absorbent material.

(2) The operator shall ensure that all areas of the tanning facility and temporary tanning facility are properly ventilated. The internal ambient air temperature of the facility shall not exceed 85 degrees F.

(3) The operator shall ensure that all rooms of a tanning facility are capable of being illuminated to allow for proper cleaning and sanitizing.

(4) To prevent patron slip injury, the operator shall ensure that the floor adjacent to each tanning device is clean and slip resistant to allow for safe entry and exit from the tanning device.

R392-700-[9]10. Tanning Facility Sanitation.

(1) The operator shall maintain in good repair and in a sanitary condition all portions of the tanning facility, including wall, floors, ceilings, and equipment.

(2) The operator shall clean and sanitize before each use, all:
(a) reusable protective eye wear;
(b) body contact surfaces of the tanning device; and
(c) body contact surfaces of the tanning booth, including all seating surfaces and door knobs.

(3) The operator shall clean the items in subsection (2) using a detergent or other agent able to emulsify oils and hold dirt in suspension using a concentration as indicated by the detergent or other agent manufacturer's use directions included on the product labeling. The operator shall sanitize the items in subsection (2) with a chlorine sanitizer or a quaternary ammonia compound using a concentration as indicated by the sanitizer or compound manufacturer's use directions included on the product labeling.

(4) If the operator cleans the items in a separate process from sanitizing the items, the operator shall clean the items prior to sanitizing them. The operator may use a single product to both clean and sanitize if that product meets the requirements of subsection (3) for the cleaning and sanitizing of the items in subsection (2).

(5) The operator shall ensure that restroom facilities are maintained in a clean and sanitary condition. The operator shall provide hand soap and single use hand drying towels or a hand drying mechanism for patron use.

(6) The operator shall clean and sanitize towels or other linens after each use.

~~R392-700-10. Tanning Physical Facilities.~~

~~(1) The operator shall provide a restroom that includes a flushing toilet and a hand-washing sink with hot and cold running water accessible to patrons at each tanning facility. The operator shall ensure that tanning facility floors and walls in the toilet and hand-washing are constructed of smooth, non-absorbent material.~~

~~(2) The operator shall ensure that all areas of the tanning facility and temporary tanning facility are properly ventilated. The internal ambient air temperature of the facility shall not exceed 85 degrees F.~~

~~(3) The operator shall ensure that all rooms of a tanning facility are capable of being illuminated to allow for proper cleaning and sanitizing.~~

~~(4) To prevent patron slip injury, the operator shall ensure that the floor adjacent to each tanning device is clean and slip resistant to allow for safe entry and exit from the tanning device.~~

]

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**KEY: tanning beds, salons, sanitation, ultraviolet light safety
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 26-15-2; 26-15-13**



End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the 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).

Education, Administration

R277-469

Instructional Materials Commission
Operating Procedures

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31035
FILED: 03/03/2008, 08:08

**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: Sections 53A-14-101 through 53A-14-106 direct the Utah State Board of Education (Board) to appoint an Instructional Materials Commission (Commission) and directs the Commission to evaluate instructional materials for recommendation by the Board.

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 continues to be necessary because it provides the operating procedures and criteria for recommending materials for use in Utah public schools and for mapping and alignment of primary instructional materials to the Utah Core Curriculum. Therefore, this rule should be continued.

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

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 03/03/2008



Education, Administration

R277-483

Persistently Dangerous Schools

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31036
FILED: 03/03/2008, 08:12

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities, and Title IX, Part E, Subpart 2, Section 9532, Unsafe School Choice Options, requires a state receiving funds under that Act to establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary or secondary school, or who becomes a victim of a violent criminal offense while in or on the grounds of a public elementary or secondary school, be allowed to attend a safe public elementary or secondary school within the school district or public charter school.

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 continues to be necessary because it provides criteria and procedures consistent with federal and state law for students of schools designated as persistently dangerous and for victims of violent criminal offenses to transfer schools and receive education services. Therefore, this rule should be continued.

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

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 03/03/2008



Education, Administration
R277-485
Loss of Enrollment

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31037
FILED: 03/03/2008, 08:12

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities, and Section 53A-17a-139 allows the Utah State Board of Education to increase funds for a school district in order to avoid penalizing it for an excessive loss in student enrollment due to factors beyond its control.

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 continues to be

necessary because it provides specific procedures for the Utah State Board of Education to compensate a school district for an excessive loss in student enrollment due to factors beyond the school district's control, as provided for in state law. Therefore, this rule should be continued.

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

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 03/03/2008



Education, Administration
R277-508
Employment of Substitute Teachers

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31038
FILED: 03/03/2008, 08:13

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(a) directs the Utah State Board of Education to make rules regarding the qualifications of educators and ancillary personnel providing services directly to students.

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 provides minimal employment standards and employment procedures that are used when schools/school districts use substitute teachers. Therefore, this rule should be continued.

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

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 03/03/2008

Education, Administration
R277-746

Driver Education Programs for Utah
Schools

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31039
FILED: 03/03/2008, 08:13

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-13-201(4) directs the Utah State Board of Education to provide rules for standards for driver education programs in the public schools.

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 provides standards and procedures that continue to be utilized for schools/school districts that provide automobile driver education programs in public schools. Therefore, this rule should be continued.

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

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 03/03/2008

Education, Administration
R277-747

Private School Student Driver
Education

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31040
FILED: 03/03/2008, 08:13

**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 53A-13-203 allows school districts maintaining automobile driver education classes to enroll pupils attending private schools located within the school district in those classes consistent with requirements for public school students; and Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

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 provides standards and procedures for public school districts operating automobile driver education classes attended by private school students. Therefore, this rule should be continued.

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

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 03/03/2008

Education, Administration
R277-751

Special Education Extended School
Year

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31041
FILED: 03/03/2008, 08:14

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(c) directs the Utah State Board of Education to adopt rules regarding services to persons with disabilities; and Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

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 provides standards for the special education extended school year that continues to be administered by the Utah State Board of Education. Therefore, this rule should be continued.

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

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 03/03/2008

Education, Rehabilitation
R280-200
Rehabilitation

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31042
FILED: 03/03/2008, 08:14

**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 53A-24-105 permits the Utah State Board of Education to administer funds made available for vocational rehabilitation and independent living.

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 continues to provide necessary standards and procedures for the Utah State Office of Rehabilitation and the services the Utah State Office of Rehabilitation provides. Therefore, this rule should be continued.

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

EDUCATION
REHABILITATION
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

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 03/03/2008

Natural Resources, Wildlife Resources
R657-3
Collection, Importation, Transportation,
and Possession of Zoological Animals

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31047
FILED: 03/11/2008, 07:46

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: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means to allow the collection, importation, exportation, transportation, and possession of zoological animals and their parts.

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 supporting or opposing Rule R657-3 were received since 04/15/2003 when the rule was last reviewed.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-3 governs the collection, importation, exportation, transportation, and possession of zoological animals and their parts. The procedures adopted in this rule have provided an effective and efficient process. Continuation of this rule is necessary for continued success of this program.

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:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: James F Karpowitz, Director

EFFECTIVE: 03/11/2008

Public Service Commission,
Administration

R746-330

Rules for Water and Sewer Utilities
Operating in Utah

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31044
FILED: 03/07/2008, 09:32

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: Section 54-4-1 authorizes the Public Service Commission to supervise and regulate all public utilities in Utah. Subsections 54-2-1(18) and (26) define sewerage corporations and water corporations as some of the utilities to be regulated by the commission. Section 54-4-7 requires the commission to, after a hearing, prescribe rules for utility corporations. Section 54-4-18 authorizes the commission to ascertain and fix just and reasonable standards and practices for the utility corporations under its jurisdiction. Section 54-4-23 gives the commission the power to establish a system of accounts for utility corporations. Rule R746-330 is the commission's rule prescribed for those 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 comments have been received in the last 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 continues to be necessary to regulate and supervise the operations and the methods and conditions of service of water and sewer corporations. Therefore, this rule should be continued.

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

PUBLIC SERVICE COMMISSION
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:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 03/07/2008

Public Service Commission,
Administration

R746-347

Extended Area Service (EAS)

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31045
FILED: 03/07/2008, 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 54-3-1 requires service offered by a public utility to be "adequate, efficient, just and reasonable". Section 54-3-4 allows utilities to offer joint services. Section 54-8b-11 requires the Public Service Commission to endeavor to make available high-quality telecommunications services at just and reasonable rates for customers throughout the State. Section 54-4-1 authorizes the commission to supervise and regulate public utilities. Section 54-4-12 requires telephone utilities to interconnect networks in order to provide a continuous line of communication. This rule uses these provision to enable joint localities of common interest to have local calling areas in which customers may place telephone calls without incurring toll charges for each call made.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 2003, comments were received by the Committee of Consumer Services to lower the percentage, from 75% to 67%, of approving residential customers surveyed in petitioning exchanges to support the

creation of an extended area service (EAS) territory. A rule amendment was made in response to the comment. No comments opposing the rule were 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 continues to be necessary to establish or restructure EAS under just and reasonable rates offered by Utah telephone corporations. Therefore, this rule should be continued.

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

PUBLIC SERVICE COMMISSION
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:
Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 03/07/2008



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

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*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63-46a-4(9).

Abbreviations

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

Administrative Services

Fleet Operations

No. 30618 (AMD): R27-4. Vehicle Replacement and Expansion of State Fleet.
Published: November 15, 2007
Effective: March 6, 2008

Commerce

Corporations and Commercial Code

No. 30642 (REP): R154-10. Utah Digital Signatures Act Rules.
Published: November 15, 2007
Effective: March 3, 2008

Occupational and Professional Licensing

No. 30892 (AMD): R156-55a. Utah Construction Trades Licensing Act Rule.
Published: February 1, 2008
Effective: March 11, 2008

Corrections

Administration

No. 30713 (AMD): R251-112. Americans With Disabilities Act Implementation and Complaint Process.
Published: December 1, 2007
Effective: March 11, 2008

No. 30803 (NEW): R251-114. Offender Long-Term Health Care - Notice.
Published: January 1, 2008
Effective: March 11, 2008

Environmental Quality

Radiation Control

No. 30865 (AMD): R313-15. Standards for Protection Against Radiation.
Published: January 15, 2008
Effective: March 17, 2008

Solid and Hazardous Waste

No. 30907 (AMD): R315-15-1. Applicability, Prohibitions, and Definitions.
Published: February 1, 2008
Effective: March 13, 2008

No. 30908 (AMD): R315-15-10. Liability/Financial Requirements.
Published: February 1, 2008
Effective: March 13, 2008

No. 30909 (AMD): R315-15-11. Closure.
Published: February 1, 2008
Effective: March 13, 2008

No. 30910 (AMD): R315-15-12. Reclamation Surety.
Published: February 1, 2008
Effective: March 13, 2008

No. 30911 (AMD): R315-15-17. Wording of Financial Assurance Mechanisms.
Published: February 1, 2008
Effective: March 13, 2008

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 30917 (AMD): R414-510. Intermediate Care Facility for Individuals with Mental Retardation Transition Program.
Published: February 1, 2008
Effective: March 10, 2008

Natural Resources

Geological Survey

No. 30902 (AMD): R638-2-6. Investment Tax Credit, Eligible Costs for Commercial and Residential Systems, Active Solar Thermal.
Published: February 1, 2008
Effective: March 10, 2008

Parks and Recreation

No. 30900 (AMD): R651-205-17. Cutler Reservoir.
Published: February 1, 2008
Effective: March 10, 2008

No. 30899 (AMD): R651-301. State Recreation Fiscal Assistance Programs.
Published: February 1, 2008
Effective: March 10, 2008

No. 30898 (AMD): R651-611. Fee Schedule.
Published: February 1, 2008
Effective: March 10, 2008

No. 30901 (AMD): R651-612. Firearms, Traps and Other Weapons.
Published: February 1, 2008
Effective: March 10, 2008

Wildlife Resources

No. 30904 (AMD): R657-13-4. Fishing Contests.
Published: February 1, 2008
Effective: March 10, 2008

No. 30906 (AMD): R657-33. Taking Bear.
Published: February 1, 2008
Effective: March 10, 2008

No. 30903 (NEW): R657-58. Fishing Contests and Clinics.
Published: February 1, 2008
Effective: March 10, 2008

Public Safety

Fire Marshal

No. 30918 (AMD): R710-2-4. Indoor Sales.
Published: February 1, 2008
Effective: March 10, 2008

No. 30896 (AMD): R710-5-1. Adoption, Title, Purpose, and Prohibitions.
Published: February 1, 2008
Effective: March 10, 2008

No. 30919 (AMD): R710-9-6. Amendments and Additions.
Published: February 1, 2008
Effective: March 10, 2008

No. 30894 (AMD): R710-10. Rules Pursuant to Fire Service Training, Education, and Certification.
Published: February 1, 2008
Effective: March 10, 2008

No. 30893 (NEW): R710-12. Hazardous Materials Training and Certification.
Published: February 1, 2008
Effective: March 10, 2008

Regents (Board Of)

University of Utah, Parking and Transportation Services
No. 30712 (AMD): R810-1. University of Utah Parking Regulations.
Published: December 1, 2007
Effective: March 6, 2008

No. 30722 (AMD): R810-2. Parking Meters.
Published: December 1, 2007
Effective: March 6, 2008

No. 30727 (REP): R810-3. Visitor Parking.
Published: December 15, 2007
Effective: March 6, 2008

No. 30728 (REP): R810-4. Registration Policies.
Published: December 15, 2007
Effective: March 6, 2008

No. 30779 (AMD): R810-5. Permit Types, Eligibility and Designated Parking Areas.
Published: December 15, 2007
Effective: March 6, 2008

No. 30809 (AMD): R810-6. Permit Prices and Refunds.
Published: January 1, 2008
Effective: March 6, 2008

No. 30831 (REP): R810-7. Nonresidents and Out-of-State Plates.
Published: January 1, 2008
Effective: March 6, 2008

No. 30834 (AMD): R810-8. Vendor Regulations.
Published: January 1, 2008
Effective: March 6, 2008

No. 30836 (AMD): R810-9. Contractors and Their Employees.
Published: January 1, 2008
Effective: March 6, 2008

No. 30839 (AMD): R810-10. Enforcement System.
Published: January 1, 2008
Effective: March 6, 2008

No. 30840 (AMD): R810-11. Appeals System.
Published: January 1, 2008
Effective: March 6, 2008

No. 30843 (NEW): R810-12. Bicycles, Skateboards and Other Toy Vehicles.
Published: January 1, 2008
Effective: March 6, 2008

Tax Commission

Auditing

No. 30913 (AMD): R865-6F-28. Enterprise Zone Corporate Franchise Tax Credits Pursuant to Utah Code Ann. Sections 9-2-401 through 9-2-415.
Published: February 1, 2008
Effective: March 14, 2008

No. 30916 (AMD): R865-9I-37. Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 63-38f-401 through 63-38f-414.
Published: February 1, 2008
Effective: March 14, 2008

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, 2008, including notices of effective date received through March 14, 2008, the effective dates of which are no later than April 1, 2008. 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 | NSC = Nonsubstantive rule change |
| CPR = Change in proposed rule | REP = Repeal |
| EMR = Emergency rule (120 day) | R&R = Repeal and reenact |
| NEW = New rule | 5YR = Five-Year Review |
| EXD = Expired | |

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
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| Administrative Services | | | | | |
| <u>Facilities Construction and Management</u> | | | | | |
| R23-13 | State of Utah Parking Rules for Facilities Managed by the Division of Facilities Construction and Management | 31063 | 5YR | 03/17/2008 | Not Printed |
| R23-14 | Management of Roofs on State Buildings | 31064 | 5YR | 03/17/2008 | Not Printed |
| <u>Fleet Operations</u> | | | | | |
| R27-4 | Vehicle Replacement and Expansion of State Fleet | 30618 | AMD | 03/06/2008 | 2007-22/9 |
| Agriculture and Food | | | | | |
| <u>Marketing and Development</u> | | | | | |
| R65-2 | Utah Cherry Marketing Order | 31007 | 5YR | 02/15/2008 | 2008-5/38 |
| R65-5 | Utah Red Tart and Sour Cherry Marketing Order | 31008 | 5YR | 02/15/2008 | 2008-5/38 |

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| <u>Plant Industry</u> | | | | | |
| R68-5 | Grain Inspection | 31006 | 5YR | 02/15/2008 | 2008-5/39 |
| R68-7 | Utah Pesticide Control Act | 30611 | AMD | 01/07/2008 | 2007-22/11 |
| Capitol Preservation Board (State) | | | | | |
| <u>Administration</u> | | | | | |
| R131-1 | Procurement of Architectural and Engineering Services | 30591 | AMD | 02/29/2008 | 2007-21/11 |
| R131-4 | Procurement of Construction | 30590 | R&R | 02/29/2008 | 2007-21/13 |
| Commerce | | | | | |
| <u>Corporations and Commercial Code</u> | | | | | |
| R154-10 | Utah Digital Signatures Act Rules | 30642 | REP | 03/03/2008 | 2007-22/16 |
| <u>Occupational and Professional Licensing</u> | | | | | |
| R156-1-102a | Global Definitions of Levels of Supervision | 30655 | AMD | 01/08/2008 | 2007-23/3 |
| R156-38a | Residence Lien Restriction and Lien Recovery Fund Rules | 30654 | AMD | 01/07/2008 | 2007-23/14 |
| R156-47b | Massage Therapy Practice Act Rules | 30853 | AMD | 02/21/2008 | 2008-2/4 |
| R156-49 | Dietitian Certification Act Rules | 31073 | 5YR | 03/24/2008 | Not Printed |
| R156-53 | Landscape Architect Licensing Act Rules | 31074 | 5YR | 03/24/2008 | Not Printed |
| R156-55a | Utah Construction Trades Licensing Act Rule | 30892 | AMD | 03/11/2008 | 2008-3/3 |
| R156-56 | Utah Uniform Building Standard Act Rules | 30574 | AMD | 01/01/2008 | 2007-21/38 |
| R156-56-420 | Administration of Building Code Training Fund | 30573 | AMD | 01/01/2008 | 2007-21/57 |
| R156-76 | Professional Geologist Licensing Act Rules | 30694 | AMD | 01/08/2008 | 2007-23/17 |
| R156-78A | Prelitigation Panel Review Rules | 31055 | NSC | 03/26/2008 | Not Printed |
| Community and Culture | | | | | |
| <u>Housing and Community Development</u> | | | | | |
| R199-8 | Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance | 30451 | AMD | 01/01/2008 | 2007-19/6 |
| Corrections | | | | | |
| <u>Administration</u> | | | | | |
| R251-112 | Americans With Disabilities Act Implementation and Complaint Process | 30713 | AMD | 03/11/2008 | 2007-23/19 |
| R251-114 | Offender Long-Term Health Care - Notice | 30803 | NEW | 03/11/2008 | 2008-1/6 |
| R251-304 | Contract Procedures | 30952 | 5YR | 02/05/2008 | 2008-5/39 |
| Crime Victim Reparations | | | | | |
| <u>Administration</u> | | | | | |
| R270-1-11 | Collateral Source | 30593 | AMD | 01/02/2008 | 2007-22/33 |
| Education | | | | | |
| <u>Administration</u> | | | | | |
| R277-423 | Delivery of Flow Through Money | 30845 | AMD | 02/07/2008 | 2008-1/8 |
| R277-469 | Instructional Materials Commission Operating Procedures | 30781 | AMD | 01/22/2008 | 2007-24/4 |
| R277-469 | Instructional Materials Commission Operating Procedures | 31035 | 5YR | 03/03/2008 | 2008-7/64 |
| R277-470-7 | Timelines - Charter School Starting Date | 30846 | AMD | 02/07/2008 | 2008-1/9 |
| R277-483 | Persistently Dangerous Schools | 31036 | 5YR | 03/03/2008 | 2008-7/64 |
| R277-485 | Loss of Enrollment | 31037 | 5YR | 03/03/2008 | 2008-7/65 |

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| R277-502 | Educator Licensing and Data Retention | 30944 | AMD | 03/24/2008 | 2008-4/6 |
| R277-508 | Employment of Substitute Teachers | 31038 | 5YR | 03/03/2008 | 2008-7/65 |
| R277-515-3 | Educator as a Role Model of Civic and Societal Responsibility | 30976 | NSC | 02/27/2008 | Not Printed |
| R277-518 | Applied Technology Education Licenses | 30878 | 5YR | 01/08/2008 | 2008-3/72 |
| R277-600 | Student Transportation Standards and Procedures | 30879 | 5YR | 01/08/2008 | 2008-3/72 |
| R277-605 | Coaching Standards and Athletic Clinics | 30880 | 5YR | 01/08/2008 | 2008-3/73 |
| R277-609 | Standards for School District Discipline Plans | 30847 | AMD | 02/07/2008 | 2008-1/10 |
| R277-609-5 | Parent/Guardian Notification and Court Referral | 30958 | NSC | 02/29/2008 | Not Printed |
| R277-610 | Released-Time Classes for Religious Instruction | 30881 | 5YR | 01/08/2008 | 2008-3/73 |
| R277-700 | The Elementary and Secondary School Core Curriculum | 30882 | 5YR | 01/08/2008 | 2008-3/74 |
| R277-702 | Procedures for the Utah General Educational Development Certificate | 30883 | 5YR | 01/08/2008 | 2008-3/74 |
| R277-703-6 | Funding Provisions | 30977 | NSC | 02/27/2008 | Not Printed |
| R277-709 | Education Programs Serving Youth in Custody | 30884 | 5YR | 01/08/2008 | 2008-3/75 |
| R277-718 | Utah Career Teaching Scholarship Program | 30885 | 5YR | 01/08/2008 | 2008-3/75 |
| R277-719 | Standards for Selling Foods Outside of the Reimbursable Meal in Schools | 30848 | NEW | 02/07/2008 | 2008-1/12 |
| R277-721 | Deadline for CACFP Sponsor Participation in Food Distribution Program | 30886 | 5YR | 01/08/2008 | 2008-3/76 |
| R277-722 | Withholding Payments and Commodities in the CACFP | 30887 | 5YR | 01/08/2008 | 2008-3/76 |
| R277-730 | Alternative High School Curriculum | 30888 | 5YR | 01/08/2008 | 2008-3/77 |
| R277-746 | Driver Education Programs for Utah Schools | 31039 | 5YR | 03/03/2008 | 2008-7/66 |
| R277-747 | Private School Student Driver Education | 31040 | 5YR | 03/03/2008 | 2008-7/66 |
| R277-751 | Special Education Extended School Year | 31041 | 5YR | 03/03/2008 | 2008-7/67 |
| <u>Rehabilitation</u> | | | | | |
| R280-200 | Rehabilitation | 31042 | 5YR | 03/03/2008 | 2008-7/67 |
| Environmental Quality | | | | | |
| <u>Administration</u> | | | | | |
| R305-3 | Emergency Meetings | 30766 | REP | 02/15/2008 | 2007-24/6 |
| R305-3 | Emergency Meeting (5YR EXTENSION) | 30506 | NSC | 02/15/2008 | Not Printed |
| <u>Air Quality</u> | | | | | |
| R307-101 | General Requirements | 30697 | AMD | 02/08/2008 | 2007-23/21 |
| R307-101 | General Requirements | 30959 | 5YR | 02/08/2008 | 2008-5/40 |
| R307-102 | General Requirements: Broadly Applicable Requirements | 30960 | 5YR | 02/08/2008 | 2008-5/40 |
| R307-115 | General Conformity | 30698 | AMD | 02/08/2008 | 2007-23/28 |
| R307-115 | General Conformity | 30961 | 5YR | 02/08/2008 | 2008-5/41 |
| R307-121-3 | Procedures for OEM Vehicles | 30889 | NSC | 01/30/2008 | Not Printed |
| R307-170 | Continuous Emission Monitoring Program | 30962 | 5YR | 02/08/2008 | 2008-5/41 |
| R307-170-7 | Performance Specification Audits | 30699 | AMD | 02/08/2008 | 2007-23/29 |
| R307-202 | Emission Standards: General Burning | 30963 | 5YR | 02/08/2008 | 2008-5/42 |
| R307-203 | Emission Standards: Sulfur Content of Fuels | 30964 | 5YR | 02/08/2008 | 2008-5/43 |
| R307-214 | National Emission Standards for Hazardous Air Pollutants | 30430 | AMD | 01/11/2008 | 2007-19/12 |
| R307-214 | National Emission Standards for Hazardous Air Pollutants | 30895 | 5YR | 01/11/2008 | 2008-3/77 |

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
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| R307-215 | Acid Rain Requirements | 30700 | REP | 02/08/2008 | 2007-23/31 |
| R307-220 | Emission Standards: Plan for Designated Facilities | 30965 | 5YR | 02/08/2008 | 2008-5/43 |
| R307-221 | Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills | 30701 | AMD | 02/08/2008 | 2007-23/32 |
| R307-221 | Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills | 30966 | 5YR | 02/08/2008 | 2008-5/44 |
| R307-221-2 | Definitions and References | 30832 | NSC | 02/08/2008 | Not Printed |
| R307-222 | Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste | 30967 | 5YR | 02/08/2008 | 2008-5/44 |
| R307-222 | Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste | 30702 | AMD | 02/08/2008 | 2007-23/36 |
| R307-222-1 | Purpose and Applicability | 30833 | NSC | 02/08/2008 | Not Printed |
| R307-223 | Existing Incinerators for Hospital, Medical, Infectious Waste | 30703 | AMD | 02/08/2008 | 2007-23/38 |
| R307-223 | Emission Standards: Existing Small Municipal Waste Combustion Units | 30968 | 5YR | 02/08/2008 | 2008-5/45 |
| R307-224 | Mercury Emission Standards: Coal-Fired Electric Generating Units | 30969 | 5YR | 02/08/2008 | 2008-5/45 |
| R307-224-2 | Emission Guidelines and Compliance Times for Coal-Fired Electric Generating Units | 30704 | AMD | 02/08/2008 | 2007-23/39 |
| R307-250 | Western Backstop Sulfur Dioxide Trading Program | 30970 | 5YR | 02/08/2008 | 2008-5/46 |
| R307-310 | Salt Lake County: Trading of Emission Budgets for Transportation Conformity | 30971 | 5YR | 02/08/2008 | 2008-5/46 |
| R307-310-2 | Definitions | 30705 | AMD | 02/08/2008 | 2007-23/40 |
| R307-401-14 | Used Oil Fuel Burned for Energy Recovery | 30709 | AMD | 02/08/2008 | 2007-23/42 |
| R307-405 | Permits: Major Sources in Attainment or Unclassified Areas (PSD) | 30431 | AMD | 01/11/2008 | 2007-19/15 |
| R307-417 | Acid Rain Sources | 30706 | AMD | 02/08/2008 | 2007-23/43 |
| R307-801 | Asbestos | 30707 | AMD | 02/08/2008 | 2007-23/45 |
| R307-801 | Asbestos | 30972 | 5YR | 02/08/2008 | 2008-5/47 |
| R307-840 | Lead-Based Paint Accreditation, Certification and Work Practice Standards | 30708 | AMD | 02/08/2008 | 2007-23/48 |
| R307-840 | Lead-Based Paint Accreditation, Certification and Work Practice Standards | 30973 | 5YR | 02/08/2008 | 2008-5/47 |
| <u>Environmental Response and Remediation</u> | | | | | |
| R311-401-2 | Utah Hazardous Substances Priority List | 30567 | AMD | 01/02/2008 | 2007-21/59 |
| <u>Radiation Control</u> | | | | | |
| R313-15 | Standards for Protection Against Radiation | 30865 | AMD | 03/17/2008 | 2008-2/10 |
| <u>Solid and Hazardous Waste</u> | | | | | |
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| R315-15-10 | Liability/Financial Requirements | 30908 | AMD | 03/13/2008 | 2008-3/19 |
| R315-15-11 | Closure | 30909 | AMD | 03/13/2008 | 2008-3/21 |
| R315-15-12 | Reclamation Surety | 30910 | AMD | 03/13/2008 | 2008-3/23 |
| R315-15-17 | Wording of Financial Assurance Mechanisms | 30911 | AMD | 03/13/2008 | 2008-3/29 |
| R315-301 | Solid Waste Authority, Definitions, and General Requirements | 30990 | 5YR | 02/14/2008 | 2008-5/48 |
| R315-302 | Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements | 30986 | 5YR | 02/14/2008 | 2008-5/49 |
| R315-303 | Landfilling Standards | 30992 | 5YR | 02/14/2008 | 2008-5/49 |
| R315-305 | Class IV and VI Landfill Requirements | 30991 | 5YR | 02/14/2008 | 2008-5/50 |
| R315-306 | Incinerator Standards | 30985 | 5YR | 02/14/2008 | 2008-5/51 |
| R315-307 | Landtreatment Disposal Standards | 30993 | 5YR | 02/14/2008 | 2008-5/51 |
| R315-308 | Ground Water Monitoring Requirements | 30995 | 5YR | 02/14/2008 | 2008-5/52 |

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| R315-309 | Financial Assurance | 30994 | 5YR | 02/14/2008 | 2008-5/52 |
| R315-310 | Permit Requirements for Solid Waste Facilities | 30996 | 5YR | 02/14/2008 | 2008-5/53 |
| R315-311 | Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities | 30983 | 5YR | 02/14/2008 | 2008-5/53 |
| R315-312 | Recycling and Composting Facility Standards | 30997 | 5YR | 02/14/2008 | 2008-5/54 |
| R315-313 | Transfer Stations and Drop Box Facilities | 30998 | 5YR | 02/14/2008 | 2008-5/54 |
| R315-314 | Facility Standards for Piles Used for Storage and Treatment | 30999 | 5YR | 02/14/2008 | 2008-5/55 |
| R315-315 | Special Waste Requirements | 30989 | 5YR | 02/14/2008 | 2008-5/55 |
| R315-316 | Infectious Waste Requirements | 30988 | 5YR | 02/14/2008 | 2008-5/56 |
| R315-317 | Other Processes, Variances, Violations, and Petition for Rule Change | 30984 | 5YR | 02/14/2008 | 2008-5/57 |
| R315-318 | Permit by Rule | 30987 | 5YR | 02/14/2008 | 2008-5/57 |
| <u>Water Quality</u> | | | | | |
| R317-1-4 | Utilization and Isolation of Domestic Wastewater Treatment Works Effluent | 30639 | AMD | 02/04/2008 | 2007-22/52 |
| R317-3-11 | Land Application of Wastewater Effluents | 30638 | AMD | 02/04/2008 | 2007-22/57 |
| R317-9 | Administrative Procedures | 30948 | 5YR | 02/01/2008 | 2008-4/42 |
| R317-13 | Approvals and Permits for a Water Reuse Project | 30637 | NEW | 02/04/2008 | 2007-22/61 |
| R317-14 | Approval in Change in Point of Discharge of POTW | 30636 | NEW | 02/04/2008 | 2007-22/62 |
| Governor | | | | | |
| <u>Economic Development</u> | | | | | |
| R357-2 | Rural Broadband Service Fund | 30788 | NEW | 01/30/2008 | 2007-24/9 |
| R357-2-7 | Ranking and Approval of Applications | 30859 | NSC | 01/30/2008 | Not Printed |
| Health | | | | | |
| <u>Health Care Financing</u> | | | | | |
| R410-14-17 | Agency Review | 30981 | EMR | 02/15/2008 | 2008-5/36 |
| <u>Health Care Financing, Coverage and Reimbursement Policy</u> | | | | | |
| R414-21 | Physical and Occupational Therapy | 30653 | R&R | 01/10/2008 | 2007-23/50 |
| R414-27 | Medicare Nursing Home Certification | 30920 | 5YR | 01/17/2008 | 2008-4/42 |
| R414-27 | Medicare Nursing Home Certification | 31046 | NSC | 03/25/2008 | Not Printed |
| R414-52 | Optometry Services | 30775 | AMD | 02/01/2008 | 2007-24/12 |
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| R414-301 | Medicaid General Provisions | 30936 | 5YR | 01/31/2008 | 2008-4/43 |
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| R414-304 | Income and Budgeting | 30652 | AMD | 01/28/2008 | 2007-23/54 |
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| R426-6 | Emergency Medical Services Competitive Grants Program Rules | 30758 | AMD | 02/07/2008 | 2007-24/14 |

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| R432-16 | Hospice Inpatient Facility Construction | 30975 | 5YR | 02/11/2008 | 2008-5/58 |
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| <u>Administration</u> | | | | | |
| R477-8-5 | Overtime | 30778 | AMD | 01/22/2008 | 2007-24/16 |
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| R495-861 | Requirements for Local Discretionary Social Services Block Grant Funds | 30773 | AMD | 01/30/2008 | 2007-24/18 |
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| R510-105 | "Out and About" Homebound Transportation Assistance Fund Rules | 31027 | 5YR | 02/27/2008 | 2008-6/26 |
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| R512-20 | Protective Payee for Recipients of Cash Assistance from the Department of Workforce Services (5YR EXTENSION) | 30720 | NSC | 01/07/2008 | Not Printed |
| R512-20 | Protective Payee for Recipients of Cash Assistance from the Department of Workforce Services | 30716 | REP | 01/07/2008 | 2007-23/58 |
| R512-50 | Fee Collection for Clients Served by Pre-School Day Treatment Contract (5YR EXTENSION) | 30721 | NSC | 01/07/2008 | Not Printed |
| R512-50 | Fee Collection for Clients Served by Pre-School Day Treatment Contract | 30718 | REP | 01/07/2008 | 2007-23/60 |
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| R539-1-8 | Non-Waiver Services for People with Brain Injury | 30926 | EMR | 01/28/2008 | 2008-4/38 |
| R539-1-8 | Non-Waiver Services for People with Brain Injury | 30877 | AMD | 04/01/2008 | 2008-3/32 |
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| R590-175 | Basic Health Care Plan Rule | 30508 | AMD | 02/08/2008 | 2007-20/24 |
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| R590-243 | Commercial Motor Vehicle Insurance Coverage | 30490 | NEW | 01/11/2008 | 2007-20/28 |
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| R602-2-4 | Attorney Fees | 30811 | AMD | 02/07/2008 | 2008-1/14 |
| R602-3-3 | Procedure for Requesting Approval | 30810 | AMD | 02/07/2008 | 2008-1/16 |

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| R610-3-4 | Filing Procedure and Commencement of Agency Action | 30941 | AMD | 03/24/2008 | 2008-4/20 |
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| R651-611 | Fee Schedule | 30898 | AMD | 03/10/2008 | 2008-3/39 |
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| R653-2 | Financial Assistance from the Board of Water Resources | 30940 | NSC | 02/25/2008 | Not Printed |
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| R657-58 | Fishing Contests and Clinics | 30903 | NEW | 03/10/2008 | 2008-3/47 |
| R657-58 | Fishing Contests and Clinics | 31052 | NSC | 03/26/2008 | Not Printed |

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| R810-10 | Enforcement System | 30839 | AMD | 03/06/2008 | 2008-1/30 |
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| R865-9I-53 | Disclosure of Reportable Transactions and Material Advisor List Pursuant to Utah Code Ann. Sections 59-1-1301 through 59-1-1309 | 30849 | AMD | 02/25/2008 | 2008-1/36 |
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| <u>Motor Carrier</u> | | | | | |
| R909-1-1 | Adoption of Federal Regulations | 30783 | AMD | 02/15/2008 | 2007-24/25 |
| R909-19 | Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operations and Certification | 30785 | AMD | 02/12/2008 | 2007-24/26 |
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| <u>Employment Development</u> | | | | | |
| R986-200-214 | Assistance for Specified Relatives | 30864 | AMD | 02/26/2008 | 2008-2/25 |
| <u>Unemployment Insurance</u> | | | | | |
| R994-508 | Appeal Procedures | 30771 | AMD | 02/15/2008 | 2007-24/30 |
| R994-508-117 | Failure to Participate in the Hearing and Reopening the Hearing After the Hearing Has Been Concluded | 31020 | NSC | 03/11/2008 | Not Printed |

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ABBREVIATIONS

| | |
|--------------------------------|----------------------------------|
| AMD = Amendment | NSC = Nonsubstantive rule change |
| CPR = Change in proposed rule | REP = Repeal |
| EMR = Emergency rule (120 day) | R&R = Repeal and reenact |
| NEW = New rule | 5YR = Five-Year Review |
| EXD = Expired | |

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| <u>air pollution</u> | | | | | |
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| | 30959 | R307-101 | 5YR | 02/08/2008 | 2008-5/40 |
| | 30960 | R307-102 | 5YR | 02/08/2008 | 2008-5/40 |
| | 30698 | R307-115 | AMD | 02/08/2008 | 2007-23/28 |
| | 30961 | R307-115 | 5YR | 02/08/2008 | 2008-5/41 |
| | 30889 | R307-121-3 | NSC | 01/30/2008 | Not Printed |
| | 30962 | R307-170 | 5YR | 02/08/2008 | 2008-5/41 |
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| | 30963 | R307-202 | 5YR | 02/08/2008 | 2008-5/42 |
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| | 30430 | R307-214 | AMD | 01/11/2008 | 2007-19/12 |
| | 30895 | R307-214 | 5YR | 01/11/2008 | 2008-3/77 |
| | 30965 | R307-220 | 5YR | 02/08/2008 | 2008-5/43 |
| | 30701 | R307-221 | AMD | 02/08/2008 | 2007-23/32 |
| | 30966 | R307-221 | 5YR | 02/08/2008 | 2008-5/44 |
| | 30832 | R307-221-2 | NSC | 02/08/2008 | Not Printed |
| | 30702 | R307-222 | AMD | 02/08/2008 | 2007-23/36 |
| | 30967 | R307-222 | 5YR | 02/08/2008 | 2008-5/44 |
| | 30833 | R307-222-1 | NSC | 02/08/2008 | Not Printed |
| | 30703 | R307-223 | AMD | 02/08/2008 | 2007-23/38 |
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| 30969 | R307-224 | 5YR | 02/08/2008 | 2008-5/45 | |
| 30704 | R307-224-2 | AMD | 02/08/2008 | 2007-23/39 | |
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| <u>alternative school</u> | | | | | |
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| | 31020 | R994-508-117 | NSC | 03/11/2008 | Not Printed |
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| | 30766 | R305-3 | REP | 02/15/2008 | 2007-24/6 |
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| | 30859 | R357-2-7 | NSC | 01/30/2008 | Not Printed |
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| | 30842 | R865-6F-37 | AMD | 02/25/2008 | 2008-1/35 |
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| <u>time</u> | | | | | |
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| | 30876 | R610-3-4 | EMR | 01/03/2008 | 2008-3/70 |
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