

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Division of Administrative Rules, Salt Lake City 84114

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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 June 2, 2009, 12:00 a.m., and June 15, 2009, 11:59 p.m. are included in this, the July 1, 2009, 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 Rules being repealed are completely struck out.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 July 31, 2009. 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 63G-3-302 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 October 29, 2009, 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 63G-3-301; 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.

Commerce, Occupational and Professional Licensing
R156-1-308a
 Renewal Dates

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 32722
 FILED: 06/09/2009, 11:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division needs to add renewal dates for new occupations/professions enacted by the 2009 Legislature in H.B. 173, H.B. 174, and S.B. 137. (DAR NOTE: H.B. 173 (2009) is found at Chapter 52, Laws of Utah 2009, and was effective 05/12/2009. H.B. 174 (2009) is found at Chapter 122, Laws of Utah 2009, and was effective 05/12/2009. S.B. 137 (2009) is found at Chapter 220, Laws of Utah 2009, and is effective 07/01/2009.)

SUMMARY OF THE RULE OR CHANGE: This amendment adds renewal dates for outfitter, hunting guide, physical therapist assistant, master plumber, residential master plumber, and vocational rehabilitation counselor.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-1-308 and Subsections 58-1-106(1)(a) and 58-1-501(4)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The Division will incur minimal costs of approximately \$50 to print the rule and distribute it once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
- ❖ LOCAL GOVERNMENTS: The proposed amendments only apply to newly licensed occupations/professions identified above and as a result, the proposed amendments do not apply to local governments.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendments only apply to newly licensed occupations/professions identified above. Any cost or saving impact to either small businesses or persons other than businesses brought about by this rule change comes as a result of the changes to the statutes under H.B. 173, H.B. 174, and S.B. 137. The fiscal notes prepared by the Division in response to H.B. 173, H.B. 174, and S.B. 137 should be reviewed for information regarding the legislative bill's cost and saving impact and in turn any anticipated costs or savings with respect to this clarifying rule amendment filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to newly licensed occupations/professions identified above. Any cost or saving impact to affected persons brought about by this rule change comes as a result of the changes to the statutes under H.B. 173, H.B. 174, and S.B. 137. The fiscal notes prepared by the Division in response to H.B. 173, H.B. 174, and S.B. 137 should be reviewed for information regarding the legislative bill's cost

and saving impact and in turn any anticipated costs or savings with respect to this clarifying rule amendment filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact to businesses with this rule filing, which establishes renewal dates as required by statute. 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:

W. Ray Walker at the above address, by phone at 801-530-6256, by FAX at 801-530-6511, or by Internet E-mail at raywalker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

R156. Commerce, Occupational and Professional Licensing.
R156-1. General Rule of the Division of Occupational and Professional Licensing.
R156-1-308a. Renewal Dates.

(1) The following standard two-year renewal cycle renewal dates are established by license classification in accordance with the Subsection 58-1-308(1):

TABLE
 RENEWAL DATES

(1) Acupuncturist	May 31	even years
(2) Advanced Practice Registered Nurse	January 31	even years
(3) Alternate Dispute Resolution Provdr	September 30	even years
(4) Architect	May 31	even years
(5) Athlete Agent	September 30	even years
(6) Athletic Trainer	May 31	odd years
(7) Audiologist	May 31	odd years
(8) Barber	September 30	odd years
(9) Barber School	September 30	odd years
(10) Building Inspector	November 30	odd years
(11) Burglar Alarm Security	November 30	even years
(12) C.P.A. Firm	September 30	even years
(13) Certified Court Reporter	May 31	even years
(14) Certified Dietitian	September 30	even years
(15) Certified Nurse Midwife	January 31	even years
(16) Certified Public Accountant	September 30	even years
(17) Certified Registered Nurse Anesthetist	January 31	even years
(18) Certified Social Worker	September 30	even years
(19) Chiropractic Physician	May 31	even years
(20) Clinical Social Worker	September 30	even years
(21) Construction Trades Instructor	November 30	odd years

(22) Contractor	November 30	odd years	(74 76) Psychologist	September 30	even years
(23) Controlled Substance Precursor Distributor	May 31	odd years	(75 77) Radiology Practical Technician	May 31	odd years
(24) Controlled Substance Precursor Purchaser	May 31	odd years	(76 78) Radiology Technologist	May 31	odd years
(25) Controlled Substance Handler	May 31	odd years	(77 79) Recreational Therapy Technician, Specialist, Master Specialist	May 31	odd years
(26) Cosmetologist/Barber	September 30	odd years	(78 80) Registered Nurse	January 31	odd years
(27) Cosmetology/Barber School	September 30	odd years	(79 81) Respiratory Care Practitioner	September 30	even years
(28) Deception Detection	November 30	even years	(80 82) Security Personnel	November 30	even years
(29) Dental Hygienist	May 31	even years	(81 83) Social Service Worker	September 30	even years
(30) Dentist	May 31	even years	(82 84) Speech-Language Pathologist	May 31	odd years
(31) Direct-entry Midwife	September 30	odd years	(83 85) Veterinarian	September 30	even years
(32) Electrician Apprentice, Journeyman, Master, Residential Journeyman, Residential Master	November 30	even years	(86) Vocational Rehabilitation Counselor	March 31	annually
(33) Electrologist	September 30	odd years			
(34) Electrology School	September 30	odd years			
(35) Environmental Health Scientist	May 31	odd years			
(36) Esthetician	September 30	odd years			
(37) Esthetics School	September 30	odd years			
(38) Factory Built Housing Dealer	September 30	even years			
(39) Funeral Service Director	May 31	even years			
(40) Funeral Service Establishment	May 31	even years			
(41) Genetic Counselor	September 30	even years			
(42) Health Facility Administrator	May 31	odd years			
(43) Hearing Instrument Specialist	September 30	even years			
(44) Landscape Architect	May 31	even years			
(45) Licensed Practical Nurse	January 31	even years			
(46) Licensed Substance Abuse Counselor	May 31	odd years			
(47) Marriage and Family Therapist	September 30	even years			
(48) Massage Apprentice, Therapist	May 31	odd years			
(49) Master Esthetician	September 30	odd years			
(50) Medication Aide Certified	March 31	odd years			
(51) Nail Technologist	September 30	odd years			
(52) Nail Technology School	September 30	odd years			
(53) Naturopath/Naturopathic Physician	May 31	even years			
(54) Occupational Therapist	May 31	odd years			
(55) Occupational Therapy Assistant	May 31	odd years			
(56) Optometrist	September 30	even years			
(57) Osteopathic Physician and Surgeon	May 31	even years			
(58) Outfitter/Hunting Guide	May 31	even years			
(58 59) Pharmacy (Class A-B-C-D-E)	September 30	odd years			
(59 60) Pharmacist	September 30	odd years			
(60 61) Pharmacy Technician	September 30	odd years			
(61 62) Physical Therapist	May 31	odd years			
(63) Physical Therapist Assistant	May 31	odd years			
(62 64) Physician Assistant	May 31	even years			
(63 65) Physician and Surgeon	January 31	even years			
(64 66) Plumber Apprentice, Journeyman, Master, Residential Master, Residential Apprentice, Residential Journeyman	November 30	even years			
(65 67) Podiatric Physician	September 30	even years			
(66 68) Pre Need Funeral Arrangement Provider	May 31	even years			
(67 69) Pre Need Funeral Arrangement Sales Agent	May 31	even years			
(68 70) Private Probation Provider	May 31	odd years			
(69 71) Professional Counselor	September 30	even years			
(70 72) Professional Engineer	March 31	odd years			
(71 73) Professional Geologist	March 31	odd years			
(72 74) Professional Land Surveyor	March 31	odd years			
(73 75) Professional Structural Engineer	March 31	odd years			

(2) The following non-standard renewal terms and renewal or extension cycles are established by license classification in accordance with Subsection 58-1-308(1) and in accordance with specific requirements of the license:

(a) Certified Marriage and Family Intern licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

(b) Certified Professional Counselor Intern licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

(c) Certified Social Worker Intern licenses shall be issued for a period of six months or until the examination is passed whichever occurs first. An intern license may be extended if the licensee presents satisfactory evidence to the Division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

(d) Funeral Service Apprentice licenses shall be issued for a two year term and may be extended for an additional two year term if the licensee presents satisfactory evidence to the division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure.

(e) Psychology Resident licenses shall be issued for a two year term and may be extended if the licensee presents satisfactory evidence to the division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

(f) Hearing Instrument Intern licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the Division and the Board that reasonable

progress is being made toward passing the qualifying examination, but a circumstance arose beyond the control of the licensee, to prevent the completion of the examination process.

KEY: diversion programs, licensing, occupational licensing, supervision

Date of Enactment or Last Substantive Amendment: [~~February 24,~~]2009

Notice of Continuation: March 1, 2007

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-308; 58-1-501(4)

◆ ————— ◆

Commerce, Occupational and Professional Licensing

R156-11a

Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32715

FILED: 06/08/2009, 13:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing is to implement the changes in the governing statute, Title 58, Chapter 11a, as required by H.B. 356 which was passed during the 2009 Legislative Session. The filing also includes other technical corrections and clarifications that have been reviewed by the Division and the Barbering, Cosmetology/Barbering, Esthetics, Electrology, and Nail Technology Licensing Board. (DAR NOTE: H.B. 356 (2009) is found at Chapter 130, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, redundant statutory citations have been deleted where applicable and other statutory citations have been updated where needed. In Section R156-11a-102, the definition of "supervision by a licensed health care practitioner" has been deleted and replaced by more specific definitions of types of supervision as defined under Subsection R156-1-102a(4) due to the addition of cosmetic laser procedures and intense, pulsed light procedures to the practices of esthetics, master esthetics, and electrology. The proposed amendments also clarify the use of certain devices. Section R156-11a-302 is being added to provide guidelines for the licensing qualification of "good moral character". In Section R156-11a-302a, added that applicants in all classifications must pass the respective examination required for licensure within one year prior to the date of application. Subsection R156-11a-502(9) is updated to reflect H.B. 356 changes to the governing statute. In Section R156-11a-601, the proposed amendments clarify how and when the required accreditation occurs and clarifies the accreditation process as a result of change of

entity. In Sections R156-11a-610 and R156-11a-611, the addition of procedures and advances in the technology and science for the various professions require that the standards for the use of acids and the standards for approval of mechanical or electrical apparatus used be updated. In Sections R156-11a-700, R156-11a-701, R156-11a-702, R156-11a-703, R156-11a-704, and R156-11a-706, the amendments in each section clarify curriculum for the specific school type. In Section R156-11a-705, the amendments are regarding the curriculum for cosmetology/barber schools include instruction in all areas included in the scope of practice for cosmetology/barbering to ensure competency. In Sections R156-11a-800, R156-11a-801, R156-11a-802, R156-11a-803, R156-11a-804, and R156-11a-901, with respect to an apprentice performing work on the public, in each section the word "may" not has been replaced with "shall" not.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 58-11a-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$100 to print the rule and distribute it once the proposed amendments are made effective. Division investigators should not require additional training as a result of the proposed amendments. A possible increase in compliance costs to the Division may occur if an increased number of complaints resulting from the proposed amendments are reported to the Division. Any costs incurred will be absorbed in the Division's current budget.

❖ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed barber, cosmetologist/barber, esthetician, electrologist, and nail technician classifications, and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed amendments only apply to licensed barber, cosmetologist/barber, esthetician, electrologist, and nail technician classifications, and applicants for licensure in those classifications. Any cost or saving impact to either small businesses or persons other than businesses brought about by this rule change comes as a result of the changes to the statute under H.B. 356. The fiscal note prepared by the Division in response to H.B. 356 should be reviewed for information regarding the legislative bill's cost and saving impact and in turn any anticipated costs or savings with respect to this clarifying rule amendment filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed barber, cosmetologist/barber, esthetician, electrologist, and nail technician classifications, and applicants for licensure in those classifications. Any cost or saving impact brought about by this rule change comes as a result of the changes to the statute under H.B. 356. The fiscal note prepared by the Division in response to H.B. 356 should be reviewed for information regarding the legislative bill's cost and saving impact and in turn any anticipated costs or savings with respect to this clarifying rule amendment filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this rule filing beyond those addressed in the passage of recent statutory changes. 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:

Sally Stewart at the above address, by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at SStewart@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/20/2009 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

**R156. Commerce, Occupational and Professional Licensing.
R156-11a. Barber, Cosmetologist/Barber, Esthetician,
Electrologist, and Nail Technician Licensing Act Rule.
R156-11a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 11a, as used in Title 58, Chapters 1 and 11a or this rule:

(1) "Advanced pedicures", as used in Subsection 58-11a-102(31)(a)(i)(D), means any of the following while caring for the nails, cuticles or calluses of the feet:

(a) utilizing manual instruments, implements, advanced electrical equipment, tools, or microdermabrasion for cleaning, trimming, softening, smoothing, or buffing;

(b) utilizing blades, including corn or callus planer or rasp, for smoothing, shaving or removing dead skin from the feet as defined in Subsection R156-11a-611; or

(c) utilizing topical products and preparations for chemical exfoliation as defined in Subsection R156-11a-610(4).

(2) "Aroma therapy" means the application of essential oils which are applied directly to the skin, undiluted or in a misted dilution with a carrier oil or lotion, for varied applications such as massage, hot packs, cold packs, compress, inhalation, steam or air diffusion, or in hydrotherapy services.

(3) "BCA acid" means bicloroacetic acid.

(4) "Body wraps", as used in Subsection 58-11a-102(31)(a)(i)(A), means body treatments utilizing products or

equipment to enhance and maintain the texture, contour, integrity and health of the skin and body.

(5) "Chemical exfoliation", as defined in Subsections 58-11a-102(31)(a)(i)(C) and R156-11a-610(4), means a resurfacing procedure performed with a chemical solution or product for the purpose of removing superficial layers of the epidermis to a point no deeper than the stratum corneum.

(6) "Dermabrasion or open dermabrasion" means the surgical application of a wire or diamond frieze by a physician to abrade the skin to the epidermis and possibly down to the papillary dermis.

(7) "Dermaplane" means the use of a scalpel or bladed instrument under the direct supervision of a health care practitioner ~~by a physician~~ to shave the upper layers of the stratum corneum.

(8) "Direct supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(a).

~~(8)9~~ "Equivalent number of credit hours" means:

(a) the following conversion table if on a semester basis:

(i) theory - 1 credit hour - 30 clock hours;

(ii) practice - 1 credit hour - 30 clock hours; and

(iii) clinical experience - 1 credit hour - 45 clock hours; and

(b) the following conversion table if on a quarter basis:

(i) theory - 1 credit hour - 20 clock hours;

(ii) practice - 1 credit hour - 20 clock hours; and

(iii) clinical experience - 1 credit hour - 30 clock hours.

~~(9)10~~ "Exfoliation" means the sloughing off of non-living skin cells by ~~very~~-superficial and non-invasive means.

~~(10)11~~ "Extraction" means the following:

(a) "advanced extraction", as used in Subsections 58-11a-102(31)(a)(i)(F) and R156-11a-611(2)(b), means to perform extraction with a lancet or device that removes impurities from the skin;

(b) "manual extraction", as used in Subsection 58-11a-102(25)(a), means to remove impurities from the skin with protected fingertips, cotton swabs or a loop comedone extractor.

~~(11)12~~ "Galvanic current" means a constant low-voltage direct current.

(13) "General supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(c).

~~(12)14~~ "Health care practitioner" means a physician/surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act.

~~(13)15~~ "Hydrotherapy", as used in Subsection 58-11a-102(~~27~~31)(a)(i)(B), means the use of water for cosmetic purposes or beautification of the body.

~~(14)16~~ "Indirect supervision" means the supervising instructor ~~is present within the facility in which the person being supervised is providing services, and is available to provide immediate face to face communication with the person being supervised~~ who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(b).

~~(15)~~¹⁷ "Limited chemical exfoliation" means ~~[an extremely gentle]~~^{a non-invasive} chemical exfoliation and is further defined in Subsection R156-11a-610(3).

~~(16)~~¹⁸ "Lymphatic massage", as used in Subsections 58-11a-102(31)(a)(ii)~~[(G)(4)]~~ and 58-11a-302(11)(a)(i)(C), means a method using a light rhythmic pressure applied by manual or other means to the skin ~~[#]~~^{using} specific lymphatic maneuvers to promote drainage of the lymphatic fluid through the tissue.

~~(17)~~¹⁹ "Manipulating", as used in Subsection 58-11a-102(25)(a), means applying a light pressure by the hands to the skin.

~~(18)~~²⁰ "Microdermabrasion", as used in Subsection 58-11a-102(31)(a)(i)(E), means a gentle, progressive, superficial, mechanical exfoliation of the uppermost layers of the stratum corneum using a closed-loop vacuum system.

~~(19)~~²¹ "Patch test" or "predisposition test" means applying a small amount of a chemical preparation to the skin of the arm or behind the ear to determine possible allergies of the client to the chemical preparation.

~~(20)~~²² "Pedicure" means any of the following:

- (a) cleaning, trimming, softening, or caring for the nails, cuticles, or calluses of the feet;
- (b) the use of manual instruments or implements on the nails, cuticles, or calluses of the feet;
- (c) callus removal by sanding, buffing, or filing; or
- (d) massaging of the feet or lower portion of the leg.[]

~~(21)~~ "Supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter in the treatment of a patient of the health care practitioner while:

- ~~(a) the health care practitioner is physically located on the premises and is immediately available to care for the patient if complications arise; or~~
- ~~(b) the patient is physically located on the premises of the health care practitioner.[]~~

~~(22)~~²³ "TCA acid" means trichloroacetic acid.

~~(23)~~²⁴ "Unprofessional conduct" is further defined, in accordance with Section 58-1-501, in Section R156-11a-502.

R156-11a-301. Change of Legal Entity.

In accordance with Section 58-11a-301, a school shall be required to submit a new application for licensure upon any change of legal entity status. The new legal entity may not engage in practice as a licensed school, pursuant to Subsections 58-11a-102~~[(14), (15), (16), and (17)]~~^{(16) through (19)}, until the application is approved and a license issued.

R156-11a-302. Good Moral Character - Disqualifying Convictions.

(1) When reviewing an application to determine the good moral character of an applicant as set forth in Section 58-11a-302 and whether the applicant has been involved in unprofessional conduct as set forth in Subsection 58-1-501(2)(c), the Division and the Board shall consider the applicant's criminal record as follows:

- (a) a criminal conviction for a sex offense as defined in Title 76, Chapter 5, Part 4 and Chapter 5a, and Title 76, Chapter 10, Part 12 and 13, may disqualify an applicant from becoming licensed; and
- (b) a criminal conviction for the following crimes may disqualify an applicant from becoming licensed:

(i) crimes against a person as defined in Title 76, Chapter 5, Parts 1, 2 and 3;

(ii) crimes against property as defined in Title 76, Chapter 6, Parts 1 through 6;

(iii) any offense involving controlled dangerous substances; or
(iv) conspiracy to commit or any attempt to commit any of the above offenses.

(2) An applicant who has a criminal conviction for a felony crime of violence may be considered ineligible for licensure for a period of seven years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(3) An applicant who has a criminal conviction for a felony involving a controlled substance may be considered ineligible for licensure for a period of five years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(4) An applicant who has a criminal conviction for any misdemeanor crime of violence or the use of a controlled substance may be considered ineligible for licensure for a period of three years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(5) Each application for licensure or renewal of licensure shall be considered in accordance with the requirements of Section R156-1-302.

R156-11a-302a. Qualifications for Licensure - Examination Requirements.

In accordance with Section 58-11a-302, the examination requirements for licensure are established as follows:

(1) Applicants for each classification listed below shall pass within one year prior to the date of application, the respective examination with a passing score as determined by the examination provider.

(a) Applicants for licensure as a barber shall pass the National Interstate Council of State Boards of Cosmetology (NIC) Barber Theory and Practical Examinations.

(b) Applicants for licensure as a cosmetologist/barber shall pass the NIC Cosmetology/Barber Theory and Practical Examinations.

(c) Applicants for licensure as an electrologist shall pass the NIC Electrologist Theory and Practical Examinations.

(d) Applicants for licensure as a basic esthetician shall pass the NIC Esthetics Theory and Practical Examinations.

(e) Applicants for licensure as a master esthetician shall pass the NIC Master Esthetician Theory and Esthetics Practical Examinations.

(f) Applicants for licensure as a barber instructor, cosmetologist/barber instructor, electrology instructor, esthetician instructor, or nail technology instructor shall pass the NIC Instructor Examination.

(g) Applicants for licensure as a nail technician shall pass the NIC Nail Technician Theory and Practical Examinations.

(2) Any equivalent theory, practical or instructor examination approved by the licensing authority of any other state is acceptable for any of the examinations specified in Subsection ~~[R156-11a-302a]~~⁽¹⁾.[]

~~(3) Transition Provisions - Prior Examinations.~~

~~Equivalent examinations taken and passed under prior versions of this rule are also acceptable for any of the examinations specified in Subsection R156-11a-302a(1).[]~~

R156-11a-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two year renewal cycle applicable to licenses and certificates under Title 58, Chapter 11a is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-11a-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) failing to provide direct supervision of an apprentice, a student attending a barber, cosmetology/barber, esthetics, electrology, or nail technology school, or a student instructor;

(2) failing to obtain accreditation as a barber, cosmetology/barber, esthetics, electrology, or nail technology school in accordance with the requirements of Section R156-11a-601;

(3) failing to maintain accreditation as a barber, cosmetology/barber, esthetics, electrology or nail technology school after having been approved for accreditation;

(4) failing to comply with the standards of accreditation applicable to barber, cosmetology/barber, esthetics, electrology, or nail technology schools;

(5) failing to provide adequate instruction or training as applicable to a student of a barber, cosmetology/barber, esthetics, electrology, or nail technology school, or in an approved cosmetology/barber, esthetics, or nail technology apprenticeship;

(6) failing to comply with Title 26, Utah Health Code;

(7) failing to comply with the apprenticeship requirements applicable to barber, cosmetologist/barber, basic esthetician, master esthetician, or nail technician apprenticeships as set forth in Sections R156-11a-800 through R156-11a-804;

(8) failing to comply with the standards for curriculums applicable to barber, cosmetology/barber, esthetics, electrology, or nail technology schools as set forth in Sections R156-11a-700 through R156-11a-706;

(9) using any device classified by the Food and Drug Administration as a prescriptive medical device without the appropriate level of supervision ~~of~~ by a licensed health care practitioner acting within the licensed health care practitioner's scope of ~~the licensee's~~ practice;

(10) performing services within the scope of practice as a basic esthetician, or a master esthetician without having been adequately trained to perform such services;

(11) violating any standard established in Sections R156-11a-601 through R156-11a-612;

(12) performing a procedure while the licensee has a known contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically approved measures to prevent transmission of the disease; and

(13) performing a procedure on a client who has a known contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically approved measures to prevent transmission of the disease.

R156-11a-601. Standards for Accreditation.

In accordance with Subsections 58-11a-302(3)(c)(iv), ~~[58-11a-302](6)(c)(iv)~~, ~~[58-11a-302](9)(c)(iv)~~, ~~[58-11a-302](13)(c)(iv)~~, and ~~[58-11a-302](16)(c)(iv)~~, the accreditation standards for a barber school, a cosmetology/barber school, an electrology school, an esthetics school, and a nail technology school include:

(1) Each school shall be required to become accredited by:

(a) the National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS); or

(b) other accrediting commissions recognized by the Utah Board of Regents for post secondary schools.

(2) Each school shall maintain and keep the accreditation current.

(3) A newly licensed school shall pursue accreditation under this section using the following procedure:

(a) A new school shall:

~~(a)i~~ submit an application for candidate status for accreditation to an accrediting commission within one month of the date when the school was licensed by ~~receiving licensure from~~ the Division as a barber school, a cosmetology/barber school, an electrology school, an esthetics school, or a nail technology school ~~and~~;

~~(ii)~~ ~~shall~~ provide evidence received from the accrediting commission to the Division of achieving candidate status ~~of receiving candidate status from the accrediting commission to the Division~~ within 12 months of the date the school was licensed;

~~(b)iii~~ file an "Exemption of Registration as a Post-Secondary Proprietary School" form with the Division of Consumer Protection pursuant to Sections 13-34-101 and R152-34-1; ~~and~~

~~(e)iv~~ comply with all applicable accreditation standards during the pendency of its application for accreditation status ~~and~~;

~~(4)v~~ ~~The school shall~~ have 24 months following the date of receiving ~~achieving~~ candidate status to be approved for accreditation.

~~(b)i~~ If the entity is a newly licensed school, but the facility is operated on essentially the same premises with essentially the same staff then the newly licensed school shall meet the accreditation deadlines that were applicable to the predecessor licensed school.

~~(ii)~~ The determination of whether a newly licensed school entity has succeeded a predecessor shall be made by the Division.

~~(5)4~~ A licensee who fails to obtain or maintain accreditation status, as required herein, shall immediately surrender to the Division its license as a school. Failure to do so shall constitute a basis for immediate revocation of licensure in accordance with Section 63G-4-502.

R156-11a-602. Standards for the Physical Facility.

In accordance with Subsections 58-11a-302(3)(c)(iii), ~~[58-11a-302](6)(c)(iii)~~, ~~[58-11a-302](9)(c)(iii)~~, ~~[58-11a-302](13)(c)(iii)~~ and ~~[58-11a-302](16)(c)(iii)~~, the standards for the physical facility of a barber, cosmetology/barber, electrology, esthetics, or nail technology schools shall include:

(1) the governing standards established by the accreditation commission; and

(2) whether or not addressed in the governing standards, each facility shall have the following available:

(a) enough of each type of training equipment so that each student has an equal opportunity to be properly trained;

(b) laundry facilities to maintain sanitation and sterilization; and

(c) appropriate amounts of clean towels, sheets, linen, sponges, headbands, compresses, robes, drapes and other necessary linens for each student's and client's use.

R156-11a-603. Standards for a Student Kit.

(1) In accordance with Subsections 58-11a-302(3)(c)(iv), ~~[58-11a-302](6)(c)(iv)~~, ~~[58-11a-302](9)(c)(iv)~~, ~~[58-11a-302](13)(c)(iv)~~, and ~~[58-11a-302](16)(c)(iv)~~, barber, cosmetology/barber,

electrology, esthetics, and nail technology schools shall provide a list of all basic kit supplies needed by each student.

(2) The basic kit may be supplied by the school or purchased independently by the student.

R156-11a-604. Standards for Prohibition Against Operation as a Barbershop, Salon or Spa.

(1) In accordance with Subsections 58-11a-302(3)(c)(iii), ~~[58-11a-302](6)(c)(iii), [58-11a-302](9)(c)(iv), [58-11-302](13)(c)(iii), and [58-11a-302](16)(c)(iii)~~, when a barbershop, ~~[or]~~professional salon or spa is under the same ownership or is otherwise associated with a school, the barbershop, ~~or~~salon or spa shall maintain separate operations ~~[for]~~from the school.

(2) If the barbershop, ~~or~~salon or spa is located in the same building as a school, separate entrances and visitor reception areas are required. The barbershop, salon or ~~shop~~spa shall also use separate public information releases, advertisements and names than that used by the school.

R156-11a-605. Standards for Protection of Students.

In accordance with Subsections 58-11a-302(3)(c)(iii) and (iv), ~~[58-11a-302](6)(c)(iii) and (iv), [58-11a-302](9)(c)(iii) and (iv), [58-11a-302](13)(c)(iii) and (iv), [58-11a-302](16)(c)(iii) and (iv)~~, standards for the protection of students shall include the following:

(1) In the event a school ceases to operate for any reason, the school shall notify the division within 15 days by registered or certified mail and shall name a trustee who will be responsible to maintain the student records. Upon request, the trustee shall provide information such as accumulated student hours and dates of attendance.

(2) Schools shall not use students to perform maintenance, janitorial or remodeling work such as scrubbing floor, walls or toilets, cleaning windows, waxing floors, painting, decorating, or performing any outside work on the grounds or building. Students may be required to clean up after themselves and to perform or participate in daily cleanup of work areas, including the floor space, shampoo bowls, laundering of towels and linen and other general cleanup duties that are related to the performance of client services.

(3) Schools shall not require students to sell products applicable to their industry as a condition to graduate, but may provide instruction in product sales techniques as part of their curriculums.

(4) Schools shall keep a daily written record of student attendance.

(5) Schools shall not be permitted to remove hours earned by a student. If a student is late for class, the school may require the student to retake the class before giving credit for the class.

(6) In accordance with Subsection 58-11a-502(3)(a), schools shall not require students to participate in hair removal training that pertains to the genitals or anus of a client.

R156-11a-606. Standards for Protection of Schools.

In accordance with Subsections 58-11a-302(3)(c)(iv), ~~[58-11a-302](6)(c)(iv), [58-11a-302](9)(c)(iv), [58-11a-302](13)(c)(iv), and [58-11a-302](16)(c)(iv)~~, standards for the protection of barber, cosmetology/barber, electrology, esthetics, and nail technology schools shall include the following:

(1) Schools shall not be required to release documentation of hours earned to a student until the student has paid the tuition or fees owed to the school as provided in the terms of the contract.

(2) Schools may accept transfer students. Schools shall determine the amount of hours to be accepted toward graduation based upon an evaluation of the student's level of training.

(3) Hours obtained while enrolled in a barber, cosmetology/barber, ~~[electrology]~~esthetics, master esthetics, or nail technology apprenticeship ~~[may]~~shall not be used to satisfy any of the required hours of school instruction.

R156-11a-607. Standards for a Written Contract.

(1) In accordance with Subsections 58-11a-302(3)(c)(iv), ~~[58-11a-302](6)(c)(iv), [58-11a-302](9)(c)(iv), [58-11a-302](13)(c)(iv), and [58-11a-302](16)(c)(iv)~~, barber, cosmetology/barber, electrology, esthetics, and nail technology schools shall complete a written contract with each student prior to admission.

(2) Each contract shall contain, as a minimum:

- (a) the current status of the school's accreditation;
- (b) rules of conduct;
- (c) attendance requirements;
- (d) provisions for make up work;
- (e) grounds for probation, suspension or dismissal; and
- (f) a detailed fee schedule which shall include the student's financial responsibility upon voluntarily leaving the school or upon being suspended from the school.

(3) The school shall maintain on file a copy of the contract for each student and shall provide a copy of the contract to the division upon request.

R156-11a-608. Standards for Staff Requirements of Schools.

In accordance with Subsections 58-11a-302(3)(c)(iv), ~~[58-11a-302](6)(c)(iv), [58-11a-302](9)(c)(iv), [58-11a-302](13)(c)(iv), and [58-11a-302](16)(c)(iv)~~, the staff requirement for barber, cosmetology/barber, electrology, esthetics and nail technology schools shall include:

(1) Schools shall be required to have, as a minimum, one licensed instructor for every 20 students, or fraction thereof, attending a practical session, and one licensed instructor for any group attending a theory session. Special guest speakers shall not reduce the number of licensed instructors required to be present.

(2) Schools may give credit for special workshops, training seminars, and competitions, or may invite special guest speakers who are not licensed in accordance with Section 58-11a-302, to provide instruction or give practical demonstrations to supplement the curriculum as long as a licensed instructor from the school is present.

(3) Student instructors shall not be counted as part of the instructor staff.

R156-11a-609. Standards for Instructors.

(1) In accordance with Subsections 58-11a-302(2)(e) and (f), ~~[58-11a-302](5)(e) and (f), [58-11a-302](8)(e) and (f), [58-11a-302](12)(e) and (f), and [58-11a-302](15)(e) and (f)~~, barber, cosmetology/barber, electrology, esthetics, and nail technology instructors may only teach in those areas for which they have received training and are qualified to teach.

(2) In accordance with Subsection 58-11a-102~~(21)(b)~~(9), an individual licensed as a cosmetology/barbering instructor may teach barbering, basic esthetics or nail technology in a licensed barber school, a licensed cosmetology/barber school or a licensed nail technology school or in an approved barber, cosmetology/barber, basic esthetics or nail technology apprenticeship, provided the

individual can demonstrate the same experience as required in Subsection ~~R156-11a-609~~(1).

(3) An instructor may only teach the use of a mechanical or electrical apparatus for which the instructor is trained and qualified.

R156-11a-610. Standards for the Use of Acids.

In accordance with Subsections 58-11a-102(25)(b) and ~~[, 58-11a-102]~~(31)(a)(i)(C) and 58-11a-501(17), the standards for the use of any acid or concentration of acids, shall be:

(1) The use of any acid or acid solution which would exfoliate the skin below the stratum corneum, including those listed in Subsections (3) and (4), is prohibited unless used under the supervision of a licensed health care practitioner.

(2) The following acids are prohibited unless used under the supervision of a licensed health care practitioner:

- (a) phenol;
- (b) bichloroacetic acid;
- (c) resorcinol, except as provided in Subsection (4)(b); and
- (d) any acid in any concentration level that requires a prescription.

(3) Limited chemical exfoliation for a basic esthetician does not include the mixing, combining or layering of skin exfoliation products or services, but does include:

(a) alpha hydroxy acids of 30% or less, with a pH of not less than 3.0; and

(b) salicylic acid of 15% or less.

(4) Chemical exfoliation for a master esthetician includes:

(a) acids allowed for a basic esthetician;

(b) modified jessner solution on the face and the tissue immediately adjacent to the jaw line;

(c) alpha hydroxy acids with a pH of not less than 1.0 and at a concentration of 50% must include partially neutralized acids, and any acid above the concentration of 50% is prohibited;

(d) beta hydroxy acids with a concentration of not more than 30%; ~~and~~

(e) trichloroacetic acid, in accordance with Subsection 58-11a-501(17)(c), may be used in a concentration of not more than 15%, but no manual, mechanical or acid exfoliation can be used prior to treatment unless under the general supervision of a licensed health care practitioner; and

(f) vitamin based acids.

(5) A licensee may not apply any exfoliating acid to a client's skin that has undergone microdermabrasion within the previous seven days unless under the general supervision of a licensed health care practitioner.

(6)(a) A licensee shall prepare and maintain current documentation of the licensee's cumulative experience in chemical exfoliation, including:

(i) courses of instruction;

(ii) specialized training;

(iii) on-the-job experience; and

(iv) the approximate percentage that chemical exfoliation represents in the licensee's overall business.

(b) A licensee shall provide the documentation required by Subsection (6)(a) to the division upon request.

(7) A licensee may not use an acid or perform a chemical exfoliation for which the licensee is not competent to use or perform through training and experience and as documented in accordance with Subsection (6).

(8) Only commercially available products utilized in accordance with manufacturers' instructions may be used for chemical exfoliation purposes.

(9) A patch test shall be administered to each client prior to beginning any chemical exfoliation series.

R156-11a-611. Standards for Approval of Mechanical or Electrical Apparatus.

In accordance with Subsections 58-11a-102(31)(a)(i)(G)(II) and ~~(H)~~, the standards for approval of mechanical or electrical apparatus shall be:

(1) No mechanical or electrical apparatus that is considered a prescription medical device by the FDA may be used by a licensee, unless such use is completed under the appropriate level of supervision ~~[of]~~ by a licensed health care practitioner acting within the licensed health care practitioner's scope of [the licensee's license] practice.

(2) Dermaplane procedures, dermabrasion procedures, blades, knives, and lancets ~~[, and any tools that invade the skin or living cells]~~ are prohibited except for:

(a) advanced pedicures; ~~and~~

(b) advanced extraction of impurities from the skin; and

(c) dermaplane procedures for advanced exfoliation as defined in Subsection R156-11a-102(7) by a master esthetician under direct supervision of a health care practitioner.

(3) The use of any procedure in which human tissue is cut or altered by laser energy or ionizing radiation is prohibited for all individuals licensed under this chapter unless it is within the scope of practice for the licensee and under the appropriate level of supervision ~~[of]~~ by a licensed health care practitioner acting within the licensed health care practitioner's scope of [the licensee's license] practice.

(4) To be approved, a microdermabrasion machine must ~~[meet the following criteria]~~:

(a) be specifically labeled for cosmetic or esthetic purposes;

(b) be a closed-loop vacuum system that uses a tissue retention device; and

(c) the normal and customary use of the machine does not result in the removal of the epidermis beyond the stratum corneum.

R156-11a-612. Standards for Disclosure.

(1) In accordance with Subsections 58-11a-102(25)(b) and ~~[58-11a-102]~~(31)(i)(C), a licensee acting within the licensee's scope of practice shall inform a client of the following before applying a chemical exfoliant or using a microdermabrasion machine:

(a) the procedure may only be performed for cosmetic and not medical purposes, unless the licensee is working under the supervision of a licensed health care practitioner, who is working within the scope of the practitioner's license; and

(b) the benefits and risks of the procedure.

R156-11a-700. Curriculum for Barber Schools.

In accordance with Subsection 58-11a-302(3)(c)(iv), the curriculum for a barber school shall consist of 1,000 hours of instruction in the following subject areas:

(1) introduction consisting of:

(a) history of barbering,

(b) an overview of the barber curriculum;

- (2) personal, client and shop safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) disinfection and sterilization methods and procedures;
 - (c) health risks to the barber;
- (3) business and shop management including:
 - (a) developing a clientele;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) public relations;
 - (f) advertising;
- (4) legal issues including:
 - (a) malpractice liability;
 - (b) regulatory agencies;
 - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of the hair and scalp including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) decontamination;
 - (e) infection control;
- (7) implements, tools and equipment for barbering;
- (8) first aid;
- (9) anatomy;
- (10) [basic]-science of barbering;
- (11) chemistry for barbering;
- (12) analysis of the hair and scalp;
- (13) properties of the hair, skin, and scalp;
- (14) basic hairstyling and hair cutting including:
 - (a) draping;
 - (b) clipper variations;
 - (c) scissor cutting; and
 - (d) wet and thermal styling;
- (15) shaving and razor cutting;
- (16) mustache and beard design;
- (17) elective topics; and
- (18) the Utah Barber Examination review.

R156-11a-701. Curriculum for Electrology Schools.

In accordance with Subsection 58-11a-302(9)(c)(iv), the curriculum for an electrology school shall consist of 600 hours of instruction in the following subject areas:

- (1) introduction consisting of:
 - (a) the history of electrology; and
 - (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) disinfection and sterilization methods and procedures; and
 - (c) health risks to the electrologist;
- (3) business and salon management including:
 - (a) developing a clientele;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) public relations; and
 - (f) advertising;
- (4) legal issues including:
 - (a) malpractice and liability;
 - (b) regulatory agencies; and
 - (c) tax laws;

- (5) human immune system;
- (6) diseases and disorders of hair and skin;
- (7) implements, tools, and equipment for electrology;
- (8) first aid;
- (9) anatomy;
- (10) [basic]-science of electrology;
- (11) analysis of the skin;
- (12) physiology of hair and skin;
- (13) medical definitions including:
 - (a) dermatology;
 - (b) endocrinology;
 - (c) angiology; and
 - (d) neurology;
- (14) evaluating the characteristics of skin;
- (15) evaluating the characteristics of hair;
- (16) medications affecting hair growth including:
 - (a) over-the-counter preparations;
 - (b) anesthetics; and
 - (c) prescription medications;
- (17) contraindications;
- (18) disease and blood-borne pathogens control including:
 - (a) pathogenic bacteria and non-bacterial causes; and
 - (b) American Electrology Association (AEA) infection control standards;
- (19) principles of electricity and equipment including:
 - (a) types of electrical currents, their measurements and classifications;
 - (b) Food and Drug Administration (FDA) approved needle type epilation equipment;
 - (c) FDA approved hair removal devices; and
 - (d) epilator operation and care;
- (20) modalities for need type electrolysis including:
 - (a) needle/probe types, features, and selection;
 - (b) insertions, considerations, and accuracy;
 - (c) galvanic multi needle technique;
 - (d) thermolysis manual and flash technique;
 - (e) blend and progressive epilation technique; and
 - (f) one and two handed techniques;
- (21) clinical procedures including:
 - (a) consultation;
 - (b) health/medical history;
 - (c) pre and post treatment skin care;
 - (d) normal healing skin effects;
 - (e) tissue injury and complications;
 - (f) treating ingrown hairs;
 - (g) face and body treatment;
 - (h) cosmetic electrology; and
 - (i) positioning and draping;
- (22) elective topics; and
- (23) Utah Electrology Examination review.

R156-11a-702. Curriculum for Esthetics School - Basic Esthetician Programs.

In accordance with Subsection 58-11a-302(13)(c)(iv), the curriculum for an esthetics school basic esthetician program shall consist of 600 hours of instruction in the following subject areas:

- (1) introduction consisting of:
 - (a) history of esthetics; and
 - (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
 - (a) aseptic techniques and sanitary procedures;

- (b) disinfection and sterilization methods and procedures; and
- (c) health risks to the basic esthetician;
- (3) business and salon management including:
 - (a) developing a clientele;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) public relations; and
 - (f) advertising.
- (4) legal issues including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
 - (5) human immune system;
 - (6) diseases and disorders of the skin including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) decontamination; and
 - (e) infection control;
 - (7) implements, tools, and equipment for basic esthetics including:
 - (a) high frequency or galvanic current; and
 - (b) heat lamps;
 - (8) first aid;
 - (9) anatomy;
 - (10) science of basic esthetics;
 - (11) analysis of the skin;
 - (12) physiology of the skin;
 - (13) facials, manual and mechanical;
 - (14) limited chemical exfoliation including:
 - (a) pre-exfoliation consultation;
 - (b) post-exfoliation treatments; and
 - (c) chemical reactions;
 - (15) chemistry for basic esthetics;
 - (16) temporary removal of superfluous hair by waxing;
 - (17) treatment of the skin;
 - (18) packs and masks;
 - (19) Aroma therapy;
 - (20) application of makeup including:
 - (a) application of ~~false~~ artificial eyelashes;
 - (b) arching of the eyebrows; and
 - (c) tinting of the eyelashes and eyebrows;
 - (21) medical devices;
 - (22) cardio pulmonary resuscitation (CPR);
 - (23) basic facials;
 - (24) chemistry of cosmetics;
 - (25) skin treatments, manual and mechanical;
 - (26) massage of the face and neck;
 - (27) natural nail manicures and pedicures;
 - (28) elective topics; and
 - (29) Utah Esthetic Examination review.

R156-11a-703. Curriculum for Esthetics School -- Master Esthetician Programs.

In accordance with Subsection 58-11a-302(13)(c)(iv), the curriculum for an esthetics school master esthetician program shall consist of 1,200 hours of instruction, 600 of which consist of the curriculum for a basic esthetician program, the remaining 600 of which shall be in the following subject areas:

- (1) introduction consisting of:

- (a) history of esthetics and master esthetics; and
- (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) disinfection and sterilization methods and procedures; and
 - (c) health risks to the master esthetician;
- (3) business and salon management consisting of:
 - (a) developing clients;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) advertising; and
 - (f) public relations;
- (4) legal issues including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
 - (5) the human immune system;
 - (6) diseases and disorders of the skin including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) contamination; and
 - (e) infection controls;
 - (7) implements, tools and equipment for master esthetics;
 - (8) first aid;
 - (9) anatomy;
 - (10) ~~basic~~ science of master esthetics;
 - (11) analysis of the skin;
 - (12) physiology of the skin;
 - (13) advanced facials, manual and mechanical;
 - (14) chemistry for master esthetics;
 - (15) advanced chemical exfoliation, including:
 - (a) pre-exfoliation consultation;
 - (b) post-exfoliation treatments; and
 - (c) reactions;
 - (16) temporary removal of superfluous hair by waxing and advanced waxing;
 - (~~17~~) advanced pedicures;
 - (~~18~~) advanced Aroma therapy;
 - (~~19~~) the aging process and its damage to the skin;
 - (~~20~~) medical devices;
 - (~~21~~) cardio pulmonary resuscitation (CPR) training;
 - (~~22~~) hydrotherapy;
 - (~~23~~) advanced mechanical and electrical devices including instruction in using:
 - (a) sanding and microdermabrasion techniques;
 - (b) galvanic or high-frequency current for treatment of the skin;
 - (c) devices equipped with a brush to cleanse the skin;
 - (d) devices that apply a mixture of steam and ozone to the skin;
 - (e) devices that spray water and other liquids on the skin; and
 - (f) any other mechanical devices, esthetic preparations or procedures approved by the division in collaboration with the board for the care and treatment of the skin;
 - (~~24~~) elective topics; ~~and~~
 - (~~25~~) for schools teaching lymphatic massage, in accordance with Subsections 58-11a-102(31)(a)(ii) and 58-11a-302(11)(d)(i)(C), 200 hours of instruction is required and shall consist of:

(a) 40 hours of training in anatomy and physiology of the lymphatic system;

(b) 70 applications of one hour each in manual lymphatic massage of the full body; and

(c) 90 hours of training in lymphatic massage by other means, including but not limited to energy, mechanical devices, suction assisted massage with or without rollers, compression therapy with equipment, or garment therapy; and

(26) Utah Master Esthetician Examination review.

R156-11a-704. Curriculum for Nail Technology Schools.

In accordance with Subsection 58-11a-302(16)(c)(iv), the curriculum for a nail technology school shall consist of 300 hours of instruction in the following subject areas:

- (1) introduction consisting of:
 - (a) history of nail technology; and
 - (b) an overview of the curriculum;
- (2) personal, client and salon safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) disinfection and sterilization methods and procedures; and
 - (c) health risks to the nail technician;
- (3) business and salon management including:
 - (a) developing clientele;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) public relations; and
 - (f) advertising;
- (4) legal issues including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of the nails and skin including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) decontamination; and
 - (e) infection control;
- (7) implements, tools and equipment for nail technology;
- (8) first aid;
- (9) anatomy;
- (10) [basic]-science for nail technology;
- (11) theory of basic manicuring including hand and arm massage;
 - (12) physiology of the skin and nails;
 - (13) chemistry for nail technology;
 - (14) artificial nail techniques consisting of:
 - (a) wraps;
 - (b) nail tips;
 - (c) gel nails;
 - (d) sculptured and other acrylic nails; and
 - (e) nail art;
 - (15) pedicures and massaging the lower leg and foot;
 - (16) elective topics; and
 - (17) Utah Nail Technology Examination review.

R156-11a-705. Curriculum for Cosmetology/Barber Schools.

In accordance with Subsection 58-11a-302(6)(c)(iv), the curriculum for a cosmetology/barber school shall consist of 2,000 hours of instruction in all of the following subject areas:

- (1) introduction consisting of:
 - (a) history of barbering, cosmetology/barbering, esthetics, nail technology; and
 - (b) overview of the [cosmetology/barber]-curriculum;
- (2) personal, client and salon safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) disinfection and sterilization methods and procedures;
 - (c) health risks to the cosmetologist/barber;
- (3) business and salon management including:
 - (a) developing clientele;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) public relations; and
 - (f) advertising;
- (4) legal issues including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of skin, nails, hair, and scalp including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) decontamination; and
 - (e) infection control;
- (7) implements, tools and equipment for cosmetology, barbering, basic esthetics and nail technology, including:
 - (a) high frequency or galvanic current; and
 - (b) heat lamps;
 - (8) first aid;
 - (9) anatomy;
 - (10) [basic]-science of cosmetology/barbering, basic esthetics and nail technology;
 - (11) analysis of the skin, hair and scalp;
 - (12) physiology of the human body including skin and nails;
 - (13) electricity and light therapy;
 - (14) limited chemical exfoliation including:
 - (a) pre-exfoliation consultation;
 - (b) post-exfoliation treatments; and
 - (c) chemical reactions;
 - (15) chemistry for cosmetology/barbering, basic esthetics and nail technology;
 - (16) temporary removal of superfluous hair including by waxing;
 - (17) properties of the hair, skin and scalp;
 - (18) basic hairstyling including:
 - (a) wet and thermal styling;
 - (b) permanent waving;
 - (c) hair coloring;
 - (d) chemical hair relaxing; and
 - (e) thermal hair straightening;
 - (19) haircuts including:
 - (a) draping;
 - (b) clipper variations;
 - (c) scissor cutting;
 - (d) shaving; and
 - (e) wigs and artificial hair;
 - (20) razor cutting for men;
 - (21) mustache and beard design;

- (22) basic esthetics including:
 - (a) treatment of the skin, manual and mechanical;
 - (b) packs and masks;
 - (c) aroma therapy;
 - (d) chemistry of cosmetics;
 - (e) application of makeup including:
 - (i) application of artificial eyelashes;
 - (ii) arching of the eyebrows;
 - (iii) tinting of the eyelashes and eyebrows;
 - (f) massage of the face and neck; and
 - (g) natural manicures and pedicures;
- (23) medical devices;
- (24) cardio pulmonary resuscitation (CPR);
- (25) artificial nail techniques consisting of:
 - (a) wraps;
 - (b) nail tips;
 - (c) gel nails;
 - (d) sculptured and other acrylic nails; and
 - (e) nail art;
- (26) pedicures and massaging of the lower leg and foot;
- (22)(27) elective topics; and
- (23)(28) Utah Cosmetology/Barber Examination review.

R156-11a-706. Curriculum for [~~Barber, Cosmetology/Barber, Master Esthetics, Electrology, and Nail Technology~~] Instructors Schools.

In accordance with Subsections 58-11a-302(2)(e)(i), (5)(e)(i), (8)(e)(i), (12)(e)(i) and (15)(e)(i), the curriculum for an approved [~~barber, cosmetology/barber, basic esthetics, master esthetics, electrology and nail technology~~] instructor school shall consist of [~~the number of hours of instruction required in the subsections identified above in the following subject areas~~] instructor training in the following subjects:

- (1) motivation and the learning process;
- (2) teacher preparation;
- (3) teaching methods;
- (4) classroom management;
- (5) testing;
- (6) instructional evaluation;
- (7) laws, rules and regulations; and
- (8) Utah Barber, Cosmetology/Barber, [~~Master~~]Esthetics (Master level), Electrology and Nail Technology Instructors Examination review.

R156-11a-800. Approved Barber Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(1), the requirements for an approved barber apprenticeship shall include the following:

- (1) The instructor shall have only one apprentice at a time.
- (2) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training".
- (3) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services which will document the total number of hours of training. The record shall be available to the Division upon request.
- (4) A complete set of barber texts shall be available to the apprentice.
- (5) An apprentice may be compensated for services performed.

(6) The instructor shall provide training and technical instruction of 1250 hours using the curriculum defined in Section R156-11a-700.

(7) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(8) An apprentice [~~may~~]shall not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-700.

(9) Any hours obtained while enrolled in a barber school or a cosmetology/barber school shall not be used to satisfy the required 1250 hours of apprentice training.

R156-11a-801. Approved Cosmetologist/Barber Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(1), the requirements for an approved cosmetology/barber apprenticeship include:

- (1) The instructor shall have only one apprentice at a time.
- (2) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training".
- (3) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services which will document the total number of hours of training. The record shall be available to the division upon request.
- (4) A complete set of cosmetology/barber texts shall be available to the apprentice.
- (5) An apprentice may be compensated for services performed.
- (6) The instructor shall provide training and technical instruction of 2,500 hours using the curriculum defined in Section R156-11a-705.
- (7) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.
- (8) An apprentice [~~may~~]shall not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-705.
- (9) Hours obtained while enrolled in a cosmetology/barber school shall not be used to satisfy the required 2,500 hours of apprentice training.

R156-11a-802. Approved Basic Esthetician Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(2), the requirements for an approved basic esthetician apprenticeship include:

- (1) The instructor shall have no more than one apprentice at a time.
- (2) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training[-]".
- (3) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the division upon request.
- (4) A complete set of esthetics texts shall be available to the apprentice.

(5) An apprentice may be compensated for services performed.

(6) The instructor shall provide training and technical instruction of 800 hours using the curriculum defined in Section R156-11a-702.

(7) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(8) An apprentice ~~may~~ shall not perform work on the public until the apprentice has received at least 10% of the hours required in technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-702.

(9) Hours obtained while enrolled in an esthetics school or a cosmetology/barber school shall not be used to satisfy the required 800 hours of apprentice training.

R156-11a-803. Approved Master Esthetician Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(3), the requirements for an approved master esthetician apprenticeship include:

(1) The instructor shall have no more than one apprentice at a time.

(2) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

(3) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the division upon request.

(4) A complete set of esthetics texts shall be available to the apprentice.

(5) An apprentice may be compensated for services performed.

(6) The instructor shall provide training and technical instruction of 1,500 hours using the curriculum defined in Section R156-11a-703[?].

(7) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(8) An apprentice ~~may~~ shall not perform work on the public until the apprentice has received at least 10% of the required hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Subsection R156-11a-703.

(9) Hours obtained while enrolled in an esthetics school or a cosmetology/barber school shall not be used to satisfy the required 1,500 hours of apprentice training.

R156-11a-804. Approved Nail Technician Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(4), the requirements for an approved nail technician apprenticeship include:

(1) The instructor shall have no more than two apprentices at a time.

(2) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

(3) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number

of hours of training. The record shall be available to the division upon request.

(4) A complete set of nail technician texts shall be available to the apprentice.

(5) An apprentice may be compensated for services performed.

(6) The instructor shall provide training and technical instruction of 375 hours using the curriculum defined in Section R156-11a-704.

(7) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(8) An apprentice ~~may~~ shall not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Subsection R156-11a-704.

(9) Hours obtained while enrolled in a nail technology school or a cosmetology/barber school shall not be used to satisfy the required 375 hours of apprentice training.

R156-11a-901. Standards for an On the Job Training Internship.

In accordance with Subsection 58-11a-304(8), students enrolled in a licensed cosmetology/barber school may participate in an on the job training internship if they meet the following requirements:

(1) The on the job training intern ~~must~~ shall have completed at least 1000 hours of the training contracted with a cosmetology/barber school, of which 400 hours shall be clinical hours.

(2) There shall be a conspicuous sign near the work station of the on the job training intern stating "Intern in Training".

(3) A licensed "on-site" cosmetology/barber shall supervise only one on the job training intern at a time.

(4) An on the job training intern, while working under the direct supervision of an "on-site" licensed cosmetologist/barber, may perform the following procedures:

- (a) draping;
- (b) shampooing;
- (c) roller setting;
- (d) blow drying styling;
- (e) applying color;
- (f) removing color by rinsing and shampooing;
- (g) removing permanent chemicals;
- (h) removing permanent rods;
- (i) removing rollers;
- (j) applying temporary rinses, reconditioners, and rebuilders;
- (k) acting as receptionists;
- (l) doing retail sales;
- (m) sanitizing the salon;
- (n) doing inventory and ordering supplies; and
- (p) handing equipment to the cosmetologist/barber supervisor.

(5) The "on-site" cosmetologist/barber supervisor ~~must~~ shall have in ~~her~~ the supervisor's possession a letter, which must be updated on a quarterly basis, from the school where the on the job training intern is enrolled stating that the on the job training intern is currently in good standing at the school and is complying with school requirements.

(6) ~~Time earned~~ Hours of training spent while performing on the job training as an intern shall not apply towards credits required for graduation.

KEY: cosmetologists/barbers, estheticians, electrologists, nail technicians

Date of Enactment or Last Substantive Amendment: [~~April 10, 2008~~]2009

Notice of Continuation: April 12, 2007

Authorizing, and Implemented or Interpreted Law: 58-11a-101; 58-1-106(1)(a); 58-1-202(1)(a)

◆ ————— ◆

Commerce, Occupational and Professional Licensing **R156-16a** Optometry Practice Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32711

FILED: 06/04/2009, 15:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Optometrist Licensing Board reviewed this rule and determined that changes needed to be made.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule the term "rules" has been replaced with "rule" where applicable. In Section R156-16a-102, added a definition for "practitioner". In Section R156-16a-304, added the Division of Occupational and Professional Licensing as an approved provider for continuing education.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-16a-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed optometrists and applicants for licensure in that classification. As a result, the proposed amendments do not apply to local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed amendments only apply to licensed optometrists and applicants for licensure in that classification.

Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business. As a result of the proposed amendments, licensees will now have an additional option with respect to obtaining required continuing education hours as a result of the Division being added as an approved continuing education provider. Licensees may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed optometrists and applicants for licensure in that classification. As a result of the proposed amendments, licensees will now have an additional option with respect to obtaining required continuing education hours as a result of the Division being added as an approved continuing education provider. Licensees may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies the definition of a practitioner. It also permits the Division to provide continuing education, which will likely result in a cost savings to licensees and to the optometric industry. No other fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director

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

COMMERCE

OCCUPATIONAL AND PROFESSIONAL LICENSING

HEBER M WELLS BLDG

160 E 300 S

SALT LAKE CITY UT 84111-2316, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/21/2009 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 402 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

R156. Commerce, Occupational and Professional Licensing. R156-16a. Optometry Practice Act Rule[s].

R156-16a-101. Title.

[These rules are] This rule is known as the "Optometry Practice Act Rule[s]".

R156-16a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 16a, as used in Title 58, Chapters 1 and 16a or [these rules] this rule:

(1) "Practitioner" means any person or individual licensed in this state as a physician and surgeon, osteopathic physician and

surgeon, physician assistant, nurse practitioner or an optometric physician.

(~~1~~)² "Verbal order" as used in Subsection 58-16a-102(3)(a), means that the attending optometrist ordered the contact lens prescription by telephone, or that an individual acting under the supervision and direction of the attending optometrist ordered the contact lens prescription by telephone.

R156-16a-103. Authority - Purpose.

~~[These rules are]~~ This rule is adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 16a.

R156-16a-304. Continuing Education.

In accordance with Section 58-16a-304, the standards for the 30 hours of qualified continuing professional education are the following.

(1) With the exception of Subsections ~~(2)~~ and ~~(3)~~, only courses approved by the Council on Optometric Professional Education (COPE) or optometry related courses approved by the Council on Medical Education will be accepted.

(2) A maximum of two hours of continuing professional education will be accepted for courses in certification or recertification in cardiopulmonary resuscitation (CPR) or Basic Life Support (BCLS).

(3) A maximum of two hours of continuing professional education may come from the Division of Occupational and Professional Licensing.

~~(3)~~⁴ Qualified continuing professional education hours for licensees who have not been licensed for the entire two year renewal cycle will be prorated from the date of licensure.

(~~4~~)⁵ A licensee shall be responsible for maintaining competent records of completed qualified continuing professional education for a period of four years after close of the two year renewal cycle to which the records pertain.

(~~5~~)⁶ Hours in excess of the 30 hours obtained in one renewal cycle cannot be transferred to the next renewal cycle.

(~~6~~)⁷ A licensee who has a serious health problem or who has left the United States for an extended period of time which may prevent the licensee from being able to comply with the professional education requirements established under this section may be excused from completing some or all of the requirements established under this section by submitting a written request to the Division and receiving Division approval.

KEY: optometrists, licensing

Date of Enactment or Last Substantive Amendment: [~~August 2, 2005]~~2009

Notice of Continuation: April 26, 2007

Authorizing, and Implemented or Interpreted Law: 58-16a-101; 58-1-106(1)(a); 58-1-202(1)(a)



Commerce, Occupational and
Professional Licensing
R156-24a
(Changed to R156-24b)

Physical Therapist Practice Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32706

FILED: 06/04/2009, 08:56

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2009 Legislative Session, S.B. 137 was passed which changed the Physical Therapist Practice Act from Title 58, Chapter 24a, to Title 58, Chapter 24b. Various additional amendments were also included in the statute. The amended statute now requires the Division to license physical therapist assistants. As a result of S.B. 137, various corresponding amendments need to be made in this rule. (DAR NOTE: S.B. 137 (2009) is found at Chapter 220, Laws of Utah 2009, and was effective 07/01/2009.)

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, the term "rules" has been changed to "rule" where applicable and the entire rule is being renumbered from R156-24a to R156-24b. Throughout the rule various statute citations have been updated to reflect Title 58, Chapter 24b, and other statutory/regulatory citation corrections are also made. In Section R156-24b-102, updated wording with respect to "a recognized accreditation agency". Added definitions for "credential evaluation", "routine assistance", and "supportive personnel" and deleted the definition for "approved course work evaluation tool". In Section R156-24b-302a, amendments clarify requirements for applicants who are educated outside of the United States. In Section R156-24b-302b, added that the examination requirements also pertain to applicants for licensure as a physical therapist assistant. Section R156-24b-303b is being added to clarify continuing education requirements for licensees which the newly amended statute now requires. In Section R156-24b-502, the American Physical Therapy Association's (APTA) Code of Ethics is updated to the June 2000 edition and the APTA's Guide for Professional Conduct, dated January 2004, is also added to the section. Also added the following documents which are incorporated by reference for physical therapist assistants: APTA's Standards of Ethical Conduct for the Physical Therapist Assistant, dated June 2000, and APTA's Guide for Conduct of the Physical Therapist Assistant, dated February 2004. In Subsection R156-24b-503(1), amendments are made to limit the number of supportive personnel a licensed physical therapist can supervise but authorizes supervisors to request permission from the Board and Division to supervise additional personnel. Amendments in Subsection R156-24b-503(2) are made to provide that a physical therapist provide treatment to a patient at least every tenth treatment but no longer than 30 days from the day of the physical therapist's last treatment day, whichever is less. The remainder of the existing rule is being deleted as the provisions are covered in Title 58, Chapter 24b. Section R156-24a-601 with respect to animal physical therapy is also being deleted it is adequately covered in Section 58-24b-405.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-24b-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Deletes the Federation of State Board of Physical Therapy (FSBPT) September 2000 publication entitled "A Course Work Evaluation Tool for Persons Who Received Their Physical Therapy Education Outside the United States"; updates the APTA Code of Ethics to the June 2000 edition; adds the APTA Guide for Professional Conduct, January 2004 edition; adds the APTA Standards of Ethical Conduct for the Physical Therapist Assistant, dated June 2000; and adds the APTA Guide for Conduct of the Physical Therapist Assistant, dated February 2004

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs of approximately \$75 to print the rule and distribute it once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. Any additional costs to be incurred as a result of the Division now licensing physical therapy assistants were covered in the fiscal note which was completed for S.B. 137.

❖ LOCAL GOVERNMENTS: The proposed amendments only apply to licensed physical therapy classifications and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendments only apply to licensed physical therapists and applicants for licensure as either a physical therapist or physical therapist assistant. Any cost or saving impact to either small businesses or persons other than businesses brought about by this rule change comes as a result of the changes to the statute under S.B. 137. The fiscal note prepared by the Division in response to S.B. 137 should be reviewed for information regarding the legislative bill's cost and saving impact and in turn any anticipated costs or savings with respect to this clarifying rule amendment filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed physical therapists and applicants for licensure as either a physical therapist or physical therapist assistant. Any cost or saving impact to affected persons brought about by this rule change comes as a result of the changes to the statute under S.B. 137. The fiscal note prepared by the Division in response to S.B. 137 should be reviewed for information regarding the legislative bill's cost and saving impact and in turn any anticipated costs or savings with respect to this clarifying rule amendment filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing makes the rule for physical therapists consistent with recent statutory amendments. No fiscal impact to businesses is anticipated beyond that already considered by the Legislature in making the statutory amendments. The rule filing also removes unnecessary provisions and makes other technical corrections for which no fiscal impact is anticipated. Francine A. Gian, 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 at the above address, by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at roborn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/07/2009 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

R156. Commerce, Occupational and Professional Licensing. R156-24[a]b. Physical Therapist Practice Act Rule[s]. R156-24[a]b-101. Title.

~~[These rules are]~~ This rule is known as the "Physical Therapist Practice Act Rule[s]".

R156-24[a]b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 24[a]b, as used in Title 58, Chapters 1 and 24[a]b or ~~these~~ this rule[s]:

(1) ~~["An accredited school of physical therapy"]~~ A recognized accreditation agency, as used in Subsections ~~[58-24a-109(2)(b)]~~ 58-24b-302(1)(c) and (2)(c), means a college or university:

(a) accredited by CAPTE; or

(b) a foreign education program which is equivalent to a CAPTE accredited program as determined by FSBPT's Foreign Credentialing Commission on Physical Therapy.

(2) ~~["Approved course work evaluation tool", as used in Subsection R156-24a-302a(3), means the FSBPT's September 2000 revised publication entitled "A Course Work Evaluation Tool For Persons Who Received Their Physical Therapy Education Outside the United States", which is hereby adopted and incorporated by reference.]~~ Credential evaluation, as used in Subsections R156-24b-302a(2) and (3), means the appropriate Course Work Tool (CWT) adopted by the Federation of State Boards of Physical Therapy. The appropriate CWT means the CWT in place at the time the foreign educated physical therapist or physical therapist assistant graduated from the physical therapy program.

(3) "CAPTE" means Commission on Accreditation in Physical Therapy Education.

(4) "FSBPT" means the Federation of State Licensing Boards of Physical Therapy.

(5) "Joint mobilization", as used in Subsection ~~[58-24a-404(2)(b)]~~58-24b-102(14)(d), means passive and active movements of the joints of a patient, including the spine, to increase the mobility of joint systems; but, does not include specific vertebral adjustment and manipulation of the articulation of the spine by those methods or techniques which are generally recognized as the classic practice of chiropractic.

(6) "Routine assistance", as used in Subsections ~~58-24b-102(10) and 58-24b-401(3)(b)~~ means:

(a) engaging in assembly and disassembly, maintenance and transportation, preparation and all other operational activities relevant to equipment and accessories necessary for treatment; and

(b) providing only that type of elementary and direct patient care which the patient and family members could reasonably be expected to learn and perform.

(7) "Supportive personnel", as used in Subsection ~~R156-24b-503(1)~~, means a physical therapist assistant or a physical therapy aide and does not include a student in a physical therapist or physical therapist assistant program.

(~~6~~)8 "Unprofessional conduct" as defined in Title 58, Chapters 1 and 24~~[a]b~~, is further defined, in accordance with Subsection ~~58-1-203(~~5~~)1~~(e), in Section ~~R156-24[a]b-502~~.

R156-24[a]b-103. Authority - Purpose.

~~[These]~~This rule~~s are~~ is adopted by the division under the authority of Subsection ~~58-1-106(1)~~ to enable the division to administer Title 58, Chapter 24~~[a]b~~.

R156-24[a]b-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule ~~R156-1~~ is as described in Section ~~R156-1-107~~.

R156-24[a]b-302a. Qualifications for Licensure - Education Requirements.

(1) In accordance with Subsection ~~[58-24a-109(2)(b)]~~58-24b-302(1)(c), the accredited school of physical therapy for a physical therapist shall be accredited by CAPTE at the time of graduation.

(2) In accordance with Subsection 58-24b-302(3), an applicant for licensure as a physical therapist who is educated outside the United States whose degree was not accredited by CAPTE shall document that the applicant's education is equal to a CAPTE accredited degree by submitting to the Division a credential evaluation from the Foreign Credentialing Commission on Physical Therapy. Only educational deficiencies in the humanities, social sciences and liberal arts may be corrected by completing college level credits in the deficient areas or by passing the College Level Examination Program (CLEP) demonstrating proficiency in the deficient areas.

(~~2~~)3 In accordance with Subsection ~~[58-24a-402(5)]~~58-24b-302(2), a physical therapist assistant shall complete one of the following CAPTE accredited physical therapy education programs:

(a) an associates, bachelors, or masters program; or

(b) ~~[a foreign physical therapy education program approved by the division in collaboration with the board, which program is equivalent to a program set forth in Subsection R156-24a-302a(2)(a)-~~

(~~3~~)In accordance with Section ~~58-1-302~~, an applicant ~~for a license as a physical therapist assistant~~ who has been licensed in a foreign country whose degree was not accredited by CAPTE shall document that ~~[his]~~the applicant's education is ~~[equal]~~substantially

equivalent to a CAPTE accredited degree by submitting to the Division a credential evaluation from the Foreign Credentialing Commission on Physical Therapy~~[which shall use the approved course work evaluation tool]~~. Only educational deficiencies in the humanities, social sciences and liberal arts may be corrected by completing college level credits in the deficient areas or by passing the College Level Examination Program (CLEP) demonstrating proficiency in the deficient areas.

R156-24[a]b-302b. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsections ~~[58-24a-109(2)(e)]~~58-24b-302(1)(e), (2)(e) and (3)(e), each applicant for licensure as a physical therapist or physical therapist assistant~~[including endorsement applicants]~~, shall pass the FSBPT's National Physical Therapy Examination with a passing score as established by the FSBPT.

(2) In accordance with Section ~~58-1-309 and Subsections 58-24b-302(1)(d), (2)(d) and (3)(d)~~, each applicant for licensure as a physical therapist or physical therapist assistant, including endorsement applicants, shall pass all questions on the open book, take home Utah Physical Therapy Law and Rule Examination.

(3) An applicant for licensure as a physical therapist or a physical therapist assistant must have completed the education requirements set forth in ~~S[ub]section [R156-24a-302a(1) or (3)]~~R156-24b-302, or be enrolled in the final semester of a CAPTE accredited program, in order to be eligible to sit for the examination required for Utah licensure as set forth in Subsection ~~[R156-24a-302b(1)(a)](1)~~ above.

R156-24[a]b-303a. Renewal Cycle - Procedures.

(1) In accordance with Subsection ~~58-1-308(1)~~, the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 24~~[a]b~~ is established by rule in Section ~~R156-1-308a~~.

(2) Renewal procedures shall be in accordance with Section ~~R156-1-308c~~.

R156-24b-303b. Continuing Education.

(1) In accordance with Subsection 58-24b-303(2), there is hereby established a continuing education requirement for all individuals licensed under Title 58, Chapter 24b as a physical therapist and a physical therapist assistant.

(2) During each two year period commencing on June 1 of each odd numbered year:

(a) a physical therapist shall be required to complete not less than 40 hours of continuing education directly related to the licensee's professional practice of which a minimum of six hours must be completed in ethics/law;

(b) a physical therapist assistant shall be required to complete not less than 20 hours of continuing education directly related to the licensee's professional practice of which a minimum of three hours must be completed in ethics/law.

(3) The required number of hours of continuing education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(4) Continuing education under this section shall:

(a) be relevant to the licensee's professional practice;

(b) be prepared and presented by individuals who are qualified by education, training and experience to provide physical therapy continuing education; and

(c) have a method of verification of attendance and completion.

(5) Credit for professional education shall be recognized in accordance with the following:

(a) unlimited hours shall be recognized for continuing education completed in blocks of time of not less than 50 minutes in formally established classroom courses, seminars, conferences or training sessions which meet the criteria listed in Subsection (4) above and which are approved by, or under sponsorship of:

(i) the American Physical Therapy Association;

(ii) the Utah Physical Therapy Association;

(iii) accredited universities or colleges; or

(iv) professional associations, societies and organizations representing a licensed profession whose program objectives relate to the practice of physical therapy;

(b) a maximum of ten hours per two year period may be recognized for teaching in a college or university and teaching continuing education courses in the field of physical therapy;

(c) a maximum of six hours per two year period may be recognized for clinical reading or in-service directly related to physical therapy practice; and

(d) a maximum of 12 hours per two year period may be recognized for internet or distance learning courses that include an examination and issuance of a completion certificate.

(6) A licensee shall be responsible for maintaining competent records of continuing 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 continuing education to demonstrate it meets the requirements of this section.

R156-24[a]b-502. Unprofessional Conduct.

Unprofessional conduct includes:

(1) violating, as a physical therapist, any provision of the American Physical Therapy Association's Code of Ethics, last amended [January 1997]June 2000, which is hereby adopted and incorporated by reference;[and]

(2) violating, as a physical therapist, any provision of the American Physical Therapy Association's Guide for Professional Conduct, last amended January 2004, which is hereby adopted and incorporated by reference;

([2]3) not providing supervision, as a physical therapist, as set forth in Section R156-24[a]b-503;

(4) violating, as a physical therapist assistant, any provision of the American Physical Therapy Association's Standards of Ethical Conduct for the Physical Therapist Assistant, last amended June 2000, which is hereby adopted and incorporated by reference; and

(5) violating, as a physical therapist assistant, any provision of the American Physical Therapy Association's Guide for Conduct of the Physical Therapist Assistant, last amended February 2004, which is hereby adopted and incorporated by reference.

R156-24[a]b-503. Physical Therapist Supervisory Authority and Responsibility.

In accordance with Section [58-24a-112]58-24b-404, [the supervisory responsibilities of a physical therapist include the following:]a physical therapist's supervision of a physical therapist

assistant or a physical therapy aide shall meet the following conditions:

(1) a full-time equivalent physical therapist can supervise no more than three full-time equivalent supportive personnel unless approved by the board and Division; and

(2) a physical therapist shall provide treatment to a patient at least every tenth treatment day but no longer than 30 days from the day of the physical therapist's last treatment day, whichever is less.

~~— (1) Adequate supervision requires at a minimum that a supervising physical therapist perform the following activities:~~

~~— (a) designate or establish channels of written and oral communication;~~

~~— (b) interpret available information concerning the individual under care;~~

~~— (c) provide the initial evaluation;~~

~~— (d) develop a plan of care, including short and long term goals;~~

~~— (e) select and delegate appropriate tasks of the plan of care;~~

~~— (f) assess competence of supportive personnel in the delegated tasks;~~

~~— (g) identify and document precautions, special problems, contraindications, anticipated progress, and plans for reevaluation; and~~

~~— (h) reevaluate, adjust plan care when necessary, perform final evaluation, and establish a follow up plan.~~

~~(2) Supervision by a physical therapist of a physical therapist assistant shall include the following conditions:~~

~~— (a) an initial visit shall be made by the physical therapist for evaluation of the patient and establishment of a plan of care; and~~

~~— (b) supervision shall be on site by the physical therapist every sixth treatment but no longer than every 30 days from the time of the physical therapist's last evaluation or treatment.~~

~~(3) Duties delegated by a physical therapist to a physical therapist assistant may include:~~

~~— (a) providing physical therapy services according to a plan of care established by the licensed physical therapist;~~

~~— (b) adjusting a specific treatment procedure in accordance with changes in patient status only with prior evaluation and approval by the supervising physical therapist;~~

~~— (c) responding to inquiries regarding patient status to appropriate parties within the plan of care established by a supervising physical therapist, but not interpreting data beyond the scope of his physical therapist assistant education; and~~

~~— (d) referring inquiries regarding patient prognosis to the supervising physical therapist.~~

~~(4) Duties delegated by a physical therapist to a physical therapist aide may include:~~

~~— (a) engaging in assembly and disassembly, maintenance and transportation, preparation and all other operational activities relevant to equipment and accessories necessary for treatment; and~~

~~— (b) providing only that type of elementary and direct patient care which the patient and family members could reasonably be expected to learn and perform.~~

~~(5) A physical therapist aide may not interpret referrals, perform evaluations or evaluate procedures, initiate or adjust treatment programs, assume responsibility for planning patient treatment care, perform debridement, topical medical application, or joint mobilization.~~

~~(6) Each physical therapist assistant and physical therapist aide shall clearly identify himself as a non-licensed person and shall not present or hold himself out in any way as a physical therapist.~~

R156-24a-601. Animal Physical Therapy.

~~In accordance with Subsection 58-28-8(12)(b), a physical therapist practicing animal massage must complete at least 100 hours of animal physical therapy training and education. The training shall consist of:~~

~~(1) completing 50 hours of on the job training under the supervision of a licensed veterinarian;~~

~~(2) completing a quadruped anatomy course; and~~

~~(3) completing the remaining hours in continuing education.]~~

KEY: licensing, physical therapy, physical therapist, physical therapist assistant

Date of Enactment or Last Substantive Amendment: [January 7, 2002]2009

Notice of Continuation: January 30, 2007

Authorizing, and Implemented or Interpreted Law: 58-24[a]b-101; 58-1-106(1)(a); 58-1-202(1)(a)

◆ ————— ◆

Commerce, Occupational and Professional Licensing

R156-26a

Certified Public Accountant Licensing Act Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32712

FILED: 06/04/2009, 16:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Utah Board of Accountancy reviewed this rule and determined that changes needed to be made.

SUMMARY OF THE RULE OR CHANGE: In Section R156-26a-303a, technical amendments are made to comply with the current language and procedures that are specified in peer review requirements established by the American Institute of Certified Public Accountants (AICPA). In Section R156-26a-501, updated the AICPA Code of Professional Conduct to the June 1, 2008 edition.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-26a-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Updates the "Standards for Performing and Reporting on Peer Reviews" published by the AICPA, from the January 1, 2005 edition to the January 1, 2009 edition; and updates the AICPA "Code of Professional Conduct" from the June 1, 2007 edition to the June 1, 2008 edition

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed certified public accountants, CPA firms, and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed amendments only apply to licensed certified public accountants, CPA firms, and applicants for licensure in those classifications. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business. The updated documents can be printed out via the AICPA website at no cost.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed certified public accountants, CPA firms, and applicants for licensure in those classifications. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business. The updated documents can be printed out via the AICPA website at no cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this rule filing beyond those discussed in the rule summary. 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:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/01/2009 at 1:00 PM, Heber Wells Bldg, 160 E 300 S, Conference Room 402 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

**R156. Commerce, Occupational and Professional Licensing.
R156-26a. Certified Public Accountant Licensing Act Rule.
R156-26a-303a. Renewal Requirements - Peer Review.**

(1) General.

In accordance with Subsections 58-1-308(3)(b) and 58-26a-303(2)(b), there is created a peer review requirement as a condition for renewal of licenses issued under the Certified Public Accountant Licensing Act, providing for review of the work products of CPA and CPA firm licensees ~~and firms~~.

(a) The purpose of the program is to monitor compliance with professional standards ~~applicable accounting and auditing standards adopted by generally recognized standard setting bodies~~.

(b) The program shall emphasize education and may include other remedial actions when non-compliance is found ~~determined appropriate where a firm's work product and services do not comply with established professional standards~~.

(c) ~~In the event a firm~~ If a licensee is unwilling or unable to comply with ~~established standards,~~ or intentionally disregards professional standards ~~so as to warrant disciplinary action~~, the administering organization shall refer the matter to the Division for consultation and determination of ~~and shall consult with the Division regarding~~ appropriate action ~~to protect the public interest~~.

(2) Scheduling of the Peer Review.

(a) A firm's initial peer review shall be assigned a due date to require that the initial review be started no later than 18 months after the date of the issuance of its initial report as defined in Subsection 58-26a-102(20).

(b) Not less than once in each three years a firm engaged in the practice of public accounting shall undergo, at its own expense, a peer review commensurate in scope with its practice.

(c) The administering organization will assign the year of review.

(d) A portion of the peer review may be performed by a regulatory body if the Utah Board of Accountancy approves the regulatory body as an administering organization. This does not by itself satisfy the peer review requirement unless the other standards as specified in this rule are fulfilled by the regulatory body.

(3) Selection of a Peer Reviewer or inspector in the case of inspections mandated by law or regulatory bodies.

A firm scheduled for peer review shall engage a reviewer qualified to conduct the peer review. Regulatory bodies will assign inspectors.

(4) Qualifications of a Peer Reviewer and inspectors.

(a) Peer reviewers must provide evidence of one of the two following minimum qualifications to the administering organization:

- (i) acceptance as a peer reviewer by the AICPA; or
- (ii) compliance with the qualifications required by the AICPA to qualify as a peer reviewer.

(b) Peer reviewers must be licensed or hold a permit to practice as a CPA in the state of Utah or another state or jurisdiction of the United States.

(c) The administering organization will approve reviewers for those reviews not administered by the AICPA.

(d) Regulatory bodies will determine the qualifications of inspectors.

(5) Conduct of the Peer Review or inspection. Peer reviews shall be conducted as follows:

(a) Peer reviews shall be conducted according to the "Standards for Performing and Reporting on Peer Reviews" promulgated by the AICPA, effective January 1, ~~2005~~2009 as

amended, which are hereby incorporated by reference and adopted as the minimum standards for peer reviews of all firms. This section shall not require any firm or licensee to become a member of the AICPA or any administering organization.

(b) The Utah Board of Accountancy may review the standards used by the regulatory body to determine if those standards are sufficient to satisfy all or part of the peer review requirements, or what additional review may be required to meet the peer review requirements under this rule.

(6) If an administering organization finds that a peer review was not performed in accordance with this rule or the peer review results in a ~~modified or adverse~~ pass with deficiencies or fail report ~~or in repeat findings~~, the Peer Review Committee may require remedial action to assure that the review or performance of the CPA or CPA firm being reviewed meets the objectives of the peer review program.

(7) Review of Multi-State Firms.

(a) With respect to a multi-state firm, the Division may accept a peer review based solely upon work conducted outside of this state as satisfying the requirement to undergo peer review under this rule, if:

(i) the peer review is conducted during the year scheduled or rescheduled under R156-26a-303a(2);

(ii) the peer review is performed in accordance with requirements equivalent to those of this state;

(iii) the peer review:

(A) studies, evaluates and reports on the quality control system of the firm as a whole in the case of ~~on-site~~ system reviews; or

(B) results in an evaluation and report on selected engagements in the case of ~~off-site~~ engagement reviews;

(iv) the firm's internal inspection procedures require that the firm's personnel from another office outside the state perform the inspection of the office located in this state not less than once in each three year period; and

(v) at the conclusion of the peer review, the peer reviewer issues a report equivalent to that required by R156-26a-303a(5) or in the case of an approved regulatory body, a report is issued under their standards.

(b) A multi-state firm seeking approval under R156-26a-303a(7)(a) shall submit an application to the administering organization by February 1 of the year of review establishing that the peer review it proposes to undergo meets all of the requirements of R156-26a-303a(5).

(8) A firm which does not perform services encompassed in the scope of minimum standards as set out in R156-26a-303a(5)(a) or (b) is exempt from peer review and shall notify the Division of Occupational and Professional Licensing of the exemption at the time of renewal of its registration. A firm which begins providing these services must commence a peer review within 18 months of the date of the issuance of its initial report as defined in Subsection 58-26a-102(16).

(9) Mergers, Combinations, Dissolutions or Separations.

(a) Mergers or combinations: In the event that two or more firms are merged or sold and combined, the surviving firm shall retain the year of review of the largest firm.

(b) Dissolutions or separations: In the event that a firm is divided, the new firms shall retain the year of review of the former firm. In the event that this period is less than 12 months, a new year shall be assigned so that the review occurs after 12 months of operation.

(c) Upon application to the administering organization and a showing of hardship caused solely by compliance with R156-26a-303a(10), the Division may authorize a change in a firm's year of review.

(10) If the firm can demonstrate that the time established for the conduct of a peer review will create an unreasonable hardship upon the firm, the Division may approve an extension not to exceed 180 days from the date the peer review was originally scheduled. A request for extension shall be addressed in writing by the firm to the Division with a copy to the administering organization responsible for administration of that firm's peer review. The written request for extension must be received by the Division and the administering organization not less than 30 days prior to the date of scheduled review or the request will not be considered. The Division shall inform the administering organization of the approval of any extension.

(11) Retention of Documents Relating to Peer Reviews.

(a) All documentation necessary to establish that each peer review was performed in conformity with peer review standards adopted by the Board, including the peer review working papers, the peer review report, comment letters and related correspondence indicating the firm's concurrence or nonconcurrence, and any proposed remedial actions and related implementation shall be maintained.

(b) The documents described in R156-26a-303a(11)(a) shall be retained for a period of time corresponding to the designated retention period of the relevant administering organization. In no event shall the retention period be less than ~~90~~120 days.

(12) Costs and Fees for Peer Review.

(a) All costs associated with firm-on-firm reviews will be negotiated between the firm and the reviewer and paid directly to the reviewer. All costs associated with committee assigned review team (CART) reviews will be set by the administering organization. The administering organization will collect the fees associated with CART reviews and pay the reviewer.

(b) All costs associated with the administration of the review process will be paid from fees charged to the firms. The fees will be collected by the administering organization. The schedule of fees will be included in the administering organization's proposal. The fee schedule will specify how much is to be paid each year and will be based on the firm size.

(13) All financial statements, working papers, or other documents reviewed are confidential. Access to those documents shall be limited to being made available, upon request, to the Peer Review Committee or the technical reviewer for purposes of assuring that peer reviews are performed according to professional standards.

R156-26a-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) a licensee willfully failing to comply with continuing professional education or fraudulently reporting continuing professional education; or

(2) commission of an act or omission that fails to conform to the accepted and recognized standards and ethics of the profession including those stated in the "Code of Professional Conduct" of the American Institute of Certified Public Accountants (AICPA) as adopted June 1, ~~2007~~2008, which is hereby incorporated by reference.

KEY: accountants, licensing, peer review, continuing professional education

Date of Enactment or Last Substantive Amendment:
~~September 23, 2008~~2009

Notice of Continuation: February 1, 2007

Authorizing, and Implemented or Interpreted Law: 58-26a-101; 58-1-106(1)(a); 58-1-202(1)(a)



Commerce, Occupational and Professional Licensing **R156-55b-302a** Qualifications for Licensure - Education and Experience Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32717

FILED: 06/08/2009, 17:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing is to implement changes to approved electrician education programs as a result of H.B. 15 which was passed during the 2009 Legislative Session. The proposed amendments have been reviewed by the Division and the Electricians Licensing Board. (DAR NOTE: H.B. 15 (2009) is found at Chapter 346, Laws of Utah 2009, and is effective 07/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The current, existing rule provides the approved curriculum of study for electricians as the 2008-2009 edition for the Independent Electrical Contractors or the 2007-2008 edition of the National Joint Apprenticeship Training Committee for the International Brotherhood of Electrical Workers or an equivalent approved by the Electricians Licensing Board. The proposed amendments adopt any curriculum of electrical study approved by the Utah State Board of Regents, Utah College of Applied Technology Board of Trustees, or other out of state curriculum that is deemed substantially equivalent as determined by the Electricians Licensing Board.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 58-1-106(1)(a), 58-1-202(1)(a), and 58-55-308(1)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Deletes the 2008-2009 edition of the curriculum of study for the Independent Electrical Contractors; and deletes the 2007-2008 edition of the curriculum of study for the National Joint Apprenticeship Training Committee for the International Brotherhood of Electrical Workers

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print the rule and distribute it once the proposed amendments are made effective. Also as a result of these proposed amendments, the Division will see substantial savings of approximately \$5,600 in not needing to update and purchase new editions of the curriculums which have been incorporated by reference. Any costs incurred will be absorbed in the Division's current budget. The Division anticipates there will be an unknown savings of time for the state sponsored apprenticeship colleges. The colleges will be able to turn to their own governing board, which they previously did, for approval of its curriculum instead of through the Electricians Licensing Board. The Utah Board of Regents and Utah College of Applied Technology Board of Trustees have established procedures for reviewing and approving curriculum for institutions they oversee.

❖ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed electrician classifications and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed amendments only apply to licensed electrician classifications and applicants for licensure in those classifications. The Division does not anticipate any increased costs to either businesses or persons other than businesses as a result of these proposed amendments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed electrician classifications and applicants for licensure in those classifications. The Division does not anticipate any increased costs for affected persons as a result of these proposed amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing adopts any curriculum of electrical study approved by the Utah State Board of Regents or the Utah College of Applied Technology Board of Trustees for electrical apprenticeship programs. No fiscal impact to businesses is anticipated beyond those discussed in the rule filing. 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:

Dennis Meservy at the above address, by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/29/2009 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

**R156. Commerce, Occupational and Professional Licensing.
R156-55b. Electricians Licensing Rule.**

R156-55b-302a. Qualifications for Licensure - Education and Experience Requirements.

(1) In accordance with Subsection 58-55-302(3)(i)(i), the approved electrical training program for licensure as a residential journeyman electrician consists of:

(a) ~~[the 2008-2009 edition of the curriculum of study for the Independent Electrical Contractors or the 2007-2008 edition of the curriculum of study for the National Joint Apprenticeship Training Committee for the International Brotherhood of Electrical Workers, which are hereby incorporated by reference, or an equivalent approved by the Board]~~ a curriculum of electrical study approved by the Utah Board of Regents, Utah College of Applied Technology Board of Trustees or other out of state curriculum that is deemed substantially equivalent as determined by the Electricians Licensing Board; and

(b) at least two years of work experience as a licensed apprentice consistent with Section R156-55b-302b.

(2) In accordance with Subsection 58-55-302(3)(h)(i), the approved four year planned training program for licensure as a journeyman electrician consists of:

(a) ~~[the 2008-2009 edition of the curriculum of study for the Independent Electrical Contractors or the 2007-2008 edition of the curriculum of study for the National Joint Apprenticeship Training Committee for the International Brotherhood of Electrical Workers, which are hereby incorporated by reference, or an equivalent approved by the Board]~~ a curriculum of electrical study approved by the Utah Board of Regents, Utah College of Applied Technology Board of Trustees or other out of state curriculum that is deemed substantially equivalent as determined by the Electricians Licensing Board; and

(b) at least four years of work experience as a licensed apprentice consistent with Section R156-55b-302b.

(3) A semester of school shall include at least 81 hours of classroom instruction time. A student shall attend a minimum of 72 hours to receive credit for the semester.

(4) A competency exam shall be given to each student at the end of each semester with the exception of the fourth year second semester. A student, to continue to the next semester, shall achieve a score of 75% or higher on the competency exam. A student who scores below 75% may retake the test one time.

(5) The applicant shall pass each class with a minimum score of 75%.

(6) Competency test results shall be provided to the Board at the Board meeting immediately following the semester in a format approved by the Board.

(7) An applicant for a master electrician license, applying pursuant to Subsection 58-55-302(3)(f)(i) shall be a graduate of an electrical program accredited by the Engineering Accreditation

Commission/Accreditation Board for Engineering and Technology (EAC/ABET).

(8) An applicant shall provide documentation that all education and experience meets the requirements of this rule.

KEY: occupational licensing, licensing, contractors, electricians
Date of Enactment or Last Substantive Amendment: [~~October 9, 2008~~2009

Notice of Continuation: November 8, 2006

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-308(1)

◆ ————— ◆

Commerce, Occupational and Professional Licensing

R156-67

Utah Medical Practice Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32707

FILED: 06/04/2009, 09:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Physicians Licensing Board reviewed this rule and determined that changes needed to be made.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule the term "rules" has been replaced with "rule" where applicable. In Section R156-67-302d, amendments to this section update references and clarify the circumstances for individuals who may be required to take the Special Purpose Examination (SPEX) to create a consistent requirement between the medical professions. In Section R156-67-304, amendments to this section clarify the expectations and requirements for continuing education required of licensed physicians/surgeons. The Division of Occupational and Professional Licensing is also added as an approved provider for continuing education. In Section R156-67-306, a word correction is made. In Section R156-67-502, added as unprofessional conduct the violation of any provision of the American Medical Association's (AMA) Code of Medical Ethics. In Section R156-67-602, updated the AMA Code of Medical Ethics to the 2008-2009 edition.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-67-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Adds the AMA "Code of Medical Ethics", 2008-2009 edition; and deletes the "Code of Medical Ethics" of the Council on Ethical and Judicial Affairs as published by the AMA Policy Compendium, 2001 edition

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. The Division also incurred a cost of \$69.95 to purchase the updated edition of the AMA Code of Medical Ethics. Any costs incurred will be absorbed in the Division's current budget.

❖ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed physicians/surgeons and applicants for licensure in that classification. As a result, the proposed amendments do not apply to local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed amendments only apply to licensed physicians/surgeons and applicants for licensure in that classification. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business. As a result of the proposed amendments, licensees will now have an additional option with respect to obtaining required continuing education hours as a result of the Division being added as an approved continuing education provider. Licensees may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined. There may be unknown costs if a licensee engages in violation of the AMA Code of Medical Ethics which is being added as unprofessional conduct and if an administrative proceeding is initiated as a result of any violation committed by a licensee. However, if a licensee does not engage in the unprofessional conduct behavior, no costs will be incurred. Any person who wanted to purchase a copy of the AMA Code of Medical Ethics would incur a cost of approximately \$70 if not an AMA member. However, it is not a requirement that each licensee have a copy of this book in their possession.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed physicians/surgeons and applicants for licensure in that classification. As a result of the proposed amendments, licensees will now have an additional option with respect to obtaining required continuing education hours as a result of the Division being added as an approved continuing education provider. Licensees may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined. There may be unknown costs if a licensee engages in violation of the AMA Code of Medical Ethics which is being added as unprofessional conduct and if an administrative proceeding is initiated as a result of any violation committed by a licensee. However, if a licensee does not engage in the unprofessional conduct behavior, no costs will be incurred. Any person who wanted to purchase a copy of the AMA Code of Medical Ethics would incur a cost of approximately \$70 if not an AMA member. However, it is not a requirement that each licensee have a copy of this book in their possession.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing makes various technical amendments and sets forth the circumstances that would require an applicant to take the SPEX. As discussed in the rule summary, these changes are not expected to create any fiscal impact to businesses. 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:

Noel Taxin at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at 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 07/31/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/08/2009 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

R156. Commerce, Occupational and Professional Licensing.

R156-67. Utah Medical Practice Act Rule[s].

R156-67-101. Title.

~~[These rules]~~ This rule shall be known as the "Utah Medical Practice Act Rule[s]".

R156-67-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 67, as used in Title 58, Chapters 1 and 67 or ~~[these rules]~~ this rule:

(1) "ACCME" means the Accreditation Council for Continuing Medical Education.

(2) "Alternate medical practices", as used in Section R156-67-603, means treatment or therapy which is determined in an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to be:

(a) not generally recognized as standard in the practice of medicine;

(b) not shown by current generally accepted medical evidence to present a greater risk to the health, safety, or welfare of the patient than does prevailing treatment considered to be the standard in the profession of medicine; and

(c) supported by a body of current generally accepted written documentation demonstrating the treatment or therapy has

reasonable potential to be of benefit to the patient to whom the therapy or treatment is to be given.

(3) "AMA" means the American Medical Association.

(4) "FLEX" means the Federation of State Medical Boards Licensing Examination.

(5) "FMGEMS" means the Foreign Medical Graduate Examination in Medical Science.

(6) "FSMB" means the Federation of State Medical Boards.

(7) "Homeopathic medicine" means a system of medicine employing and limited to substances prepared and prescribed in accordance with the principles of homeopathic pharmacology as described in the Homeopathic Pharmacopoeia of the United States, its compendia, addenda, and supplements, as officially recognized by the federal Food, Drug and Cosmetic Act, Public Law 717.21 U.S. Code Sec. 331 et seq., as well as the state of Utah's food and drug laws and Controlled Substances Act.

(8) "LMCC" means the Licentiate of the Medical Council of Canada.

(9) "NBME" means the National Board of Medical Examiners.

(10) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 67 is further defined in accordance with Subsection 58-1-203(1)(e), in Section R156-67-502.

(11) "USMLE" means the United States Medical Licensing Examination.

R156-67-103. Authority - Purpose.

~~[These rules are]~~ This rule is adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 67.

R156-67-302d. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsection 58-67-302(1)(g), the required licensing examination sequence is the following:

(a) the FLEX components I and II on which the applicant shall have achieved a score of not less than 75 on each component part; ~~[or]~~

(b) the NBME examination parts I, II, and III on which the applicant shall achieve a passing score of not less than 75 on each part; ~~[or]~~

(c) the USMLE, steps 1, 2 and 3 on which the applicant shall achieve a score of not less than 75 on each step; ~~[or]~~

(d) the LMCC examination, Parts 1 and 2; ~~[or]~~

(e) the NBME part I or the USMLE step 1 and the NBME part II or the USMLE step 2 and the NBME part ~~[H]~~ III or the USMLE step 3; ~~[or]~~

(f) the FLEX component 1 and the USMLE step 3; or

(g) the NBME part I or the USMLE step 1 and the NBME part II or the USMLE step 2 and the FLEX component 2.

(h) In ~~[addition]~~ accordance with Subsection 58-67-302.5(1)(g), all applicants who are foreign medical graduates shall pass the FMGEMS unless they pass the USMLE steps 1 and 2.

(2) In accordance with Subsections 58-67-302 ~~[(2)(d)]~~ (1)(g) and (2)(e), an applicant ~~[under the following circumstances]~~ may be required to take the SPEX examination ~~[to document his qualification for licensure]~~ if the applicant:

(a) has not practiced in the past ~~[three]~~ five years;

(b) has had disciplinary action ~~[in the past]~~ within the past five years; or

(c) has had a substance abuse disorder or physical or mental impairment within the past five years which may affect [his]the applicant's ability to safely practice[-; or

~~—(d) has had a history of substance abuse].~~

(3) In accordance with Subsection (2) above, the passing score on the SPEX examination is 75.

R156-67-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 67 is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-67-304. Qualified Continuing Professional Education.

(1) The qualified continuing professional education set forth in Subsection 58-67-304(1) shall consist of 40 hours in each preceding two year licensure cycle.

~~—(a) A minimum of 34 hours shall be in category I offerings as established by the ACCME[- in each preceding two year licensure cycle].~~

~~—(b) A maximum of six hours of continuing education may come from the Division of Occupational and Professional Licensing.~~

(4)c Participation in an ACGME approved residency program shall be considered to meet the continuing education requirement in a pro-rata amount equal to any part of that two year period.

~~(2) [The standard for qualified continuing professional education is that it consist of offerings or courses approved by institutions accredited by the ACCME to approve continuing medical education-]Continuing education under this section shall:~~

~~—(a) be relevant to the licensee's professional practice;~~

~~—(b) be prepared and presented by individuals who are qualified by education, training and experience to provide medical continuing education; and~~

~~—(c) have a method of verification of attendance and completion which may include a "CME Self Reporting Log".~~

(3) Credit for continuing education shall be recognized in 50 minute hour blocks of time for education completed in formally established classroom courses, seminars, lectures, conferences or training sessions which meet the criteria listed in Subsection (2) above.

~~(3)d A licensee must be able to document completion of the continuing professional education upon the request of the Division. Such documentation [should]shall be retained until the next renewal cycle.[- Documentation of completed qualified continuing professional education shall consist of any of the following:~~

~~—(a) certificates from sponsoring agencies;~~

~~—(b) transcripts of participation on applicable institutions letterhead; and~~

~~—(c) "CME Self Reporting Log".]~~

R156-67-306. Exemptions from Licensure.

In accordance with Subsection 58-1-307(1), exemptions from licensure as a physician and surgeon include the following:

(1) any physician ~~[excepted]exempted~~ from licensure, who engages in prescribing, dispensing, or administering a controlled substance outside of a hospital, shall be required to apply for and obtain a Utah Controlled Substance License as a condition precedent to them administering, dispensing or prescribing a controlled substance;

(2) any physician appointed to a graduate medical education or training program which is not accredited by the ACGME, for which ~~[exception]exemption~~ from licensure is requested under the provisions of Subsection 58-1-307(1)(c) shall apply for registration with and receive approval of the division and board as a condition precedent to that individual engaging in any activity included in the practice of medicine;

(3) any person engaged in a competent public screening program making measures of physiologic conditions including serum cholesterol, blood sugar and blood pressure, shall be exempt from licensure and shall not be considered to be engaged in the practice of medicine conditioned upon compliance with all of the following:

(a) all instruments or devices used in making measures are approved by the Food and Drug Administration of the U.S. Department of Health, to the extent an approval is required, and the instruments and devices are used in accordance with those approvals;

(b) the facilities and testing protocol meet any standards or personnel training requirements of the Utah Department of Health;

(c) unlicensed personnel shall not interpret results of measures or tests nor shall they make any recommendation with respect to treatment or the purchase of any product;

(d) licensed personnel shall act within the lawful scope of practice of their license classification;

(e) unlicensed personnel shall conform to the referral and follow-up protocol approved by the Utah Department of Health for each measure or test; and

(f) information provided to those persons measured or tested for the purpose of permitting them to interpret their own test results shall be only that approved by the Utah Department of Health;

(4) non-licensed public safety individuals not having emergency medical technician (EMT) certification who are designated by appropriate city, county, or state officials as responders may be issued and allowed to carry the Mark I automatic injector antidote kits and may administer the antidote to himself or his designated first response "buddy". Prior to being issued the kits, the designated responders must successfully complete a course on the use of auto-injectors. The kits may be issued to the responder only by his employing agency and procured through the Utah Department of Health.

R156-67-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) prescribing for oneself any Schedule II or III controlled substance; however, nothing in ~~[these rules]this rule~~ shall be interpreted by the division or the board to prevent a licensee from using, possessing or administering to himself a Schedule II or III controlled substance which was legally prescribed for him by a licensed practitioner acting within his scope of licensure when it is used in accordance with the prescription order and for the use for which it was intended;

(2) knowingly prescribing, selling, giving away or administering, directly or indirectly, or offering to prescribe, sell, furnish, give away or administer any scheduled controlled substance as defined in Title 58, Chapter 37 to a drug dependent person, as defined in Subsection 58-37-2(s) unless permitted by law and when it is prescribed, dispensed or administered according to a proper medical diagnosis and for a condition indicating the use of that controlled substance is appropriate;

(3) knowingly engaging in billing practices which are abusive and represent charges which are grossly excessive for services rendered;

(4) directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered or supervised; however, nothing in this section shall preclude the legal relationships within lawful professional partnerships, corporations or associations or the relationship between an approved supervising physician and physician assistants or advanced practice nurses supervised by them;

(5) knowingly failing to transfer a copy of pertinent and necessary medical records or a summary thereof to another physician when requested to do so by the subject patient or by his legally designated representative;

(6) failing to furnish to the board information requested by the board which is known by a licensee with respect to the quality and adequacy of medical care rendered to patients by physicians licensed under the Medical Practice Act;

(7) failing as an operating surgeon to perform adequate pre-operative and primary post-operative care of the surgical condition for a patient in accordance with the standards and ethics of the profession or to arrange for competent primary post-operative care of the surgical condition by a licensed physician and surgeon who is equally qualified to provide that care;

(8) billing a global fee for a procedure without providing the requisite care;

(9) supervising the providing of breast screening by diagnostic mammography services or interpreting the results of breast screening by diagnostic mammography to or for the benefit of any patient without having current certification or current eligibility for certification by the American Board of Radiology. However, nothing in this subsection shall be interpreted to prevent a licensed physician and surgeon from reviewing the results of any breast screening by diagnostic mammography procedure upon a patient for the purpose of considering those results in determining appropriate care and treatment of that patient if the results are interpreted by a physician and surgeon qualified under this subsection and a timely written report is prepared by the interpreting physician and surgeon in accordance with the standards and ethics of the profession;

(10) failing of a licensee under Title 58, Chapter 67, without just cause to repay as agreed any loan or other repayment obligation legally incurred by the licensee to fund the licensee's education or training as a medical doctor;

(11) failing of a licensee under Title 58, Chapter 67, without just cause to comply with the terms of any written agreement in which the licensee's education or training as a medical doctor is funded in consideration for the licensee's agreement to practice in a certain locality or type of locality or to comply with other conditions of practice following licensure;

(12) a physician providing services to a department of health by participating in a system under which the physician provides the department with completed and signed prescriptions without the name and address of the patient, or date the prescription is provided to the patient when the prescription form is to be completed by authorized registered nurses employed by the department of health which services are not in accordance with the provisions of Section 58-17a-620;

(13) failing to keep the division informed of a current address and telephone number; ~~and~~

(14) engaging in alternate medical practice except as provided in Section R156-67-603; and

(15) violation of any provision of the American Medical Association (AMA) "Code of Medical Ethics", 2008-2009 edition, which is hereby incorporated by reference.

R156-67-602. Medical Records.

In accordance with Subsection 58-67-803(1), medical records shall be maintained to be consistent with the following:

(1) all applicable laws, regulations, and rules; and

(2) the "AMA Code of Medical Ethics", 2008-2009 edition~~[of the Council on Ethical and Judicial Affairs as published in the AMA Policy Compendium, 2001 edition]~~, which is hereby incorporated by reference.

KEY: physicians, licensing

Date of Enactment or Last Substantive Amendment: ~~[February 19, 2002]~~**2009**

Notice of Continuation: June 26, 2006

Authorizing, and Implemented or Interpreted Law: 58-67-101; 58-1-106(1)(a); 58-1-202(1)(a)



Commerce, Occupational and Professional Licensing

R156-68

Utah Osteopathic Medical Practice Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR File No.: 32710

FILED: 06/04/2009, 14:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Osteopathic Physician and Surgeon's Licensing Board reviewed this rule and determined that changes needed to be made.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule the term "rules" has been replaced with "rule" where applicable. In Section R156-68-302b, amendments update references and clarify the circumstances for individuals who may be required to take the Special Purpose Examination (SPEX) to create a consistent requirement between the medical professions. In Section R156-68-304, amendments clarify the expectations and requirements for continuing education required of licensed osteopathic physicians/surgeons. The Division of Occupational and Professional Licensing is also added as an approved provider for continuing education. In Section R156-68-306, a word correction is made. In Section R156-68-502, added as unprofessional conduct the violation of any provision of the American Medical Association's (AMA) Code of Medical Ethics. In Section R156-68-602, updated the AMA Code of Medical Ethics to the 2008-2009 edition.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-68-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Adds the AMA "Code of Medical Ethics", 2008-2009 edition; and deletes the "Code of Medical Ethics" of the Council on Ethical and Judicial Affairs as published by the AMA Policy Compendium, 2001 edition

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: The proposed amendments only apply to licensed osteopathic physicians/surgeons and applicants for licensure in that classification. As a result, the proposed amendments do not apply to local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendments only apply to licensed osteopathic physicians/surgeons and applicants for licensure in that classification. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business. As a result of the proposed amendments, licensees will now have an additional option with respect to obtaining required continuing education hours as a result of the Division being added as an approved continuing education provider. Licensees may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined. There may be unknown costs if a licensee engages in violation of the AMA Code of Medical Ethics which is being added as unprofessional conduct and if an administrative proceeding is initiated as a result of any violation committed by a licensee. However, if a licensee does not engage in the unprofessional conduct behavior, no costs will be incurred. Any person who wanted to purchase a copy of the AMA Code of Medical Ethics would incur a cost of approximately \$70 if not an AMA member. However, it is not a requirement that each licensee have a copy of this book in their possession.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed osteopathic physicians/surgeons and applicants for licensure in that classification. As a result of the proposed amendments, licensees will now have an additional option with respect to obtaining required continuing education hours as a result of the Division being added as an approved continuing education provider. Licensees may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined. There may be unknown costs if a licensee engages in violation of the AMA Code of Medical Ethics which is being added as unprofessional conduct and if an administrative proceeding is initiated as a result of any violation committed by a licensee. However, if a licensee does not engage in the unprofessional conduct behavior, no costs will be incurred.

Any person who wanted to purchase a copy of the AMA Code of Medical Ethics would incur a cost of approximately \$70 if not an AMA member. However, it is not a requirement that each licensee have a copy of this book in their possession.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing makes various technical amendments and sets forth the circumstances that would require an applicant to take the SPEX (Special Purpose Examination). As discussed in the rule summary, these changes are not expected to create any fiscal impact to businesses. 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:

Noel Taxin at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at 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 07/31/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/02/2009 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 475 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

**R156. Commerce, Occupational and Professional Licensing.
R156-68. Utah Osteopathic Medical Practice Act Rule[s].
R156-68-101. Title.**

[These rules] This rule shall be known as the "Utah Osteopathic Medical Practice Act Rule[s]."

R156-68-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 68, as used in Title 58, Chapters 1 and 68 or [these rules] this rule:

(1) "AAPS" means American Association of Physician Specialists.

(2) "ABMS" means American Board of Medical Specialties.

(3) "ACCME" means Accreditation Council for Continuing Medical Education.

(4) "Alternate medical practices" as used in Section R156-68-603, means treatment or therapy which is determined in an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to be:

(a) not generally recognized as standard in the practice of medicine;

(b) not shown by current generally accepted medical evidence to present a greater risk to the health, safety or welfare of the patient than does prevailing treatment considered to be the standard in the profession of medicine; and

(c) supported by a body of current generally accepted written documentation demonstrating the treatment or therapy has reasonable potential to be of benefit to the patient to whom the therapy or treatment is to be given.

(5) "AMA" means the American Medical Association.

(6) "AOA" means American Osteopathic Association.

(7) "COMLEX" means the Comprehensive Osteopathic Medical Licensing Examination.

(8) "FLEX" means the Federation of State Medical Boards Licensure Examination.

(9) "FMGEMS" means the Foreign Medical Graduate Examination in Medical Science.

(10) "FSMB" means the Federation of State Medical Boards.

(11) "Homeopathic medicine" means a system of medicine employing and limited to substances prepared and prescribed in accordance with the principles of homeopathic pharmacology as described in the Homeopathic Pharmacopoeia of the United States, its compendia, addenda, and supplements, as officially recognized by the federal Food, Drug and Cosmetic Act, Public Law 717.21 U.S. Code Sec. 331 et seq., as well as the state of Utah's food and drug laws and Controlled Substances Act.

(12) "LMCC" means the Licentiate of the Medical Council of Canada.

(13) "NBME" means the National Board of Medical Examiners.

(14) "NBOME" means the National Board of Osteopathic Medical Examiners.

(15) "NPDB" means the National Practitioner Data Bank.

(16) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 68, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-68-502.

(17) "USMLE" means the United States Medical Licensing Examination.

R156-68-103. Authority - Purpose.

~~[These rules are]~~ This rule is adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 68.

R156-68-302b. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsection 58-68-302(1)(g), the required licensing examination sequence is the following:

(a) the NBOME parts I, II and III; ~~[-or]~~

(b) the NBOME parts I, II and the NBOME COMPLEX Level III; ~~[or]~~

(c) the NBOME part I and the NBOME COMPLEX Level II and III; ~~[or]~~

(d) the NBOME COMPLEX Level I, II and III; ~~[-or]~~

(e) the FLEX components I and II on which the applicant shall achieve a score of not less than 75 on each component; ~~[-or]~~

(f) the NBME examination parts I, II and III on which the applicant shall achieve a score of not less than 75 on each part; ~~[or]~~

(g) the USMLE, steps 1, 2 and 3 on which the applicant shall achieve a score of not less than 75 on each step; ~~[-or]~~

(h) the LMCC examination, Parts 1 and 2; ~~[-or]~~

(i) the NBME part I or the USMLE step 1 and the NBME part II or the USMLE step 2 and the NBME part ~~[H]III~~ or the USMLE step 3; ~~[-or]~~

(j) the FLEX component 1 and the USMLE step 3; or

(k) the NBME part I or the USMLE step 1 and the NBME part II or the USMLE step 2 and the FLEX component 2.

(2) In accordance with Subsections 58-68-302(1)(g), (2)(c) and (3)(d), an applicant may be required to take the SPEX examination if the applicant:

(a) has not practiced in the past five years;

(b) has had disciplinary action within the past five years; or

(c) has had a substance use disorder, physical or mental impairment within the past five years which may affect the applicant's ability to safely practice.

~~[(2)3]~~ In accordance with Subsection ~~[58-68-302(2)(e)](2)~~ above, the passing score on the SPEX examination is ~~[at least a score of]~~ 75.

~~[(3)4]~~ In accordance with Subsection 58-68-302(2)(c), the medical specialty certification shall be current certification in an AOA, ABMS, or AAPS member specialty board.

R156-68-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 68, is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-68-304. Qualified Continuing Professional Education.

(1) The qualified continuing professional education set forth in Subsection 58-68-304(1) shall consist of 40 hours ~~[in category 1 offerings as established by the AOA or ACCME]~~ in each preceding two year licensure cycle.

(a) A minimum of 34 hours shall be in category 1 offerings as established by the AOA or ACCME.

(b) A maximum of 6 hours of continuing education may come from the Division of Occupational and Professional Licensing.

~~[(4)c]~~ Participation in an AOA or ACGME approved residency program shall be considered to meet the continuing education requirement in a pro-rata amount equal to any part of that two year period.

(2) Continuing education under this section shall:

(a) be relevant to the licensee's professional practice;

(b) be prepared and presented by individuals who are qualified by education, training and experience to provide medical continuing education; and

(c) have a method of verification of attendance and completion which may include a "CME Self Reporting Log".

(3) Credit for continuing education shall be recognized in 50 minute hour blocks of time for education completed in formally established classroom courses, seminars, lectures, conferences or training sessions which meet the criteria listed in Subsection (2) above.

(4) A licensee must be able to document completion of the continuing professional education upon the request of the Division. Such documentation shall be retained until the next renewal cycle. ~~[(2) The standard for qualified continuing professional education is that it consist of offerings or courses approved by institutions accredited by the AOA or ACCME to approve continuing medical education.~~

~~(3) Documentation of completed qualified continuing professional education shall consist of any of the following:~~

- ~~(a) certificates from sponsoring agencies;~~
- ~~(b) transcripts of participation on applicable institutions letterhead; and~~
- ~~(c) "CME Self Reporting Log";]~~

R156-68-306. Exemptions From Licensure.

In accordance with Subsection 58-1-307(1), exemptions from licensure as an osteopathic physician include the following:

(1) any physician ~~[excepted]~~exempted from licensure, who engages in prescribing, dispensing, or administering a controlled substance outside of a hospital, shall be required to apply for and obtain a Utah Controlled Substance License as a condition precedent to them administering, dispensing or prescribing a controlled substance;

(2) any physician appointed to a graduate medical education or training program which is not accredited by the AOA or ACGME, for which ~~[exception]~~exemption from licensure is requested under the provisions of Subsection 58-1-307(1)(c), shall apply for registration with and receive approval of the division and board as a condition precedent to that individual engaging in any activity included in the practice of osteopathic medicine;

(3) any person engaged in a competent public screening program making measures of physiologic conditions including serum cholesterol, blood sugar and blood pressure, shall be exempt from licensure and shall not be considered to be engaged in the practice of osteopathic medicine conditioned upon compliance with all of the following:

(a) all instruments or devices used in making measures are approved by the Food and Drug Administration of the U.S. Department of Health, to the extent approval is required, and the instruments and devices are used in accordance with those approvals;

(b) the facilities and testing protocol meet any standards or personnel training requirements of the Utah Department of Health;

(c) unlicensed personnel shall not interpret results of measures or tests nor shall they make any recommendation with respect to treatment or the purchase of any product;

(d) licensed personnel shall act within the lawful scope of practice of their license classification;

(e) unlicensed personnel shall conform to the referral and follow-up protocol approved by the Utah Department of Health for each measure or test; and

(f) information provided to those persons measured or tested for the purpose of permitting them to interpret their own test results shall be only that approved by the Utah Department of Health.

(4) non-licensed public officials not having emergency medical technician (EMT) certification who are designated by appropriate county officials as first responders may be issued and allowed to carry the Mark I automatic antidote injector kits and may administer the antidote to himself or his designated first response "buddy". Prior to being issued the kits, the certified first responders would successfully complete the Army/FEMA course on the "Use of Auto-Injectors by Civilian Emergency Medical Personnel". The kits would be issued to the responder only by his employing government agency and procured through the Utah Division of Comprehensive Emergency Management. No other individuals, whether licensed or not, shall prescribe or issue these antidote kits.

R156-68-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) the prescribing for oneself any Schedule II or III controlled substance; however, nothing in ~~[these rules]~~this rule shall be interpreted by the division or the board to prevent a licensee from using, possessing, or administering to himself a Schedule II or III controlled substance which was legally prescribed for him by a licensed practitioner acting within his scope of licensure when it is used in accordance with the prescription order and for the use for which it was intended;

(2) knowingly, prescribing, selling, giving away or administering, directly or indirectly, or offering to prescribe, sell, furnish, give away or administer any scheduled controlled substance as defined in Title 58, Chapter 37 to a drug dependent person, as defined in Subsection 58-37-2(14) unless permitted by law and when it is prescribed, dispensed, or administered according to a proper medical diagnosis and for a condition indicating the use of that controlled substance is appropriate;

(3) knowingly engaging in billing practices which are abusive and represent charges which are grossly excessive for services rendered;

(4) directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered or supervised; however, nothing in this section shall preclude the legal relationships within lawful professional partnerships, corporations, or associations or the relationship between an approved supervising physician and physician assistants or advanced practice nurses supervised by them;

(5) knowingly failing to transfer a copy of pertinent and necessary medical records or a summary thereof to another physician when requested to do so by the subject patient or by his legally designated representative;

(6) failing to furnish to the board information requested by the board which is known by a licensee with respect to the quality and adequacy of medical care rendered to patients by osteopathic physicians licensed under the Utah Osteopathic Medical Practice Act;

(7) failing as an operating surgeon to perform adequate pre-operative and primary post-operative care of the surgical condition for a patient in accordance with the standards and ethics of the profession or to arrange for competent primary post-operative care of the surgical condition by a licensed physician and surgeon or osteopathic physician who is equally qualified to provide that care;

(8) billing a global fee for a procedure without providing the requisite care;

(9) supervising the providing of breast screening by diagnostic mammography services or interpreting the results of breast screening by diagnostic mammography to or for the benefit of any patient without having current certification or current eligibility for certification by the American Osteopathic Board of Radiology or the American Board of Radiology. However, nothing in this subsection shall be interpreted to prevent a licensed physician from reviewing the results of any breast screening by diagnostic mammography procedure upon a patient for the purpose of considering those results in determining appropriate care and treatment of that patient if the results are interpreted by a physician qualified under this subsection and a timely written report is prepared by the interpreting physician in accordance with the standards and ethics of the profession;

(10) failing of a licensee under Title 58, Chapter 68, without just cause to repay as agreed any loan or other repayment obligation

legally incurred by the licensee to fund the licensee's education or training as an osteopathic physician;

(11) failing of a licensee under Title 58, Chapter 68, without just cause to comply with the terms of any written agreement in which the licensee's education or training as an osteopathic physician is funded in consideration for the licensee's agreement to practice in a certain locality or type of locality or to comply with other conditions of practice following licensure;

(12) a physician providing services to a department of health by participating in a system under which the physician provides the department with completed and signed prescriptions without the name and address of the patient, or date the prescription is provided to the patient when the prescription form is to be completed by authorized registered nurses employed by the department of health which services are not in accordance with the provisions of Section 58-17a-620;~~and~~

(13) engaging in alternative medical practice except as provided in Section R156-68-603; and

(14) violation of any provision of the American Medical Association's (AMA) "Code of Medical Ethics", 2008-2009 edition, which is hereby incorporated by reference.

R156-68-602. Medical Records.

In accordance with Subsection 58-68-803(1), medical records shall be maintained to be consistent with the following:

(1) all applicable laws, regulations, and rules; and

(2) the AMA "Code of Medical Ethics", [of the Council on Ethical and Judicial Affairs as published in the AMA Policy Compendium, 1996] 2008-2009 edition, which is hereby incorporated by reference.

KEY: osteopaths, licensing, osteopathic physician

Date of Enactment or Last Substantive Amendment: ~~April 15, 2004~~ **2009**

Notice of Continuation: March 27, 2008

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-68-101



Commerce, Real Estate **R162-150** Appraisal Management Companies

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 32725

FILED: 06/11/2009, 10:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Legislature passed H.B. 152 in the 2009 General Session that requires the Division of Real Estate and the Real Estate Appraiser Licensing and Certification Board to regulate appraisal management companies. This rule satisfies statutory rulemaking mandates for the Division and Board. (DAR NOTE: H.B. 152 (2009) is found at Chapter 269, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: This rule establishes standards for moral character of control persons who apply for appraisal management company registration, and establishes employee knowledge requirements for individuals who select appraisers or review appraisal reports on behalf of the appraisal management company. It also establishes unprofessional conduct guidelines for appraisal management companies that are consistent with requirements already in place for licensed appraisers.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 61-2e-102, 61-2e-103, 61-2e-304, and 61-2e-305

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This filing will have no impact on the state budget. The Division of Real Estate received a small appropriation with H.B. 152. This filing implements requirements already covered by that appropriation.

❖ LOCAL GOVERNMENTS: This rule filing will have no impact on local government budgets. Local governments do not create appraisal management companies and are not regulated by this rule filing. Local governments may see an indirect impact if the unprofessional conduct provisions result in more accurate appraisals taking place within their boundaries.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Employees of appraisal management companies will be required to pay for and complete a Uniform Standards of Professional Appraisal Practice (USPAP) course. Appraisal management companies with control persons with backgrounds that concern the Division of Real Estate will be required to appear before the Real Estate Appraiser Licensing and Certification Board. The unprofessional conduct standards could result in more accurate appraisals, which could have a positive impact on individuals and businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Employees of appraisal management companies will be required to pay for and complete a USPAP course. Appraisal management companies with control persons with backgrounds that concern the Division of Real Estate will be required to appear before the Real Estate Appraiser Licensing and Certification Board. The unprofessional conduct standards could result in more accurate appraisals, which could have a positive impact on individuals and businesses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing implements the Appraisal Management Company Registration and Regulation Act by adopting standards for the registration of appraisal management companies and the qualification of their employees. As indicated in the rule summary, there will be no impact to businesses beyond those already addressed by the Legislature in passing the Act. Francine A. Giani, Executive Director

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

COMMERCE
REAL ESTATE
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:
Thad LeVar at the above address, by phone at 801-530-6929,
by FAX at 801-530-6446, or by Internet E-mail at
tlevar@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY
SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER
THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Francine Giani, Executive Director

R162. Commerce, Real Estate.

R162-150. Appraisal Management Companies.

R162-150-1. Qualification for Registration or Renewal of Registration.

(1) The Division may not register or renew the registration of an appraisal management company that:

(a) fails to comply with any provision of Utah Code Title 62, Chapter 2e, "Appraisal Management Company Registration and Regulation Act";

(b) fails to comply with Sections R162-150-2 or R162-150-3;
or

(c) fails to pay to the Division the fee required for registration.

(2) The Division shall schedule a hearing before the board for an appraisal management company that:

(a)(i) applies for registration or renewal of registration;

(ii) has a control person who discloses, or the Division finds through its own research, an issue that might affect the control person's moral character; and

(iii) the Division determines that the board should be aware of the issue; or

(b) fails to provide an adequate explanation for the appraisal management company's:

(i) plan to ensure the use of licensed appraisers in good standing;

(ii) plan to ensure the integrity of the appraisal review process;

or

(iii) plan for record keeping.

R162-150-2. Employee Qualifications.

(1) An appraisal management company seeking registration shall demonstrate to the Division that each person who selects an appraiser or reviews an appraiser's work for the appraisal management company:

(a) is a licensed or certified appraiser in good standing; or

(b) has received, or will receive within 6 months after initial registration, the 15 hour national Uniform Standards of Professional Appraisal Practice (USPAP) course.

(2) An appraisal management company seeking renewal of the company's registration shall demonstrate to the Division that each person who selects an appraiser or reviews an appraiser's work for the appraisal management company:

(a) is a licensed or certified appraiser in good standing; or

(b) has received the seven hour national USPAP update course.

R162-150-3. Unprofessional Conduct.

(1) An appraisal management company commits unprofessional conduct if the appraisal management company:

(a) fails to disclose to the appraiser:

(i) the total compensation paid to the appraiser who performs the real estate appraisal activity, disclosed as a dollar amount; and

(ii) the total compensation retained by the appraisal management company in connection with the real estate appraisal activity, disclosed as a dollar amount;

(b) fails to require the appraiser to disclose in the body of the appraisal report:

(i) the total compensation paid to the appraiser who performs the real estate appraisal activity, disclosed as a dollar amount; and

(ii) the total compensation retained by the appraisal management company in connection with the real estate appraisal activity, disclosed as a dollar amount;

(c) requires an appraiser to modify any aspect of the appraisal report unless the modification complies with Utah Code Ann. Section 61-2e-307;

(d) requires an appraiser to prepare an appraisal report if the appraiser, in the appraiser's own professional judgment, believes the appraiser does not have the necessary expertise for the specific geographic area;

(e) requires an appraiser to prepare an appraisal report under a time frame that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations;

(f) prohibits or inhibits communication between the appraiser and:

(i) the lender;

(ii) a real estate licensee; or

(iii) any other person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant;

(g) requires the appraiser to do anything that does not comply with:

(i) USPAP; or

(ii) any assignment conditions and certifications required by the client; or

(h) makes any portion of the appraiser's fee contingent on a favorable outcome, including but not limited to:

(i) a loan closing; or

(ii) a specific dollar amount being achieved by the appraiser in the appraisal report.

(2) An appraisal management company commits unprofessional conduct and creates a violation by the appraiser of R162-107.1.6 if the appraisal management company requires the appraiser to:

(a) accept full payment; and

(b) remit a portion of the full payment back to the appraisal management company.

KEY: appraisal management company regulation

Date of Enactment or Last Substantive Amendment: 2009

Authorizing, and Implemented or Interpreted Law: 61-2e-102; 61-2e-103; 61-2e-304; 61-2e-305

◆ ————— ◆

Education, Administration
R277-108-5
 Assurances

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 32729
 FILED: 06/15/2009, 14:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R277-108-5 is amended to include a new required assurance recently required by another rule, and to include two new assurances required in H.B. 210 and S.B. 18. (DAR NOTE: H.B. 210 (2009) is found at Chapter 392, Laws of Utah 2009, and was effective 05/12/2009. S.B. 18 (2009) is found at Chapter 310, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: This amendment adds three new assurances required of local school boards and charter school governing boards.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Sections 53A-3-428, and 63A-3-401 through 63A-3-404

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget because of the rule amendment. The state will receive the additional assurance information along with the information previously required which does not involve any funds.
- ❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Local school boards and charter school governing boards need only assure that they have complied with three additional requirements.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than business. This amendment relates to local school boards and charter school governing boards and does not involve small businesses or individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Local school boards and charter school governing boards will need to assure that they are in compliance with the three additional requirements but should be able to do so with no costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
 ADMINISTRATION
 250 E 500 S

SALT LAKE CITY UT 84111-3272, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.
R277-108. Annual Assurance of Compliance by Local School Boards.

R277-108-5. Assurances.

A. Each local school board and charter school governing board shall provide, consistent with state law, written assurance of the following:

- (1) the National motto is displayed in schools consistent with Section 53A-13-101.4(6);
- (2) the Pledge of Allegiance is recited in public schools consistent with Section 53A-13-101.6;
- (3) a policy has been developed, in consultation with school personnel, parents, and school community, to provide for effective implementation of student education plans/student education occupation plans (SEPs/SEOPs) consistent with Section 53A-1a-106(2)(b);
- (4) a plan is in place for the expenditure of Interventions for Student Success Block Grant Program funds consistent with Section 53A-17a-123.5;
- (5) a policy has been developed for Quality Teaching Block Grant Program consistent with Section 53A-17a-124;
- (6) a policy has been developed on education association leave consistent with Section 53A-3-425;
- (7) each public school within the district has established a community council consistent with Section 53A-1a-108, and the community council members have been advised of their responsibilities consistent with Sections 53A-1a-108 and 53A-1a-108.5;
- (8) the local school board has provided the USOE with required Utah Performance Assessment System for Students (U-PASS) test results in order for the USOE to fulfill the requirements of 53A-1-605;
- (9) the district does not make payroll deductions from the wages of its employees for political purposes consistent with Section 34-32-1.1(2);
- (10) the local school board has implemented a training program for school administrators consistent with Section 53A-3-402(1)(f); ~~and~~
- (11) the local school board has an educator evaluation program developed by a joint committee including classroom teachers, parents and administrators consistent with Section 53A-10-103[-];

(12) the local school board or charter school governing board has presented and implemented an electronic device policy consistent with the timelines and provisions of R277-495;

(13) the school district or charter school has posted collective bargaining agreement(s) on the school district or charter school website within ten days of the ratification or modification of any collective bargaining agreement consistent with Section 53A-3-428; and

(14) by May 15, 2010, the school district or charter school has posted certain public financial information on the school district or charter school website consistent with Sections 63A-3-401 through 63A-3-404.

B. Letters from local school boards assuring compliance with the laws above are due to the State Superintendent of Public Instruction no later than October 1 of each year.

KEY: local school boards, compliance
Date of Enactment or Last Substantive Amendment: ~~[June 17, 2003]~~**2009**
Notice of Continuation: October 5, 2007
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-702; 53A-1-401(3)



Education, Administration
R277-116
 USOE Internal Audit Procedure

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 32730
 FILED: 06/15/2009, 14:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide changes to the process for Utah State Board of Education internal audits.

SUMMARY OF THE RULE OR CHANGE: The changes include broadening the definition of audit, expanding the audit committee to include the State Superintendent of Public Instruction in the audit process, and providing a more useful, expeditious and meaningful audit process for the Utah State Board of Education.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-401(3) and 53A-1-401(4)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The changes are procedural and involve no costs.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. This rule and the amendments relate to the Utah State Board of Education internal audit procedures and processes.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. This rule and the amendments relate to the Utah State Board of Education internal audit procedures and processes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The amendments to the audit procedures will provide a more efficient and effective audit process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

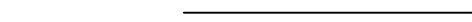
THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation



R277. Education, Administration.
R277-116. [USOE]Utah State Board of Education Internal Audit Procedure.

R277-116-1. Definitions.

- A. "Appointing authority" means the Board.
- ~~_____ [A]B. "Audit" means [performance audits, including economy and efficiency audits and program audits or financial related audits as outlined in GOVERNMENT AUDITING STANDARDS, Comptroller General of the United States, July 2007 (GAO 07-731G) revision which is hereby incorporated by reference, and available from the USOE Internal Auditor and at the Utah Attorney General's Office.]~~ internal reviews or analyses or a combination of both of Utah State Board of Education programs, activities and functions that may address one or more of the following objectives:
 - (1) to verify the accuracy and reliability of USOE or Board records;
 - (2) to assess compliance with management policies, plans, procedures, and regulations;
 - (3) to assess compliance with applicable laws, rules and regulations;

(4) to evaluate the efficient and effective use and protection of Board, state, or federal resources; or

(5) to verify the appropriate protection of USOE assets;

(6) to review and evaluate internal controls over USOE accounting systems, administrative systems, electronic data processing systems, and all other major systems necessary to ensure the fiscal and administrative accountability of the USOE.

~~[B]C.~~ "Audit Committee" means ~~[the audit committee of the Board composed of the Chairman, Vice Chairman and three Standing Committee Chairs of the Board given the responsibility to determine the relative importance of audit requests, receive reports from the internal auditor, and release audit reports to Board members and other interested parties.]~~ a standing committee appointed by the Board which shall consist of all members of the Finance Committee. The Chair of the Audit Committee shall be either the Board Chair or Board Vice Chair.

~~[C]D.~~ "Board" means the Utah State Board of Education.

~~[D]E.~~ "Internal Auditor" means ~~[the Board's Internal Auditor who is direct staff, has a personal and confidential relationship to the Board, and who is appointed by the Board for the purpose of conducting performance audits, including economy and efficiency audits and program audits or financial related audits as outlined in GOVERNMENT AUDITING STANDARDS. The Internal Auditor may conduct other auditing assignments as directed by the Board. The Internal Auditor cooperates and coordinates with the Audit Committee. The Internal Auditor's performance is evaluated by the Board or a committee of Board members.]~~ person or persons appointed by the Superintendent with the consent of the Audit Committee and the full Board to direct the internal audit function for the Board and USOE.

~~[E]F.~~ "LEA" means any local education agency under the supervision of the Board including ~~[local]~~ any sub unit of school districts, Utah Schools for the Deaf and the Blind, Utah State Office of Rehabilitation, charter schools, regional service centers, area technology centers and vocational programs.

G. "Superintendent" means the State Superintendent of Public Instruction, who is the Agency Head within the meaning of the Utah Internal Audit Act.

H. "Survey work" means an internal review of Board rules, statutes, federal requirements and a limited sample of an LEA's programs, activities or documentation that may give rise to or refute the need for a more comprehensive audit. The preliminary or limited information derived from survey work is a part of the ongoing audit process and may be provided as a draft to the Audit Committee, to the Board or to the Superintendent upon request.

~~[F]I.~~ "USOE" means the Utah State Office of Education. ~~[~~

~~— G. "Yellow Book Standards" means the auditing standards outlined in the GOVERNMENT AUDITING STANDARDS (complete citation above).]~~

R277-116-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, Section 53A-1-401(4) which directs the Board to adopt rules to promote quality, efficiency and productivity and to eliminate unnecessary duplication in the public education system, Section 53A-1-405 which makes the Board responsible for verifying audits of local school districts, Section 53A-1-402(1)(f) ~~(g)~~ which directs the Board to develop rules and minimum standards regarding cost

effectiveness measures, school budget formats and financial accounting requirements for the local school districts, ~~[and by]~~Section 53A-17a-147(2) which directs the Board to assess the progress and effectiveness of local school districts and programs funded under the Minimum School Program and report its findings to the Legislature, ~~and by Section 63I-5-101 through 401 which provides standards and procedures for the Board, as the appointing authority for the USOE, to establish an internal audit program.~~

B. The purpose of this rule is to outline the Board's criteria and procedures for internal audits of programs under its supervision.

R277-116-3. Audit Committee Responsibilities.

The Audit Committee shall:

A. determine the priority for survey work or audits to be performed based on recommendations from the Internal Auditor, Audit Committee requests or correspondence, other Board member requests, or USOE staff recommendations;

B. consent to the appointment or removal of the Internal Auditor.

C. review and approve the annual internal audit plan and budget;

D. review internal and external audit reports, survey work, follow-up reports, and quality assurance reviews of the Internal Auditor;

E. meet at each regularly scheduled Board meeting with the Internal Auditor to discuss ongoing audits, audit priorities and progress, and other issues;

~~[F]E.~~ distribute drafts or preliminary versions of audits only to ~~[other]~~ Board members, as requested, or auditees. Internal audits that have not been reviewed in final form by the Audit Committee ~~[and]~~, the auditee, and the Board are drafts and, as such, are not public records;

~~[C]G.~~ determine the distribution of audit findings in any or all stages or reports to other Board members as well as to other interested parties;

~~[D]H.~~ review the findings and recommendations of the Internal Auditor and make recommendations for action on the findings to the Board ~~[;]~~ and

I. evaluate the Internal Auditor at least annually in a formal evaluation process.

R277-116-4. Internal Auditor Authority and Responsibilities.

A. The Internal Auditor shall work closely with and receive regular supervision from the Superintendent.

~~— [A]B.~~ The Internal Auditor shall report ~~[s directly to and is responsible solely to the Board, in cooperation with the Audit Committee] initially to the Superintendent. Following the Superintendent's response, the Internal Auditor reports to the Audit Committee and ultimately to the Board.~~

~~C. [The Internal Auditor shall have access to all records, personnel, and physical materials relevant and necessary to conduct audits of all programs and agencies supervised by the Board.]~~ The Internal Auditor's work shall be determined primarily by a risk assessment developed by the Internal Auditor and approved by the Audit Committee at least annually. The risk assessment shall:

(1) consider public education programs for which the Board has responsibility;

(2) consider and evaluate which public education programs, activities or responsibilities are most critical to:

(a) student safety;

(b) student achievement;

(c) efficient management of public education resources; and
(d) the priorities of public education as determined by the Board.

D. The Internal Auditor shall meet with the Audit Committee or the Board, at the direction of either, to inform both the Audit Committee and the Board of progress on assigned audits and any additional information or assignments requested by the Audit Committee or the Board.

~~[B]E.~~ The Internal Auditor shall conduct audits as [may be] recommended by the Audit Committee, and as directed by the Board, including economy and efficiency audits, program audits, and financial-related audits of any program, function, LEA, or division under the Board's supervision, or as otherwise directed by the Board.

~~[D]F.~~ The Internal Auditor shall immediately notify the Audit Committee and the Board [in a timely manner] of any irregularity or serious deficiency discovered in the audit process or of any impediment or conflict to accomplishing an audit as directed by the Board.

~~[E]G.~~ The Internal Auditor shall submit a written report to the Audit Committee and the Board of each authorized audit within a reasonable time after completion of the audit.

~~[F.]~~ The Internal Auditor shall review, upon the Board's direction, the implementation of recommendations or alternative actions taken as a result of an audit. ~~[H.]~~ The Internal Auditor shall maintain the classification of any public records consistent with Title 63G, Chapter 2, Government Records Access and Management Act.

I. Audit Committee members, Board members and USOE employees shall maintain information acquired in the audit process in the strictest confidence consistent with the Public Employees Ethics Act, Section 67-14-4.

J. The Internal Auditor shall have access to all records, personnel, and physical materials relevant and necessary to conduct audits of all programs and agencies supervised by the Board. All public education entities shall cooperate fully with Internal Auditor requests; The Internal Auditor is not required to issue subpoenas or make GRAMA requests under Section 63G-2-202 to receive requested information from public education entities.

R277-116-5. [~~Scope of Internal Audits]~~ Audit Plans.

~~[A.]~~ An audit conducted by the Internal Auditor may include any or all of the following:

~~— (1) an examination of any Board supervised program or entity records or financial books to determine the accuracy and completeness of fiscal affairs, the accuracy and reliability of financial statements and reports, and the adequacy and effectiveness of financial controls to properly and professionally record the acquisition, custody, and use of public funds;~~

~~— (2) an examination to determine whether program or entity administrators and staff have adhered to state law and Board rules;~~

~~— (3) an examination to determine if operations of a program or entity have been accomplished lawfully and efficiently; and~~

~~— (4) an examination to determine whether management control and information systems are adequate to guarantee compliance with the law and Board rules.~~ [A.] An audit plan shall be prepared by the Internal Auditor and shall:

(1) be reviewed regularly by both the Superintendent and the Audit Committee;

(2) identify the individual audits to be conducted during each year;

(3) determine the adequacy and efficiency of the USOE's internal monitoring and control of programs and personnel;

(4) identify the related resources to be devoted to each of the respective audits; and

(5) ensure that audits that evaluate the efficient and effective use of public education resources are adequately represented in the plan.

B. The Internal Auditor shall submit the audit plan first to the Superintendent for review, next to the Audit Committee for review, modification, update, and approval. Each audit plan shall expressly state an anticipated completion date.

C. The Internal Auditor shall:

(1) ensure that audits are conducted in accordance with professional auditing standards such as those published by the Institute of Internal Auditors, Inc., the American Institute of Certified Public Accountants, and, when required by other law, regulation, agreement, contract, or policy, in accordance with Government Auditing Standards, issued by the Comptroller General of the United States;

(a) all reports of audit findings issued by internal audit staff shall include a statement that the audit was conducted according to the appropriate standards;

(b) public release of reports of audit findings shall comply with the conditions specified by state laws and rules governing the USOE.

(2) report concerns to the Audit Committee or the Board that arise as the result of survey work or audits that necessitate a direct review of the Superintendent's activities or actions;

(3) report significant audit matters that cannot be appropriately addressed by the Audit Committee and the Board to either the Office of Legislative Auditor General or the Office of the State Auditor;

(4) report quarterly to the full Board those issues which have the potential of opening up the Board, Superintendent, or USOE to liability or litigation;

(5) conduct at least annually a risk assessment of the entire public education system and report the findings to the Audit Committee; and

(6) regularly attend all Board meetings.

KEY: educational administration

Date of Enactment or Last Substantive Amendment: [~~August 7, 2008]~~2009

Notice of Continuation: September 6, 2007

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-401(4); 53A-1-405; 53A-1-402(1)([f]e); 53A-17a-147(2); 63I-5-101 through 401

Education, Administration **R277-402-1** Definitions

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 32731

FILED: 06/15/2009, 14:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R277-402-1 is amended to include language from the 2009 Legislative Session as provided in H.B. 334 that changes the direct writing assessment to an online process and changes the required grade level testing from 6 and 9 to 5 and 8. (DAR NOTE: H.B. 334 (2009) is found at Chapter 300, Laws of Utah 2009, and is effective 07/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The amendment changes the direct writing assessment to an online process and the required grade level testing from 6 and 9 to 5 and 8 in the definition section of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-708(5)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated costs to the state budget. The online direct writing assessment will be administered at the local level and change grade levels but not increase testing requirements.

❖ **LOCAL GOVERNMENTS:** There are no anticipated costs to local government. School districts and charter schools have received funding to develop the necessary infrastructure and purchase the necessary technology for computer-based testing. There will probably be savings to school districts and charter schools because online testing will eliminate paper, scoring, mailing, and other costs related to paper tests.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are no anticipated costs or savings to small businesses AND persons other than businesses. The requirement for online direct writing assessment is applicable to Utah public schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. School districts and charter schools have received funding to develop the necessary infrastructure and purchase the necessary technology for computer-based required testing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.**R277-402. Online Testing.****R277-402-1. Definitions.**

A. "Board" means the Utah State Board of Education.

B. "Formative assessment" means an activity, such as questioning, observation, interview and assessment, engaged in by teachers and students during instruction that provides feedback to adjust ongoing teaching and learning to improve students' achievement of intended instructional outcomes.

C. "Intent to implement a uniform online summative test system" as used in 53A-1-708(4) means the commitment by the USOE to provide a consistent statewide process for school districts/charter schools to administer 100 percent of CRT U-PASS-required assessments. This includes the willingness of school districts/charter schools to provide documentation of preparatory activities and of actual test-taking by students.

D. "Online formative assessment system" means a system coordinated by the USOE for the online delivery of formative assessments that can be created by teachers, school districts/charter schools, or the USOE. One part of the system is the Utah Test Item Pool Service (UTIPS).

E. "Summative tests" means tests administered near the end of a course to assess overall achievement of course goals.

F. "Uniform online summative test system" means a statewide process coordinated by the USOE for the online delivery of summative tests required under U-PASS.

G. "Utah Performance Assessment System for Students (U-PASS)" means:

(1) systematic norm-referenced achievement testing of all students in grades 3 (administration in fall and spring), 5, and 8 required by this part in all schools within each school district and in charter schools by means of tests designated by the Board;

(2) criterion-referenced achievement testing of students in all grade levels in:

(a) language arts (grades 2-11);

(b) mathematics (grades 2-7) and pre-algebra, elementary Algebra 1, Algebra 2 and geometry;

(c) science (grades 4-8) and earth systems, biology, chemistry, and physics; and

(3) an online direct writing assessment in grades [6]5 and [9]8;

(4) a tenth grade basic skills competency test as detailed in Section 53A-1-611; and

(5) the use of student behavior indicators in assessing student performance.

H. "USOE" means Utah State Office of Education.

I. "USOE item pool" means all test items developed for or by USOE which are intended to support the instruction of the Utah curriculum for Utah K-12 teachers and students.

J. "Utah Test Item Pool Service (UTIPS)" means a system which includes the USOE item pool, all copyrights, logos, the UTIPS website and domain name, all copyrighted materials, and all other items and equipment used to provide and enhance the USOE item pool.

K. "UTIPS Steering Committee" means a committee formed to govern, support, develop and administer UTIPS. The committee is comprised of the elected co-chairs of the UTIPS User's Group and the UTIPS Operators' Group, the USOE Assessment Director, the USOE Computer Based Assessments Specialist, the USOE Curriculum Director, and one at-large member.

KEY: online testing

Date of Enactment or Last Substantive Amendment:
~~[November 26, 2007]~~2009

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-708(5); 53A-1-401(3)

◆ ————— ◆

Education, Administration **R277-473** Testing Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32732

FILED: 06/15/2009, 14:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-473 is amended to include language from the 2009 Legislative Session as provided in H.B. 334, that changes the direct writing assessment to an online process and changes the required grade level testing from 6 and 9 to 5 and 8. (DAR NOTE: H.B. 334 (2009) is found at Chapter 300, Laws of Utah 2009, and is effective 07/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The amendment changes the direct writing assessment to an online process and the required grade level testing from 6 and 9 to 5 and 8 in the definition section of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-603(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs to the state budget. The online direct writing assessment will be administered at the local level and change grade levels but not increase testing requirements.

❖ LOCAL GOVERNMENTS: There are no anticipated costs to local government. School districts and charter schools have received funding to develop the necessary infrastructure and purchase the necessary technology for computer-based testing. There will probably be savings to school districts and charter schools because online testing will eliminate paper, scoring, mailing, and other costs related to paper tests.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. The requirement for online direct writing assessment is applicable to Utah public schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. School districts and charter school have received funding to develop the necessary infrastructure and purchase the necessary technology for computer-based testing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or
 at the Division of Administrative Rules.

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-473. Testing Procedures.

R277-473-1. Definitions.

A. "Advanced English Language Learner student" means the student understands and speaks conversational and academic English language. The student demonstrates reading comprehension and writing skills but may need continued support when engaged in complex academic tasks that require increasingly academic language. The student is identified at the A level on the UALPA but not proficiency on the English Language Arts (ELA) CRT.

B. "Basic skills course" means those courses specified in Utah law for which CRT testing is required.

C. "Board" means the Utah State Board of Education.

D. "Criterion Reference Test (CRT)" means a test to measure performance against a specific standard. The meaning of the scores is not tied to the performance of other students.

E. "CS" means the USOE Computer Services section.

F. "Days" for purposes of this rule means calendar days unless specifically designated otherwise in this rule.

G. "Direct Writing Assessment (DWA)" means a USOE-designated online test to measure writing performance for students in grades ~~[six]~~five and ~~[nine]~~eight.

H. "Emergent English Language Learner student" means the student understands and responds to basic social conventions, simple questions, simple directions, and appropriate level text. In general, the student speaks, reads, and writes using single phrases or sentences with support. The student may begin to use minimal academic vocabulary with support and participates in classroom routines. The student is identified at the E level on the UALPA.

I. "Intermediate English Language Learner student" means the student understands and speaks conversational and academic English with decreasing hesitancy and difficulty. The student is developing reading comprehension and writing skills, with support. The student's English literacy skills allow for demonstration of academic knowledge. The student reads and writes independently for personal and academic purposes, with some persistent errors. The student is identified at the I level on the UALPA.

J. "Last day of school" means the last day classes are held in each school district/charter school.

K. "Norm-reference Test (NRT)" means a test where the scores are based on comparisons with a nationally representative group of students in the same grade. The meaning of the scores is tied specifically to student performance relative to the performance of the students in the norm group under very specific testing conditions.

L. "Pre-Emergent English Language Learner student" means the student has limited or no understanding of oral or written English, therefore will be participating by listening. The student may demonstrate comprehension by using a few isolated words or expressions of speech. The student typically draws, copies, or responds verbally in his native language to simple commands, statements and questions. The student may begin to understand language in the realm of basic communication. Reading and writing is significantly below grade level. The student is identified at the P level on the UALPA.

M. "Protected test materials" means consumable and nonconsumable test booklets, test questions (items), directions for administering the assessments and supplementary assessment materials (e.g., videotapes) designated as protected test materials by the USOE. Protected test materials shall be used for testing only and shall be secured where they can be accessed by authorized personnel only.

N. "Raw test results" means number correct out of number possible, without scores being equated and scaled.

O. "Standardized tests" means tests required, consistent with Sections 53A-1-601 through 53A-1-611, to be administered to all students in identified subjects at the specified grade levels.

P. "Utah Academic Proficiency Assessment (UALPA)" means a USOE-designated test to determine the academic proficiency and progress of English Language Learner students.

Q. "Utah Alternative Assessment (UAA)" means a USOE-designated test to measure students with disabilities with severe cognitive disabilities.

R. "Utah Basic Skills Competency Test (UBSCT)" means a USOE-designated test to be administered to Utah students beginning in the tenth grade to include components in reading, writing, and mathematics. Utah students shall satisfy the requirements of the UBSCT, in addition to state and school district/charter school graduation requirements, prior to receiving a high school diploma

that indicates a passing score on all UBSCT subtests unless exempted consistent with R277-705-11.

S. "USOE" means the Utah State Office of Education.

R277-473-3. Time Periods for Administering and Returning Materials.

A. School districts/charter schools shall administer assessments required under Section 53A-1-603 unless exempted consistent with Section 53A-1-603(5) and R277-705-11 and consistent with the following schedule:

(1) All CRTs and UAAs (elementary and secondary, English language arts, math, science) shall be given in a six week window beginning six weeks before the last Monday of the end of the course.

(2) The Utah Basic Skills Competency Test shall be given Tuesday, Wednesday, and Thursday of the first week of February and Tuesday, Wednesday, and Thursday of the third week of October.

(3) ~~[Sixth]~~The fifth and ~~[ninth]~~eight grade Direct Writing Assessment shall be given in a three week window beginning at least 14 weeks prior to the last day of school.

(4) The UALPA shall be administered to all English Language Learner students identified as Pre-Emergent, Emergent, Intermediate and Advanced, or enrolled for the first time in the school district at any time during the school year. The test shall be administered once a year to show progress. The testing window is the school year.

B. School districts shall require that all schools within the school district or charter schools administer NRTs within the time period specified by the USOE and the publisher of the test.

C. School districts/charter schools shall submit all answer sheets for the CRT and NRT tests to the CS Section of the USOE for scanning and scoring as follows:

(1) School districts/charter schools shall return CRT, UAA and DWA answer sheets to the USOE no later than five working days after the last day of the testing window.

(2) School districts/charter schools shall return NRT answer sheets to the USOE no later than five working days after the last day of the testing time period specified by the publisher of the test.

(3) School districts/charter schools shall return UBSCT answer sheets to the USOE no later than three days after the final make-up day.

(4) School districts/charter schools shall return UALPA answer sheets to the USOE no later than May 15 for traditional schedule schools and June 15 for year-round schedule schools beginning with the 2007-08 school year.

D. When determining the date of testing, schools on trimester schedules shall schedule the testing at the point in the course where students have had approximately the same amount of instructional time as students on a regular schedule and provide the schedule to the USOE. Basic skills courses ending in the first trimester of the year shall be assessed with the previous year's form of the CRTs.

E. Makeup opportunities shall be provided to students for the Utah Basic Skills Competency Test according to the following:

(1) Students shall be allowed to participate in makeup tests if they did not participate to any degree in the Utah Basic Skills Competency Test or subtest(s) of the Utah Basic Skills Competency Test.

(2) School districts/charter schools shall determine acceptable reasons for student makeup eligibility which may include absence due to serious illness, absence due to family emergency, or absence due to death of family member or close friend.

(3) School districts/charter schools shall provide a makeup window not to exceed five days immediately following the last day of each administration of the Utah Basic Skills Competency Test.

(4) School districts/charter schools shall determine and notify parents in an appropriate and timely manner of dates, times, and sites of makeup opportunities for the Utah Basic Skills Competency Test.

KEY: educational testing

Date of Enactment or Last Substantive Amendment: [~~March 10,~~]2009

Notice of Continuation: May 9, 2005

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-603(3); 53A-1-401(3)



Education, Administration

R277-477

Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32733

FILED: 06/15/2009, 14:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide changes following a Utah State Board of Education public hearing consistent with Section 63G-3-302. The changes address the definition of most critical academic need and also provide specific examples of programs that are not eligible for funding under the School LAND Trust Program. The changes and examples will ensure that local school community councils and governing boards of education have clear guidance when identifying critical academic needs and considering various programs or activities for support with School LAND Trust Program funds.

SUMMARY OF THE RULE OR CHANGE: The amended rule provides for changes to the critical academic needs definition and consistency with further references to the definition within the rule, and provides specific examples of activities that are not eligible for funding under the School LAND Trust Program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-16-101.5(3)(c)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. Changing the definition of the rule and providing clarification for eligible uses of School LAND Trust Program funds does not cost or save money.

❖ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. The amended rule now provides

a clear definition of most critical academic needs that is consistent with state law and also provides specific examples of activities that would not be eligible for funding with School LAND Trust Program funds.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are no anticipated costs or savings to small businesses AND persons other than businesses. The amendment to this rule is applicable to public schools and funding.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Schools will receive School LAND Trust Program funds with clear guidance on eligible programs and uses of funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-477. Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program.

R277-477-1. Definitions.

A. "Board" means the Utah State Board of Education. The Board is the representative and advocate for beneficiaries of the School Trust corpus and the School LAND Trust Program.

B. "Most [C]critical academic needs" for purposes of this rule means [a school's weakness(es) in academic areas for which there is a Utah Core curriculum]needs identified in the school improvement plan developed in accordance with Section 53A-1a-108.5.

C. "Fall Enrollment Report" means the audited census of students registered in Utah public schools as reported in the audited October 1 Fall Enrollment Report from the previous year.

D. "Funds" means interest and dividend income as defined under Section 53A-16-101.5(2).

E. "Interest and Dividends Account" means an account created under Section 53A-16-101 established to collect interest and dividends from the permanent State School Fund until the end of the fiscal year at which time the funds are distributed to school districts through the School LAND Trust Program.

F. "Local board of education" means the locally-elected board designated in Section 53A-3-101 that makes decisions and directs the actions of local school districts and is directed in Section 53A-16-101.5(5)(b) to approve School LAND Trust plans for schools under the local board's authority.

G. "School Children's Trust Section" means employees designated by the Superintendent who have responsibility for overseeing the use of School LAND Trust Program funds.

H. "School community" means the geographic area designated by the school district as the attendance area with reasonable inclusion of the parents or legal guardians of additional students who are attending the school.

I. "State Charter School Board (SCSB)" means the board designated under Section 53A-1a-501.5 that has responsibility for making recommendations regarding the welfare of charter schools to the Board and the board that has responsibility to approve School LAND Trust plans for charter schools. The SCSB has primary responsibility to provide training and oversight for charter school School LAND Trust plans.

J. "State Superintendent of Public Instruction (Superintendent)" means the individual appointed by the Board as provided for in Section 53A-1-301(1) to administer all programs assigned to the Board in accordance with the policies and the standards established by the Board.

K. "Student" means a child in public school grades kindergarten through twelve counted on the audited October 1 Fall Enrollment Report of the school district, charter school, or USDB.

L. "USDB" means the Utah Schools for the Deaf and the Blind.

M. "USOE" means the Utah State Office of Education.

R277-477-3. Distribution of Funds -- Determination of Proportionate Share.

A. Funds shall be distributed to school districts and charter schools as provided under Section 53A-16-101.5(3)(a). The distribution shall be based on the state's total fall enrollment as reflected in the audited October 1 Fall Enrollment Report from the previous school year.

B. Each school district and the USOE, with regard to charter schools and the USDB, shall distribute funds received under R277-477-3A to each school within each school district or to each charter school and USDB on an equal per student basis.

C. Local boards of education and the USOE may adjust distributions, maintaining an equal per student distribution within a school district for school openings and closures and for boundary changes occurring after the audited October 1 Fall Enrollment Report of the prior year.

D. All public non-charter schools receiving funds shall have a school community council as required by Sections 53A-1a-108 and R277-491; funds shall be used to enhance or improve a school's academic excellence consistent with Section 53A-16-101.5. Plans shall be approved by the local board of education. Required school community council-generated plans or programs include:

- (1) School Improvement Plan;
- (2) School LAND Trust Program;

(3) Reading Achievement Plan (for elementary schools)

(4) Professional Development Plan;

(5) Child Access Routing Plan; and

(6) Recommendations regarding school/school district programs and community environment.

E. All charter schools that elect to receive School LAND Trust funds shall have a committee consisting of a majority of parents elected from parents of students currently attending the charter school that is designated to make decisions about the School LAND Trust funds, and a current school plan for enhancing or improving academic excellence consistent with Section 53A-16-101.5 approved by the SCSB for state chartered schools.

F. The plan shall be electronically submitted to the USOE on the School LAND Trust Program website.

G. All charter schools shall be considered collectively as a school district to receive a base amount under Section 53A-16-101.5(3)(a)(i).

H. The USDB shall receive the average statewide per pupil base amount as the school's base allocation.

I. In order to receive its allocation, a school shall satisfy the requirements of Section 53A-16-101.5(4-7).

J. Plans shall include specific academic goals, steps to meet those goals, measurements to assess improvement and specific expenditures to implement plans that may include purchase of workbooks, textbooks, professional development, computer hardware and software, library and media supplies, or supplement funding for aides, teachers and specialists, and other tools for student academic improvement consistent with Section 53A-16-101.5(5).

K. Income from the Interest and Dividends Account shall be distributed to school districts, USDB, and charter schools after the close of the state fiscal year as the USOE receives the funds in the Interest and Dividends Account within the Uniform School Fund.

L. Local boards of education or the SCSB shall approve plans annually and shall ensure timely distribution of the funds to schools with approved plans.

M. When approving school plans on the School LAND Trust Program website, school district and charter school personnel shall report the meeting date(s) when the local board of education or the SCSB approved the plans.

N. Funds not used in the school approved plan may be carried over by the school to the next school year and added to the School LAND Trust Program funds available for expenditure in that school the following year. Schools shall provide an explanation for any carry over that exceeds one-third of the school's allocation in the school plan or report.

O. School LAND Trust Program funds shall be focused on the school's most critical academic needs.

P. School LAND Trust Program funds shall be focused on implementing a recommended course of action to enhance or improve student academic achievement and implement a component of the school improvement plan focused on the school's identified most critical academic needs, as explained in Section 53A-1a-108.5 and Section 53A-16-101.5(5).

Q. Examples of successful programs ~~[with]~~using School LAND Trust Program monies ~~[may]~~include activities such as:

- (1) credit recovery courses and programs;
- (2) study skills classes;
- (3) college entrance exam preparation classes;
- (4) academic field trips;

(5) classroom equipment and materials such as flashcards, math manipulatives, calculators, microscopes, maps, books, or student planners;

(6) teachers and teacher aides;

(7) professional development directly tied to school academic goals;

(8) computer labs, software, LCDs, smart boards;

(9) books and textbooks.

R. Examples of programs not eligible for funding using School LAND Trust Program monies include plans to improve school climate, provide security, address behavioral issues, prevent bullying, install permanent auditorium audio systems, and initiate or support other non-academic school needs.

[R]S. Schools serving students with disabilities may use funds as needed to directly influence and improve student performance according to the student Individual Education Plans (IEPs).

[S]T. The School Children's Trust Section of the USOE shall create and electronically post model plans for elementary and secondary schools.

[F]U. Funds from the School LAND Trust Program that are expended inconsistent with the requirements and academic intent of the law, inconsistent with R277-477, or inconsistent with the original school board/charter board approval shall be withheld by the USOE in subsequent years until the misappropriated funds have been restored.

[H]V. Schools serving only youth in custody may form committees and submit plans to the district serving the students. Youth in custody schools shall receive the same per pupil distribution as other schools in the district providing services.

[W]V. Plans submitted by charter schools shall be prepared, submitted and approved by the charter school committee established in R277-470-9D, requiring a majority of elected parents to serve on the committee, and then submitted first to the local charter school board, then to the local board of education for approval, if the school is chartered by the district, or to the SCSB if the school is chartered by the Board.

[W]X. Plans submitted by the USDB governing board shall be reviewed and approved by the State Superintendent or designee.

R277-477-5. Information to USOE.

A. Information on each school's plan to address most critical academic needs shall be completed via the School LAND Trust Program website maintained through the USOE for accurate and uniform reporting.

B. To facilitate submission of information by schools, each school board shall establish a timeline for timely submission of information and a district submission date for the district schools not later than May 15 of each year.

C. Timelines shall allow for school committee reconsideration and editing of the school plan following local board of education or SCSB requested changes.

D. USOE staff may visit schools receiving funds from the School LAND Trust Program as directed by the Superintendent to discuss the program, receive information and suggestions, provide training, and answer questions.

E. School districts and charter schools wishing to submit information to the School LAND Trust website through a comprehensive electronic plan shall meet the parameters for programming and data entry required by the USOE. They shall review School LAND Trust plans on the USOE website prior to local board of education or SCSB approval to ensure information

consistent with the law has been downloaded by individual schools into the electronic plan visible on the School LAND Trust Program website.

F. Charter school and school district business administrators shall enter financial data relating to the School LAND Trust Program on the School LAND Trust Program website at the time they prepare and submit Annual Program Report (APR) data to the USOE. The appropriate data shall appear in the final reports submitted online by school community councils for reporting to parents as required in Section 53A-1a-108.

G. The financial data shall include:

(1) the annual distribution received by each school (the sum of the distributions to schools within a school district equals the total distributed to the school district by the USOE);

(2) expenditures made by each school from revenues received from the School LAND Trust in the prior fiscal year.

H. Expenditures made after the close of the fiscal year shall be accounted for as expenditures in the following fiscal year.

I. The financial report in each school final report shall be consistent with the narrative submitted by that school community council or charter committee.

KEY: schools, trust lands funds

Date of Enactment or Last Substantive Amendment: [May 8, 2009]

Notice of Continuation: November 23, 2005

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-16-101.5(3)(c); 53A-1-401(3)

Education, Administration R277-491-1 Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32734

FILED: 06/15/2009, 14:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R277-491-1 is amended to remove a definition that is not used within the rule. A public hearing, consistent with Section 63G-3-302, was held to discuss concerns with the rule as it was amended and published in the April 1, 2009, Utah State Bulletin. Following the hearing, a hearing panel recommended changing the definition "Critical academic needs" to "Most critical academic needs" to make the rule consistent with Rule R277-477. Upon further review of the definition and Rule R277-491 in its entirety, it was discovered that neither the existing definition nor the recommended definition were ever used in the rule. Therefore, the definition is deleted. (DAR NOTE: The proposed amendment to Rule R277-491 that was published in the April 1, 2009, issue of the Bulletin was under DAR No. 32449 and was effective 05/08/2009.)

SUMMARY OF THE RULE OR CHANGE: The amendment removes "Critical academic needs" from Section R277-491-1 and renumbers as necessary.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. Removing this definition from the rule as it is not used anywhere within the rule merely corrects a minor rule error.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Removing this definition from the rule as it is not used anywhere within the rule merely corrects a minor rule error.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. This rule is only applicable to Utah public schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Removing this definition from the rule as it is not used anywhere within the rule merely corrects a minor rule error.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

**R277. Education, Administration.
R277-491. School Community Councils.
R277-491-1. Definitions.**

A. "Board" means the Utah State Board of Education.

B. "Candidate" means a parent or school employee who has filed for election to the school community council.

C. "Contested race" means the election of members to a school community council when there are more candidates than open positions.

~~[D]. "Critical academic needs" for purposes of this rule means a school's weakness(es) in academic areas for which there is a Utah Core curriculum.~~

~~[E]D.~~ "Days" means calendar days unless otherwise specifically designated.

~~[F]E.~~ "Develop school improvement plan and school trust program and other programs" means to participate actively in the creation of plans, including analysis of school assessment data, development of School LAND Trust budgets, and review of School LAND Trust expenditures under Section 53A-16-101.5(5)(a)(iv) and 53A-16-101.5(6)(b)(ii). This may include establishing subcommittees where needed or assigning work to individuals.

~~[G]F.~~ "Parent" means the parent or legal guardian of a student attending the non-charter public school or of a student who will be enrolled at the school in the next school year.

~~[H]G.~~ "Parent member" means a parent or guardian of a student who is attending the school or of a student who will be enrolled at the school in the next school year if the election is held in the spring. A parent member of a school community council may not include a person who meets the definition of a school employee member unless the person's employment at the school does not exceed an average of six hours per week, consistent with Section 53A-1a-108(1)(a)(ii).

~~[H]H.~~ "School administrator" means a school principal, school assistant principal or designee as specifically assigned by the school administrator.

~~[J]I.~~ "School community" means the geographic area designated by the school district as the attendance area with reasonable inclusion of the parents or legal guardians of additional students who are attending the school.

~~[K]J.~~ "School employee member" means a person employed at the school for more than an average of six hours per week by the school or school district; the principal is one school employee member.

~~[L]K.~~ "Secure ballot box" means a closed container prepared by the school for the deposit of secret ballots for the school community council elections.

~~[M]L.~~ "Student" means a child in public school grades kindergarten through twelve counted on the audited October 1 Fall Enrollment Report.

~~[N]M.~~ "Students attending the school" for purposes of this rule means students currently attending the school and those officially enrolled to attend the school in the next school year.

~~[O]N.~~ "USDB" means the Utah Schools for the Deaf and the Blind.

~~[P]O.~~ "USOE" means the Utah State Office of Education.

KEY: school community councils

**Date of Enactment or Last Substantive Amendment: ~~May 8,~~
2009**

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3)

◆ ————— ◆

Education, Administration
R277-516

Education Employee Required Reports
of Arrests and Required Background
Check Policies for Non-licensed
Employees

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 32735

FILED: 06/15/2009, 14:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to provide procedures for requiring licensed public education employees to report certain types of arrests to employers and to require school districts and charter schools to have periodic background check and arrest-reporting policies for non-licensed public education employees. This rule is prompted by a legislative audit.

SUMMARY OF THE RULE OR CHANGE: This new rule provides definitions, provides standards and procedures requiring licensed public education employees to report specific arrests, provides standards and procedures for non-licensed public education employees to be subject to background checks and report arrests, provides for public education employer responsibilities upon receipt of arrest information from employees, and provides for Utah State Office of Education review of arrest/conviction information from licensed educators.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-301(3)(a), 53A-1-301(3)(d)(x), and 53A-1-402(1)(a)(i) and (iii)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no additional costs or savings to the state budget. Although the requirements of this rule will significantly increase the Professional Practices staff workload at the Utah State Office of Education, the current intention is that additional workload will be handled by existing staff within existing budgets.

❖ **LOCAL GOVERNMENTS:** There may be increased costs to school districts and charter schools because of the increased background check requirements of this rule. Local school boards and charter school governing boards will determine responsibility for payment for background checks within their policies. Costs for school districts/charter schools are too speculative to determine at this time.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are no anticipated costs or savings to small businesses AND persons other than businesses. This new rule is applicable to public education employees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be compliance costs for affected persons as they comply with the requirements of this rule in reporting arrests and submitting to

background checks. Costs are too speculative to determine at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

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THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-516. Education Employee Required Reports of Arrests and Required Background Check Policies for Non-licensed Employees.

R277-516-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Licensed educator" means an individual who holds a valid Utah educator license and has satisfied all requirements to be a licensed educator in the Utah public school system (examples are traditional public school teachers, charter school teachers, school administrators, USOE and school district specialists). A licensed educator may or may not be employed in a position that requires an educator license. Licensed educators include individuals who are student teaching, who are in alternative routes to licensing programs or positions and individuals who hold district- or charter school-specific licenses.

C. "Public education employer" means the education entity that hires and employs an individual, including public school districts, the Utah State Office of Education, Regional Service Centers, and charter schools.

D. "USOE" means the Utah State Office of Education.

R277-516-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of the public schools in the Board, by Sections 53A-1-301(3)(a) and 53A-1-301(3)(d)(x) which instructs the State Superintendent of Public Instruction (Superintendent) to perform duties assigned by the Board that include presenting to the Governor and the Legislature each

December a report of the public school system for the preceding year that includes investigation of all matters pertaining to the public schools, and statistical and financial information about the school system which the Superintendent considers pertinent; and by Sections 53A-1-402(1)(a)(i) and (iii) which direct the Board to establish rules and minimum standards for the public schools regarding the qualification and certification of educators and ancillary personnel who provide direct student services, and the evaluation of instructional personnel.

B. The purpose of this rule is ensure that all students who are compelled by law to attend public schools, subject to release from school attendance consistent with Section 53A-11-102, are instructed and served by public school teachers and employees who have not violated laws that would endanger students in any way.

R277-516-3. Licensed Public Education Employee Personal Reporting of Arrests.

A. A licensed educator who is arrested for the following alleged offenses shall report the arrest within 48 hours or as soon as possible to the licensed educator's district superintendent, charter school director or designee:

(1) any matters involving arrests for alleged sex offenses;

(2) any matters involving arrests for alleged drug-related offenses;

(3) any matters involving arrests for alleged alcohol-related offenses; and

(4) any matters involving arrests for alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.

B. A licensed educator shall report convictions, including pleas in abeyance and diversion agreements within 48 hours or as soon as possible upon receipt of notice of the conviction, plea in abeyance or diversion agreement.

C. The district superintendent, charter school director or designee shall report conviction, arrest or offense information received from licensed educators to the USOE within 48 hours of receipt of information from licensed educators. The USOE shall develop an electronic reporting process on the USOE website.

D. The licensed educator shall report for work following the arrest and notice to the employer unless directed not to report for work by the employer, consistent with school district or charter school policy.

R277-516-4. Non-licensed Public Education Employee Background Check Policies.

A. School districts and charter schools shall adopt policies for non-licensed public education employee background checks that include at least the following components:

(1) periodic background checks of non-licensed employees;

(2) non-licensed employees shall submit to criminal background checks at least every six years;

C. School district and charter school policies shall determine the background check process necessary based on the non-licensed employee's assignment.

D. School districts and charter schools shall submit to the Utah Department of Public Safety a complete list of non-licensed employees including names, dates of birth, and social security numbers.

R277-516-5. Non-licensed Public Education Employee Arrest Reporting Policy Required from School Districts and Charter Schools.

A. School districts/charter schools shall have a policy requiring reporting of designated offenses by non-licensed public employees and all employees who drive motor vehicles as an employment responsibility.

B. School districts/charter schools shall have an employee reporting policy for non-licensed employees adopted in an open board meeting no later than September 15, 2009. The policy shall be available on the school district/charter school website or provided to the USOE or both.

C. The policy shall include the following minimum components:

(1) reporting of the following:

(a) convictions, including pleas in abeyance and diversion agreements;

(b) any matters involving arrests for alleged sex offenses;

(c) any matters involving arrests for alleged drug-related offenses;

(d) any matters involving arrests for alleged alcohol-related offenses; and

(e) any matters involving arrests for alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.

(2) a timeline for receiving reports required under R277-516-3B from licensed educators who drive as an employment assignment and from other non-licensed public education employees;

(3) immediate suspension from student supervision responsibilities for alleged sex offenses and other alleged offenses which may endanger students during the period of investigation;

(4) immediate suspension from transporting students or public education vehicle operation or maintenance for alleged offenses involving alcohol or drugs during the period of investigation;

(5) adequate due process for the accused employee consistent with Section 53A-3-410(10);

(6) a process to review arrest information and make employment decisions that protect both the safety of students and the confidentiality and due process rights of employees;

(7) timelines and procedures for maintaining records of arrests and convictions of non-licensed public education employees. Records shall:

(a) include final administrative determinations and actions following investigation; and

(b) be maintained only as necessary to protect the safety of students and with strict requirements for the protection of confidential employment information.

R277-516-6. Public Education Employer Responsibilities Upon Receipt of Arrest Information from Employees.

A. A public education employer that receives arrest information about a licensed public education employee shall review arrest information and assess the employment status consistent with Section 53A-6-501, R277-515, and the school district/charter school's policy.

B. A public education employer that receives arrest information about a non-licensed public education employee shall review arrest information and assess the employee's employment

status considering the non-licensed public education employee's assignment and consistent with a local board-approved policy for ethical behavior of non-licensed employees.

C. A local board shall provide appropriate training to non-licensed public education employees about the provisions of the local board's policy for self-reporting and ethical behavior of non-licensed public education employees.

D. A public education employer shall cooperate with the USOE in investigations of licensed educators.

R277-516-7. USOE Responsibility for Review of Arrest/Conviction Information from Licensed Educators.

A. The USOE shall review reports from licensed educators in a timely manner.

B. The USOE shall investigate information received from educators under this rule consistent with procedures under Section 53A-6-401 and R686-100.

C. The USOE shall cooperate with school districts/charter schools in the investigative and disciplinary process.

KEY: school employees, self reporting

Date of Enactment or Last Substantive Amendments: 2009 Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-301(3)(a); 53A-1-301(3)(d)(x); 53A-1-402(1)(a)(i); 53A-1-402(1)(a)(iii)



Education, Administration
R277-705
Secondary School Completion and
Diplomas

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32736

FILED: 06/15/2009, 14:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for certain exceptions for military children who transfer schools, consistent with H.B. 194. The rule also changes the direct writing assessment from grades 6 and 9 to grades 5 and 8 consistent with H.B. 334. (DAR NOTE: H.B. 194 (2009) is found at Chapter 277, Laws of Utah 2009, and was effective 05/12/2009. H.B. 334 (2009) is found at Chapter 300, Laws of Utah 2009, and is effective 07/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The amendments provide a new definition and change an existing definition, with renumbering as necessary, provide for substitution of Utah Basic Skills Competency Test for other appropriate exams for military children in Section R277-705-7, provide that Utah public schools must assist specific military employees' children as possible to help the student graduate with an age-appropriate graduating class, and require Utah public schools to contact a military child's previous school, if necessary, to aid in the student's graduation.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-402(1)(b) and (c), and Sections 53A-1-603 through 53A-1-611

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The new requirements will be administered by Utah public schools.

❖ LOCAL GOVERNMENTS: There are no significant anticipated costs or savings to local government. There should only be a small number of military children eligible for accommodation under this rule. Utah public schools will accommodate military children on a case-by-case basis as needed and should be able to do so with existing school staff. The change in grades for the direct writing assessment merely makes the rule consistent with other rules that have been changed and does not have a fiscal impact.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. The changes to this rule are applicable to Utah public schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. There should only be a small number of military children eligible for accommodation under this rule. Utah public schools will need to accommodate military children on a case-by-case basis as needed and should be able to do so with existing school staff.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

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THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.**R277-705. Secondary School Completion and Diplomas.****R277-705-1. Definitions.**

In addition to terms defined in Section 53A-1-602:

A. "Accredited" means evaluated and approved under the Standards for Accreditation of the Northwest Association of Accredited Schools or the accreditation standards of the Board, available from the Utah State Office of Education Accreditation Specialist.

B. "Board" means the Utah State Board of Education.

C. "Criterion-referenced test (CRT)" means a test to measure performance against a specific standard. The meaning of the scores is not tied to the performance of other students.

D. "Cut score" means the minimum score a student must attain for each subtest to pass the UBSCT.

E. "Demonstrated competence" means subject mastery as determined by school district standards and review. School district review may include such methods and documentation as: tests, interviews, peer evaluations, writing samples, reports or portfolios.

F. "Diploma" means an official document awarded by a public school district or high school consistent with state and district graduation requirements and the provisions of this rule.

G. "Individualized Education Program (IEP)" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Utah Special Education Rules and Part B of the Individuals with Disabilities Education Act (IDEA).

H. "Military child or children" means a K-12 public education student whose parent(s) or legal guardian(s) satisfies the definition of Section 53A-11-1401.

~~[H]I.~~ "Secondary school" means grades 7-12 in whatever kind of school the grade levels exist.

~~[H]J.~~ "Section 504 Plan" means a written statement of reasonable accommodations for a student with a qualifying disability that is developed, reviewed, and revised in accordance with Section 504 of the Rehabilitation Act of 1973.

~~[H]K.~~ "Special purpose schools" means schools designated by regional accrediting agencies, such as Northwest. These schools typically serve a specific population such as students with disabilities, youth in custody, or schools with specific curricular emphasis. Their courses and curricula are designed to serve their specific populations and may be modified from traditional programs.

~~[H]L.~~ "Supplemental education provider" means a private school or educational service provider which may or may not be accredited, that provides courses or services similar to public school courses/classes.

~~[H]M.~~ "Transcript" means an official document or record(s) generated by one or several schools which includes, at a minimum: the courses in which a secondary student was enrolled, grades and units of credit earned, UBSCT scores and dates of testing, citizenship and attendance records. The transcript is usually one part of the student's permanent or cumulative file which also may include birth certificate, immunization records and other information as determined by the school in possession of the record.

~~[H]N.~~ "Utah Performance Assessment System for Students (U-PASS)" means:

(1) systematic norm-referenced achievement testing of all students in grades 3, 5, and 8 required by this part in all schools within each school district by means of tests designated by the Board;

(2) criterion-referenced achievement testing of students in all grade levels in basic skills courses;

(3) direct writing assessments in grades ~~[6]5~~ and ~~[9]8~~; and

(4) beginning with the 2003-2004 school year, a tenth grade basic skills competency test as detailed in Section 53A-1-611 ~~[-and~~
~~(5) beginning with the 2002-2003 school year, the use of student behavior indicators in assessing student performance].~~

~~[N]O.~~ "Unit of credit" means credit awarded for courses taken consistent with this rule or upon school district/school authorization or for mastery demonstrated by approved methods.

~~[O]P.~~ "Utah Alternative Assessment (UAA)" means an assessment instrument for students in special education with disabilities so severe they are not able to participate in the components of U-PASS even with testing accommodations or modifications. The UAA measures progress on instructional goals and objectives in the student's individual education program (IEP).

~~[P]Q.~~ "Utah Basic Skills Competency Test (UBSCT)" means a test to be administered to Utah students beginning in the tenth grade to include at a minimum components on English, language arts, reading and mathematics. Utah students shall satisfy the requirements of the UBSCT in addition to state and district graduation requirements prior to receiving a high school diploma indicating a passing score on all UBSCT subtests.

~~[Q]R.~~ "UBSCT Advisory Committee" means a committee that is advisory to the Board with membership appointed by the Board, including appropriate representation of special populations from the following:

- (1) parents;
- (2) high school principal(s);
- (3) high school teacher(s);
- (4) district superintendent(s);
- (5) Coalition of Minorities Advisory Committee;
- (6) Utah State Office of Education staff;
- (7) local school board(s);
- (8) higher education.

R277-705-7. Utah Basic Skills Competency Testing Requirements and Procedures.

A. All Utah public school students shall participate in Utah Basic Skills Competency testing, unless exempted consistent with R277-705-11, and unless alternate assessment is designated in accordance with federal law or regulations or state law.

B. Timeline:

(1) Beginning with students in the graduating class of 2006, UBSCT requirements shall apply.

(2) No student may take any subtest of the UBSCT before the tenth grade year.

(3) Tenth graders should first take the test in the second half of their tenth grade year.

(4) Exceptions may be made to this timeline with documentation of compelling circumstances and upon review by the school principal and Utah State Office of Education assessment staff.

C. UBSCT components, scoring and consequences:

(1) UBSCT consists of subtests in reading, writing and mathematics.

(2) Students who reach the established cut score for any subtest in any administration of the assessment have passed that subtest.

(3) Students shall pass all subtests to qualify for a high school diploma indicating a passing score on all UBSCT subtests unless

they qualify under one of the exceptions of state law or this rule such as R277-705-7D.

(4) Students who do not reach the established cut score for any subtest shall have multiple additional opportunities to retake the subtest.

(5) Students who have not passed all subtests of the UBSCT by the end of their senior year may receive a diploma indicating that a student did not receive a passing score on all UBSCT subtests or a certificate of completion.

(6) Specific testing dates shall be calendared and published at least two years in advance by the Board.

D. Reciprocity and new seniors:

(1) Students who transfer from out of state to a Utah high school after the tenth grade year may be granted reciprocity for high school graduation exams taken and passed in other states or countries based on criteria set by the Board and applied by the local board.

(2) Students for whom reciprocity is not granted and students from other states or countries that do not have high school graduation exams shall be required to pass the UBSCT before receiving a high school diploma indicating a passing score on all UBSCT subtests if they enter the system before the final administration of the test in the student's senior year.

(3) The UBSCT Advisory Committee following review of applicable documentation shall recommend to the Board the type of diploma that a student entering a Utah high school in the student's senior year after the final administration of the UBSCT may receive.

E. Testing eligibility:

(1) Building principals shall certify that all students taking the test in any administration are qualified to be tested.

(2) Students are qualified if they:

(a) are enrolled in tenth grade, eleventh, or twelfth grade (or equivalent designation in adult education) in a Utah public school program; or

(b) are enrolled in a Utah private/parochial school (with documentation) and are at least 15 years old or enrolled at the appropriate grade level; or

(c) are home schooled (with documentation required under Section 53A-11-102) and are at least 15 years old; and

(3) Students eligible for accommodations, assistive devices, or other special conditions during testing shall submit appropriate documentation at the test site.

F. Testing procedures:

(1) Three subtests make up the UBSCT: reading, writing, and mathematics. Each subtest may be given on a separate day.

(2) The same subtest shall be given to all students on the same day, as established by the Board.

(3) All sections of a subtest shall be completed in a single day.

(4) Subtests are not timed. Students shall be given the time necessary within the designated test day to attempt to answer every question on each section of the subtest.

(5) Makeup opportunities shall be provided to students for the UBSCT according to the following:

(a) Students shall be allowed to participate in makeup tests if they were not present for the entire UBSCT or subtest(s) of the UBSCT.

(b) School districts shall determine acceptable reasons for student makeup eligibility which may include absence due to illness, absence due to family emergency, or absence due to death of family member or close friend.

(c) School districts shall provide a makeup window not to exceed five school days immediately following the last day of each administration of the UBSCT.

(d) School districts shall determine and notify parents in an appropriate and timely manner of dates, times, and sites of makeup opportunities for the UBSCT.

(6) Arrangements for extraordinary circumstances or exceptions to R277-705-5 shall be reviewed and decided by the UBSCT Advisory Committee on a case-by-case basis consistent with the purposes of this rule and enabling legislation.

(7) School districts/schools shall allow appropriate exams to substitute for UBSCT attempts or successful completion of UBSCT for military children consistent with Section 53A-11-1404(2).

R277-705-10. Student Rights and Responsibilities Related to Graduation, Transcripts and Receipt of Diplomas.

A. School districts shall supervise the granting of credit and awarding of diplomas, but may delegate the responsibility to schools within the district.

B. A school district or school may determine criteria for a student's participation in graduation activities, honors, and exercises, independent of a student's receipt of a diploma or certificate of completion.

C. Diplomas or certificates, credit or unofficial transcripts may not be withheld from students for nonpayment of school fees.

D. School districts or schools shall establish consistent timelines for all students for completion of graduation requirements. Timelines shall be consistent with state law and this rule.

E. School districts/charter schools shall work with enrolled military children to evaluate the students' coursework or to assist students in completing coursework to allow military children to graduate with the students' age-appropriate graduating class consistent with Section 53A-11-1404.

F. Consistent with Section 53A-11-1404(3), if a Utah school is unable to facilitate a military child's receipt of diploma by evaluating coursework in Utah schools and previous schools attended, the Utah school shall contact the military child's previous local education agency and aid, to the extent possible, the receipt of a diploma.

KEY: curricula

Date of Enactment or Last Substantive Amendment: ~~March 10,~~ 2009

Notice of Continuation: February 2, 2007

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(b); 53A-1-603 through 53A-1-611; 53A-1-401(3)



Education, Administration
R277-713
 Concurrent Enrollment of High School
 Students in College Courses

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32737

FILED: 06/15/2009, 14:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for an appropriate student assessment prior to participation in concurrent mathematics and English courses, to clarify that courses typically offered in grades 9 or 10 may not be provided through concurrent enrollment, and to modify the distribution of the concurrent enrollment appropriation, consistent with S.B. 81. (DAR NOTE: S.B. 81 (2009) is found at Chapter 321, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: The amendments provide for new language requiring an appropriate concurrent enrollment student assessment in Section R277-713-3, new language clarifying course eligibility in Section R277-713-5, and providing for changes in distribution of funds in Section R277-713-8.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-17a-120.5 and Subsection 53A-1-402(1)(c)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The concurrent enrollment program has been and will continue to be administered through the Utah State Office of Education.
- ❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Funds have been appropriated and will be distributed to eligible Utah public schools.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. The amendments to this rule are applicable only to Utah public schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Students should not be charged for concurrent enrollment courses. Funding is appropriated and will be distributed to eligible Utah public schools.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.**R277-713. Concurrent Enrollment of High School Students in College Courses.****R277-713-3. Student Eligibility.**

A. Schools and USHE institutions shall jointly establish student eligibility requirements which shall be sufficiently selective to predict a successful experience.

B. Local schools have the primary responsibility for identifying students who are eligible to participate in concurrent enrollment classes.

C. To ensure that a student is prepared for college level work, an appropriate assessment shall be administered to the student prior to participation in all concurrent mathematics and English courses, and to determine that the student meets prerequisites previously established for the same campus-based course by the sponsoring USHE institutions.

[E]D. Each student participating in the concurrent enrollment program shall have a current student education/occupation plan (SEOP) on file at the participating school, as required under Section 53A-1a-106(2)(b).

R277-713-4. Courses and Student Participation.

A. [~~Course registration and t~~]The awarding of USHE institution credit for concurrent enrollment courses [are] is the province of colleges and universities governed by USHE policies.

B. Concurrent enrollment offerings shall be limited to courses in English, mathematics, fine arts, humanities, science, social science, world languages, and career technical programs to allow a focus of energy and resources on quality instruction in these courses. However, there may be a greater variety of courses in the career technical education area. Concurrent Enrollment courses should assist students toward post-secondary degrees.

C. All concurrent enrollment courses shall be approved or orchestrated by the high school or the USOE and shall provide for waiver of fees to eligible students.

D. Only courses taken from a master list maintained by the Curriculum Section at the USOE shall be reimbursed from state concurrent enrollment funds.

E. Beginning with the 2008-09 school year, the Board of Regents, after consultation with school districts/charter schools, shall provide the USOE with proposed new course offerings, including syllabi and curriculum materials by November 30 of the year preceding the school year in which courses shall be offered.

F. Concurrent enrollment funding shall be provided only for 1000 or 2000 level courses unless a student's SEOP identifies a student's readiness and preparation for a higher level course. This exception shall be individually approved by the student's counselor

and school district or charter school concurrent enrollment administrator. Concurrent enrollment funding is not intended for unilateral parent/student initiated college attendance or course-taking.

G. Concurrent enrollment course offerings shall reflect the strengths and resources of the respective schools and USHE institutions and be based upon student needs. The number of courses selected shall be kept small enough to ensure coordinated statewide development and training activities for participating teachers.

H. Course content, procedures, examinations, teaching materials, and program monitoring shall be the responsibility of the appropriate USHE institution, shall be consistent with Utah law, and shall ensure quality and comparability with courses offered on the college or university campus.

I. Participation in concurrent enrollment generates higher education credit that becomes a part of a student's permanent college transcript.

R277-713-5. Program Delivery.

A. Schools within the USHE that grant higher education/college credit may participate in the concurrent enrollment program, provided that such participation shall be consistent with the law and consistent with Board rules specific to the use of public education funds and rules for public education programs.

B. Concurrent enrollment courses shall be offered at the most appropriate location using the most appropriate methods for the course content, the faculty, and the students involved, consistent with Section 53A-17a-120(2)(a).

C. The delivery system and curriculum program shall be designed and implemented to take full advantage of the most current available educational technology.

D. Courses taken by students who have received a diploma, whose class has graduated or who have participated in graduation exercises are not eligible for concurrent enrollment funding. Senior students shall complete reimbursable concurrent enrollment courses prior to their graduation or participation in graduation exercises.

E. Concurrent enrollment is intended primarily for students in their last two years of high school. [~~Participation by students before their junior year shall be approved by both the public school and the USHE institution, and be consistent with a student's SEP/SEOP.~~]

(1) Concurrent enrollment may not include high school courses that are typically offered in grades 9 or 10.

(2) The Early College High School Program, specifically initiated to encourage students to earn college credit beginning in the ninth grade leading to a college diploma earned concurrently with a high school diploma, may enroll student Program participants in grades 9 and 10 in concurrent enrollment courses.

F. State reimbursement to school districts for concurrent enrollment courses may not exceed 30 semester hours per student per year.

G. Public schools/school districts shall use USOE designated 11-digit course codes for concurrent enrollment courses.

R277-713-8. Concurrent Enrollment Funding and Use of Concurrent Enrollment Funds.

A. Each district shall receive a pro-rated amount of the funds appropriated for concurrent enrollment according to the number of semester hours successfully completed by students registered through the district in the prior year compared to the state total of completed concurrent enrollment hours. Successfully completed

means that a student received USHE credit for the course. Concurrent enrollment funds may not reimburse districts for repeated concurrent enrollment courses. Appropriate reimbursement may be verified at any reasonable time by USOE audit.

B. The funds shall first be allocated proportionally, based upon student credit hours delivered.

(1) Courses that are taught by public school educators: 60 percent of the funds shall be allocated to local school boards and charter schools, and 40 percent of the funds shall be allocated to the State Board of Regents.

(2) Courses taught by college or university faculty: 60 percent of the funds shall be allocated to the State Board of Regents, and 40 percent of the funds shall be allocated to local school boards and charter schools.

~~[B]C.~~ Each high school shall receive its proportional share of district concurrent enrollment monies allocated to the district pursuant to Section 53A-17a-120 based upon the hours of concurrent enrollment course work successfully completed by students on the high school campus as compared to the state total of completed concurrent enrollment hours.

~~[C]D.~~ Funds allocated to school districts for concurrent enrollment shall not be used for any other program.

~~[D]E.~~ District use of state funds for concurrent enrollment is limited to the following:

(1) aid in staff development of adjunct faculty in cooperation with the participating USHE institution;

(2) assistance with delivery costs for distance learning programs;

(3) participation in the costs of district or school personnel who work with the program;

(4) student textbooks and other instructional materials; and

(5) fee waivers for costs or expenses related to concurrent enrollment for fee waiver eligible students under R277-407.

(6) districts/charter schools may purchase classroom equipment required to conduct concurrent enrollment courses, in the aggregate, not to exceed ten (10) percent of a district's/charter school's annual allocation of concurrent enrollment monies.

(7) other uses approved in writing by the USOE consistent with the law and purposes of this rule.

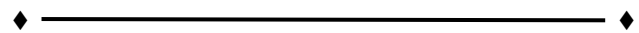
~~[E]F.~~ School districts/charter schools shall provide the USOE with end-of-year expenditures reports itemized by the categories identified in R277-713-8~~[E]D.~~

KEY: students, curricula, higher education

Date of Enactment or Last Substantive Amendment: [August 7, 2007]2009

Notice of Continuation: September 6, 2007

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-17a-120; 53A-1-402(1)(c); 53A-1-401(3)



Environmental Quality, Solid and Hazardous Waste

R315-15-13

Registration and Permitting of Used Oil Handlers

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32726

FILED: 06/11/2009, 14:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to allow hazardous waste incinerator facilities holding a valid Utah hazardous waste permit to burn off-specification used oil for energy recovery without having to also obtain a separate off-specification used oil burner permit under the Utah Used Oil Management Rules.

SUMMARY OF THE RULE OR CHANGE: The amendment allows Utah permitted hazardous waste incinerator facilities to be permitted by rule to burn off-specification used oil for energy recovery, rather than requiring a separate permit under the Used Oil Management Rules, as long as certain conditions are met.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-704

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Currently, there is only one permitted hazardous waste incinerator facility in the state. The Division of Solid and Hazardous Waste budget would decrease by a one-time \$100 permit application fee and an annual \$100 used oil handler fee.

❖ **LOCAL GOVERNMENTS:** Local government agencies will not bear any financial impacts by allowing this hazardous waste incinerator facility to continue operating without obtaining an additional state permit to burn off-specification used oil for energy recovery.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Allowing this hazardous waste facility to burn off-specification used oil for energy recovery without an additional permit will have no financial impact on any other persons or small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed rule change will save the hazardous waste incinerator facility the costs of preparing and submitting an additional permit application and an annual used oil handlers report and fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated increased costs due to this proposed rule change. Amanda Smith, Acting Executive Director

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jim Smith at the above address, by phone at 801-538-7061, by FAX at 801-538-6715, or by Internet E-mail at jwsmith@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.**R315-15. Standards for the Management of Used Oil.****R315-15-13. Registration and Permitting of Used Oil Handlers.**

13.1 DO-IT-YOURSELFER USED OIL COLLECTION CENTERS

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13.6 USED OIL BURNERS

(a) Specification used oil fuel burners. Facilities burning only on-specification used oil fuel are not required to register as used oil burners with the Executive Secretary.

(1) Applicability. These requirements apply to persons burning only used oil that meets the used oil fuel specification of Section R315-15-1.2, provided that the burner also complies with the requirements of Section R315-15-7.3. Persons burning specification used oil fuel shall be considered to have an authorization from the Department, for the purpose of this section, if they hold a valid air quality operating order, or are exempt under Section R315-15-2.4.

(2) Notification. Specification used oil fuel burners are required to notify the Executive Secretary by submitting a letter that includes the following information:

(i) Company name and location;

(ii) Owner of the company; and

(iii) Name and telephone number for the company point of contact.

(b) Off-specification used oil fuel burners

(1) Applicability. The permitting requirements of this section apply to used oil burners who burn off-specification used oil for energy recovery except as specified in Subsections R315-15-6.1(a)(1) through (3). A person may not burn off-specification used oil fuel for energy recovery without holding a permit issued by the Executive Secretary.

(2) Permit application. The application for a permit shall include the following information regarding the facility:

(i) the name and address of the operator;

(ii) the location of the facility;

(iii) the type of containment and type and capacity of storage;

(iv) the type of burner to be used;

(v) the methods of disposing of any waste by-products;

(vi) the status of business, zoning, and other applicable licenses and permits required by federal, state, and local governmental entities;

(vii) an emergency spill containment plan;

(viii) proof of insurance or other means of financial responsibility for liabilities that may be incurred in storing and burning off-specification used oil fuels.

(ix) proof of form and amount of reclamation surety for any facility receiving and burning off-specification used oil.

(x) A closure plan meeting the requirements of Section R315-15-11.

(3) Permit fees. Registration and permitting fees are established under the terms and conditions of Section 63J-1-303. A copy of the Division's Fee Schedule is available upon request. Payment of appropriate fees is required prior to issuance of registration numbers or permit approvals.

(4) Changes in information. The owner or operator of the facility shall notify the Executive Secretary in writing of any changes in the information submitted during permit application within 20 days of the change.

(5) Permits by rule. Any facility permitted by rule is not required to obtain a permit as required by Subsection R315-15-13.6(b)(1), but may be required to follow operational practices, as determined by the Executive Secretary, to minimize risk to human health or the environment. A permit by rule is conditional upon continued compliance with the requirements of R315-15-13.6(b), as determined by the Executive Secretary. Notwithstanding any other provisions of Section R315-15-13.6, a hazardous waste incinerator facility which has been issued a final permit under R315-3-1, and which implements the requirements of R315-8-15, shall be deemed to have an approved off-specification used oil burner permit if that facility meets all of the following conditions:

(i) Burns off-specification used oil only in devices specified in R315-15-6.2(a);

(ii) Stores used oil in the manner described in R315-15-6.5;

(iii) Tracks off-specification used oil shipments as described in R315-15-6.6;

(iv) Complies with Sections R315-15-6.3 and R315-15-6.7;

(v) Modifies its closure plan required under Section R315-8-7 (Closure and Post Closure), to include used oil storage and burning devices, taking into account any used oil activities at this facility;

(vi) Modify its financial mechanism or mechanisms required under Section R315-8-8 (Financial Requirements), using a mechanism other than a corporate financial test/corporate written guarantee, to reflect the used oil activities at the facility; and

(vii) Submits to the Executive Secretary the information required by Subsection R315-15-13.6(b)(2)(i) through (vi), and a one-time declaration that the facility intends to burn off-specification used oil.

(5) Annual Reporting. Each off-specification used oil burner, including those permitted by rule under R315-15-13.6(b)(5), shall submit an annual report to the Division of their activities during the calendar year. The annual report shall be submitted to the Division no later than March 1, of the year following the reported activities. The annual report shall either be submitted on a form provided by the Division or shall contain the following information:

(i) the EPA identification number, name, and address of the burner facility;

(ii) the calendar year covered by the report; and

(iii) the total amount of used oil burned.

13.7 USED OIL FUEL MARKETERS

(a) Applicability. A person may not act as a used oil fuel marketer, as defined in Section R315-15-7, without holding a registration number issued by the Executive Secretary.

(b) General. The application for a registration number shall include the following information regarding the facility acting as a used oil fuel marketer:

(1) The name and address of the marketer.

(2) The location of any facilities used by the marketer to collect, transport, process, or store used oil subject to separate permits, or registrations under this section.

(3) the status of business, zoning, and other applicable licenses and permits required by federal, state, and local governmental entities, including registrations or permits required under this part to collect, process/re-refine, transport, or store used oil.

(4) Registration fees. Registration and permitting fees are established under the terms and conditions of Section 63J-1-303. A copy of the Division's Fee Schedule is available upon request. Payment of appropriate fees is required prior to issuance of registration numbers.

(5) Changes in information. The owner or operator of the facility shall notify the Executive Secretary in writing of any changes in the information submitted to apply for a registration within 20 days of the change.

KEY: hazardous waste, used oil

Date of Enactment or Last Substantive Amendment: [January 22, 2009

Notice of Continuation: October 4, 2007

Authorizing, and Implemented or Interpreted Law: 19-6-704



Health, Health Systems Improvement, Child Care Licensing

R430-70

Out of School Time Child Care Programs

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 32716

FILED: 06/08/2009, 14:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Currently all out of school time programs are licensed under Rule R430-100 as child care centers. However, many of the provisions of Rule R430-100 apply only to care provided to infants, toddlers, or preschoolers. This proposed new rule adopts the current requirements of Rule R430-100, except for those that apply only to infants, toddlers, or preschoolers.

SUMMARY OF THE RULE OR CHANGE: The proposed new rule adopts the same requirements currently in effect for school age children under Rule R430-100. It does not impose new requirements. It does not adopt the provisions from Rule R430-100 that apply only to infants, toddlers, or preschoolers.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Because this new rule does not require any change in process or procedure in the state's licensing of child care programs.

❖ LOCAL GOVERNMENTS: None--Because the new rule does not change any of the existing requirements for local governments who may operate child care programs, or who may regulate the sanitation or fire safety of child care programs.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: All private child care programs are small businesses. The new rule does not change any of the existing requirements for obtaining a child care license.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any individual child care program will have no change in their compliance costs under this new rule, because none of the rule requirements themselves are changing. Only those provisions of the existing rule (Rule R430-100) that apply to school age children are being adopted.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will simplify compliance for providers of care for Out of School Time Child Care Programs. No fiscal impact is expected. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Teresa Whiting at the above address, by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at TWHITING@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R430-70. Out of School Time Child Care Programs.

R430-70-1. Purpose.

This rule is promulgated pursuant to Title 26, Chapter 39. It establishes standards for the operation and maintenance of out of school time programs and requirements to protect the health and safety of children in these programs.

R430-70-2. Definitions.

(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Body Fluids" means blood, urine, feces, vomit, mucous, and saliva.

(4) "Caregiver" means an employee or volunteer who provides direct care to children.

(5) "CPSC" means the Consumer Product Safety Commission.

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

(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and that is at least 2" by 2" in size.

(8) "Direct Supervision" means the caregiver must be able to hear all of the children and must be near enough to intervene when necessary.

(9) "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.

(10) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

(11) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(12) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child can not get to.

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

(14) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

(15) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies.

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

(17) "Person" means an individual or a business entity.

(18) "Physical Abuse" means causing nonaccidental physical harm to a child.

(19) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one user to stand on, and upon which the users can move freely.

(20) "Protective Barrier" means an enclosing structure such as bars, lattice, or a solid panel, around an elevated play equipment platform that is intended to prevent a child from either accidentally or deliberately passing through the barrier.

(21) "Protective cushioning" means cushioning material that is approved by the American Society for Testing and Materials. For example, sand, pea gravel, engineered wood fibers, shredded tires, or unitary cushioning material, such as rubber mats or poured rubber-like material.

(22) "Provider" means the licensee or a staff member to whom the licensee has delegated a duty under this rule.

(23) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

(24) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1.(1)(2).

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

(26) "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 children use 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.

(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 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, unless the volunteer meets all of the caregiver requirements of this rule.

R430-70-3. License Required.

(1) A person or persons must be licensed to provide child care if:

- (a) they provide care in the absence of the child's parent;
- (b) they provide care for five or more children;
- (c) they provide care in a place other than the provider's home or the child's home;
- (d) the program is open to children on an ongoing basis, on three or more days a week and for four or more weeks a year; and
- (e) they provide care for direct or indirect compensation.

(2) A person or persons may be licensed as an out of school time program under this rule if:

- (a) they either provide care for two or more hours per day on days when school is in session for the child in care, and four or more hours per day on days when school is not in session for the child in care; or they provide care for four or more hours per day on days when school is not in session; and
- (c) all of the children who attend the program are at least five years of age.

R430-70-4. Facility.

(1) The licensee shall ensure that any building or playground structure 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 removal of the lead based paint.

(2) There shall be one working toilet and one working sink for every fifteen children in the program.

(3) Children shall have privacy when using the bathroom.

(4) For buildings constructed after 1 July 1997 there shall be a working hand washing sink in each classroom.

(5) All rooms and occupied areas in the building shall be ventilated by mechanical ventilation or by windows that open and have screens.

(6) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(7) The provider shall maintain adequate light intensity for the safety of children and the type of activity being conducted by keeping lighting equipment in good working condition.

(8) Windows, glass doors, and glass mirrors within 36 inches from the floor or ground shall be made of safety glass, or have a protective guard.

(9) There shall be at least 35 square feet of indoor space for each child, including the licensee's and employees' children who are not counted in the caregiver to child ratios.

(10) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

- (a) by children;
- (b) for the care of children; or
- (c) to store classroom materials.

(11) Bathrooms, closets, staff lockers, hallways, corridors, lobbies, kitchens, or staff offices are not included when calculating indoor space for children's use.

R430-70-5. Cleaning and Maintenance.

(1) The provider shall maintain a clean and sanitary environment.

(2) The provider shall clean and sanitize bathroom surfaces daily, including toilets, sinks, faucets, and counters.

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

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

(5) The provider shall maintain entrances, exits, steps and outside walkways in a safe condition, and free of ice, snow, and other hazards.

R430-70-6. 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 playground at the same time.

(3) The outdoor play area shall accommodate at least 33 percent of the licensed capacity at one time or shall be at least 1600 square feet.

(4) The outdoor play area used by children shall be enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.

(5) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter anywhere in the outdoor play area where children's feet cannot touch the ground.

(6) When in use, the outdoor play area shall be free of trash, animal excrement, harmful plants, harmful objects, harmful substances, and standing water.

(7) The outdoor play area shall have a shaded area to protect children from excessive sun and heat.

(8) Children shall have unrestricted access to drinking water whenever the outside temperature is 75 degrees or higher.

(9) All outdoor play equipment and areas shall comply with the following safety standards by the dates specified in Subsection (10) below.

(a) All stationary play equipment used by children shall meet the following requirements for use zones:

(i) If the height of a designated play surface or climbing bar on a piece of equipment, excluding swings, is greater than 20 inches, it shall have use zones that meet the following criteria:

(A) The use zone shall extend a minimum of 6 feet in all directions from the perimeter of each piece of equipment.

(B) The use zones of two pieces of equipment that are positioned adjacent to one another may overlap if the designated play surfaces of each structure are no more than 30 inches above the protective surfacing underneath the equipment. In such cases, there shall be a minimum of 6 feet between the adjacent pieces of equipment.

(C) There shall be a minimum use zone of 9 feet between adjacent pieces of equipment if the designated play surface of one or both pieces of equipment is more than 30 inches above the protective surfacing underneath the equipment.

(i) The use zone in the front and rear of a single-axis swing shall extend a minimum distance of twice the height of the pivot point of the swing, and may not overlap the use zone of any other piece of equipment.

(ii) The use zone for the sides of a single-axis swing shall extend a minimum of 6 feet from the perimeter of the structure, and may overlap the use zone of a separate piece of equipment.

(iv) The use zone of a multi-axis swing shall extend a minimum distance of 6 feet plus the length of the suspending members, and shall never overlap the use zone of another piece of equipment.

(v) The use zone for merry-go-rounds shall never overlap the use zone of another piece of equipment.

(vi) The use zone for spring rockers shall extend a minimum of 6 feet from the at-rest perimeter of the equipment.

(b) Protective cushioning is required in all use zones.

(c) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material shall meet the CPSC guidelines in Table 1. The provider shall ensure that the material is periodically checked for compaction, and if compacted, shall loosen the material to the depth listed in Table 1. If the material cannot be loosened due to extreme weather conditions, the provider shall not allow children to play on the equipment until the material can be loosened to the required depth.

TABLE 1
Depths of Protective Cushioning Required for Sand, Gravel, and Shredded Tires

Highest Designated Play Surface, Climbing Bar, or Swing Pivot	Fine Sand		Coarse Sand		Shredded Tires	
	Pivot	Pivot	Fine Gravel	Medium Gravel	Fine Gravel	Medium Gravel
4' high or less	6"	6"	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"	6"	6"
Over 5' up to 6'	12"	12"	6"	12"	6"	6"
Over 6' up to 7'	12"	Not Allowed	9"	Not Allowed	6"	6"
Over 7' up to 8'	12"	Not Allowed	12"	Not Allowed	6"	6"
Over 8' up to 9'	12"	Not Allowed	12"	Not Allowed	6"	6"
Over 9' up to 10'	Not Allowed	Not Allowed	12"	Not Allowed	6"	6"
Over 10' up to 11'	Not Allowed	Not Allowed	Not Allowed	Not Allowed	6"	6"
Over 11' up to 12'	Not Allowed	Not Allowed	Not Allowed	Not Allowed	6"	6"

(d) If shredded wood products are used as protective cushioning, the depth of the shredded wood shall meet the CPSC guidelines in Table 2.

TABLE 2
Depths of Protective Cushioning Required for Shredded Wood Products

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood Fibers	Double Wood Chips	Shredded Bark Mulch
	4' high or less	6"	6"
Over 4' up to 5'	6"	6"	6"
Over 5' up to 6'	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 8'	12"	9"	9"
Over 8' up to 9'	12"	9"	9"
Over 9' up to 10'	12"	9"	9"
Over 10' up to 11'	12"	12"	12"
Over 11'	12"	Not Allowed	Not Allowed

(e) If wood products are used as cushioning material:

(i) the providers shall maintain documentation from the manufacturer verifying that the material meets ASTM Specification F 1292, which is adopted by reference; and

(ii) there shall be adequate drainage under the material.

(f) If a unitary cushioning material, such as rubber mats or poured rubber-like material is used as protective cushioning:

(i) the licensee shall ensure that the material meets the standard established in ASTM Specification F 1292. The provider shall maintain documentation from the manufacturer that the material meets these specifications.

(ii) the licensee shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.

(g) Stationary play equipment that has a designated play surface less than 30 inches and that does not have moving parts children sit or stand on, may be placed on grass, but shall not be placed on concrete, asphalt, dirt, or any other hard surface.

(h) Stationary play equipment shall have protective barriers on all play equipment platforms that are over 48 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 38 inches above the surface of the platform.

(i) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.

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

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

(l) 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.

(10) The outdoor play equipment rules specified in Subsection (9) above must be in compliance by the following dates:

(a) by December 31, 2009: R430-70-6(9)(b-f). There is protective cushioning in all existing use zones that meets the requirements for depth and ASTM Standards.

(b) by December 31, 2010:

(i) R430-70-6(9)(g). Stationary play equipment that has a designated play surface less than 30 inches, and that does not have moving parts children sit or stand on, is not placed on concrete, asphalt, dirt, or any other hard surface, unless equipment is installed in concrete or asphalt footings.

(ii) R430-70-6(9)(j). There are no protrusion or strangulation hazards in or adjacent to the use zone of any piece of stationary play equipment.

(c) By December 31, 2011: R430-70-6(9)(g). Stationary play equipment that has a designated play surface less than 30 inches, and that does not have moving parts children sit or stand on, is not placed on concrete, asphalt, dirt, or any other hard surface.

(d) By December 31, 2012:

(i) R430-70-6(9)(h). Protective barriers are installed on all stationary play equipment that requires them, and the barriers meet the required specifications.

(ii) R430-70-6(9)(i). There are no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.

(iii) R430-70-6(9)(k). There are no crush, shearing, or sharp edge hazards in or adjacent to the use zone of any piece of stationary play equipment.

(e) By December 31, 2011:

(i) R430-70-6(9)(a)(i-vi). All stationary play equipment has use zones that meet the required measurements.

(ii) R430-70-6(9)(l). There are no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

(11) The provider shall maintain playgrounds and playground equipment to protect children's safety.

R430-70-7. Personnel.

(1) The program must have a director who is at least 21 years of age and who has one of the following educational credentials:

(a) an associates, bachelors, or graduate degree from an accredited college and successful completion of at least 12 semester credit hours of coursework in childhood development, elementary education, or a related field;

(b) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, or other credential that the licensee demonstrates as equivalent to the Department; or

(c) a currently valid National Administrator Credential (NAC) issued by the National Child Care Association, plus one of the following:

(i) valid proof of successful completion of 12 semester credit hours of coursework in childhood development, elementary education, or a related field; or

(ii) valid proof of completion of the following six Utah Career Ladder courses offered through Child Care Resource and Referral: Child Development: Ages & Stages; Advanced Child Development; School Age Course 1; School Age Course 2; School Age Course 3; and School Age Course 4.

(2) All caregivers shall be at least 18 years of age.

(3) All assistant caregivers shall be at least 16 years of age, and shall work under the immediate supervision of a caregiver who is at least 18 years of age.

(4) Assistant caregivers may be included in caregiver to child ratios, but shall not be left unsupervised with children.

(5) Assistant caregivers shall meet all of the caregiver requirements under this rule, except the caregiver age requirement of 18 years.

(6) Whenever there are more than 8 children at the program, there shall be at least two caregivers present who can demonstrate the English literacy skills needed to care for children and respond to emergencies. If there is only one caregiver present because there are 8 or fewer children at the program, that caregiver must be able to demonstrate the English literacy skills needed to care for children and respond to emergencies.

(7) Each new director, assistant director, caregiver, assistant caregiver, and volunteer shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented and shall include the following topics:

(a) job description and duties;

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

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

(d) the current child care licensing rules found in Sections R430-70-11 through 22;

(e) introduction and orientation to the children assigned to the caregiver;

(f) a review of the information in the health assessment for each child in their assigned group;

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

(h) proper clean up of body fluids;

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

(j) obtaining assistance in emergencies, as specified in the program's emergency and disaster plan.

(8) The program director, assistant director, all caregivers, and substitutes who work an average of 10 hours a week or more, as averaged over any three month period, shall complete a minimum of 2 hours of training for each month during which they are employed, or 20 hours of training each year, based on the program's license date.

(a) Documentation of annual training shall be kept in each caregiver's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.

(b) Caregivers who begin employment partway through the license year shall complete a proportionate number of training hours based on the number of months worked prior to the program's relicensure date.

(c) Annual training hours shall include the following topics:

(i) a review of the current child care licensing rules found in Sections R430-70-11 through 22;

(ii) a review of the program's written policies and procedures and emergency and disaster plans, including any updates;

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

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

(v) positive guidance.

(9) A minimum of 10 hours of the required annual in-service training shall be face-to-face instruction.

R430-70-8. Administration.

(1) The licensee is responsible for all aspects of the operation and management of the 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 provider 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 provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.

(5) Either the program director or a designee with written authority to act on behalf of the program director shall be present at the facility whenever the program is open for care.

(6) Director designees shall be at least 21 years of age, and shall have completed their orientation training.

(7) Each week, the program director shall be on-site at the program during operating hours for at least 50% of the time the program is open to children, in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.

(8) The program director must have sufficient freedom from other responsibilities to manage the program and respond to emergencies.

(9) There shall be a working telephone at the facility, and the program director shall inform a parent and the Department of any changes to the program's telephone number within 48 hours of the change.

(10) The provider shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's medical treatment plan identified by the parent. The provider shall also mail or fax a written report to the Department within five days of the incident.

(11) The duties and responsibilities of the program director include the following:

(a) appoint, in writing, one or more caregivers to be a director designee, with authority to act on behalf of the program director in his or her absence;

(b) train and supervise staff to:

(i) ensure their compliance with this rule;

(ii) ensure they meet the needs of the children in care as specified in this rule; and

(iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

(12) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:

(a) supervision and protection of children at all times, including when they are using the bathroom, on the playground, and during off-site activities;

(b) maintaining required caregiver to child ratios when the program has more than the expected number of children, or fewer than the scheduled number of caregivers;

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

(d) procedures to ensure that the program releases children to authorized individuals only;

(e) confidentiality and release of information;

(f) the use of movies and video or computer games, including what industry ratings the program allows;

(g) recognizing early signs of illness and determining when there is a need for exclusion from the program;

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

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

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

(i) how long children will be unattended before and after school;

(ii) what steps will be taken if children fail to meet the vehicle;

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

(iv) the use of size-appropriate safety restraints.

(13) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.

R430-70-9. Records.

(1) The provider shall maintain the following general records on-site for review by the Department:

(a) documentation of the previous 12 months of fire and disaster drills as specified in R430-10(11)(12)(13)(14);

(b) current animal vaccination records as required in R430-70-22(3);

(c) a six week record of child attendance, including sign-in and sign-out records;

(d) all current variances granted by the Department;

(e) a current local health department inspection;

(f) a current local fire department inspection;

(g) if the licensee has been licensed for one or more years, the most recent "Request for Annual Renewal of CBS/MIS Criminal History Information for Child Care" which includes the licensee all current providers, caregivers, and volunteers;

(h) if the licensee has been licensed for one or more years, the most recent criminal background "Disclosure and Consent Statement" which includes the licensee and all current providers, caregivers, and volunteers; and

(2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:

(a) an admission form containing the following information for each child:

(i) name;

(ii) date of birth;

(iii) date of enrollment;

(iv) the parent's name, address, and phone number, including a daytime phone number;

(v) the names of people authorized by the parent to pick up the child;

(vi) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent;

(vii) if available, the name, address, and phone number of an out of area/state emergency contact person for the child, if available; and

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

(b) a current annual health assessment form as required in R430-70-14(5);

(c) a transportation permission form, if the program provides transportation services;

(d) a six week record of medication permission forms, and a six week record of medications actually administered; and

(e) a six week record of incident, accident, and injury reports.

(3) The provider shall ensure that information in children's files is not released without written parental permission.

(4) The provider shall maintain the following records for each staff member on-site for review by the Department:

(a) date of initial employment;

(b) results of initial TB screening;

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

(d) a six week record of days and hours worked;

(e) orientation training documentation for caregivers, and for volunteers who work at the program at least once each month;

(f) annual training documentation for all providers and substitutes who work an average of 10 hours a week or more, as averaged over any three month period; and

(g) current first aid and CPR certification, if applicable as required in R430-70-10(2), R430-70-20(5)(d), and R430-70-21(2).

R430-70-10. Emergency Preparedness.

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

(2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and CPR certification.

(3) The program shall maintain at least one readily available first aid kit, and a second first aid kit for field trips if the program takes children on field trips. The first kit must be taken on each field trip. The first aid kit shall include the following items:

(a) disposable gloves;

(b) assorted sizes of bandaids;

(c) gauze pads and roll;

(d) adhesive tape;

(e) antiseptic or a topical antibiotic;

(f) tweezers; and

(g) scissors.

(4) The provider shall have a written emergency and disaster plan which shall include at least the following:

(a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;

(b) procedures for responding to fire, earthquake, flood, power failure, and water failure;

(c) the location of and procedure for emergency shut off of gas, electricity, and water;

(d) an emergency relocation site where children may be housed if the facility is uninhabitable;

(e) a means of posting the relocation site address in a conspicuous location that can be seen even if the facility is closed;

(f) the transportation route and means of getting staff and children to the emergency relocation site;

(g) a means of accounting for each child's presence in route to and at the relocation site;

(h) a means of accessing children's emergency contact information and emergency releases; including contact information

for an out of area/state emergency contact person for the child, if available;

(i) provisions for emergency supplies, including at least food, water, a first aid kit, and a cell phone;

(j) procedures for ensuring adequate supervision of children during emergency situations, including while at the program's emergency relocation site; and

(k) staff assignments for specific tasks during an emergency.

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

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

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

(8) The provider shall conduct fire evacuation drills monthly during each month that the program is open. Drills shall include complete exit of all children and staff from the building.

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

(a) the date and time of the drill;

(b) the number of children participating;

(c) the name of the person supervising the drill;

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

(e) any problems encountered.

(10) The provider shall conduct drills for disasters other than fires at least once every six months that the program is open.

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

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

(b) the date and time of the drill;

(c) the number of children participating;

(d) the name of the person supervising the drill; and

(e) any problems encountered.

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

R430-70-11. Supervision and Ratios.

(1) The provider shall ensure that caregivers provide and maintain direct supervision of all children at all times.

(2) Caregivers shall actively supervise children on the playground to minimize the risk of injury to a child.

(3) There shall be at least two caregivers with the children at all times when there are more than 8 children present.

(4) The licensee shall maintain a minimum caregiver to child ratio of one caregiver for every 20 children.

(5) The licensee shall maintain a maximum group size of 40 children per group.

(6) The children of the licensee or any employee are not counted in the caregiver to child ratios when the parent of the child is working at the program, but are counted in the maximum group size.

R430-70-12. Injury Prevention.

(1) The provider shall ensure that the building, grounds, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The provider shall ensure that walkways are 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 children could pull down on themselves.

(4) The following items shall be inaccessible to children:

(a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a locked cabinet or area, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;

(b) 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 insecticides, lawn products, and flammable materials;

(e) poisonous plants;

(f) matches or cigarette lighters;

(g) open flames; and

(h) razors or similarly sharp blades.

(5) The provider shall store all toxic or hazardous chemicals in a container labeled with its contents.

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

(7) Indoor stationary gross motor play equipment, such as slides and climbers, shall not have a designated play surface that exceeds 5-1/2 feet in height. If such equipment has an elevated designated play surface that is 3 feet or higher it shall be surrounded by cushioning that meets ASTM Standard F1292, in a six foot use zone.

(8) There shall be no trampolines on the premises that are accessible to children in care.

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

(a) the provider 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;

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

(c) the provider 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 four 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 children have access to the pool.

R430-70-13. Parent Notification and Child Security.

(1) The provider shall post a copy of the Department's child care guide in the facility for parents' review during business hours.

(2) Parents shall have access to the facility and their child's classroom at all times their child is in care.

(3) The provider shall ensure the following procedures are followed when children arrive at the facility or leave the facility:

(a) Each child must be signed in and out of the facility by the person dropping the child off and picking the child up, including the date and time the child arrives or leaves.

(b) Children may sign themselves in and out of the program only with written permission from the parent.

(c) Persons signing children into the facility shall use identifiers, such as a signature, initials, or electronic code.

(d) Persons signing children out of the facility shall use identifiers, such as a signature, initials, or electronic code, and shall have photo identification if they are unknown to the provider.

(e) Only parents or persons with written authorization from the parent may take any child from the facility. In an emergency, the provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.

(4) The provider shall give parents a written report of every incident, accident, or injury involving their child on the day of occurrence. The caregivers involved, the program director, and the person picking the child up shall sign the report on the day of occurrence. If the child signs him or herself out of the program, a copy of the report shall be mailed to the parent.

(5) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.

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

R430-70-14. Child Health.

(1) No child may be subjected to physical, emotional, or sexual abuse while in care.

(2) All staff shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The use of tobacco, alcohol, illegal substances, or sexually explicit material on the premises or in program vehicles is prohibited any time that children are in care.

(4) The provider shall not admit any child to the program without a signed health assessment completed by the parent which shall include:

(a) allergies;

(b) food sensitivities;

(c) acute and chronic medical conditions;

(d) instructions for special or non-routine daily health care;

(e) current medications; and,

(f) any other special health instructions for the caregiver.

(5) The provider shall ensure that each child's health assessment is reviewed, updated, and signed or initialed by the parent at least annually.

R430-70-15. Child Nutrition.

(1) If food service is provided:

(a) The provider shall ensure that the program's meal service complies with local health department food service regulations.

(b) Foods served by programs 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) Programs 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 provider shall post the current week's menu for parent review.

(2) On days when care is provided for three or more hours, the provider shall offer each child in care a meal or snack at least once every three hours.

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

(4) If any child in care has a food allergy, the provider shall ensure that all caregivers who serve food to children are aware of the allergy.

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

R430-70-16. Infection Control.

(1) All staff shall wash their hands thoroughly with liquid soap and warm running water at the following times:

- (a) before handling or preparing food;
- (b) before eating meals and snacks or feeding children;
- (c) after using the toilet;
- (d) before administering medication;
- (e) after coming into contact with body fluids;
- (f) after playing with or handling animals; and
- (g) after cleaning or taking out garbage.

(2) The provider shall ensure that children wash their hands thoroughly with liquid soap and warm running water at the following times:

- (a) before eating meals and snacks;
- (b) after using the toilet;
- (c) after coming into contact with body fluids; and
- (d) after playing with animals.

(3) Only single use towels from a covered dispenser or an electric hand-drying device may be used to dry hands.

(4) The provider shall ensure that toilet paper is accessible to children, and that it is kept on a dispenser.

(5) The provider shall post handwashing procedures in each bathroom, and they shall be followed.

(6) Caregivers shall teach children 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 staff on more than one child, and shall be stored so that they do not touch each other.

(8) The provider shall clean and sanitize all washable toys and materials weekly, or more often if necessary.

(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 provider shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows or covers weekly.

(10) If water play tables or tubs are used, they shall be washed and sanitized daily, and children shall wash their hands prior to engaging in the activity.

(11) The licensee shall ensure that all employees are tested for tuberculosis (TB) within thirty days of hire by an acceptable skin testing method and follow-up.

(12) If the TB test is positive, the caregiver shall provide documentation from a health care provider detailing:

- (a) the reason for the positive reaction;
- (b) whether or not the person is contagious; and
- (c) if needed, how the person is being treated.

(13) Persons with contagious TB shall not work or volunteer in the program.

(14) An employee having a medical condition which contra-indicates a TB test must provide documentation from a health care provider indicating they are exempt from testing, with an associated time frame, if applicable. The provider shall maintain this documentation in the employee's file.

(15) Children's clothing shall be changed promptly if they have a toileting accident.

(16) Children's clothing which is wet or soiled from body fluids:

- (a) shall not be rinsed or washed at the facility; and
- (b) shall be placed in a leakproof container, labeled with the child's name, and returned to the parent.

(17) The facility shall have a portable body fluid clean up kit.

(a) All staff shall know the location of the kit and how to use it.

(b) The provider shall use the kit to clean up spills of body fluids.

(c) The provider shall restock the kit as needed.

(18) The program shall not care for children who are ill with an infectious disease, except when a child shows signs of illness after arriving at the facility.

(19) The provider shall separate children who develop signs of an infectious disease after arriving at the facility from the other children in a safe, supervised location.

(20) The provider shall contact the parents of children who are ill with an infectious disease and ask them to immediately pick up their child. If the provider cannot reach the parent, the provider shall contact the individuals listed as emergency contacts for the child and ask them to pick up the child.

(21) The provider shall notify the local health department, on the day of discovery, of any reportable infectious diseases among children or caregivers, or any sudden or extraordinary occurrence of a serious or unusual illness, as required by the local health department.

(22) The provider shall post a parent notice at the facility when any staff or child has an infectious disease or parasite.

(a) The provider shall post the notice in a conspicuous location where it can be seen by all parents.

(b) The provider shall post and date the notice the same day the disease or parasite is discovered, and the notice shall remain posted for at least 5 days.

R430-70-17. Medications.

(1) If medications are given, they shall be administered to children only by a provider trained in the administration of medications.

(2) All over-the-counter and prescription medications shall:

- (a) be labeled with the child's full name;
- (b) be kept in the original or pharmacy container;
- (c) have the original label; and
- (d) have child-safety caps.

(3) All non-refrigerated medications shall be inaccessible to children and stored in a container or area that is locked, such as a locked room, cupboard, drawer, or a lockbox. The provider shall store all refrigerated medications in a leakproof container.

(4) The provider shall have a written medication permission form completed and signed by the parent prior to administering any over-the-counter or prescription medication to a child. The permission form must include:

- (a) the name of the medication;
- (b) written instructions for administration; including:
 - (i) the dosage;
 - (ii) the method of administration;
 - (iii) the times and dates to be administered; and
 - (iv) the disease or condition being treated; and
- (c) the parent signature and the date signed.
- (5) If the provider keeps over-the-counter medication at the facility that is not brought in by a parent for their child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. 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) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication prior to the time the medication needs to be given.
- (7) When administering medication, the provider administering the medication shall:
 - (a) wash their hands;
 - (b) check the medication label to confirm the child's name;
 - (c) compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;
 - (d) administer the medication; and
 - (e) immediately record the following information:
 - (i) the date, time, and dosage of the medication given;
 - (ii) the signature or initials of the provider who administered the medication; and,
 - (iii) any errors in administration or adverse reactions.
- (8) The provider shall report any adverse reaction to a medication or error in administration to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.
- (9) The provider shall not keep medications at the facility for children who are no longer enrolled.

R430-70-18. Napping.

- If the program offers children the opportunity for rest:
 - (1) The provider shall maintain sleeping equipment in good repair.
 - (2) Sleeping equipment must be cleaned and sanitized prior to each use.
 - (3) Sleeping equipment may not block exits at any time.

R430-70-19. Child Discipline.

- (1) The provider shall inform caregivers, parents, and children of the program's behavioral expectations for children.
- (2) The provider may discipline children using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.
- (3) Caregivers may use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others or from destroying property.
- (4) Discipline measures shall not include any of the following:

- (a) any form of corporal punishment such as hitting, spanking, shaking, biting, pinching, or any other measure that produces physical pain or discomfort;
- (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds that specified in Subsection (3) above.
- (c) shouting at children;
- (d) any form of emotional abuse;
- (e) forcing or withholding of food, rest, or toileting; and,
- (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

R430-70-20. Activities.

- (1) The provider shall post a daily schedule. The daily schedule shall include, at a minimum, meal, snack, and outdoor play times.
- (2) On days when children are in care for four or more hours, daily activities shall include outdoor play if weather permits.
- (3) The provider shall offer activities to support each child's healthy physical, social-emotional, and cognitive-language development. The provider shall post a current activity plan for parent review listing these activities.
- (4) The provider shall make the toys and equipment needed to carry out the activity plan accessible to children.
- (5) If off-site activities are offered:
 - (a) the provider shall obtain written parental consent for each activity in advance;
 - (b) caregivers shall take written emergency information and releases with them for each child in the group, which shall include:
 - (i) the child's name;
 - (ii) the parent's name and phone number;
 - (iii) the name and phone number of a person to notify in the event of an emergency if the parent cannot be contacted;
 - (iv) the names of people authorized by the parents to pick up the child; and
 - (v) current emergency medical treatment and emergency medical transportation releases;
 - (c) the provider shall maintain required caregiver to child ratios and direct supervision during the activity;
 - (d) at least one caregiver present shall have a current Red Cross, American Heart Association, or equivalent first aid and CPR certification;
 - (e) caregivers shall take a first aid kit with them;
 - (f) children shall wear or carry with them the name and phone number of the program, but children's names shall not be used on name tags, t-shirts, or other identifiers; and
 - (g) caregivers shall provide a way for children to wash their hands as specified in R430-70-16(2). If there is no source of running water, caregivers and children may clean their hands with wet wipes and hand sanitizer.
- (6) If swimming activities are offered, caregivers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the caregiver to child ratio.

- (c) the provider shall maintain required caregiver to child ratios and direct supervision during the activity;
- (d) at least one caregiver present shall have a current Red Cross, American Heart Association, or equivalent first aid and CPR certification;
- (e) caregivers shall take a first aid kit with them;
- (f) children shall wear or carry with them the name and phone number of the program, but children's names shall not be used on name tags, t-shirts, or other identifiers; and
- (g) caregivers shall provide a way for children to wash their hands as specified in R430-70-16(2). If there is no source of running water, caregivers and children may clean their hands with wet wipes and hand sanitizer.
- (6) If swimming activities are offered, caregivers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the caregiver to child ratio.

R430-70-21. Transportation.

- (1) Any vehicle that is used for transporting children in care, except public bus or train, shall:
 - (a) be enclosed;

(b) be equipped with individual, size appropriate safety restraints, properly installed and in working order, for each child being transported;

(c) have a current vehicle registration and safety inspection;

(d) be maintained in a safe and clean condition;

(e) maintain temperatures between 60-90 degrees Fahrenheit when in use;

(f) contain a first aid kit; and

(g) contain a body fluid clean up kit.

(2) At least one adult in each vehicle transporting children shall have a current Red Cross, American Heart Association, or equivalent first aid CPR certification.

(3) The adult transporting children shall:

(a) have and carry with them a current valid Utah driver's license, for the type of vehicle being driven, whenever they are transporting children;

(b) have with them written emergency contact information for all of the children being transported;

(c) ensure that each child being transported is wearing an appropriate individual safety restraint as required by Utah law;

(d) ensure that no child is left unattended by an adult in the vehicle;

(e) ensure that all children remain seated while the vehicle is in motion;

(f) ensure that keys are never left in the ignition when the driver is not in the driver's seat; and,

(g) ensure that the vehicle is locked during transport.

R430-70-22. Animals.

(1) The provider shall inform parents of the types of animals permitted at the facility.

(2) All animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.

(3) All animals at the facility shall have current immunizations for all vaccine preventable diseases that are transmissible to humans. The program shall have documentation of the vaccinations.

(4) There shall be no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.

(5) There shall be no animals or animal equipment in food preparation or eating areas.

(6) Children shall not handle reptiles or amphibians.

KEY: child care facilities, child care, child care centers

Date of Enactment or Last Substantive Amendment: 2009

Authorizing, Implemented, or Interpreted Law: 26-39



Human Resource Management,
Administration

R477-1
Definitions

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 32724
FILED: 06/10/2009, 17:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendment removes "household composition" from the list of information access that could make an employee's position highly sensitive because the term is vague and not a sufficient criterion to stand alone.

SUMMARY OF THE RULE OR CHANGE: The amendment removes Subsection R477-1-1(50)(f)(vi) "household composition" from the list of information access that could make an employee's position highly sensitive.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: These changes are administrative and do not directly impact state budgets.

❖ LOCAL GOVERNMENTS: This rule only affects the executive branch of state government and will have no impact on local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This rule only affects the executive branch of state government and will have no impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule only affects agencies of the executive branch of state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect effect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no effect on business. Jeff Herring, Executive Director

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

HUMAN RESOURCE MANAGEMENT
ADMINISTRATION
Room 2120 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:

J.J. Acker at the above address, by phone at 801-537-9096, by FAX at 801-538-3081, or by Internet E-mail at jacker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Jeff Herring, Executive Director

R477. Human Resource Management, Administration.

R477-1. Definitions.

R477-1-1. Definitions.

The following definitions apply throughout these rules unless otherwise indicated within the text of each rule.

(1) Abandonment of Position: An act of resignation resulting when an employee is absent from work for three consecutive working days without approval.

(2) Actual FTE: The total number of full time equivalents based on actual hours paid in the state payroll system.

(3) Actual Hours Worked: Time spent performing duties and responsibilities associated with the employee's job assignments.

(4) Actual Wage: The employee's assigned salary rate in the central personnel record maintained by the Department of Human Resource Management.

(5) Administrative Leave: Leave with pay granted to an employee at management discretion that is not charged against the employee's leave accounts.

(6) Administrative Adjustment: A DHRM approved change of a position from one job to another job or a salary range change for administrative purposes that is not based on a change of duties and responsibilities.

(7) Administrative Salary Decrease: A decrease in the current actual wage of one or more salary steps based on non-disciplinary administrative reasons determined by an agency head or commissioner.

(8) Administrative Salary Increase: An increase in the current actual wage of one or more salary steps based on special circumstances determined by an agency head or commissioner.

(9) Agency: An entity of state government that is:

(a) directed by an executive director, elected official or commissioner defined in Title 67, Chapter 22 or in other sections of the code;

(b) authorized to employ personnel; and

(c) subject to DHRM rules.

(10) Agency Head: The executive director or commissioner of each agency or a designated appointee.

(11) Agency Human Resource Field Office: An office of the Department of Human Resource Management located at another agency's facility.

(12) Agency Management: The agency head and all other officers or employees who have responsibility and authority to establish, implement, and manage agency policies and programs.

(13) Appeal: A formal request to a higher level for reconsideration of a grievance decision.

(14) Appointing Authority: The officer, board, commission, person or group of persons authorized to make appointments in their agencies.

(15) Budgeted FTE: The total number of full time equivalents budgeted by the Legislature and approved by the Governor.

(16) Bumping: A procedure that may be applied prior to a reduction in force action (RIF). It allows employees with higher retention points to bump other employees with lower retention points as identified in the work force adjustment plan, as long as employees meet the eligibility criteria outlined in interchangeability of skills.

(17) Career Mobility: A time limited assignment of an employee to a different position for purposes of professional growth or fulfillment of specific organizational needs.

(18) Career Service Employee: An employee who has successfully completed a probationary period in a career service position.

(19) Career Service Exempt Employee: An employee appointed to work for an unspecified period of time or who serves at the pleasure of the appointing authority and may be separated from state employment at any time without just cause.

(20) Career Service Exempt Position: A position in state service exempted by law from provisions of career service under Sections 67-19-15 and R477-2-1.

(21) Career Service Status: Status granted to employees who successfully complete a probationary period for competitive career service positions.

(22) Category of Work: A job series within an agency that is designated by the agency head as having positions to be eliminated agency wide through a reduction in force. Category of work may be further reduced as follows:

(a) a unit smaller than the agency upon providing justification and rationale for approval, for example:

(i) unit number;

(ii) cost centers;

(iii) geographic locations;

(iv) agency programs.

(b) positions identified by a set of essential functions, for example:

(i) position analysis data;

(ii) certificates;

(iii) licenses;

(iv) special qualifications;

(v) degrees that are required or directly related to the position.

(23) Change of Workload: A change in position responsibilities and duties or a need to eliminate or create particular positions in an agency caused by legislative action, financial circumstances, or administrative reorganization.

(24) Classification Grievance: The approved procedure by which an agency or a career service employee may grieve a formal classification decision regarding the classification of a position.

(25) Classified Service: Positions that are subject to the classification and compensation provisions stipulated in Section 67-19-12.

(26) Classification Study: A Classification review conducted by DHRM under Section R477-3-4. A study may include single or multiple job or position reviews.

(27) Compensatory Time: Time off that is provided to an employee in lieu of monetary overtime compensation.

(28) Contractor: An individual who is contracted for service, is not supervised by a state supervisor, but is responsible for providing a specified service for a designated fee within a specified time. The contractor shall be responsible for paying all taxes and FICA payments, and may not accrue benefits.

(29) Corrective Action: A documented administrative action to address substandard performance of an employee under Section R477-10-2.

(30) Critical Incident Drug or Alcohol Test: A drug or alcohol test conducted on an employee as a result of the behavior, action, or inaction of an employee that is of such seriousness it requires an immediate intervention on the part of management.

(31) Demotion: A disciplinary action resulting in a reduction of an employee's current actual wage.

(32) DHRM: The Department of Human Resource Management.

(33) DHRM Approved Recruitment and Selection System: The state's recruitment and selection system, which is a centralized and automated computer system administered by the Department of Human Resource Management.

(34) Disability: Disability shall have the same definition found in the Americans With Disabilities Act (ADA) of 1990, 42 USC 12101 (2008); Equal Employment Opportunity Commission regulation, 29 CFR 1630 (2008); including exclusions and modifications.

(35) Disciplinary Action: Action taken by management under Rule R477-11.

(36) Dismissal: A separation from state employment for cause under Section R477-11-2.

(37) Drug-Free Workplace Act: A 1988 congressional act, 34 CFR 85 (1993), requiring a drug-free workplace certification by state agencies that receive federal grants or contracts.

(38) Employee Personnel Files: For purposes of Title 67, Chapters 18 and 19, the files maintained by DHRM and agencies as required by Section R477-2-5. This does not include employee information maintained by supervisors.

(39) Employment Eligibility Verification: A requirement of the Immigration Reform and Control Act of 1986, 8 USC 1324 (1988) that employers verify the identity and eligibility of individuals for employment in the United States.

(40) "Escalator" Principle: Under the Uniformed Services Employment and Reemployment Rights Act (USERRA), returning veterans are entitled to return back onto their seniority escalator at the point they would have occupied had they not left state employment.

(41) Excess Hours: A category of compensable hours separate and apart from compensatory or overtime hours that accrue at straight time only when an employee's actual hours worked, plus additional hours paid, exceed an employee's normal work period.

(42) Fitness For Duty Evaluation: Evaluation, assessment or study by a licensed professional to determine if an individual is able to meet the performance or conduct standards required by the position held, or is a direct threat to the safety of self or others.

(43) FLSA: Fair Labor Standards Act. The federal statute that governs overtime. See 29 USC 201 (1996).

(44) FLSA Exempt: Employees who are exempt from the Fair Labor Standards Act.

(45) FLSA Nonexempt: Employees who are not exempt from the Fair Labor Standards Act.

(46) Follow Up Drug or Alcohol Test: Unannounced drug or alcohol tests conducted for up to five years on an employee who has previously tested positive or who has successfully completed a voluntary or required substance abuse treatment program.

(47) Furlough: A temporary leave of absence from duty without pay for budgetary reasons or lack of work.

(48) Grievance: A career service employee's claim or charge of the existence of injustice or oppression, including dismissal from employment resulting from an act, occurrence, omission, condition, discriminatory practice or unfair employment practice not including position classification or schedule assignment.

(49) Grievance Procedures: The statutory process of grievances and appeals as set forth in Sections 67-19a-101 through 67-19a-408 and the rules promulgated by the Career Service Review Board.

(50) Highly Sensitive Position: A position approved by DHRM that includes the performance of functions:

(a) requiring an employee to operate motorized machinery;

(b) directly related to law enforcement;

(c) involving direct access or having control over direct access to controlled substances;

(d) directly impacting the safety or welfare of the general public;

(e) requiring an employee to carry or have access to firearms; or

(f) permitting or requiring an employee to access an individual's highly sensitive, personally identifiable, private information, including:

(i) financial assets, liabilities, and account information;

(ii) social security numbers;

(iii) wage information;

(iv) medical history;

(v) public assistance benefits; or

(vi) ~~household composition; or~~

~~(vii) driver license~~

(51) Gross Compensation: Employee's total earnings, taxable and nontaxable, as shown on the employee's pay statement.

(52) Hiring List: A list of qualified and interested applicants who are eligible to be considered for appointment or conditional appointment to a specific position.

(53) HRE: Human Resource Enterprise; the state human resource management information system.

(54) Immediate Supervisor: The employee or officer who exercises direct authority over an employee and who appraises the employee's performance.

(55) Incompetence: Inadequacy or unsuitability in performance of assigned duties and responsibilities.

(56) Inefficiency: Wastefulness of government resources including time, energy, money, or staff resources or failure to maintain the required level of performance.

(57) Interchangeability of Skills: Employees are considered to have interchangeable skills only for those positions they have previously held successfully in Utah state government executive branch employment or for those positions which they have successfully supervised and for which they satisfy job requirements.

(58) Intern: An individual in a college degree program assigned to work in an activity where on-the-job training is accepted.

(59) Job: A group of positions similar in duties performed, in degree of supervision exercised or required, in requirements of training, experience, or skill and other characteristics. The same salary range and test standards are applied to each position in the group.

(60) Job Description: A document containing the duties, distinguishing characteristics, knowledge, skills, and other requirements for a job.

(61) Job Identification Number: A unique number assigned to a job by DHRM.

(62) Job Requirements: Skill requirements defined at the job level.

(63) Job Series: Two or more jobs in the same functional area having the same job class title, but distinguished and defined by increasingly difficult levels of duties and responsibilities and requirements.

(64) Legislative Salary Adjustment: A legislatively approved salary increase for a specific category of employees based on criteria determined by the Legislature.

(65) Malfeasance: Intentional wrongdoing, deliberate violation of law or standard, or mismanagement of responsibilities.

(66) Market Based Bonus: One time lump sum monies given to a new hire or a current employee to encourage employment with the state.

(67) Market Comparability Adjustment: Legislatively approved change to a salary range for a job based on a compensation survey conducted by DHRM.

(68) Merit Increase: A legislatively approved and funded salary increase for employees to recognize and reward successful performance.

(69) Misfeasance: The improper or unlawful performance of an act that is lawful or proper.

(70) Nonfeasance: Failure to perform either an official duty or legal requirement.

(71) Performance Evaluation: A formal, periodic evaluation of an employee's work performance.

(72) Performance Management: The ongoing process of communication between the supervisor and the employee which defines work standards and expectations, and assesses performance leading to a formal annual performance evaluation.

(73) Performance Plan: A written summary of the standards and expectations required for the successful performance of each job duty or task. These standards normally include completion dates and qualitative and quantitative levels of performance expectations.

(74) Performance Standard: Specific, measurable, observable and attainable objectives that represent the level of performance to which an employee and supervisor are committed during an evaluation period.

(75) Personnel Adjudicatory Proceedings: The informal appeals procedure contained in Section 63G-4-2 for all human resource policies and practices not covered by the state employees grievance procedure promulgated by the Career Service Review Board, or the classification appeals procedure.

(76) Position: A unique set of duties and responsibilities identified by DHRM authorized job and position management numbers.

(77) Position Description: A document that describes the detailed tasks performed, as well as the knowledge, skills, abilities, and other requirements of a specific position.

(78) Position Identification Number: A unique number assigned to a position for FTE management.

(79) Position Management Report: A document that lists an agency's authorized positions including job identification numbers, salaries, and schedules. The list includes occupied or vacant positions and full or part-time positions.

(80) Position Sharing: A situation where two employees share the duties and responsibilities of one full-time career service position. Leave benefits for position sharing employees are pro-rated according to the number of hours worked. To be eligible for benefits, position sharing employees must work at least 50% of a full-time equivalent.

(81) Post Accident Drug or Alcohol Test: A Drug or alcohol test conducted on an employee who is involved in a vehicle accident while on duty:

(a) where a fatality occurs;

(b) where the employee receives a citation under state or local law for a moving traffic violation arising from the accident and the accident involves bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident;

(c) where the employee receives a citation under state or local law for a moving traffic violation arising from the accident and the accident involves one or more motor vehicles that incur disabling damage as a result of the accident that must be transported away from the scene by a tow truck or other vehicle;

(d) where there is reasonable suspicion that the employee had been driving while under the influence of a controlled substance.

(82) Preemployment Drug Test: A drug test conducted on final candidates for a highly sensitive position or on a current employee prior to assuming highly sensitive duties.

(83) Probationary Employee: An employee hired into a career service position who has not completed the required probationary period for that position.

(84) Probationary Period: A period of time considered part of the selection process, identified at the job level, the purpose of which is to allow management to evaluate an employee's ability to perform assigned duties and responsibilities and to determine if career service status should be granted.

(85) Productivity Step Adjustment: A management authorized salary increase of one to four steps. Management and employees agree to the adjustment for employees who accept an increased workload resulting from actual and budgeted FTE reductions.

(86) Proficiency: An employee's overall quality of work, productivity, skills demonstrated through work performance and other factors that relate to employee performance or conduct.

(87) Promotion: An action moving an employee from a position in one job to a position in another job having a higher maximum salary step.

(88) Protected Activity: Opposition to discrimination or participation in proceedings covered by the antidiscrimination statutes or the Utah State Grievance and Appeal Procedure. Harassment based on protected activity can constitute unlawful retaliation.

(89) Random Drug or Alcohol Test: Unannounced drug or alcohol testing of a sample of highly sensitive employees done in accordance with federal regulations or state rules, policies, and procedures, and conducted in a manner such that each highly sensitive employee has an equal chance of being selected for testing.

(90) Reappointment: Return to work of an individual from the reappointment register, whose accrued annual leave, converted sick leave, compensatory time and excess hours in the employee's former position were cashed out upon separation.

(91) Reappointment Register: A register of individuals who have prior to March 2, 2009:

(a) held career service status and been separated in a reduction in force;

(b) held career service status and accepted career service exempt positions without a break in service and were not retained, unless discharged for cause;

(c) by Career Service Review Board decision been placed on the reappointment register.

(92) Reasonable Suspicion Drug or Alcohol Test: A drug or alcohol test conducted on an employee based on specific, contemporaneous, articulated observations concerning the appearance, behavior, speech or body odors of the employee.

(93) Reassignment: An action mandated by management moving an employee from one job or position to a different job or position with an equal or lesser salary range maximum for administrative reasons. A reassignment may not include a decrease in actual wage except as provided in federal or state law.

(94) Reclassification: A DHRM reallocation of a single position or multiple positions from one job to another job to reflect management initiated changes in duties and responsibilities.

(95) Reduction in Force: (RIF) Abolishment of positions resulting in the termination of career service staff. RIFs can occur due to inadequate funds, a change of workload, or a lack of work.

(96) Reemployment: Return to work of an employee who resigned or took military leave of absence from state employment to serve in the uniformed services covered under USERRA. Accrued

annual leave, converted sick leave, compensatory time and excess hours may have been cashed out at separation.

(97) Rehire: Return to work of a former career service employee who resigned from state employment. Accrued annual leave, converted sick leave, compensatory time and excess hours in their former position were cashed out at separation.

(98) Requisition: An electronic document used for Utah Job Match recruitment, selection and tracking purposes that includes specific information for a particular position, job seekers' applications, and a hiring list.

(99) Salary Range: The segment of an approved pay plan assigned to a job.

(100) Schedule: The determination of whether a position meets criteria stipulated in the Utah Code Annotated to be career service (schedule B) or career service exempt (schedule A).

(101) Tangible Employment Action: Any significant change in employment status e.g. hiring, firing, promotion, failure to promote, demotion, undesirable assignment, a decision causing a significant change in benefits, compensation decisions, and work assignment. Tangible employment action does not include insignificant changes in employment status such as a change in job title without a change in salary, benefits or duties.

(102) Transfer: An action not mandated by management moving an employee from one job or position to another job or position with an equal or lesser salary range maximum for which the employee qualifies. A transfer may include a decrease in actual wage.

(103) Uniformed Services: The United States Army, Navy, Marine Corps, Air Force, Coast Guard; Reserve units of the Army, Navy, Marine Corps, Air Force, or Coast Guard; Army National Guard or Air National Guard; Commissioned Corps of Public Health Service, National Oceanic and Atmospheric Administration (NOAA), National Disaster Medical Systems (NDMS) and any other category of persons designated by the President in time of war or emergency. Service in Uniformed Services includes: voluntary or involuntary duty, including active duty; active duty for training; initial active duty for training; inactive duty training; full-time National Guard duty; or absence from work for an examination to determine fitness for any of the above types of duty.

(104) Unlawful Discrimination: An action against an employee or applicant based on race, religion, national origin, color, sex, age, disability, protected activity under the anti-discrimination statutes, political affiliation, military status or affiliation, or any other factor, as prohibited by law.

(105) USERRA: Uniformed Services Employment and Reemployment Rights Act of 1994 (P.L. 103-353), requires state governments to re-employ eligible veterans who resigned or took a military leave of absence from state employment to serve in the uniformed services and who return to work within a specified time period after military discharge.

(106) Veteran: An individual who has served on active duty in the armed forces for more than 180 consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized. Individuals must have been separated or retired under honorable conditions.

(107) Volunteer: Any person who donates services to the state or its subdivisions without pay or other compensation except actual and reasonable expenses incurred, as approved by the supervising agency.

KEY: personnel management, rules and procedures, definitions
Date of Enactment or Last Substantive Amendment: [July 1], 2009

Notice of Continuation: June 9, 2007

Authorizing, and Implemented or Interpreted Law: 67-19-6

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Human Resource Management, Administration **R477-2** Administration

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32727

FILED: 06/11/2009, 18:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to replace the term "grievance", which is incorrect, with the term "complaint." It also corrects punctuation and spacing errors.

SUMMARY OF THE RULE OR CHANGE: In Subsection R477-2-3(3)(a) the term "grievance" is replaced with "complaint." Nonsubstantive changes are made to correct spelling and punctuation.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 52-3-1, 63G-2-3, 63G-5-2, 63G-7-9, 67-19-6, and 67-19-18

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** These changes are administrative and do not directly impact state budgets.

❖ **LOCAL GOVERNMENTS:** This rule only affects the executive branch of state government and will have no impact on local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule only affects the executive branch of state government and will have no impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule only affects agencies of the executive branch of state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect effect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no effect on business. Jeff Herring, Executive Director

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

HUMAN RESOURCE MANAGEMENT
ADMINISTRATION
Room 2120 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:

J.J. Acker at the above address, by phone at 801-537-9096, by FAX at 801-538-3081, or by Internet E-mail at jacker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Jeff Herring, Executive Director

R477. Human Resource Management, Administration.

R477-2. Administration.

R477-2-3. Fair Employment Practice.

All state personnel actions must provide equal employment opportunity for all individuals.

(1) Employment actions including appointment, tenure or term, condition or privilege of employment shall be based on the ability to perform the essential duties, functions, and responsibilities assigned to a particular position.

(2) Employment actions may not be based on race, religion, national origin, color, gender, age, disability, protected activity under the anti-discrimination statutes, political affiliation, military status or affiliation or any other non-job related factor.

(3) An employee who alleges unlawful discrimination may:

(a) submit a ~~grievance~~ complaint to the agency head; and

(b) file a charge with the Utah Anti-Discrimination and Labor Division within 180 days of the alleged harm, or directly with the EEOC within 300 days of the alleged harm.

(4) A state official may not impede any employee from the timely filing of a discrimination complaint in accordance with state and federal requirements.

R477-2-5. Records.

Access to and privacy of personnel records maintained by DHRM are governed by Title 63G, Chapter 2, the Government Records Access and Management Act (GRAMA) and/or applicable federal laws. DHRM will designate and classify the records and record series it maintains under the GRAMA statute and respond to GRAMA requests for employee records.

(1) DHRM shall maintain an electronic record for each employee that contains the following, as appropriate:

(a) performance ratings;

(b) records of actions affecting employee salary, current classification, title and salary range, salary history, status and other personal data.

(2) DHRM shall maintain, on behalf of agencies, personnel files containing electronic or hard copy records of the following:

(a) employee signed overtime agreement, personnel action records, notices of corrective or disciplinary actions, performance evaluation records, separation and leave without pay notices, including forms for PEHP and URS such as employee benefits notification forms and military leave worksheets;

(b) copies of professional licensure, training certification and academic transcripts, when required by the job;

(c) other documents required by agency management; and

(d) year end leave summary records.

(3) DHRM shall maintain, on behalf of agencies, a separate confidential file for each of the following:

(a) Medical File: all information pertaining to medical issues, including Family Medical and Leave Act records, medical and dental enrollment forms which contain health related information, health statements, workers compensation records, long-term disability documentation, and applications for additional life insurance.

(i) Information in this file shall be private, controlled, or exempt information in accordance with Title 63G-2.

(b) ADA file: records pertaining to requests for reasonable accommodation, associated medical information, and the interactive process required by the ADA.

(i) information in this file is exempt from the provisions of Title 63G-2.

(c) Fitness for Duty and Drug and Alcohol Testing File: information regarding the results from fitness for duty evaluations and drug testing.

(i) Information in this file shall be private or controlled in accordance with Title 63G-2.[.]

(d) I-9 File: Form I-9 and other documents required by the United States Bureau of Citizenship and Immigration Services regulations, under Immigration Reform and Control Act of 1986, 8 USC Section 1324a.

(4) An employee has the right to review the employee's personnel file, upon request, in the presence of a DHRM representative.

(a) An employee may request corrections, amendments to, or challenge any information in the DHRM electronic or hard copy personnel file, through the following process:

(i) The employee shall request in writing to the appropriate agency human resource field office that changes occur.

(ii) The employing agency shall be given an opportunity to respond.

(iii) Disputes over information that are not resolved between the employing agency and the employee shall be decided in writing by the Executive Director, DHRM. DHRM shall maintain a record of the employee's letter, the agency's response, and the DHRM Executive Director's decision.

(5) When a disciplinary action is rescinded or disapproved upon appeal, forms, documents and records pertaining to the case shall be removed from the personnel file.

(a) When the record in question is on microfilm, a seal will be placed on the record and a suitable notice placed on the carton or envelope. This notice shall indicate the limits of the sealed Title and the authority for the action.

(6) Upon employee separation, DHRM shall retain electronic records for thirty years. Agency hard copy records shall be retained at the agency for a minimum of two years, and then transferred to the State Record Center to be retained according to the record retention schedule.

(7) When an employee transfers from one agency to another, the former agency shall transfer the employee's personnel, medical, and I-9

files to the new agency. The files shall contain records according to Subsections R477-2-5(2) or R477-2-5(3).

(8) Employees who violate confidentiality are subject to disciplinary action and may be personally liable.

KEY: administrative responsibility, confidentiality of information, fair employment practices, public information

Date of Enactment or Last Substantive Amendment: [July 1], 2009

Notice of Continuation: June 9, 2007

Authorizing, and Implemented or Interpreted Law: 52-3-1; 63G-2-3; 63G-5-2, 63G-7-9; 67-19-6; 67-19-18



Natural Resources, Wildlife Resources

R657-6

Taking Upland Game

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32718

FILED: 06/09/2009, 07:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council meetings and the Wildlife Board meeting conducted for taking public input and reviewing the upland game program as approved by the Wildlife Board.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rule remove all references to the process and procedure for obtaining sandhill crane, swan, sharp-tail and sage grouse permits. All application procedures are now outlined in Rule R657-62 Drawing Application Procedures.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--This amendment only moves the drawing application procedure to a different rule, it does not make any changes to the process; therefore, the Division of Wildlife Resources (DWR) determines that the proposed changes to the rule do not create a cost or savings impact to the state budget or DWR's budget and can be carried out with current personnel and budget.

❖ **LOCAL GOVERNMENTS:** None--Since this amendment has no impact on individual hunters or the local governments, the division finds that this ruling does not create any direct cost or savings impact to local governments. 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 places the application process and procedure for swan, sandhill crane, sharp-tail and sage grouse permits issued by the Division into the same rule (Rule R657-62) to reduce repetition in many rules and therefore

does not have the potential to generate a cost or savings impact to sportsmen or other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this amendment will not create additional costs for those who participate in wildlife related activities in Utah.

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 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-6. Taking Upland Game.

R657-6-4. Permits for Band-tailed Pigeon, Sage-grouse, Sharp-tailed Grouse and White-tailed Ptarmigan.

(1)(a) A person may not take or possess:

(i) Band-tailed Pigeon without first obtaining a Band-tailed Pigeon permit;

(ii) Sage-grouse without first obtaining a Sage-grouse permit;

(iii) Sharp-tailed Grouse without first obtaining a Sharp-tailed Grouse permit; or

(iv) White-tailed Ptarmigan without first obtaining a White-tailed Ptarmigan permit.

(b) A person may obtain only one permit for each species listed in Subsection (1)(a), except a falconer with a valid Falconry Certificate of Registration may obtain one additional two-bird Sage-grouse permit beginning on the date published in the proclamation of the Wildlife Board for taking upland game, if any permits are remaining.

(2)(a) A limited number of two-bird Sage-grouse permits are available in the areas published in the proclamation of the Wildlife Board for taking upland game.

(b) A Sage-grouse permit may only be used in one of the open areas as published in the proclamation of the Wildlife Board for taking upland game.

(c) Sage-grouse permits will be issued ~~[on a first come, first served basis beginning on the date published in the proclamation of the Wildlife Board for taking upland game free of charge.] pursuant to R657-62-21.~~

~~[(d) Sage-grouse permit request forms must be submitted with a handling fee.~~

~~—(3)(a) A limited number of two-bird, Sharp-tailed Grouse permits are available.~~

(b) A Sharp-tailed Grouse permit may only be used in one of open areas as published in the proclamation of the Wildlife Board for taking upland game.

(c) Sharp-tailed Grouse permits will be issued ~~[on a first come, first served basis beginning on the date published in the proclamation of the Wildlife Board for taking upland game free of charge.] pursuant to R657-62-21.~~

~~[(d) Sharp-tailed Grouse permit request forms must be submitted with a handling fee.~~

~~—(4)(a) Band-tailed Pigeon and White-tailed Ptarmigan permits are available from Division offices, through the mail, and through the Division's Internet address by the first week in August, free of charge.]~~

~~—(5) Sage-grouse, Sharp-tailed Grouse, Band-tailed Pigeon and White-tailed Ptarmigan permit forms are available from Division offices and through the Division's Internet address.]~~

R657-6-5. Application Procedure for Sandhill Crane.

~~[(4)(a) Applications will be available through the Division's internet address. Applications must be submitted online by the date prescribed in the proclamation of the Wildlife Board for taking upland game.]~~(1)(a) Sandhill Crane permits will be issued pursuant to R657-62-20.

(b) Residents and nonresidents may apply.

(c) The application period for Sandhill Crane is published in the proclamation of the Wildlife Board for taking upland game.

(2) ~~[If an error is found on the application, the applicant may be contacted for correction.~~

~~—(3) Group applications for Sandhill Crane will not be accepted.~~

~~—(4)(a) A person may obtain only one Sandhill Crane permit each year.]~~

~~—(b) A person may not apply more than once annually.~~

~~—(5) Each application must include:~~

~~—(a) a nonrefundable handling fee; and~~

~~—(b) the hunting or combination license fee, if it has not yet been purchased.~~

~~—(6) A hunting or combination license may be purchased before applying, or the hunting or combination license will be issued upon successful drawing results. Fees must be submitted with the application.~~

~~—(7) The posting date of the drawing results is published in the proclamation of the Wildlife Board for taking upland game.~~

~~—(8) Any permits remaining after the drawing are available on a first come, first served basis beginning on the date published in the proclamation of the Wildlife Board for taking upland game.~~

~~—(9) To apply for a resident permit or license, a person must establish residency at the time of purchase.~~

~~—(10) The posting date of the drawing shall be considered the purchase date of a permit.~~

~~—(11)(a) An applicant may withdraw their application for the Sandhill Crane Drawing by requesting such in writing by the date published in the proclamation of the Wildlife Board for taking upland game.~~

~~—(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake Division office.~~

~~—(c) An applicant may reapply in the Sandhill Crane Drawing provided:~~

~~—(i) the original application is withdrawn;~~

~~—(ii) the new application is submitted with the request to withdraw the original application;~~

~~—(iii) both the new application and request to withdraw the original application are received by the initial application deadline; and~~

~~—(iv) both the new application and request to withdraw the original application are submitted to the Salt Lake Division office.~~

~~—(d) Handling fee will not be refunded.~~

~~—(12)(a) An applicant may amend their application for the Sandhill Crane Drawing by requesting such in writing by the initial application deadline.~~

~~—(b) The applicant must send their notarized signature with a statement requesting that their application be amended to the Salt Lake Division office.~~

~~—(c) The applicant must identify in their statement the requested amendment to their application.]~~

KEY: wildlife, birds, rabbits, game laws

Date of Enactment or Last Substantive Change: [August 21, 2008]2009

Notice of Continuation: July 8, 2005

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19



Natural Resources, Wildlife Resources **R657-12** Hunting and Fishing Accommodations for People With Disabilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32719

FILED: 06/09/2009, 07:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to clarify the definition of "crutches" and to add an experimental season extension for buck deer to qualifying disabled hunters.

SUMMARY OF THE RULE OR CHANGE: The provisions are being amended to this rule to allow increased hunting opportunities for disabled hunters, by adding an experimental season extension for buck deer.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18, 23-19-1, 23-19-36, and 23-20-12

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This amendment allows more accommodations or opportunity for disabled people to

participate in big game hunting, and makes clarifications. The Division of Wildlife (DWR) has determined that this amendment does not create a cost or savings impact to DWR's budget or the state budget.

❖ LOCAL GOVERNMENTS: This amendment allows more accommodations or opportunity for disabled people to participate in big game hunting, and makes clarifications. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This amendment allows more accommodations or opportunity for disabled people to participate in big game hunting, and makes clarifications. The amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment allows more accommodations or opportunity for disabled people to participate in big game hunting, and makes clarifications. There are not any 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 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: James F Karpowitz, Director

**R657. Natural Resources, Wildlife Resources.
R657-12. Hunting and Fishing Accommodations for People With Disabilities.**

R657-12-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
 - (a) "Blind" means the person:

(i) has no more than 20/200 visual acuity in the better eye when corrected; or

(ii) has, in the case of better than 20/200 central vision, a restriction of the field of vision in the better eye which subtends an angle of the field of vision no greater than 20 degrees.

(b) "~~Crutch~~" means any mobility aid or assistive technology device, including a cane, crutch, walker, long or short braces, or other prosthetic or orthotic device which aids in mobility. Crutches means a staff or support designed to fit under or attach to each arm, including a walker, which improve a person's mobility that is otherwise severely restricted by a permanent physical injury or disability.

(c) "Draw-lock" means a mechanical device used to hold and support the draw weight of a conventional or compound bow at any increment of draw until released by the archer using a trigger mechanism attached to the device.

(d) "Loss of either or both lower extremities" means the permanent loss of use or the physical loss of one or both legs or a part of either or both legs which ~~materially~~ severely impedes a person's mobility.

(e) "Telescopic sights" means an optical or electronic sighting system that magnifies the natural field of vision beyond 1X and is used to aim a firearm, bow or crossbow.

(f) "Upper extremity disabled" means a person who has a permanent physical impairment due to injury or disease, congenital or acquired, which renders the person so severely disabled as to be physically unable to use ~~a~~ any legal hunting weapon or fishing device.

R657-12-7. Special Season Extension for Disabled Persons - General Deer and Elk Hunts.

(1) A person may obtain a Certificate of Registration from a division office to hunt an extended general deer or elk season as provided in Subsection (2), provided the person requesting the extension:

(a) is blind, quadriplegic, upper extremity disabled, paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or who has lost either or both lower extremities;

(b) satisfies the hunter education requirements as provided in Section 23-19-11 and Rule R657-23; and

(c) obtains the appropriate license, permit and tag.

(2)(a) The extended general deer season may ~~occur~~ include:

(i) a five ~~days prior to~~ day hunt immediately preceding the general any weapon buck deer season ~~deer hunt~~ opening date published in the proclamation of the Wildlife Board for taking big game[-];

(A) the five day extension does not apply to general any weapon deer hunts with seasons less than nine days in duration; and

(ii) a one time, experimental hunt beginning November 7, 2009 and ending November 8, 2009.

(b) The extended general spike bull elk season may occur five days after the general season spike bull elk hunt published in the proclamation of the Wildlife Board for taking big game.

(c) The extended general any bull elk season may occur concurrently with the general youth any bull elk hunt published in the proclamation of the Wildlife Board for taking big game.

(3) The division shall accept the following as evidence of disability:

- (a) obvious physical impediment;

(b) use of any mobility device described in Section R657-12-2(2)(b);

(c) a signed statement by a licensed ophthalmologist, optometrist, or a physician verifying the person is blind as defined under Section R657-12-2(2)(a); or

(d) a signed statement by a licensed physician verifying the person is quadriplegic, upper extremity disabled as defined under Section R657-12-2(2)(d), paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or has lost either or both lower extremities.

KEY: wildlife, wildlife law, disabled persons

Date of Enactment or last Substantive Amendment: ~~January 22, 2008~~ 2009

Notice of Continuation: September 10, 2007

Authorizing, and Implemented or Interpreted Law: 23-20-12; 63G-3-201



Natural Resources, Wildlife Resources R657-27 License Agent Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32720

FILED: 06/09/2009, 07:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add provisions allowing the division to remove the 30 business day response time and to allow the division to modify monthly reporting or payment requirements when a License Agent is in bankruptcy, insolvent, financially distressed, or unable to meet reporting and payment obligations; and makes technical corrections.

SUMMARY OF THE RULE OR CHANGE: Rule R657-27 is being amended to allow some flexibility in dealing with License Agents who find themselves in financial distress.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-19-15

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The amendment gives the division greater flexibility in dealing with license agents. The Division of Wildlife Resources (DWR) determines that there is not a cost or savings impact to the state budget or DWR's budget associated with this amendment.

❖ **LOCAL GOVERNMENTS:** The amendment only allows for greater flexibility in dealing with the agents. 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 amendment allows the division greater flexibility in dealing with license agents. This amendment does not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the amendment only allows greater flexibility in dealing with license agents, DWR determines that there are 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 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources. R657-27. License Agent Procedures. R657-27-3. License Agent Application.

(1) License agent applications may be obtained from the Licensing Section in the Salt Lake Office or downloaded from the division's website.

(2) License agent applications shall be considered from any person located within Utah or in close proximity to Utah.

(3) Applications shall be processed within ~~[30 business days]~~ a reasonable timeframe.

(4) The applicant must:

(a) complete and return the application to the Licensing Section in the Salt Lake Office; and

(b) pay a non refundable application fee.

(5) A separate application and application fee must be submitted for each location where wildlife documents will be sold.

(6) The division may provide assistance to new and existing license agents as provided in Subsection R657-27-4(1)(b),(1)(c) or (1)(d).

R657-27-4. License Agent Eligibility - Reasons for Application Denial - Term of Authorization.

(1) A new license agent must meet the criteria provided in Subsection (a), except as provided in Subsection (b) or (c).

(a) A license agent must:

(i) successfully complete a division-sponsored training session;

(ii) provide and maintain approved computer hardware capable of processing and printing licenses and permits in a permanent, clear, and a legible manner; and

~~(iii) sign a supplemental wildlife documents sales agreement as provided in Section R657-27-16.~~

(b) The division may provide a printer as required in Subsection (a)(ii) provided the license agent's projected sales is estimated to be at least one-thousand dollars per year or a satisfactory volume per year as determined by the division.

(c) The division may provide assistance up to one-thousand dollars for computer hardware required in Subsection (a)(ii) provided:

(i) there is not a current, eligible license agent within 45 miles, or a convenient distance as determined by the division, of the proposed license agent location; and

(ii) the estimated sales revenue from the proposed location will recover the cost of the computer hardware within six months of providing the computer hardware.

(d) The division may provide assistance for a data line connection and the associated ongoing expense of the data line connection provided:

(i) there is not a current, eligible license agent within 45 miles, or a convenient distance as determined by the division, of the proposed license agent location; and

(ii) the division anticipates the monthly cost for the data line connection to be less than 20 percent of the estimated monthly collection from the license agent.

(e) The division shall annually review the ongoing expenses for a data line connection to ensure the license agent is eligible for the assistance allowed in Subsection (d).

(f) A license agent must remain a license agent for the division for at least six months to retain the computer hardware or printer as provided in Subsections (b) or (c).

(2) Use of the agent hunting and fishing licenses online system must be used in compliance with the users manual provided by the division.

(3) The division shall send the applicant a written notice stating the reason for denial.

(4) If the division approves the license agent application, a license agent authorization shall be sent to the applicant.

(5) The license agent authorization is not effective until:

(a) it is signed ~~and notarized~~ by the applicant; and

(b) signed by the director or designee.

(6)(a) The license agent authorization must be received by the Licensing Section in the Salt Lake Office within ~~30 business days~~ a reasonable timeframe of being mailed to the applicant.

(b) A separate application, application fee, and license agent authorization is required for each location where wildlife documents will be sold.

(7) Each license agent authorization shall be established for a term of ~~five~~ ten years.

(8) The division may deny a license agent application for any of the following reasons:

(a) A sufficient number of license agents already exist in the area;

(b) The applicant does not have adequate security including a safe or locking cabinet in which to store wildlife documents or license paper;

(c) The applicant has previously been authorized to sell wildlife documents or possess license paper and the applicant:

(i) failed to comply with the license agent authorization or any provision of statute or rule governing license agents; or

(ii) was deactivated or revoked by the division as a license agent;

(d) The applicant provided false information on the license agent application; or

(e) The applicant has been convicted ~~of a wildlife related violation; or~~

~~(f) The applicant has been convicted~~, pleaded guilty, pleaded no contest, or entered into a plea in abeyance to a criminal offense that bears a reasonable relationship to the license agent's ability to competently and responsibly perform the functions of a license agent.

R657-27-6. License Agent Obligations.

(1) Each license agent must:

(a) comply with the requirement and provisions provided in Section 23-19-15;

(b) keep wildlife documents or license paper secure and out of the public view during business hours;

(c) keep wildlife documents or license paper in a safe or locked cabinet after business hours;

(d) display all signs and distribute proclamations provided by the division;

(e) have all sales clerks and management staff available for sales training;

(f) maintain a License Agent Manual provided by the division and make it available to the license agent's staff, including supplemental manuals and addendums; and

(g) retain agent copies of licenses and permits for 12 months following the month of sale, at which time agent copies of licenses and permits must be destroyed by burning, shredding or submitting to the division.

(2) If a license agent becomes delinquent on reporting or remission of proceeds Subsection (2)(a), (2)(b) or (2)(c) shall apply.

(a) The license agent must immediately submit all reports when due along with the remission of required proceeds.

(b) If the license sales report is submitted in accordance with Subsection (1)(a) but funds are not submitted with the report then the following applies:

(i) A repayment plan may be structured in an agreement that will allow repayment in equal monthly installments for up to six months at a payment level that will provide repayment of the principal along with an annual percentage interest rate (APR) of 12 percent. This APR shall be calculated back to the date that the payment should have been received in accordance with Subsection (1)(a);

(ii) If the ongoing monthly report and proceed submissions are not received for the future months, from the month of the agreement in accordance with Subsection (1)(a), then any agreement made in Subsection (2)(b)(i) may be terminated and all outstanding balances and accrued interest shall become due immediately, along with a penalty of 20 percent of the unpaid balance. Interest shall continue to accumulate on any unpaid balance, including the penalty, at the APR;

(iii) Activate the bond and collect all remaining funds in accordance with Section R657-27-5 and hold any remaining unpaid balances of penalty, ongoing interest, and principle amounts as a receivable from the license agent; or

(iv) If the license agent enters into an agreement with the division as provided in Subsection (2)(b)(i), and then violates the terms of that agreement, the division may begin the revocation process in accordance with Section R657-27-11.

(c) Nothing in this rule shall be construed as requiring the division to offer a repayment agreement to a license agent delinquent on report submissions or proceeds remissions before taking action to revoke license agent status.

(d) If the license agent does not submit a monthly report as provided in Subsection (1)(a), or if the license agent does not immediately pay the delinquent funds or fails to execute and abide by the terms of a repayment agreement as provided in Subsection (2)(b), the division may:

- (i) change the license agent's status to deactivated;
- (ii) withhold issuing additional wildlife document inventory;
- (iii) withhold access to the agent hunting and fishing licenses online sales system;

(iv) collect the license agent's inventory of wildlife documents and license paper, and determine unaccounted inventory of wildlife documents and license paper;

(v) assess a monetary penalty for each wildlife document and piece of license paper unaccounted for as provided in Subsection R657-27-7(2);

(vi) take action to revoke license agent status;

(vii) create a receivable from the license agent that equals the amount due as determined in Subsection (1)(a) and charge a 20 percent late penalty on the entire balance, and accumulate the unpaid balance, included penalties, at a 12 percent APR from the due date of the earliest date in which a license agent failed to submit a report in accordance with Subsection (1)(a); or

(viii) activate the bond and collect all available funds remaining in accordance with Section R657-27-5 and hold any remaining unpaid balances of penalty, ongoing interest, and principle amounts as a receivable from the license agent.

(e) A deactivated license agent that has not been revoked may regain active status by paying all due balances in full, and providing a bond, provided the license agent is otherwise in compliance with this rule or any other laws or agreements regulating license agent activity.

(f)(i) The division reserves the right to unilaterally and immediately modify monthly reporting or payment requirements when any License Agent is:

(A) in bankruptcy;

(B) insolvent;

(C) financially distressed;

(D) unable to meet reporting or payment obligations; or

(E) otherwise experiencing events or conditions that may compromise their ability to comply with reporting and payment obligations.

(ii) The division may require license funds to be transferred to the division more frequently than monthly, and may require the use of Automated Clearing House payments, Electronic Funds Transfer payments, or other expedited methods of payment.

R657-27-11. Revocation of License Agent Authorization.

(1) The presiding officer may revoke a license agent authorization pursuant to Chapter 4, Title 63G, Utah Administrative

Procedures Act, if the presiding officer determines that the license agent~~[-or the license agent's employee]:~~

(a) violated the terms of the license agent authorization;

~~[(b) violated the terms of any supplemental wildlife document sales agreements with the division;](b) fails to comply with reporting or payments obligations, becomes insolvent, declares bankruptcy, or shows indication of financial instability or any other sign that public funds are in jeopardy or potentially unrecoverable by the division.~~

(c) fails to maintain a bond in accordance with Section R657-27-5;

(d) is found to have committed fraud regarding wildlife documents or license paper;

(e) violated any provision of Title 23, Wildlife Resources Code;

(f) violated any rule promulgated under Title 23, Wildlife Resources Code; or

(g) has been convicted, pleaded guilty, pleaded no contest, or entered into a plea in abeyance to a criminal offense that bears a reasonable relationship to the license agent's ability to competently and responsibly perform the functions of a license agent.

(2) The presiding officer may hold a hearing to determine matters relating to the license agent revocation if the license agent makes a written request for a hearing within 20 days after the notice of agency action is issued.

R657-27-14. Violation.

(1) It is unlawful for a license agent to sell wildlife documents in violation of[?] the License Agent Authorization.[

~~—(1) the License Agent Authorization; or~~

~~—(2) any supplemental wildlife document sales agreements executed with the division.]~~

R657-27-15. [Distribution of Preprinted Licenses and Permits.

~~—(1) The division shall determine, in its sole discretion, the types and numbers of preprinted licenses and permits issued to a license agent.~~

~~—(2) Certain licenses or permits may not be available for sale by a license agent.~~

R657-27-16. Supplemental Wildlife Document Sales Agreement.

~~—(1) Upon approval of a license agent authorization, the division may enter into a supplemental wildlife document sales agreement with the license agent.~~

~~—(2)(a) The license agent must:~~

~~—(i) complete all information indicated in the agreement; and~~

~~—(ii) sign and date the agreement.~~

~~—(b) The agreement must be returned by mail or hand delivery to any division office and must be received no later than the date indicated under the terms on the agreement form. Facsimiles will not be accepted.~~

~~—(c) Agreements received after the date indicated on the agreement form may be returned.~~

~~—(4)(a) The division may not enter into an agreement with any license agent who was given reasonable notice of the time period for entering into the agreement and fails to return a complete agreement to the division.~~

~~—(b) The division may notify a license agent who has made an error in completing the agreement form and may afford an opportunity for correction. However, if the division is unable to contact the license agent within two weeks following the filing date~~

indicated on the agreement and correct the error, the agreement shall be void and the license agent may not receive authorization to sell the wildlife documents covered by the supplemental agreement.

(5) By signing the agreement, the license agent agrees to abide by the terms of the agreement.

~~R657-27-17. License Agent Authorization and Supplemental Agreements~~ License Agent Authorization Subject to Change.

(1) A license agent authorization~~[or supplemental agreement]~~ issued or renewed by the division under this rule is a privilege and not a right. The license agent authorization~~[or supplemental agreement]~~ authorizes the license agent to sell wildlife documents subject to all present and future conditions, restrictions, and regulations imposed on such activities by the division, the Wildlife Board, or the State of Utah.

(2) A license agent authorization~~[or supplemental agreement]~~ does not guarantee or otherwise legally entitle the license agent to any of the following:

- (a) a minimum number of wildlife documents;
- (b) a particular type or types of wildlife documents;
- (c) access to any particular wildlife document distribution system; or
- (d) any other right or opportunity advantageous to the license agent.

(3) The procedures, processes and opportunities outlined in this rule regulating license agents and the distribution of wildlife documents are all subject to future change, including discontinuation, by the division and the Wildlife Board.

KEY: licensing, wildlife, wildlife law, rules and procedures

Date of Enactment or Last Substantive Amendment: [~~May 8, 2007~~2009]

Notice of Continuation: April 4, 2007

Authorizing, and Implemented or Interpreted Law: 23-19-15



Regents (Board Of), University of Utah,
Administration
R805-3
Overnight Camping and Campfires on
University of Utah Property

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 32713

FILED: 06/04/2009, 17:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to set forth the regulations that govern camping and campfires on University property.

SUMMARY OF THE RULE OR CHANGE: This new rule prohibits overnight camping and campfires on University of Utah Property absent the express permission of the University. The rule defines overnight camping and campfires. It also lists the

sanctions that may be imposed for violation of the rule which may include discipline for members of the University community through a University process, citation for having an improper fire, citation for criminal trespass, temporary eviction and denial of access, and eviction and denial of access after an informal adjudicative proceeding.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53B-1-104(8) and Sections 53B-2-106, 63G-4-102, 65A-8-211, and 76-8-701 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This rule has the potential to save the state budget by helping to avoid brush and forest fires on city, state, federal, and private properties that abut University property. The rule prohibits camp fires on University property and provides mechanisms for enforcing the rule.

❖ **LOCAL GOVERNMENTS:** This rule has the potential to save the the budgets of local governments by helping to avoid brush and forest fires on city, state, federal, and private properties that abut University property. The rule prohibits camp fires on University property and provides mechanisms for enforcing the rule.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule will help to protect the properties of businesses and persons surrounding the University by helping to avoid brush and forest fires on city, state, federal, and private properties that abut University property. The rule prohibits camp fires on University property and provides mechanisms for enforcing the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons who violate the rule may be subject to civil and criminal sanctions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will help to protect the properties of businesses and persons surrounding the University by helping to avoid brush and forest fires on city, state, federal, and private properties that abut University property. The rule prohibits campfires on University property and provides mechanisms for enforcing the rule. Michael K. Young, University of Utah President

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH, ADMINISTRATION
Room 309 PARK BLDG
201 S PRESIDENTS CIR
SALT LAKE CITY UT 84112-9009, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Robert W. Payne at the above address, by phone at 801-585-7002, by FAX at 801-585-7007, or by Internet E-mail at robert.payne@legal.utah.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Robert W. Payne, Associate General Counsel

R805. Regents (Board of), University of Utah, Administration.
R805-3. Overnight Camping and Campfires on University of Utah Property.

R805-3-1. Purpose.

To set forth the regulations that govern camping and campfires on University property.

R805-3-2. Definitions.

A. "Campfire" means an outdoor fire, burned in the open or in a receptacle other than a furnace or incinerator, used for the cooking of food or providing personal warmth or for recreational purposes. "Campfire" does not mean a professionally manufactured barbecue grill operated in connection with an official University event.

B. "Camping overnight" means any of the following:

1. Sleeping, at any time between the hours of 11:00 p.m. and 8:30 a.m., outdoors, with or without bedding, sleeping bag, blanket, mattress, tent, hammock, or other similar protection, equipment or device;

2. Establishing or maintaining outdoors, at any time between the hours of 11:00 p.m. and 8:30 a.m., a temporary or permanent place for sleeping or cooking by setting up any bedding, sleeping bag, blanket, mattress, tent, hammock, or other sleeping equipment or by setting up any cooking equipment, with the intent to remain in that location overnight.

"Camping overnight" does not include the following:

1. Waiting in line for the sale of tickets to an event that will take place on University property;

2. Tail-gating activities on University property within areas designated by the University that occur the night before or the night of a sporting event.

C. "University property" means the university campus and any other property owned, operated or controlled by the University of Utah.

R805-3-3. Policy.

A. Overnight Camping

In order to protect University property, and to protect the safety and health of the University community and the public, camping overnight on University property is prohibited without first obtaining permission from the University Scheduling Office. Permission may be withheld by the University on any reasonable basis.

B. Campfires

In order to protect University property, and to protect the safety and health of the University community and the public, lighting or maintaining campfires in University property is prohibited without first obtaining permission from the University Scheduling Office. Permission may be withheld by the University on any reasonable basis.

C. Sanctions

1. University students, university staff and university faculty who violate this rule may be subject to disciplinary action pursuant to the applicable policies and procedures of the University of Utah Regulations Library.

2. Members of the public who violate this rule may be subject to one or more of the following sanctions:

1. Issuance of a citation for setting an improper fire pursuant to Section 65 A-8-211;

2. Issuance of a citation for criminal trespass pursuant to Section 76-6-206;

3. Issuance of citation and temporary eviction from, and denial of access to University property pursuant to Sections 76-8-701 through 76-8-718; and

4. Eviction from, and denial of access to, University property after an informal adjudicative proceeding pursuant to Rule R765-134.

KEY: camp, camping, campfire, fire

Date of Enactment of Last Substantive Amendment: 2009
Authorizing, Implemented, or Interpreted Law: 53B-1-104(8); 53B-2-106; 63G-4-102; 65A-8-211; 76-8-701 et seq.

◆ ————— ◆
Technology Services, Administration
R895-6
IT Plan Submission Rule for Agencies

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32704

FILED: 06/03/2009, 18:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the rule to match with the needs of Department of Technology Services (DTS). The current rule was written under the Division of Information Technology Services.

SUMMARY OF THE RULE OR CHANGE: The amendment: changes the time frame from two to one fiscal year; makes wording changes in the format sections; adds performance measures section; removes information technology (IT) assets inventory; changes in budget and planning fiscal year details; and adds IT alignment with business objectives.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63F-1-204

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--This is a function that is currently provided by the DTS IT Directors for the agencies they support. It is a part of their job function with no additional costs associated with these changes.

❖ LOCAL GOVERNMENTS: None--This rule does not have any affect on local government because it is for executive branch agencies.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--This rule does not have any affect on small business or persons outside state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule does not have any affect on other persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The modification to the IT Plan submission process are being made to reflect the changes made with the creation creation of the Department of Technology Services and its operations of the IT plans for the agencies. J Stephen Fletcher, CIO and Executive Director

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

TECHNOLOGY SERVICES
ADMINISTRATION
Room 6000 STATE OFFICE BUILDING
450 N STATE ST
SALT LAKE CITY UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Russell Smith at the above address, by phone at 801-514-3125, by FAX at 801-538-3622, or by Internet E-mail at russellsmith@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: J Stephen Fletcher, CIO and Executive Director

R895. Technology Services, Administration.
R895-6. IT Plan Submission Rule for Agencies.
R895-6-2. Authority.

This rule is issued by the Chief Information Officer under the authority of Section 63F-1-206 of the Technology Governance Act, in accordance with Section [63-46a-3]63G-3-201 of the Utah Rulemaking Act, Utah Code Annotated, and section 63F-1-204 of the Utah code, Agency Information Technology Plans.

R895-6-4. Definitions.

(1) "Project" Investment in development of a new application/system or to upgrade or enhance an[~~d~~] existing information system.

(2) Plan Timeframe: [~~Two~~]One fiscal years into the future[; i.e., 1) Budget fiscal year and 2) Planning fiscal year].

(3) Severity level: Severity level is rated on four categories: impact on citizens, visibility to the public and Legislature, impact on state operations, and the consequences of doing nothing. The severity rating reflects the impact on external stakeholders.

(4) Risk level: The risk criteria measure the impact of the project on the organization, the effort needed to complete the project, the stability of the proposed technology, and the agency preparedness. The risk rating reflects the impact on the internal stakeholders.

R895-6-6. Agency IT Plan Format.

The following is the IT plan format:

- (1) SUBMIT AN EXECUTIVE SUMMARY.
 - (a) Department/Agency Mission Statement.
 - (b) Department/Agency Business Objectives that have IT projects supporting them.
 - (c) Statement of IT Vision/Mission.
 - (d) Description of accomplishments of past calendar year.
 - ~~[(e) Description of IT alignment with business objectives.~~
 - ~~[(f)](e)~~ IT Budget Summary for Department/Agency.
 - ~~[(g)](f)~~ Verification of compliance procedures for information technology policies, administrative rules, and statutes.
 - [(g) Describe performance measures used by the agency for implementing the agency's information technology objectives.
- (2) IT PLAN DETAILS.
 - ~~[(a) IT Assets Inventory.~~
 - ~~[(b)](a)~~ Security Plan Documentation.
 - ~~[(c)](b)~~ Disaster Recovery/Business Resumption Plan Documentation.
 - ~~[(d)](c)~~ [Budget Fiscal Year:]If a supplemental IT appropriation is anticipated, describe.
 - ~~[(e)](d)~~ [Planning Fiscal Year:]Describe anticipated changes in objectives, projects or initiatives.
 - ~~[(f)](e)~~ [Planning Fiscal Year:]If a building block request for an IT appropriation is anticipated, describe.
- (3) PROPOSED PROJECT DESCRIPTION

Complete a project description for each IT project including the following information:

 - (a) Project organizational impact:
 - (i) Division (or other dept. sub-unit) project; identify:
 - (ii) Department project.
 - (iii) Cross-department project.
 - (b) Project Name.
 - (c) Project Manager.
 - (d) Project Purpose (check all that apply):
 - (i) Maintain/enhance existing infrastructure.
 - (ii) New infrastructure.
 - (iii) Maintain/enhance existing application/product.
 - (iv) Develop new application/product.
 - (v) Support of UCA 46-4-503.
 - (vi) Pilot project.
 - (vii) Implement/enhance GIS.
 - (viii) Collaboration with local government.
 - (ix) Public/private partnership.
 - (x) Other, please specify.
- (4) DOCUMENT SUPPORT OF EXECUTIVE BRANCH STRATEGIC GOALS.
- (5) DESCRIBE PROPOSED PROJECT AND ITS ANTICIPATED BENEFITS.

~~[(6) DESCRIBE PERFORMANCE MEASURES USED BY THE AGENCY FOR IMPLEMENTING THE AGENCY'S INFORMATION TECHNOLOGY OBJECTIVES.~~

~~[(7)](6)~~ IDENTIFY THE IMPACT ON [~~ITS~~]DTS SERVICES THAT MAY RESULT WITH THE DEVELOPMENT OF THIS PROJECT.

~~[(8)](7)~~ LIST ESTIMATED START AND END DATE FOR PROJECT.

~~[(9)](8)~~ ESTIMATE PROJECT COSTS INCLUDING LABOR, HARDWARE, SOFTWARE, CONTRACT SERVICES AND OTHER.

~~[(10)](9)~~ ESTIMATE ANNUAL OPERATION/ MAINTENANCE COSTS.

~~[(4+)](10)~~ DESCRIBE RISK LEVEL OF PROJECT FOLLOWING CIO INSTRUCTION FOR FORMAT.

~~[(42)](11)~~ DESCRIBE SEVERITY LEVEL OF PROJECT FOLLOWING CIO INSTRUCTION FOR FORMAT.

(12) DESCRIPTION OF IT ALIGNMENT WITH BUSINESS OBJECTIVES.

KEY: IT planning

Date of Enactment or Last Substantive Amendment: ~~[June 28, 2004]~~2009

Authorizing, and Implemented or Interpreted Law: 63F-1-206; 63F-1-204; ~~[63-46a-3]~~63G-3-201



Transportation, Program Development **R926-3**

Class B and Class C Road Funds

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32723

FILED: 06/10/2009, 10:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to adopt the Regulations Governing Class B and Class C Roads, which is currently being placed verbatim into the rule. The rule change will allow the regulations governing Class B and Class C Roads to be incorporated by reference.

SUMMARY OF THE RULE OR CHANGE: The rule change does not materially change the rule. The rule incorporates by reference the Regulations Governing Class B and Class C Roads. Previous to this change the regulations were placed verbatim into the rule. The adoption of the rule will incorporate the regulations by reference.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-2-107 through 72-2-110

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: This rule updates to the newest Regulations Governing Class B and Class C Roads, dated September 19, 2008

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change which will impact the state budget. The change is all in the text with substantive changes.

❖ LOCAL GOVERNMENTS: No cost or savings are anticipated for local governments with this rule change. No new requirements were created with this rule change that impact local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No cost or savings are anticipated for small businesses with this

rule change. No new requirements were created with this rule change that impact small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No cost or savings are anticipated for compliance of affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should have no fiscal impact on businesses. John Njord, Executive Director

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

TRANSPORTATION
PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Maureen Short at the above address, by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at maureenshort@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: John R. Njord, Executive Director

**R926. Transportation, Program Development.
R926-3. Class B and Class C Road Funds.
R926-3-3. Definitions. Incorporation of B and C Regulations by Reference.**

The Department incorporates by reference the latest UDOT publication "Regulations Governing Class B and Class C Road Funds" dated September 19, 2008. This may be found on website <http://www.udot.utah.gov>. ~~[(4) "Class B and class C Roads" means all public highways, roads or streets that are traveled ways under the jurisdiction of, and maintained to a minimum standard or higher by a county or incorporated city or town, over which a conventional two-wheel drive vehicle may travel.~~

~~— (2) "Class B and class C road account" is as defined in Utah Code Ann. Section 72-2-107.~~

~~— (3) "Alleys" means those publicly or privately owned passageways, regardless of width, that were established more as a necessary convenience for adjoining property owners than for free movement of ordinary two wheel drive vehicular travel. They are typically used for garbage collection, access to private garages and rear entrances to commercial establishments.~~

~~— (4) "Construction" includes the definitions provided in Utah Code Ann. Section 72-1-102; and Title 72, Chapter 6, Transportation Code.~~

~~— (5) "Maintenance" has the definition provided in Utah Code Ann. Section 72-6-109.~~

~~— (6) "Improvement Project" has the definition provided in Utah Code Ann. Section 72-6-109.~~

—(7) "Project" has the definition provided in Utah Code Ann. Section 72-6-109.

—(8) "UDOT" means the Utah Department of Transportation.

—(9) "Local Authority" means a county or municipality.

R926-3-4. Rules.

—The program to use class B and class C roads account funds will be conducted according to Title 72, Chapter 6, Transportation Code; and other laws governing the Utah Department of Transportation, 51-2-1 through 51-2-3, and 51-2-5 through 51-2-6. The following information is provided for clarification and implementation of the statutes.

—(1) Class B and C roads account funds may be used only for construction, maintenance and highway related purposes on eligible B and C roads. Except under emergency conditions, all equipment purchased with B and C roads account funds shall be used on public roads only.

—(2) The local authority shall meet the requirements of Section.

—(3) Approval shall be required from the UDOT region director to use B and C roads account funds on state highways, for any permitted purpose.

—(4) Unlocked gates shall be permitted on eligible roads only if approved by county governing board for a county road or by the city council if a city street. Any portion of a road restricted by a privately locked gate shall not be eligible for class B and C roads account funds.

—(5) Signing that restricts use of a public road shall not be permitted. Examples of restrictive signing include:

—(a) any sign that implies the road is private or may be used only by authorized personnel;

—(b) any sign posted on an unlocked gate across an otherwise public road that reads "No Trespassing", "Private Property", or "Keep Out". It is permissible, however, for these signs to be posted on fences or posts that run parallel to a public road to mark private property.

—(6) Any local authority desiring to allow its class B or C roads account funds to accumulate until sufficient funds are available for more extensive road projects may invest said monies in accordance with the Utah State Money Management Act, Title 51, Chapter 7. All interest earned shall be credited to the local authority class B or C roads account fund.

—(7) The acceptance by a local authority of monies from the B and C roads account fund shall constitute an agreement to use the funds according to all laws and regulations that apply. Failure of any local authority to comply with the laws, regulations and procedures regarding class B and C roads account funds shall constitute a breach of contract and UDOT shall have the authority, at its discretion, to withhold subsequent allocations in each instance until compliance with all laws and regulations is accomplished.

—(8) The local authority shall meet audit requirements set forth in Title 51, Chapter 2.

—(9) The local authority may issue bonds against class B and C road account fund revenues up to a 10-year period, as provided in Utah Code Ann. Section 72-2-108.

R926-3-5. Procedures.

—(1) Class B and C roads account funds shall be distributed based on Section 72-2-108.

—(2) Population figures utilized in allocating B and C roads account funds shall be based on the most recent Bureau of Census figures as set forth in Section 72-2-108.

—(3) The UDOT Planning Statistics Section shall conduct a continuing program in which all traveled ways in each county, city and

town are regularly inventoried by physical inspection during a four to seven year period. This inventory shall determine eligible mileage and up-to-date land area for each local jurisdiction, which shall then be used in allocating B and C roads account funds.

—(4) Local authorities may request UDOT, no more than once per year, to conduct a special update to the regularly scheduled inventory so the local government may receive credit for changes to the corporate limits or road and street systems that occur between the regular inventory cycle. The request shall be in writing to the supervisor of the road inventory program in the UDOT Planning Statistics Section.

—(5) Mileage figures for streets and roads are determined by scaling from maps established by UDOT with assistance from the local authorities. Information necessary to establish roads and streets on the UDOT maps shall be obtained from the local government before mileage can receive Class B or C roads account credit.

—(6) Alleys are not included in the mileage for fund allocation.

R926-3-6. Uses of Class B and Class C Roads Account Funds.

—(1) Permissible uses of class B and C roads account funds include, but are not limited to, the following:

—(a) all construction and maintenance on eligible class B and C roads, as defined in Utah Code Ann. Sections 72-3-103 and 72-1-104;

—(b) sidewalks, curb, and gutter on all eligible class B and C roads and state highways, safety features, traffic signals, and traffic signs, as provided in Title 72, Chapter 8, Transportation Code;

—(c) investments for interest purposes; interest to be retained in the fund;

—(d) equipment purchases or equipment leases and rentals;

—(e) engineering and administration;

—(f) future reimbursement of other funds for large construction projects;

—(g) rights of way acquisition, fencing, and cattle guards;

—(h) matching federal funds as provided in Utah Code Ann. Section 72-2-110;

—(i) equipment purchased with class B and C roads account funds may be leased from the road department to another department or agency using the rental rate established by the current "Cost Reference Guide for Construction Equipment", distributed by K-3 Directory Corp., 1735 Technology Dr., San Jose, California, 95110, Phone 1-800-669-3282;

—(j) construction of road and maintenance buildings, storage sheds, and yards. Multiple use facilities may be constructed by mixing funds on a proportional basis;

—(k) construction and maintenance of alleys.

—(2) Non-permissible uses include, but are not limited to, the following:

—(a) non-road uses;

—(b) police costs;

—(c) payment for rental on equipment previously purchased with B and C roads account funds.

R926-3-7. Responsibilities.

—(1) The Utah Transportation Commission shall receive appeals from administrative actions.

—(2) The Utah Department of Transportation in cooperation with city and county officials, shall promulgate rules and procedures covering the class B and C roads program. The Department shall:

—(a) apportion class B funds to counties and C funds to cities in accordance with the formula provided by law at Utah Code Ann. Section 72-2-108;

—(b) make and mutually adopt with cities, towns and counties, rules and procedures for expenditures of these funds. The City and County "Joint Highway Committee" represents all cities and counties;

—(c) cooperate with officials of counties, cities and towns to put into effect the provisions of the law.

—(3) For the purpose of handling the affairs of the class B and C roads account fund, UDOT has assigned particular duties within the department as follows:

—(a) Each region office shall randomly check completed projects to assure responsible use of the funds.

—(b) Program Development, Planning Statistics Section prepares the quarterly class B and C allocation list using the prescribed formula.

—(i) On request UDOT shall provide individual population, mileage, and land area information used in the distribution formula.

—(ii) UDOT calculates the allocation of B and C funds each quarter.

—(iii) Each city and county receives a transfer of funds directly from the State Division of Finance.

—(c) Program Development, Planning Statistics Section shall conduct a regularly scheduled inventory to physically inspect all roads and streets under local jurisdiction and to collect data to establish current corporate limits.

—(d) Program Development, Cartography Unit may publish a complete set of maps for each county, including all cities and towns within each county, within a year or less following completion of the regular inventory in a county. The new maps shall bear the same year date the inventory was completed in the county. Each local authority shall be entitled to receive two complimentary maps of their jurisdiction when published.

—(e) UDOT may conduct special updates by request of the local authority to allow changes to be made in the figures used in allocating B and C funds between the regular inventory cycle.

—(i) Local authorities shall be notified of the final results of the update on completion of the field work by UDOT personnel; changes in the allocation figures should be made within six months after submittal of the request.

—(ii) Updates shall be subject to availability of roads for physical inspection during winter months.

—(f) UDOT reserves the right to disqualify a road from class B or C funding if maintenance is below the minimum standard and is not improved within 90 days of notification from UDOT to local officials. A disqualification may be appealed.

—(g) Office of Comptroller shall maintain record of all authorized distributions.

—(h) The UDOT local government projects engineer shall be responsible for administration of the B and C program and shall be available to assist all cities and counties.

—(i) UDOT makes no guarantee of the availability of future fund allocations and assumes no financial responsibility in that regard.

—(4) The local authority shall:

—(a) become acquainted with and follow all rules, procedures and law regarding the use of B and C roads account funds;

—(b) make definite assignments for reporting and using class B and C roads account funds;

—(c) provide for financial and compliance audits of the class B and C roads account funds as required by Sections 51-2-1 through 51-2-3, 51-2-5, and 51-2-6;

—(d) submit a copy of the required audit report and management letter/financial statement or financial report to the State Auditor's Office and to the UDOT local government projects engineer within six months of the end of the local government's fiscal year.

—(e) select and complete projects using class B and C roads account funds;

—(f) deposit and account for class B and C roads account funds in accordance with the State of Utah Uniform Accounting Manual;

—(g) maintain class B and class C roads and streets to the minimum standard or higher;

—(i) Minimum standard includes keeping the roadway free from such obstructions as excessively high centers, overgrowth of vegetation, and washouts. Unimproved roads shall be graded on a regular basis to meet this requirement.

—(ii) Roadways shall be traversable by a conventional two-wheel drive passenger vehicle during dry weather conditions.

—(iii) Snow removal and keeping a roadway passable during extreme weather conditions shall be the discretion of the local agency.

—(h) furnish to UDOT any information at the local authority's disposal that may assist UDOT in updating the mileage and land area figures of the local entity during the inventory process.

—(i) Examples of the type of information needed regarding changes in road and street mileage are:

—(A) computerized data containing a scaled map or other descriptive information, such as point of beginning, bearings, distances and curve data, that provides accurate location and alignment of individual roads and streets; or

—(B) copies of recorded subdivision plats containing descriptive information as in; or

—(C) a map showing locations of roads or streets.

—(ii) Examples of the type of information needed regarding changes to corporate limits are:

—(A) copies of annexation documents that have been filed and recorded with the county recorder's office. These documents shall contain legal descriptions that refer to commonly known reference points such as township, range, and section; or latitude and longitude; or state plane coordinates. Any annexations described by local or farm surveys that identify only lots, blocks, or properties and cannot be plotted on the map maintained by UDOT shall not be added to the land area total.

—(B) If available, computerized data showing current corporate limits as recorded with the county on a map. Local officials shall be willing to certify the corporate limits as shown on the map reflect only those annexations that have been recorded with the county.

R926-3-8. Eligibility Requirements for Class B and Class C Roads.

—(1) UDOT shall recognize claim to jurisdiction by decree of local officials. These officials include county governing boards or the governing officials of the city.

—(2) UDOT shall recognize a county/city claim of jurisdiction of any public road through private land within national forest boundaries with no additional documentation.

—(3) UDOT shall require a copy of the agreement with the National Forest Service granting jurisdiction, including temporary with renewable option, of any road passing through public lands within national forest boundaries to a county/city for these roads to be eligible.

~~—(4) Roads and streets leading to the entrance of a public park or cemetery are eligible. However, those roads inside the park or cemetery are ineligible unless they serve as a through street that carries traffic to other destinations.]~~

KEY: transportation policy, highway finances, highway, roads
Date of Enactment or Last Substantive Amendment: [~~April 1, 1997~~]2009

Notice of Continuation: November 29, 2006

Authorizing, and Implemented or Interpreted Law: [~~27-12; 72-6; 51-2-1 through 51-2-3; 51-2-5 through 51-2-6~~]72-2-107 through 72-2-110

◆ ————— ◆

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

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

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

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text 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 July 31, 2009. At its option, the agency may hold public hearings.

From the end of the waiting period through October 29, 2009, 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 63G-3-303; 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.

Insurance, Administration **R590-175-3** General Requirements

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 32415
Filed: 06/02/2009, 13:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to correct the major medical deductible from \$1,500 to \$1,000. This change was made in H.B. 188 in the 2009 Legislative Session. The bill made the change to Subsection 31A-22-613.5(4)(d)(i)(A). (DAR NOTE: H.B. 188 (2009) is found at Chapter 12, Laws of Utah 2009, and was effective 03/11/2009.)

SUMMARY OF THE RULE OR CHANGE: In Subsection R590-175-3(10)5(a)(i), the major medical deductible needs to be changed from \$1,500 to \$1,000 as per recent changes to Subsection 31A-22-613.5(4)(d)(i)(A). (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the March 15, 2009, 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 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: Sections 31A-2-201 and 31A-22-613.5

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This change will have no fiscal impact on the department's budget since it will not require the department to do additional work that would require the hiring of additional employees, nor will it change the revenues stream into the department or the budget. No additional fees will be required or lost.
- ❖ **LOCAL GOVERNMENTS:** Since this rule deals with the relationship between the department and its licensees, it will have no fiscal impact on local governments.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The reduction in the size of the major medical deductible may have some effect on large and small insurers. The wording states that the deductible should not be less than \$1,000 per person. So, insurers may reduce their deductible amount or leave it at the current amount.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The reduction in the size of the major medical deductible may have some effect on large and small insurers. The wording states that the deductible should not be less than \$1,000 per person. So, insurers may reduce their deductible amount or leave it at the current amount. If the amount is reduced to \$1,000 per person it will reduce the amount their insured will have to pay for major medical coverage.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have little effect on insurers in Utah since it is possible for them to leave their deductibles at current levels, as long as it does not go below \$1,000 for major medical coverage. 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 07/31/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2009

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.
R590-175. Basic Health Care Plan Rule.
R590-175-3. General Requirements.**

- (1) Each insurer who is required to offer a health care plan under the open enrollment provisions of Chapter 30 shall file with the department at least one basic health care plan which is specified by the insurer as complying with the provisions of this rule and which must be offered for sale to anyone qualifying for open enrollment under Chapter 30.
- (2) The basic health care plan shall not be designed or marketed in a manner that tends to discourage its purchase by anyone under the open enrollment provisions of Chapter 30.
- (3) A plan having actuarial equivalence may be considered, at the sole discretion of the commissioner.
- (4) Each insurer must use the language in this rule to present covered services, limitations and exclusions.
- (5) A plan offered in compliance with the open enrollment provisions of Chapter 30 must contain at least the benefits set forth in the Basic Health Care Plan as adopted by the commissioner.
- (6) The basic health care plan is to be offered as a package, in its entirety, and is mutually exclusive of and not comparable on a line by line basis to an insurer's other plans.
- (7) If the basic health care plan is offered by a preferred provider organization, PPO, the benefit levels shown in the plan are for contracting providers; benefit levels for non-contracting providers' services may be reduced in accordance with Section 31A-22-617.
- (8) Each insurer is to include its usual contracting provisions in its basic health care plan including submission of claims, coordination of benefits, eligibility and coverage termination, grievance procedures general terms and conditions, etc.

(9) Each insurer who is required to offer a group conversion plan under Subsection 31A-33-723 shall file with the department at least one basic health care plan that complies with the provisions of this rule and must be offered for sale to anyone qualifying for conversion.

(10) The form to follow for the Basic Health Care Plan is as follows:

TABLE
BASIC HEALTH CARE PLAN

1. MAXIMUM BENEFIT. The maximum benefit per person for the entire period for which this policy coverage is in effect shall be \$1,000,000.
2. ANNUAL MAXIMUM BENEFIT. The maximum annual benefit per person shall not be less than \$250,000.
3. OUT OF POCKET MAXIMUM PER PERSON. The annual out of pocket maximum per person not to exceed \$5,000, including any deductibles, copayments or coinsurances in the plan, for family coverage, not to exceed three times the per person out-of-pocket maximum.
4. PREEXISTING CONDITION LIMITATION.
 - (a) Any preexisting condition limitation shall be in compliance with Utah Code Subsection 31A-22-605.1(4); and
 - (b) Any waiting period shall not exceed 12 months, or 18 months in the case of a late enrollee[s], with credit for prior coverage when applicable.
5. GENERAL COST-SHARING FOR MEDICAL BENEFITS. Cost-sharing shall be based on eligible expenses. The cost-sharing features of the plan shall be the following:
 - (a) Annual Deductible.
 - (i) A major medical deductible of not less than ~~[\$1,500]~~ \$1,000 per person, for family coverage not to exceed three times the per person deductible for major medical expenses; and
 - (ii) an annual deductible for prescription benefits not to exceed \$1000 per person, for family coverage not to exceed three times the per person deductible.
 - (b) Copayment and Coinsurance.
 - (i)(A) A copayment of not less than \$25 per visit for office visits, including preventive care services; and
 - (B) A copayment of not less than \$150 per visit to the emergency room; or
 - (ii) ~~[A coinsurance of not]~~ less than 20% coinsurance per visit for office services and 20% per emergency room visits.
6. PREVENTIVE SERVICES. Preventive services covered under a managed care plan shall not be subject to the annual deductible. Covered preventive services shall consist of at least the following:

- (a) childhood immunizations in accordance with guidelines as recommended by the Centers for Disease Control, as directed and modified from time to time;
 - (b) well-baby care through age five in accordance with guidelines recommended by the American Academy of Pediatrics, as directed and modified from time to time;
 - (c) for adults and adolescents, age, sex and risk appropriate preventive and screening services in accordance with Classification A guidelines recommended by the U.S. Preventive Services Task Force, as directed and modified from time to time.
7. COST SHARING FOR PRESCRIPTION DRUGS. Benefits for prescription drugs, other than self injectable drugs, except insulin, shall be subject to either:
- (a) a copayment of not more than:
 - (i) the lesser of the cost of the prescription drug or \$15 for the lowest level of cost for prescription drugs;
 - (ii) the lesser of the cost of the prescription drug or \$25 for the second level of cost for prescription drugs; and
 - (iii) the lesser of the cost of the prescription drug or \$35 for the highest level of cost for prescription drugs; or
 - (b) a coinsurance of not less than:
 - (i) the lesser of the cost of the prescription drug or 25% for the lowest level of cost for prescription;
 - (ii) the lesser of the cost of the prescription drug or 40% for the second level of cost for prescription drugs; and
 - (iii) the lesser of the cost of the prescription drug or 60% for the highest level of cost for prescription drugs.
8. COST SHARING FOR MENTAL HEALTH BENEFITS AND/OR SUBSTANCE ABUSE SERVICES. Benefits for mental health and substance abuse services shall provide:
- (i) for individual policies:
 - (A) coinsurance of 50% of eligible expenses;
 - (B) inpatient services limited to 10 days annually per person; and
 - (C) benefits for outpatient services limited to 20 visits annually per person;
 - (ii) small employer group policies shall be subject to Sections 31A-22-625 and 31A-22-715; and
 - (iii) large employer group policies shall be subject to the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

KEY: insurance
Date of Enactment or Last Substantive Amendment: 2009
Notice of Continuation: November 8, 2005
Authorizing, and Implemented or Interpreted Law: 31A-22-613.5



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 Section 63G-3-305.

Human Services, Administration **R495-882** Termination of Parental Rights

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 32728
FILED: 06/15/2009, 10:20

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Sections 62A-1-117 and 78A-6-1106, which authorize child support to be assigned to the Department of Human Services when a child is placed in the custody or care of the state for at least 30 days and designates the Office of Recovery Services as the payee for the department for such child support payments. Section 62A-11-107 authorizes the Office of Recovery Services (ORS) to adopt, amend, and enforce rules as necessary.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments since the last five-year review of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide information regarding the Office of Recovery Services' enforcement of child support that is assigned to the state when a child is placed in the care/custody of the state or with an individual other than the parent for at least 30 days. In addition, the rule explains that the Office of Recovery Services will continue to collect support payable to the state that accrued prior to the termination of parental rights for children who were in the care or custody of the state. Therefore, this rule should be continued.

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

HUMAN SERVICES
ADMINISTRATION
120 N 200 W
SALT LAKE CITY UT 84103-1500, 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 shancelawton@utah.gov

AUTHORIZED BY: Mark Brasher, Director

EFFECTIVE: 06/15/2009



Insurance, Administration **R590-230** Suitability in Annuity Transactions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 32702
FILED: 06/02/2009, 15:10

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3)(a) gives the commissioner the authority to write rules to implement the provisions of Title 31A. Section 31A-22-425 authorizes the commissioner to write rules dealing with definitions, disclosures, exclusions, or limitations in regards to annuity contracts. The rule includes a definitions section; a section setting forth duties of the producers and insurer in an annuity contract transaction; and a section setting forth the commissioner's authority to order corrective actions and penalties when there is a violation of this law and rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received written comments regarding this rule within the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important that this rule continue in force so producers and insurers may have standards and procedures to follow in setting forth financial recommendations to consumers considering the purchase of an annuity product. These recommendations are to take into account the insurance needs and financial objectives of the consumer at the time of the transaction.

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 06/02/2009



Natural Resources, Wildlife Resources
R657-46
The Use of Game Birds in Dog Field
Trials and Training

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 32721
FILED: 06/09/2009, 07:34

**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, 23-14-19, and 23-17-9 the Wildlife Board is authorized and required to regulate and prescribe the means for the use of protected or privately owned wildlife for the training of dogs.

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 R657-46 have been received since 10/19/2004, 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 R657-46 provides the requirements, standards, and application procedures for the use of game birds in dog field trials and training. The procedures adopted in this rule have provided an effective and efficient process. Continuation of this rule is necessary for continued success for the use of game birds in dog field trials and training.

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: 06/09/2009



Technology Services, Administration
R895-6
IT Plan Submission Rule for Agencies

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 32714
FILED: 06/08/2009, 12:25

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is issued by the Chief Information Officer (CIO) under the authority of Section 63F-1-206 of the Technology Governance Act, in accordance with Section 63G-3-301 of the Utah Rulemaking Act, and Section 63F-1-204, Agency Information Technology Plans. State agencies are required by statute to submit IT plans for review and approval by CIO's office. This rule provides the format and content requirements for IT Plan submission.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is a requirement for Information Technology (IT) operations. Therefore, this rule should be continued. The rule will be amended in July 2009 to update for the new Department of Technology Services (DTS) from the Division of Information Technology Services (ITS). (DAR NOTE: The proposed amendment to Rule R895-6 is under DAR No. 32704 in this issue, July 1, 2009, of the Bulletin.)

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

TECHNOLOGY SERVICES
ADMINISTRATION
Room 6000 STATE OFFICE BUILDING
450 N STATE ST
SALT LAKE CITY UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Russell Smith at the above address, by phone at 801-514-3125, by FAX at 801-538-3622, or by Internet E-mail at russellsmith@utah.gov

AUTHORIZED BY: J Stephen Fletcher, CIO and Executive Director

EFFECTIVE: 06/08/2009



Technology Services, Administration
R895-7
Acceptable Use of Information
Technology Resources

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR File No.: 32705
FILED: 06/03/2009, 18:12

**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: This rule is issued by the Chief Information Officer (CIO) under the authority of Section 63F-1-206 of the Utah Technology Governance Act and in accordance with Section 63G-3-301 of the Utah Rulemaking Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is put in place to protect the state and its employees in the proper use of technology resources. Therefore, this rule should be continued.

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

TECHNOLOGY SERVICES
ADMINISTRATION
Room 6000 STATE OFFICE BUILDING
450 N STATE ST
SALT LAKE CITY UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Russell Smith at the above address, by phone at 801-514-3125, by FAX at 801-538-3622, or by Internet E-mail at russellsmith@utah.gov

AUTHORIZED BY: J Stephen Fletcher, CIO and Executive Director

EFFECTIVE: 06/03/2009



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 63G-3-301(9).

Abbreviations

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

Education

Administration

No. 32510 (AMD): R277-601. Standards for Utah School Buses and Operations.
Published: May 1, 2009
Effective: June 9, 2009

No. 32511 (AMD): R277-702. Procedures for the Utah General Educational Development Certificate.
Published: May 1, 2009
Effective: June 9, 2009

Environmental Quality

Water Quality

No. 32379 (AMD): R317-1-7. TMDL.
Published: March 1, 2009
Effective: June 11, 2009

No. 32480 (AMD): R317-101-2. Definitions and Eligibility.
Published: April 15, 2009
Effective: June 11, 2009

Health

Health Systems Improvement, Emergency Medical Services

No. 32499 (AMD): R426-5. Statewide Trauma System Standards.
Published: May 1, 2009
Effective: June 8, 2009

Human Services

Recovery Services

No. 32497 (AMD): R527-40. Retained Support.
Published: May 1, 2009
Effective: June 15, 2009

No. 32492 (AMD): R527-201. Medical Support Services.
Published: May 1, 2009
Effective: June 9, 2009

No. 32494 (NEW): R527-275. Passport Denial.
Published: May 1, 2009
Effective: June 9, 2009

No. 32496 (AMD): R527-601. Establishing or Modifying an Administrative Award for Child Support.
Published: May 1, 2009
Effective: June 15, 2009

Juvenile Justice Services

No. 32453 (AMD): R547-1. Residential and Nonresidential, Nonsecure Community Program Standards.
Published: April 15, 2009
Effective: June 11, 2009

Insurance

Administration

No. 32491 (AMD): R590-146-20. Standards for Marketing.
Published: April 15, 2009
Effective: June 2, 2009

Natural Resources

Parks and Recreation

No. 32470 (AMD): R651-611-4. Special Fees.
Published: April 15, 2009
Effective: June 10, 2009

Public Safety

Fire Marshal

No. 32538 (AMD): R710-6. Liquefied Petroleum Gas Rules.
Published: May 1, 2009
Effective: June 10, 2009

Transportation

Motor Carrier

No. 32488 (AMD): R909-1-1. Adoption of Federal Regulations.
Published: April 15, 2009
Effective: June 11, 2009

No. 32490 (AMD): R909-75. Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes.
Published: April 15, 2009
Effective: June 11, 2009

NOTICES OF RULE EFFECTIVE DATES

Operations, Traffic and Safety
No. 32515 (R&R): R920-50. Ropeway Operations
Safety Rules.
Published: May 1, 2009
Effective: June 11, 2009

End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2009, including notices of effective date received through June 15, 2009. 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
Administrative Services					
<u>Administration</u>					
R13-3	Americans with Disabilities Act Grievance Procedures	32204	AMD	02/26/2009	2009-1/3
R13-3-8	Relationship to Other Laws	32431	NSC	03/26/2009	Not Printed
<u>Facilities Construction and Management</u>					
R23-3	Planning and Programming for Capital Projects	32700	5YR	06/01/2009	2009-12/76
R23-29	Across the Board Delegation	32699	5YR	06/01/2009	2009-12/76
R23-29	Across the Board Delegation (5YR EXTENSION)	32399	NSC	06/01/2009	Not Printed
<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	32632	AMD	06/23/2009	2009-10/3
R25-7	Travel-Related Reimbursements for State Employees	32635	AMD	06/23/2009	2009-10/4
<u>Fleet Operations</u>					
R27-1-2	Definitions	32189	AMD	04/20/2009	2009-1/5

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R27-7	Safety and Loss Prevention of State Vehicles	32292	AMD	04/20/2009	2009-3/2
R27-10	Identification Mark for State Motor Vehicles	32291	AMD	04/20/2009	2009-3/4
<u>Fleet Operations, Surplus Property</u>					
R28-2-3	Procedures	32362	AMD	05/11/2009	2009-5/2
<u>Purchasing and General Services</u>					
R33-6	Modification and Termination of Contracts for Supplies and Services (5YR EXTENSION)	31983	NSC	01/29/2009	Not Printed
R33-6	Modification and Termination of Contracts for Supplies and Services	32344	5YR	01/29/2009	2009-4/55
R33-7	Cost Principles (5YR EXTENSION)	31984	NSC	01/29/2009	Not Printed
R33-7	Cost Principles	32345	5YR	01/29/2009	2009-4/55
R33-9	Insurance Procurement (5YR EXTENSION)	31985	NSC	01/29/2009	Not Printed
R33-9	Insurance Procurement	32346	5YR	01/29/2009	2009-4/56
<u>Records Committee</u>					
R35-1-4	Committee Minutes	32355	NSC	02/26/2009	Not Printed
R35-2	Declining Appeal Hearings	32358	NSC	02/26/2009	Not Printed
R35-4	Compliance with State Records Committee Decisions and Orders	32359	NSC	02/26/2009	Not Printed
R35-5	Subpoenas Issued by the Records Committee	32360	NSC	02/26/2009	Not Printed
R35-6	Expedited Hearings	32361	NSC	02/26/2009	Not Printed
Agriculture and Food					
<u>Administration</u>					
R51-1	Public Petitions for Declaratory Rulings	32536	NSC	05/14/2009	Not Printed
R51-3	Government Records Access and Management Act	32573	NSC	05/27/2009	Not Printed
R51-4-1	Authority and Purpose	32537	NSC	05/14/2009	Not Printed
<u>Animal Industry</u>					
R58-17	Aquaculture and Aquatic Animal Health	32199	AMD	02/19/2009	2009-1/7
R58-19-2	Definition of Terms	32693	NSC	06/18/2009	Not Printed
R58-20	Domesticated Elk Hunting Park	32397	5YR	02/23/2009	2009-6/90
R58-20-13	Liability	32692	NSC	06/18/2009	Not Printed
<u>Marketing and Development</u>					
R65-7	Horse Racing	32401	AMD	04/21/2009	2009-6/4
<u>Plant Industry</u>					
R68-2-3	Registration of Products	32031	AMD	02/25/2009	2008-21/4
R68-7	Utah Pesticide Control Act	32332	AMD	03/26/2009	2009-4/4
R68-19-2	Definition of Terms	32516	NSC	05/14/2009	Not Printed
<u>Regulatory Services</u>					
R70-310	Grade A Pasteurized Milk	32742	5YR	06/24/2009	Not Printed
R70-630	Water Vending Machine	32289	5YR	01/08/2009	2009-3/83
R70-940	Standards and Testing of Motor Fuel	32570	AMD	06/22/2009	2009-10/6
Alcoholic Beverage Control					
<u>Administration</u>					
R81-1	Scope, Definitions, and General Provisions	32222	NSC	01/22/2009	Not Printed
R81-1-2	Definitions	32542	AMD	06/24/2009	2009-10/7
R81-1-3	General Policies	32544	AMD	06/24/2009	2009-10/9

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R81-1-6	Violation Schedule	32414	AMD	04/22/2009	2009-6/15
R81-1-6	Violation Schedule	32459	AMD	05/27/2009	2009-8/5
R81-1-9	Liquor Dispensing Systems	32549	AMD	06/24/2009	2009-10/11
R81-1-11	Multiple-Licensed Facility Storage and Service	32607	NSC	05/27/2009	Not Printed
R81-1-24	Responsible Alcohol Service Plan	32552	AMD	06/24/2009	2009-10/12
R81-1-25	Sexually-Oriented Entertainers and Stage Approvals	32553	AMD	06/24/2009	2009-10/14
R81-1-28	Special Commission Meetings-Fees	32333	AMD	03/24/2009	2009-4/8
R81-2-10	State Store Hours	32608	NSC	05/27/2009	Not Printed
R81-3-13	Operational Restrictions	32554	AMD	06/24/2009	2009-10/15
R81-4A-1	Licensing	32610	NSC	05/27/2009	Not Printed
R81-4A-2	Application	32556	EMR	05/01/2009	2009-10/145
R81-4A-10	Table Service	32558	EMR	05/01/2009	2009-10/146
R81-4A-10	Table Service	32557	AMD	06/24/2009	2009-10/17
R81-4A-11	Consumption at Patron's Table	32560	EMR	05/01/2009	2009-10/147
R81-4A-11	Consumption at Patron's Table	32559	AMD	06/24/2009	2009-10/18
R81-4A-14	Brownbagging	32611	NSC	05/27/2009	Not Printed
R81-4A-15	Grandfathered Bar Structures	32562	EMR	05/01/2009	2009-10/148
R81-4A-15	Grandfathered Bar Structures	32561	AMD	06/24/2009	2009-10/19
R81-4B-1	Licensing	32612	NSC	05/27/2009	Not Printed
R81-4C-1	Licensing	32613	NSC	05/27/2009	Not Printed
R81-4C-2	Application	32564	EMR	05/01/2009	2009-10/149
R81-4C-2	Application	32563	AMD	06/24/2009	2009-10/21
R81-4C-9	Table Service	32568	EMR	05/01/2009	2009-10/150
R81-4C-9	Table Service	32567	AMD	06/24/2009	2009-10/21
R81-4C-10	Consumption at Patron's Table	32571	EMR	05/01/2009	2009-10/151
R81-4C-10	Consumption at Patron's Table	32569	AMD	06/24/2009	2009-10/22
R81-4C-13	Grandfathered Bar Structures	32574	EMR	05/01/2009	2009-10/151
R81-4C-13	Grandfathered Bar Structures	32572	AMD	06/24/2009	2009-10/23
R81-4D-1	Licensing	32575	AMD	06/24/2009	2009-10/24
R81-4D-2	Application	32614	NSC	05/27/2009	Not Printed
R81-4D-4	Insurance	32616	NSC	05/27/2009	Not Printed
R81-4D-10	State Label	32577	EMR	05/01/2009	2009-10/153
R81-4D-10	State Label	32576	AMD	06/24/2009	2009-10/26
R81-5-1	Licensing	32578	AMD	06/24/2009	2009-10/27
R81-5-2	Application	32580	AMD	06/24/2009	2009-10/28
R81-5-5	Advertising	32581	AMD	06/24/2009	2009-10/29
R81-5-6	Club Licensee Liquor Order and Return Procedures	32582	AMD	06/24/2009	2009-10/30
R81-5-7	Club License Operating Hours.	32628	AMD	06/24/2009	2009-10/31
R81-5-9	Liquor Storage	32583	AMD	06/24/2009	2009-10/31
R81-5-10	Alcohol Product Flavoring	32584	AMD	06/24/2009	2009-10/32
R81-5-11	Price Lists	32585	AMD	06/24/2009	2009-10/33
R81-5-13	Brownbagging	32588	AMD	06/24/2009	2009-10/34
R81-5-14	Membership Fees and Monthly Dues	32589	AMD	06/24/2009	2009-10/35
R81-5-15	Minors in Lounge or Bar Areas	32591	AMD	06/24/2009	2009-10/36

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R81-5-16	Sexually Oriented Adult Entertainment or Businesses	32599	AMD	06/24/2009	2009-10/37
R81-5-17	Visitor Cards	32600	AMD	06/24/2009	2009-10/38
R81-5-18	Age Verification - Dining and Social Clubs	32606	EMR	05/01/2009	2009-10/154
R81-5-18	Age Verification - Dining and Social Clubs.	32604	AMD	06/24/2009	2009-10/39
R81-10A-1	Licensing	32620	NSC	05/27/2009	Not Printed
R81-10A-7	Draft Beer Sales/Minors on Premises	32624	NSC	05/27/2009	Not Printed

Capitol Preservation Board (State)

Administration

R131-2	Capitol Hill Complex Facility Use	32343	AMD	03/26/2009	2009-4/9
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Career Service Review Board

Administration

R137-1	Grievance Procedure Rules	32429	NSC	04/07/2009	Not Printed
R137-1-2	Definitions	32286	EMR	01/08/2009	2009-3/77
R137-1-2	Definitions	32287	AMD	05/06/2009	2009-3/5
R137-1-21	The Evidentiary/Step 5 Adjudicatory Procedures	32514	NSC	05/14/2009	Not Printed
R137-1-22	The Board's Appellate/Step 6 Procedures	32288	EMR	01/08/2009	2009-3/79
R137-1-22	The Board's Appellate/Step 6 Procedures	32290	AMD	05/06/2009	2009-3/7
R137-2	Government Records Access and Management Act	32520	NSC	05/14/2009	Not Printed

Commerce

Consumer Protection

R152-21	Credit Services Organizations Act Rules	32382	5YR	02/17/2009	2009-5/24
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Corporations and Commercial Code

R154-1-7	Fees	32519	NSC	05/14/2009	Not Printed
R154-100-2	Designation of Informal Adjudicative Proceedings	32518	NSC	05/14/2009	Not Printed

Occupational and Professional Licensing

R156-1	General Rules of the Division of Occupational and Professional Licensing	32241	AMD	02/24/2009	2009-2/2
R156-22-102	Definitions	32364	AMD	04/07/2009	2009-5/3
R156-22-305	Inactive Status	32500	NSC	05/14/2009	Not Printed
R156-31b	Nurse Practice Act Rule	32212	AMD	05/01/2009	2009-1/13
R156-31b	Nurse Practice Act Rule	32212	CPR	05/01/2009	2009-6/78
R156-31b-607	Approved Nursing Education Programs Located Outside of Utah	32365	NSC	02/26/2009	Not Printed
R156-31c	Nurse Licensure Compact Rules	32430	AMD	05/11/2009	2009-7/2
R156-37	Utah Controlled Substances Act Rules	32540	NSC	05/27/2009	Not Printed
R156-37-609a	Controlled Substance Database - Reporting Procedure and Format for Submission to the Database for Pharmacies and Pharmacy Groups Selected by the Division for the Real Time Pilot Program	32411	AMD	04/21/2009	2009-6/18
R156-40-302d	Time Limitation for TRT applicants	32236	NSC	01/22/2009	Not Printed
R156-40-302f	Qualifications for Temporary License as a TRS - Supervision Required	32479	NSC	04/14/2009	Not Printed
R156-42a	Occupational Therapy Practice Act Rule	32413	5YR	02/26/2009	2009-6/90
R156-44a	Nurse Midwife Practice Act Rules	32356	5YR	02/05/2009	2009-5/24
R156-46a	Hearing Instrument Specialist Licensing Act Rule	32398	5YR	02/24/2009	2009-6/91

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-46a-302c	Qualifications for Licensure - Examination Requirements	32235	NSC	01/22/2009	Not Printed
R156-49-304	Temporary Dietitian Certificate - Supervision Required	32478	NSC	04/14/2009	Not Printed
R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	32412	AMD	04/21/2009	2009-6/20
R156-55a	Utah Construction Trades Licensing Act Rule	32438	AMD	05/11/2009	2009-7/3
R156-55d-302a	Qualifications for Licensure - Application Requirements	32477	NSC	04/14/2009	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	32001	AMD	01/01/2009	2008-21/9
R156-56-302	Licensure of Inspectors	32476	NSC	04/14/2009	Not Printed
R156-61	Psychologist Licensing Act Rule	32366	5YR	02/10/2009	2009-5/25
R156-63a	Security Personnel Licensing Act Contract Security Rule	32475	NSC	04/14/2009	Not Printed
R156-63b	Security Personnel Licensing Act Armored Car Rule	32474	NSC	04/14/2009	Not Printed
R156-64-302a	Qualifications for Licensure - Application Requirements	32473	NSC	04/14/2009	Not Printed
R156-81	Retired Volunteer Health Care Practitioner Act Rule	32551	NEW	06/22/2009	2009-10/40
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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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	32485	R652-20-1600	AMD	05/26/2009	2009-8/52
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	32457	R512-40	AMD	05/27/2009	2009-8/22
	32657	R512-41	5YR	05/07/2009	2009-11/60
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	32647	R277-733	AMD	06/23/2009	2009-10/52
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	32037	R873-22M-23	AMD	01/01/2009	2008-21/89
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	32542	R81-1-2	AMD	06/24/2009	2009-10/7
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	32549	R81-1-9	AMD	06/24/2009	2009-10/11
	32607	R81-1-11	NSC	05/27/2009	Not Printed
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	32608	R81-2-10	NSC	05/27/2009	Not Printed
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	32557	R81-4A-10	AMD	06/24/2009	2009-10/17
	32559	R81-4A-11	AMD	06/24/2009	2009-10/18
	32560	R81-4A-11	EMR	05/01/2009	2009-10/147
	32611	R81-4A-14	NSC	05/27/2009	Not Printed
	32561	R81-4A-15	AMD	06/24/2009	2009-10/19
	32562	R81-4A-15	EMR	05/01/2009	2009-10/148
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	32613	R81-4C-1	NSC	05/27/2009	Not Printed
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<u>armored car security officers</u> Commerce, Occupational and Professional Licensing	32474	R156-63b	NSC	04/14/2009	Not Printed
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	32639	R414-59-4	AMD	07/01/2009	2009-10/64
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	32663	R277-470-12	NSC	05/12/2009	Not Printed
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	32496	R527-601	AMD	06/15/2009	2009-9/21
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	32456	R512-32	AMD	05/27/2009	2009-8/19
	32657	R512-41	5YR	05/07/2009	2009-11/60
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	32042	R307-405-2	AMD	02/05/2009	2008-21/33
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	32030	R865-19S-29	AMD	01/01/2009	2008-21/82
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	32016	R865-19S-92	AMD	01/01/2009	2008-21/84
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<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
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<u>wildlife law</u>					
Natural Resources, Wildlife Resources	32129	R657-13	AMD	01/07/2009	2008-23/23
	32679	R657-60	EMR	05/19/2009	2009-12/72
	32081	R657-60-2	AMD	01/07/2009	2008-22/28
	32298	R657-60-2	AMD	03/10/2009	2009-3/72
<u>wildlife permits</u>					
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