

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63G-3-402.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114-1201, telephone 801-538-3764, FAX 801-359-0759. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: <http://www.rules.utah.gov/>

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

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Commerce Administration

Public Hearing on Proposed Modified Fee Schedule for Services Provided and Costs Incurred by the Department of Commerce During Fiscal Year 2011

The Department of Commerce will hold a hearing on Wednesday, May 12, 2010, at 11:00 a.m. in the Heber M. Wells Building, Second Floor, Conference Room 210, 160 East 300 South, Salt Lake City, Utah.

The purpose of the hearing is to obtain public comment on a proposed schedule for fees which could be assessed for services provided and costs which would be incurred for new programs created by the Utah Legislature during the 2010 General Session. The proposed modified fee schedule supplements the Department's fee schedule approved by the Legislature during its 2010 General Session.

Subsection 63J-1-303(5) of the Budgetary Procedures Act provides an agency may establish and assess regulatory fees for new programs created by the Legislature if the new program's effective date is before the Legislature's next annual general session. That statute governs the process for the interim assessment of such fees prior to subsequent legislative approval.

Background: Various divisions of the Department assess fees for licensure, registration, or certification of individuals and businesses to engage in certain occupations or professions. Changes to the existing Department fee schedule were not proposed prior to the 2010 General Session of the Utah Legislature, however, this proposed fee schedule is prompted by both legislation which was enacted during that Session and federal law. Copies of the proposed fee schedule will be distributed at the May 12, 2010, hearing.

For further information, please contact Peter Anjewierden at 801-530-6293.

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between April 02, 2010, 12:00 a.m., and April 15, 2010, 11:59 p.m. are included in this, the May 01, 2010 issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least May 21, 2010. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through August 29, 2010, 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 OF a CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** 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; 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
R156-15
Health Facility Administrator Act Rules**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 33560
FILED: 04/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Health Facility Administrator Licensing Board reviewed the rule and determined that the rule needs to be updated since the last substantive amendments to this rule were done in 1998.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, the term "rules" has been changed to "rule" where applicable. Also throughout the rule, various statute citations have been updated. In Section R156-15-102, added a definition of "distance learning" as it relates to continuing professional education. Updated the definition of "general supervision" to reflect the definition is as in Subsection R156-1-102a(4)(c). Reworded definition of "qualifying experience" to make easier to understand. In Section R156-15-302b, addition made to clarify the inclusion of Administrator-in-training (AIT) preceptorship hours as part of the education requirement. In Section R156-15-302c, additions are made to this section to clarify experience requirements. Added that 4,000 hours of the required qualifying experience hours shall be in a supervisory role and added that up to 500 hours of an approved AIT preceptorship, if in a supervisory role, may be included in the 4,000 hour requirement. In Section R156-15-302d, technical corrections are made to the section to provide better wording. In Section R156-15-307, amendments made to the section for further clarification and also added that a health facility administrator, to be approved as a preceptor, shall also be currently licensed and in good standing in Utah. In Section R156-15-309, additions clarify that: 1) continuing professional education is a condition for renewal or reinstatement of licenses; 2) no more than 10 hours shall be distance learning; and 3) education obtained from an accredited university or college in pursuit of an advanced degree may qualify as continuing education. Also amended paragraph regarding waiver from or extension of time to complete required continuing education hours.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1) and Subsection 58-1-202(1) and Subsection 58-15-3(3)

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 health facility administrators and applicants for licensure in that classification. As a result, the proposed amendments do not apply to local governments.
- ◆ **SMALL BUSINESSES:** The proposed amendments only apply to licensed health facility administrators 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.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments only apply to licensed health facility administrators and applicants for licensure in that classification. Since the majority of the proposed amendments are further clarification of the rule or technical corrections, the Division has determined that licensees and applicants should not have any increased costs or savings as a result of these amendments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed health facility administrators and applicants for licensure in that classification. Since the majority of the proposed amendments are further clarification of the rule or technical corrections, the Division has determined that licensees and applicants should not have any increased costs or savings as a result of these amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As set forth in the rule summary, this rule filing which updates and clarifies qualifying experience, preceptorship and continuing education requirements is not anticipated to cause any fiscal impact to businesses.

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 by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at ssewart@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2010

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 05/17/2010 10:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2010

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-15. Health Facility Administrator Act Rule[s].

R156-15-101. Title.

~~[These rules are]~~ This rule is known as the "Health Facility Administrator Act Rule[s]".

R156-15-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 15, as used in ~~[Title 58, Chapters 1 and 15 or these]~~ this rule[s]:

(1) "Administrator in training (AIT)" means an individual who is participating in a preceptorship with a licensed health facility administrator.

(2) "Board" means the Health Care Administrators Board.

(3) "Distance learning" means acquiring qualified professional education as referenced in Subsection R156-15-309(2) using technologies and other forms of learning, including internet, audio/visual recordings, mail or other correspondence.

~~(3)4~~ "General administration" as used in the definition of "administrator", Subsection 58-15-2(1), means that the administrator is responsible for operation of the health facility in accordance with all applicable laws regardless of whether the administrator is present full or part time in the facility or whether the administrator maintains an office inside or outside of the facility.

~~(4)5~~ "General supervision" means ~~that the supervising health facility administrator is usually and regularly present within the health care facility and when not present is available for consultation by direct voice communication with the person being supervised~~ general supervision as defined in Subsection R156-1-102a(4)(c).

~~(5)6~~ "Nursing home administrator" means a health facility administrator.

~~(6)7~~ "Preceptor" means a licensed health facility administrator who is responsible for the supervision and training of an AIT.

~~(7)8~~ "Preceptorship" means a formal training program approved by the division in collaboration with the board for an administrator in training (AIT), under the supervision of an approved licensed health facility administrator. The program is conducted in a licensed health facility.

~~(8)9~~ "Qualifying experience" ~~[includes] means at least 8,000 hours of employment in a licensed health facility [of which at least 4,000] including hours [are] in a supervisory role as referenced in Section R156-15-302c, which includes being designated in writing to have administrative responsibility when the administrator is away.~~

R156-15-103. 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 15.

R156-15-302a. Qualifications for Licensure - Application Requirements.

In accordance with Subsections 58-1-203(~~[2]1~~)(b) and 58-1-301(3), the application requirements for licensure in Section 58-15-4 are defined, clarified, or established as follows:

(1) Complete an approved AIT preceptorship consisting of a minimum of 1,000 hours.

(2) Meet either the education requirement in Section R156-15-302b or the experience requirement in Section R156-15-302c.

R156-15-302b. Qualifications for Licensure - Education Requirements.

In accordance with Subsections 58-1-203(~~[2]1~~)(b) and 58-1-301(3), the education requirement for licensure in Subsection 58-15-4(2) is defined, clarified, or established as follows:

(1) The applicant shall graduate~~[Graduation]~~ from an accredited university or college with a minimum of a baccalaureate degree.

(2) Up to 500 hours spent in an internship, practicum, or outside study program associated with a bachelor's degree in health facility administration or health care administration may be included as part of an approved AIT preceptorship as outlined in Section R156-15-307.

R156-15-302c. Qualifications for Licensure - Experience Requirements.

In accordance with Subsection 58-1-203(~~[2]1~~)(b) and 58-1-301(3), the experience requirement for licensure in Subsection 58-15-4(2) ~~[is] are~~ defined, clarified, or established as follows:

(1) The applicant shall complete~~[Completion of]~~ at least 8,000 hours of qualifying experience approved by the division in collaboration with the board.

(2) At least 4,000 hours of the qualifying experience shall be in a supervisory role.

(3) Subsection (1) may include up to 500 hours of an approved AIT preceptorship as outlined in Section R156-15-307, and if in a supervisory role may be included as part of Subsection (2).

R156-15-302d. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-1-203(~~[2]1~~)(b) and 58-1-301(3), the examination requirement for licensure in Subsection 58-15-4(4) is defined, clarified, or established as follows:

(1) The National Association of Boards of Examiners for Nursing Home Administrators (NAB) examination is the qualifying examination required for licensure as a health facility administrator.

~~(a)2~~ The passing score on the NAB examination shall be a minimum scale score of 113.

R156-15-303. 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 15 is established by rule in Section R156-1-308a(1).

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

R156-15-307. AIT Preceptorship.

(1) ~~The clinical hours spent in an internship, practicum, or outside study program associated with a bachelor's degree in health facility administration or health care administration may count toward the required hours of the approved AIT preceptorship.~~

(2) ~~The~~A preceptor shall be allowed to supervise no ~~more than two~~ AIT preceptees at a time.

(3)~~2~~ In order to be approved as a preceptor, the health facility administrator ~~must~~shall:

- ~~(a)~~ have been licensed for three years;
- ~~(b)~~ be currently licensed and in good standing in Utah; ~~and~~
- ~~(c)~~ ~~and~~be currently working in a licensed health facility.

(4)~~3~~ The AIT preceptee shall at all times be under the general supervision of the preceptor.

(5)~~4~~ The AIT preceptee may work in the facility either full or part time while completing the preceptorship requirements. Credit received for an AIT preceptorship training shall be earned only for duties related to AIT preceptorship training as set forth under Subsection (6)~~5~~.

(6)~~5~~ An approved AIT preceptorship shall include the following:

- (a) Patient ~~C~~care including:
 - (i) health maintenance;
 - (ii) social and psychological needs;
 - (iii) food service program;
 - (iv) medical care;
 - (v) recreational and therapeutic recreational activities;
 - (vi) medical records;
 - (vii) pharmaceutical program; and
 - (viii) rehabilitation program;
- (b) Personnel ~~M~~management including:
 - (i) grievance procedures;
 - (ii) performance evaluation system;
 - (iii) job descriptions/performance standards;
 - (iv) interview and hiring procedures;
 - (v) training program;
 - (vi) personnel policies and procedures; and
 - (vii) employee health and safety program;
- (c) Financial ~~M~~management including:
 - (i) developing a budget;
 - (ii) financial planning
 - (iii) cash management system; and
 - (iv) establishing accurate financial records;
- (d) Marketing and ~~P~~public ~~R~~relations including
 - (i) planning and implementing a public relations program; and
 - (ii) planning and implementing an effective marketing program;
- (e) Physical ~~R~~resource ~~M~~management including:

- (i) ground and ~~codes~~, building maintenance;
- (ii) sanitation and housekeeping procedures;
- (iii) compliance with fire life safety codes;
- (iv) security; and
- (v) fire and disaster plan;
- (f) Laws and ~~R~~regulatory ~~C~~codes including:
 - (i) knowledge of ~~m~~Medicaid and ~~m~~Medicare;
 - (ii) labor laws;
 - (iii) knowledge of building, fire and life safety codes;
 - (iv) OSHA/UOSHA;
 - (v) Bureau of Health Facility Licensure Law and Rule[s];
 - (vi) licensing and certification/professional licensing boards;
 - (vii) ~~h~~Health ~~f~~Facility ~~a~~Administrator ~~l~~Law and ~~R~~Rule[s];
 - (viii) tax laws; and
 - (ix) establishing or working with a governing board.

R156-15-309. Continuing Education.

(1) In accordance with Subsections 58-1-203(1)(g) and 58-1-308(3)(b), there is created~~There is hereby established~~ a continuing professional education requirement as a condition for renewal or reinstatement of licenses~~for all individuals licensed~~ under Title 58, Chapter 15.

(2) During each two year period commencing on June 1 of each odd numbered year, a licensee shall be required to complete not less than 40 hours of qualified professional education directly related to the licensee's professional practice, of which no more than 10 hours shall be distance learning.

(3) The required number of hours of qualified professional 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) Qualified professional education under this section shall:

- (a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a health facility administrator;
- (b) be relevant to the licensee's professional practice;
- (c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;
- (d) be prepared and presented by individuals who are qualified by education, training and experience; and
- (e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(5) Education obtained from an accredited university or college in pursuit of an advanced degree may qualify as continuing education.

(6) A licensee shall be responsible for maintaining competent records of completed qualified professional education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to qualified professional education to demonstrate it meets the requirements under this section.

~~[(6)Z] Waiver from or an extension of time to complete continuing education shall be in accordance with Section R156-1-308d. A licensee who receives a waiver or extension [documents they are engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing professional education requirements established under this section] may be excused from the requirement for a period of up to three years. [However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.]~~

KEY: licensing, health facility administrators[*]
Date of Enactment or Last Substantive Amendment: ~~[May 5, 1998]~~2010
Notice of Continuation: November 30, 2006
Authorizing, and Implemented or Interpreted Law: 58-1-106(1); 58-1-202(1); 58-15-3(3)

**Commerce, Occupational and
 Professional Licensing
 R156-71-202
 Naturopathic Physician Formulary**

**NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 33552
 FILED: 04/08/2010**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division, Naturopathic Formulary Advisory Peer Committee, and the Naturopathic Physicians Licensing Board reviewed the rule and determined that amendments need to be made. This rule filing includes several noncontrolled substances that need to be added or deleted from the formulary.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-71-202(1), the referenced 2008 edition of the American Hospital Formulary Service (AHFS) needs to have information included which is referenced on the AHFS Drug Information website. Several noncontrolled substance medications are being added to the formulary: Antidepressants, Miscellaneous; Gonadotropins, limited to Gonadotropin, Chorinoic; Skin and Mucous Membrane Agents, excluding Depigmenting and Pigmenting Agents; Skin and Mucous Membrane Agents, and Miscellaneous excluding Isotretinoin. In Subsection R156-71-202(2), updated the information to reflect that amino acids, minerals, oxygen, silver nitrate, DHEA (dihydroepiandrosterone), pregnenolone and allergy testing agents are approved for primary health care use.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-71-101 and Subsection 58-1-106(1) (a) and Subsection 58-1-202(1)(a)

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. The Division investigators should not require any additional training as a result of the proposed amendments. A possible increase in costs to the Division may occur if complaints regarding the prescribing practices of naturopathic physicians are reported to the Division. However, there are fewer than 30 licensed naturopathic physicians in Utah so any potential fiscal impact to the Division would be minimal.

◆ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed naturopathic physicians and applicants for licensure in that classification. As a result, no costs or savings are anticipated for local governments.

◆ **SMALL BUSINESSES:** It should be noted that a licensed naturopathic physician's office may qualify as a small business if the naturopathic physician owns or works in a small clinic. The proposed amendments will create a possible savings for the public and insurance carriers resulting in possible loss to secondary prescribing practitioners. Patients currently must schedule additional visits with a secondary prescribing practitioner at a cost of approximately \$100 per patient. The addition of several noncontrolled substance medications indicated above to the permitted medications also allows patients seen by a naturopathic physician to receive treatment from them instead of requiring the patient to schedule another office visit with another type of prescribing practitioner resulting in a similar cost savings. The Division is unable to determine the number of patients seen by naturopathic physicians. The proposed amendments may require pharmacists and other pharmacy employees to be educated and aware of the changes being made in the formulary which naturopathic physicians may utilize in their practice. There may be some unknown increase in costs to pharmacies in order to implement the updated formulary list. The Division is not able to determine an exact cost due to the variety of possible circumstances.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments apply primarily to licensed naturopathic physicians and applicants for licensure in that classification. It is anticipated the proposed amendments will create a possible savings for the public and insurance carriers resulting in possible loss to secondary prescribing practitioners. Patients currently must schedule additional visits with a secondary prescribing practitioner at a cost of approximately \$100 per patient. The addition of several noncontrolled substance medications indicated above to the listing of permitted medications also allows patients seen by a naturopathic physician to receive treatment from them instead of requiring the patient to schedule another office visit with another type of prescribing practitioner resulting in a similar cost savings. The Division is unable to determine the number

of patients seen by naturopathic physicians. The proposed amendments may require pharmacists and other pharmacy employees to be educated and aware of the changes being made in the formulary which naturopathic physicians may utilize in their practice. There may be some unknown increase in costs to pharmacies in order to implement the updated formulary list. The Division is not able to determine an exact cost due to the variety of possible circumstances.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments apply primarily to licensed naturopathic physicians and applicants for licensure in that classification. It is anticipated the proposed amendments will create a possible savings for the public and insurance carriers resulting in possible loss to secondary prescribing practitioners. Patients currently must schedule additional visits with a secondary prescribing practitioner at a cost of approximately \$100 per patient. The addition of several noncontrolled substance medications indicated above to the listing of permitted medications also allows patients seen by a naturopathic physician to receive treatment from them instead of requiring the patient to schedule another office visit with another type of prescribing practitioner resulting in a similar cost savings. The Division is unable to determine the number of patients seen by naturopathic physicians. The proposed amendments may require pharmacists and other pharmacy employees to be educated and aware of the changes being made in the formulary which naturopathic physicians may utilize in their practice. There may be some unknown increase in costs to pharmacies in order to implement the updated formulary list. The Division is not able to determine an exact cost due to the variety of possible circumstances.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing amends the naturopathic formulary to replace categories of legend drugs inadvertently left out of recent amendments and provides a website link to a reference formulary service. No fiscal impact to businesses is anticipated from the changes.

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 by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at [sstewart@utah.gov](mailto:ss Stewart@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2010

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 05/17/2010 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2010

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-71. Naturopathic Physician Practice Act Rule.

R156-71-202. Naturopathic Physician Formulary.

(1) In accordance with Subsections 58-71-102(8) and (12)(a) and Section 58-71-202, the naturopathic physician formulary which consists of noncontrolled substance legend medications deemed appropriate for the primary health care of patients within the scope of practice of naturopathic physicians, the prescription of which is approved by the Division in collaboration with the Naturopathic Formulary Advisory Peer Committee, consists of the following legend drugs, listed by category, with reference numbers identified in the American Hospital Formulary Service (AHFS), published by the American Society of Health System Pharmacists, 2008 edition; including the monographs available on AHFS Drug Information website, which is <http://www.ahfsdruginformation.com>:

4:00 Antihistamines
8:08 Antihelminthics
8:12 Antibacterials, oral and topical forms only
8:14 Antifungals, oral and topical forms
8:18 Antivirals limited to oral and topical dosage forms,

excluding:

8:18:08 Antiretrovirals
8:18:20 Interferons
8:18:24 Monoclonal Antibodies
8:18:32 Nucleosides and Nucleotides
8:30[⁻].04 Amebicicides
8:30[⁻].92 Miscellaneous Antiprotozoals excluding those

whose primary indication is the treatment of infection in immunosuppressed patients (i.e. Pentamidine and Trimetrexate)

8:36 Urinary anti-infectives
12:12[⁻].08[⁻].12 Selective Beta 2 Adrenergic Agonists
12:12[⁻].12 Alpha and Beta Adrenergic Agonists
12:16 Sympatholytic (Adrenergic Blocking) Agents,

limited to ergot derivatives

12:20 Skeletal Muscle Relaxants, excluding scheduled medications

20:24 Hemorrhologic Agents
24:04[⁻].08 Cardiotonic Agents - limited to Digoxin
24:06 Antilipemic Agents
24:08 Hypotensive Agents - limited to oral dosage forms
24:20 Alpha Adrenergic Blocking Agents
24:24 Beta Adrenergic Blocking Agents - limited to oral

dosage forms

24:28 Calcium Channel Blocking Agents - limited to oral dosage forms

24:32 Renin-Angiotensive-Aldosterone System Inhibitors - limited to oral dosage forms

28:08 Analgesics and Antipyretics, excluding scheduled medications
 28:16[.]04[.]20 Selective-Serotonin Reuptake Inhibitors
 28:16[.]04[.]24 Serotonin Modulators
 28:16[.]04[.]28 Tricyclics and Other Norepinephrine-Reuptake Inhibitors
28:16.04.92 Antidepressants, Miscellaneous
 40:00 Electrolytic, Caloric, and Water Balance
 40:28 Diuretics
 44:00 Enzymes, limited to digestive and proteolytic
 48:10[.]24 Leukotriene Modifiers
 52:08 Corticosteroids (oral, topical, and injectable), Anti-Inflammatory Agents except Ophthalmologic Preparations, and DMARDS
 56:22 Antiemetics
 56:28 H2 Blockers, Anti-ulcer Agents and Acid Suppressants
 68:12 Contraceptives, except implants and injections
 68:16[.]04 Estrogens
68:18 Gonadotropins; limited to Gonadotropin, Chorionic
 68:20[.]02 Alpha-Glucosidase Inhibitors
68:20.04 Biguanides
68:20[.]08 Insulins[and Biguanides]
 68:20[.]20 Sulfonyleureas
 68:24 Parathyroid
 68:32 Progestins
 68:36[.]04 Thyroid Agents, including Thyroid of glandular extract
 72:00 Local Anesthetics
 80:00 Serums, [~~limited to RheoGam~~]Toxoids, Vaccines
[80:08 Toxoids, limited to DTP and DTaP
80:12 Vaccines]
84:00 Skin and Mucous Membrane Agents, excluding Depigmenting and Pigmenting Agents (reference number 84:50)
84:92 Skin and Mucous Membrane Agents, Miscellaneous, excluding Isotretinoin
88:[28]00 [Multivitamin preparations]Vitamins
 92:00 Miscellaneous Therapeutic Agents, limited to Antigout, and Bone-Resorption Inhibitors (limited to Raloxifene), and Botulinum Toxin type A (limited to superficial injections)
 (2) In addition, [~~Amino Acids, Minerals, Oxygen and Silver Nitrate~~]the following items or substances, although not listed in Subsection (1), are approved for primary health care[.]:
(a) Amino Acids;
(b) Minerals;
(c) Oxygen;
(d) Silver Nitrate;
(e) DHEA (dihydroepiandrosterone);
(f) Pregnenolone; and
(g) Allergy Testing Agents.
 (3) In accordance with Subsections 58-71-102(8) and (12)(a) and Section 58-71-202, the naturopathic physician formulary includes a single controlled substance with the reference number identified in the AHFS, published by the American Society of Health System Pharmacists, 2008 edition:
 68:08 Testosterone.
 (4) New categories or classes of drugs will need to be approved as part of the formulary prior to prescribing/administering.

(5) The licensed naturopathic physician has the responsibility to be knowledgeable about the medication being prescribed or administered.

KEY: licensing, naturopaths, naturopathic physician
Date of Enactment or Last Substantive Amendment: ~~July 23, 2009~~2010
Notice of Continuation: January 8, 2007
Authorizing, and Implemented or Interpreted Law: 58-71-101; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Real Estate
R162-4-1
Records and Copies of Documents

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 33563
 FILED: 04/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: First, the term "closing statement" is amended to "settlement statement" to reflect current industry terminology. Second, licensees are relieved of the obligation to personally attend all closings, as technology has now advanced to the point that licensees and clients can interact in virtual environments and close transactions without meeting in person.

SUMMARY OF THE RULE OR CHANGE: The term "closing statement" is amended to "settlement statement". Language requiring a licensee to attend all closings is deleted. Language is inserted to establish that the principal broker remains responsible for the accuracy of the settlement statement regardless of whether a licensee attends the closing.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2-5.5(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These amendments bring the rules into line with current industry practices. They do not require the state to implement or enforce a program or provision that would affect the state budget.
- ◆ **LOCAL GOVERNMENTS:** The rule governs licensees. Local governments are not required to license with the division; the rule will have no effect on local governments.
- ◆ **SMALL BUSINESSES:** This rule affects individual licensees. It does not impose or relieve small businesses of any obligations or duties. The rule will have no effect on small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Affected persons are relieved of the duty to personally attend all closings. Relieving them of this duty imposes no costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons are relieved of the duty to personally attend all closings. No compliance is required. There are no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing updates the rule to reflect current industry terminology and closing practices and makes other technical amendments. No fiscal impact to businesses is anticipated from this filing.

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:

◆ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2010

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.

R162-4. Office Procedures - Real Estate Principal Brokerage.

R162-4-1. Records and Copies of Documents.

4.1. The principal broker must maintain in his office and make available for inspection and copying by the Division all records pertaining to a real estate transaction for a period of at least three calendar years following the year in which an offer was rejected or the transaction either closed or failed.

4.1.1. Location of Records. Unless otherwise authorized by the Division in writing, the business records of the principal broker shall be maintained at his principal business location or, where applicable, at the branch office. If a brokerage closes its operation the principal broker must, within ten days after the closure, notify the Division in writing of where the records will be maintained in order to comply with R162-4.1 above. If a brokerage files for bankruptcy, the principal broker must, upon filing, notify the Division in writing of the filing and the current location of brokerage records.

4.1.2. Transaction Identification. All transactions, whether pending, closed or failed, must be numbered consecutively

and identifiable in a manner that, in the opinion of the representative of the Division, the transaction can be readily followed in all pertinent documents. A sequential transaction number is to be assigned to every offer, and a separate transaction file is to be maintained for every offer, including rejected offers involving funds deposited to the brokerage trust account. A sequential transaction number need not be assigned to rejected offers which do not involve funds deposited to trust. The principal broker may, at his option, maintain a separate transaction file for each rejected offer which does not involve funds deposited to trust or keep such rejected offers in a single file.

4.1.3. Statement of Account. At the expiration of 30 days after an offer has been made by a buyer and accepted by a seller, either party may demand, and the principal broker must furnish, a detailed statement showing the current status of the transaction. On demand by either party, the principal broker must furnish an updated statement at 30-day intervals thereafter until the transaction is closed.

4.1.4. ~~Closing~~Settlement Statements. A principal broker charged with closing a sale shall cause to be prepared and delivered to the buyer and seller, upon completion of a transaction, a detailed closing statement of all ~~their~~respective accounts showing receipts and disbursement.

4.1.4.1. ~~Closing~~Settlement statements for ~~all~~real estate transactions in which a real estate principal broker participates must show the following: the date of ~~closing~~settlement; the total purchase price of the property; an itemization of ~~all~~adjustments, money, or things of value received or paid, and to whom each item is credited or debited. The dates of the adjustments must be shown if they are not the same as the date of ~~the closing~~settlement. Also shown must be the balances due from the respective parties to the transaction, and the names of the payees, makers, and assignees of all notes paid, made, or assumed. The statements furnished to each party to the transaction must contain an itemization of credits and debits ~~as~~that pertain to each party.

4.1.4.2. ~~The principal broker or his authorized representative must attend all closings. The~~Regardless of who closes a transaction, a principal broker is responsible for the content and accuracy of ~~all closing~~settlement statements prepared for the signature of the principal broker's client~~regardless of who closes the transaction~~.

4.1.4.3. ~~The~~A principal broker ~~closing the~~who closes a transaction must show proof of delivery of the ~~closing~~settlement statement(s) to the buyer and seller. Signatures of the buyer and seller on the file copy of the ~~closing~~settlement statement or a copy of a transmittal letter sent by certified mail, return receipt requested, when signatures are not attainable, will satisfy this requirement.

4.1.5. Death or Disability of Principal Broker: Upon the death or inability of a principal broker to act as a principal broker the following procedures shall apply:

4.1.5.1. In the case of a corporation, partnership, Limited Liability Company, association, or other legal entity the provisions of R162-2-2.3.2. shall apply.

4.1.5.2. In the case of a sole proprietor all brokerage activity must cease and a family attorney or representative shall: (1) notify the Division and all licensees affiliated with the principal broker in writing of the date of death or disability; (2) advise the Division as to the location where records will be stored; (3) notify

each listing and management client in writing to the effect that the principal broker is no longer in business and that the client may enter a new listing or management agreement with the firm of [his]the client's choice; (4) notify each party and cooperating broker to any existing contracts; and (5) retain trust account monies under the control of the administrator, executor or co-signer on the account until all parties to each transaction agree in writing to the disposition or until a court of competent jurisdiction issues an order relative to the disposition.

KEY: real estate business
Date of Enactment or Last Substantive Amendment: ~~August 21, 2009~~2010
Notice of Continuation: April 18, 2007
Authorizing, and Implemented or Interpreted Law: 61-2-5.5

Education, Administration
R277-501
 Educator Licensing Renewal and
 Timelines

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 33561
 FILED: 04/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide procedures for appropriate licensing consequences for educator license holders who do not respond to the Utah State Office of Education's (USOE) fingerprint background check requirement or directive in a timely manner.

SUMMARY OF THE RULE OR CHANGE: The amendments include expanding the title of the rule, adding new language in Section R277-501-6, Background Checks Required for Renewal, and adding a new Section R277-501-7, Board Directive to Educator License Holders for Fingerprint Background Check.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** There may be minimal costs to the state budget for directives to have fingerprint background checks. Depending upon circumstances, the Utah State Board of Education/USOE may cover the costs of the background checks; those costs will be paid within existing budgets.

- ♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. These amendments are procedural and affect individual licensed educators and the criminal background check process.
- ♦ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. The amendments affect individual licensed educators and do not involve small businesses.
- ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. The amendments do affect individual licensed educators but are procedural.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Criminal background checks are a requirement of educator licensing. The amendments provide changes in the procedure as a result of a criminal background check or request for a criminal background check.

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.

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 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 NO LATER THAN AT 5:00 PM ON 05/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2010

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

R277. Education, Administration.
R277-501. Educator Licensing Renewal~~]~~, Timelines, and Required Fingerprint Background Checks.
R277-501-1. Definitions.

A. "Acceptable alternative professional development activities" means activities that do not fall within a specific category under R277-501-3 but are consistent with this rule.

B. "Accredited" means a teacher preparation program accredited by the National Council for Accreditation of Teacher Education (NCATE), the Teacher Education Accreditation Council (TEAC) or one of the major regional accrediting associations as defined under R277-503-1N.

C. "Accredited school" for purposes of this rule means a public or private school that has met standards considered to be essential for the operation of a quality school program and has had formal approval by the Northwest Association of Schools and Colleges.

D. "Active educator" for purposes of this rule means an individual holding a valid license issued by the Board who is employed by a Utah public or accredited private school in a role covered by the license or an individual who has taught successfully for three of the five years in the educator's renewal cycle in a Utah public or accredited private school.

E. "Active educator license" means a license that is currently valid for service in a position requiring a license.

F. "Approved professional development" means training or courses, approved by the USOE under R277-519-3, in which current educators or individuals who have previously received a license may participate to renew a license, teach in another subject area or teach at another grade level.

G. "Board" means the Utah State Board of Education.

H. "College/university course" means a course taken through an institution approved under Section 53A-6-108. "University level course" means a course having the same academic rigor and requirements similar to a university/college course and taught by appropriately trained individuals.

I. "Course work successfully completed" for purposes of this rule means the student earns a grade C or better.

J. "Documentation of professional development activities" means:

(1) an original report card or student transcript for university/college courses;

(2) certificate of completion for an approved professional development, conference, workshop, institute, symposium, educational travel experience and staff development;

(3) summary, explanation, or copy of the product and supervisor's signature, if available, or complete documentation of professional development activities that support district and school policies and further academic pursuit or educational innovations of professional development activities. All agendas, work products, and certificates shall be maintained by the educator;

(4) an agenda or conference program demonstrating sessions and duration of professional development activities.

K. "Educational research" means conducting educational research or investigating education innovations.

L. "Inactive educator" means an individual holding a valid license issued by the Board who was employed by a Utah public or accredited private school in a role covered by the license for less than three years in the individual's renewal period.

M. "Inactive educator license" means a license, other than a surrendered, suspended or revoked license, that is currently not valid due to the holder's failure to complete requirements for license renewal.

N. "Level 1 license" means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement

under the NASDTEC Interstate Contract, to applicants who have also met all ancillary requirements established by law or rule.

O. "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license and:

(1) requirements established by law or rule;

(2) three years of successful education experience within a five-year period in a Utah public or accredited private school; and

(3) satisfaction of requirements under R277-522 for teachers whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public or accredited private school.

P. "Level 3 license" means a Utah professional educator license issued to an educator who holds a current Utah Level 2 license and has also received National Board Certification or a doctorate in education or in a field related to a content area in a unit of the public education system.

Q. "License" means an authorization issued by the Board which permits the holder to serve in a professional capacity in a Utah school.

R. "NASDTEC" means the National Association of State Directors of Teacher Education and Certification. NASDTEC maintains an Educator Information Clearinghouse for its members regarding persons whose licenses have been suspended or revoked.

S. "National Board Certification" means the successful completion of the National Board for Professional Teaching Standards (NBPTS) process, a three-year process, that may include national content-area assessment, an extensive portfolio, and assessment of video-taped classroom teaching experience.

T. "No Child Left Behind (NCLB) standards for highly qualified teachers" means that all teachers of Core academic subjects as defined under R277-510-1B, demonstrate adequate content knowledge of their teaching assignments as of July 1, 2006.

U. "Professional colleague" for purposes of this rule means a Utah Level 2 or 3 licensed educator who has adequate familiarity with the inactive educator's license area of concentration and endorsement(s).

V. "Professional development plan" means a document prepared by the educator consistent with this rule.

W. "Professional development points" means the points accumulated by a Utah license holder through activities approved under this rule for the purpose of satisfying requirements of Section 53A-6-104.

X. "USOE" means the Utah State Office of Education.

Y. "Verification of employment" means official documentation of employment as an educator.

R277-501-2. 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-6-104 which requires the Board to make rules requiring participation in professional development activities in order for educators to retain Utah licensure, and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide definitions and requirements for an educator to renew a Utah educator license. This rule requires verification of employment, development of a professional development plan and documentation of activities consistent with Section Title 53A, Chapter 6.

R277-501-3. Categories of Acceptable Activities for a Licensed Educator.

A. A college/university course:

(1) shall be successfully completed with a "C" or better, or a "pass."

(2) Each semester hour equals 18 license points; or

(3) Each quarter hour equals 12 license points.

B. Professional development:

(1) shall be state-approved under R277-519-3.

(2) may be requested from the USOE by:

(a) written request from a private provider on a form supplied by the USOE and received by the appropriate USOE subject specialist at least two weeks prior to the beginning date of the scheduled professional development, or

(b) a request submitted through the computerized professional development program connected to the USOE licensure system.

(i) The computerized process is available in most Utah school districts and area technology centers.

(ii) Such requests shall be made at least two weeks prior to the beginning of the scheduled professional development.

(3) Each clock hour of authorized professional development time equals one professional development point.

(4) The professional development shall be successfully completed through attendance and required project(s).

C. Conferences, workshops, institutes, symposia, educational travel experience or staff-development programs:

(1) Acceptable workshops and programs include those with prior written approval by the USOE, recognized professional associations, district supervisors, or school supervisors regardless of the source of sponsorship or funding.

(2) One license point is awarded for each clock hour of educational participation; license points may be limited to specific educational activities under R277-501-3C.

D. Content and pedagogy testing:

(1) Acceptable tests include those approved by the Board.

(2) 25 license points shall be awarded for each Board-approved test score report submitted.

(3) No more than two test score reports may be submitted in a license cycle for a maximum of 50 points.

(4) Each score report submitted shall have a different test number and title.

(5) The license renewal applicant is responsible for reporting of score test results. This information should be used by renewal applicants to design ongoing professional development.

E. Service in professional activities in an educational institution:

(1) Acceptable service includes that in which the license holder contributes to improving achievement in a school, district, or other educational institution, including planning and implementation of an improvement plan.

(2) One license point is awarded for each clock hour of participation.

(3) An inactive educator may earn professional development points by service in professional activities under the supervision of an active administrator.

F. Service in a leadership role in a national, state-wide or district recognized professional education organization:

(1) Acceptable service includes that in which the license holder assumes a leadership role in a professional education organization.

(2) One license point is awarded for each clock hour of participation with a maximum of 10 license points per year.

G. Educational research and innovation that results in a final, demonstrable product:

(1) Acceptable activities include conducting educational research or investigating educational innovations.

(2) This research activity shall follow school and district policy.

(3) An inactive educator may conduct research and receive professional development points on programs or issues approved by a practicing administrator.

(4) One license point is awarded for each clock hour of participation.

H. Acceptable alternative professional development activities:

(1) Acceptable activities are those that enhance or improve education yet may not fall into a specific category.

(2) These activities shall be approved by an educator's principal/supervisor or in the case of the inactive educator, a professional colleague, or a USOE or Utah school district specialist.

(3) One license point is awarded for each clock hour of participation.

I. Substituting in a Utah public or accredited private school may be an acceptable alternative professional development activity toward license renewal if the license holder is not an active educator as defined under R277-501-1D and is paid and authorized as a substitute. A substitute shall earn one point for every two hours of documented substitute time. Verification of hours shall be obtained from the employer or from the supervising principal. A license holder may earn up to 25 professional development points per year not to exceed a total of 50 points in a license cycle as a substitute.

J. A license-holder who instructs students in a professional or volunteer capacity in a Utah public or accredited private school may earn up to 25 professional development points per year not to exceed a total of 50 points in a license cycle. Paraprofessionals/volunteers may accrue one professional development point for every three hours of paraprofessional/volunteer service, as determined and verified by the building principal or supervisor.

K. Up to 50 license points may be earned in any one or any combination of categories E, F and G above.

R277-501-4. Required Renewal License Points for Designated License Holders.

A. Level 1, 2 and 3 license holders may accrue relicensure points beginning with the date of each new license renewal.

B. Level 1 license holder with no licensed educator experience.

(1) An educator desiring to retain active status shall earn at least 100 license points in each three year period.

C. Level 1 license holder with one year licensed educator experience in a Utah public or accredited private school within a three year period.

(1) An active educator shall earn at least 75 license points in each three year period; and

(2) any years taught shall have satisfactory evaluation(s).

D. Level 1 license holder with two years licensed educator experience in a Utah public or accredited private school within a three year period.

(1) An active educator shall earn at least 50 license points in each three year period; and

(2) Any years taught shall have satisfactory evaluation(s).

E. Level 1 license holder with three years licensed educator experience in a Utah public or accredited private school within a three year period.

(1) An active educator shall earn at least 25 professional development points in each three year period; and

(2) Any years taught shall have satisfactory evaluation(s).

F. An educator seeking a Level 2 license shall notify the USOE of completion of Level 2 license prerequisites consistent with R277-522, Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers and R277-502, Educator Licensing and Data Retention.

G. Level 2 license holder:

(1) An active educator shall earn at least 95 license points within each five year period. License points shall be earned in activities defined under this rule that contribute to competence, performance, and effectiveness in the education profession.

(2) An inactive educator shall earn at least 200 license points within a five year period to maintain an active educator license.

(3) An inactive educator who works one year in a Utah public or accredited private school within a five year period shall earn 165 license points within a five year period to maintain an active educator license.

(4) An inactive educator who works two years in a Utah public or accredited private school within a five year period shall earn 130 license points within a five year period to maintain an active educator license.

(5) Credit for any year(s) taught requires satisfactory evaluation(s).

H. Level 3 license holder:

(1) A Level 3 license holder with National Board Certification shall meet the National Board for Professional Teaching Standards (NBPTS) requirements consistent with the NBPTS schedule available from the USOE Educator Licensure Section. A Level 3 license holder shall be responsible to provide verification of NBPTS status prior to the license holder's designated renewal date.

(2) A Level 3 license holder with a doctorate degree from a regionally accredited college or university in education or in a field related to a content area in a unit of the public education system and shall meet the active or inactive educator Level 2 license holder requirements within a seven year period.

(3) An educator seeking a Level 3 license shall notify the USOE of completion of Level 3 license requirements. Level 3 license criteria apply to the license holder as of the license holder's renewal date following the notification to the USOE.

I. Teachers seeking license renewal who do not meet NCLB standards for highly qualified teachers under R277-510 shall focus 95 of the 200 required professional development points in teaching assignments in which the teacher does not hold an

appropriate major, major equivalent, or other NCLB highly qualified criteria.

R277-501-5. Renewal Timeline with Point Requirements for Educator Level 2 License Holders.

A. A Level 2 active educator whose license expires June 30 shall earn 95 license points during the educator's five year renewal period and shall provide verification of employment.

B. A Level 2 inactive educator whose license expires June 30 shall earn 200 license points during the educator's five year renewal period.

R277-501-6. Background Checks Required for Renewal.

A. A background check shall be required for the renewal of any Utah educator license beginning July 1, 2009 consistent with Section 53A-6-401. No license may be renewed until the completion of the background check and receipt and review of the report by the USOE.

B. Beginning no later than July 1, 2009, applicants for Utah educator license renewal shall submit fingerprints to the Utah Department of Public Safety consistent with procedures and scheduling developed and disseminated by the USOE in consultation with the Utah Department of Public Safety.

C. No later than July 1, 2009, the USOE shall provide to the Utah Department of Public Safety a list of licensed Utah educators including dates of birth, social security numbers, and other necessary demographic information to be determined between the USOE and the Utah Department of Public Safety.

D. If an educator license holder's criminal background check is incomplete or under review by the Utah Professional Practices Advisory Commission (UPPAC), the educator license holder's license shall be in a pending status until the process is concluded. The educator license holder's CACTUS file will show a dialog box directing the reviewer of the file to the USOE for further information. An educator license in a pending status cannot be renewed until the background check process is complete.

R277-501-7. Board Directive to Educator License Holders for Fingerprint Background Check.

A. The USOE may direct a Utah educator license holder to have a criminal fingerprint background check under Section 53A-6-104 for good cause shown.

B. If an educator license holder fails to comply with the directive in a reasonable time, following reasonable notice and adequate due process, the educator license holder's license may be put into a pending status subject to the educator license holder's compliance with the Board's directive.

C. The Board or its designee may review an educator license holder's compliance with the directive prior to the final decision about the educator license holder's license status.

R277-501-[7]8. Miscellaneous Renewal Information.

A. A licensed educator shall develop and maintain a professional development plan. The plan:

(1) shall be based on the educator's professional goals and current or anticipated assignment,

(2) shall take into account the goals and priorities of the school/district,

(3) shall be consistent with federal and state laws and district policies, and

(4) may be adjusted as circumstances change.

(5) shall be reviewed and signed by the educator's supervisor or a professional colleague designated by the building administrator.

B. If an educator is not employed in a Utah public or accredited private school at the renewal date, the educator shall review the plan and documentation with a professional colleague who may sign the professional development plan and USOE verification form. The verification form signed by the professional colleague shall be provided to the USOE between January 1 and June 30 of the renewal year.

C. Each Utah license holder shall be responsible for maintaining a professional development plan.

(1) It is the educator's responsibility to retain copies of complete documentation of professional development activities with appropriate signatures.

(2) The professional development documentation shall be retained by the educator for a minimum of two renewal cycles.

D. The "Verification for License Renewal" form shall be submitted to the USOE Licensing Section, 250 East 500 South, P.O. Box 144200, Salt Lake City, Utah 84114-4200 between January 1 and June 30 of the educator's assigned renewal year.

(1) Forms submitted by mail that are not complete or do not bear original signatures shall not be processed.

(2) Failure to submit the verification form consistent with deadlines shall result in beginning anew the administrative licensure process, including all attendant fees and criminal background checks.

(3) The USOE may, at its own discretion, review or audit verification for license renewal forms or educator license renewal folders or records.

E. License holders may begin to acquire professional development points under this rule on the date identified on the license as the date of licensure.

F. This rule does not explain criteria or provide credit standards for state approved professional development programs. That information is provided in R277-519.

G. Credit for district lane changes or other purposes is determined by a school district and is awarded at a school district's discretion. Professional development points should not be assumed to be credit for school district purposes, such as salary or lane change credit.

H. A renewal fee set by the USOE shall be charged to educators who seek renewal from an inactive status or to make level changes. Educators with active licenses shall be charged a renewal fee consistent with R277-502.

I. The USOE may make exceptions to the provisions of this rule for unique and compelling circumstances.

(1) Exceptions may only be made consistent with the purposes of this rule and the authorizing statutes.

(2) Requests for exceptions shall be made in writing at least 30 days prior to the license holder's renewal date to the Coordinator of Educator Licensing, USOE.

(3) Approval or disapproval shall be made in a timely manner.

J. Licenses awarded under R277-521, Professional Specialist Licensing, are subject to renewal requirements under this rule.

(1) Specialists shall be considered licensed as of September 15, 1999 or at their official employment date, whichever is later.

(2) All specialists shall be considered Level 1, 2 or 3 license holders consistent with R277-521-3, 4 and 5.

(3) Years of work experience beginning September 15, 1999 count toward levels of licensure.

K. Consistent with Section 53A-6-104(2) and (4), an educator may comply with the professional development requirements of this rule by:

(1) satisfactory completion of the educator's employing school district's district-specific professional development plan; and

(2) submission by the employing school district of the names of educators who completed district-specific professional development plans; and

(3) submission of professional development information in a timely manner consistent with the educator's license renewal cycle; failure of timely notification by districts to the USOE may result in expiration of licenses and additional time and costs for relicensure.

L. Completion of relicensure requirements by an educator under R277-501-4 or R277-501-6K, may not satisfy HOUSSE requirements for highly qualified status under No Child Left Behind, as defined in R277-520.

M. Educators are individually responsible for tracking their renewal cycles and completing professional development in a timely manner.

KEY: educational program evaluations, educator license renewal

Date of Enactment or Last Substantive Amendment: [~~October 22, 2009~~2010]

Notice of Continuation: February 18, 2010

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-104; 53A-1-401(3)

**Environmental Quality, Radiation
Control
R313-19
Requirements of General Applicability
to Licensing of Radioactive Material**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 33554
FILED: 04/13/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed due to changes to the U.S. Nuclear Regulatory Commission's (NRC) regulations in 10 CFR Parts 30, 32, and 150 that were effective on 12/17/2007. The State has entered into an agreement with the NRC to establish and maintain a compatible program for the control of radioactive material in Utah. These changes are necessary to maintain the compatibility of the Utah Radiation Control Rules with federal regulations.

SUMMARY OF THE RULE OR CHANGE: The changes are to two sections of the rule: R313-19-13 and R313-19-30. The changes to Section R313-19-13 remove references to obsolete items or products containing quantities of radioactive materials that are exempt from regulation, and adds an exemption for smoke detectors that contain no more than one microcurie of Americium-241 per detector. The changes also prohibit the aggregation of exempt quantities of radioactive material to a quantity in excess of the limits in Section R313-19-71, and does not allow a person to introduce radioactive material into a product or material that may be transferred to a person who is exempt from Subsection R313-19-13(2)(a)(i) except in accordance with a specific license issued pursuant to Subsection R313-22-75(1). The change to Section R313-19-30 does not allow out-of-state licensees to transfer or dispose of radioactive material possessed or used under Subsection R313-19-30(1) to a person who is exempt from Subsection R313-19-13(2)(a) (exempt concentrations of radioactive material other than source material).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(4) and Subsection 19-3-104(8)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The proposed changes are not anticipated to have any impact on the state budget since the changes deal with quantities and concentrations of radioactive material that are exempt from the rules. The Utah Division of Radiation Control (Division) may incur additional enforcement costs if a person were to attempt to aggregate exempt quantities of radioactive material, or to introduce radioactive materials into a product or material that may be distributed to a person exempt from the rules. However, the Division is not aware of any such activity occurring in the state at this time.

♦ **LOCAL GOVERNMENTS:** The proposed changes are not anticipated to have any fiscal impact on local government since local government would not be involved in any regulatory activity associated with the affected rule, and local government entities would not be involved in activities addressed by the changes (e.g., the aggregation of exempt quantities of radioactive material, the introduction of radioactive material into a product that may be distributed to a person exempt from the rules, etc.).

♦ **SMALL BUSINESSES:** There is no anticipated fiscal effect on small businesses from the proposed rule changes, except for small businesses that may engage in the aggregation of exempt quantities of radioactive material or the introduction of radioactive material into a product that may be distributed to a person exempt from the rules. The impact on affected small businesses is addressed below under "Compliance costs for affected persons."

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated fiscal affect on other persons from the proposed rule changes, except for persons that may engage in the aggregation of exempt quantities of radioactive material or the introduction of radioactive material into a product that may be distributed to a person exempt from the rules. The impact on affected persons is addressed below under "Compliance costs for affected persons."

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division is not aware of any person who will be considered an "affected person" because of the changes to the rule; however, there are compliance costs associated with anyone who may engage in an activity that is prohibited or limited by the rule change. One potential financial impact on affected persons is the prohibition on aggregating exempt quantities of radioactive material in order to produce an increased radiation level. After the rule is changed, persons wanting to produce an increased radiation level in a product or material will have to obtain and use quantities of radioactive material that will require the person to apply for and be issued a specific license by the Division. The costs for a specific license vary depending on the license category that is appropriate to the proposed use of the radioactive material. For example, the costs for a manufacturing and distribution license are \$1,670 initial/renewal fee and \$2,040 annual fee. The fees for a research and development license are \$700 initial/renewal and \$940 annual. Other persons affected by the proposed rule changes are those persons receiving products or materials from out-of-state persons who possess a radioactive material license from the NRC or another Agreement State who want to introduce radioactive material into a product or material. After the proposed rule changes are in effect, these out-of-state licensees will only be allowed to distribute the product or material containing radioactive material to persons who have been issued a specific radioactive material license by the Division to possess such a product or material. The fees for specific licenses in Utah for the customers of the out-of-state licensees vary depending on the intended use of the product or material containing radioactive material being distributed by the out-of-state licensee. The fees may range from \$440 (initial/renewal) and \$520 (annual) for gauge users to \$1,670 (initial/renewal) and \$2,560 (annual) for industrial radiography. All cost estimates are for the potential that there may be a person who may be affected by the rule change. However, as stated above, the Division is unaware of any person who will be affected by this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes to the rule are necessary for the Utah Radiation Control Rules to be compatible with NRC requirements, and the Division's program activities are adequate to protect the public health and safety. The Division is not aware of any business that would be impacted fiscally due to the proposed rule changes. Any future fiscal impact to businesses from this rule making will be that those seeking to engage in the activities affected by the rule changes will need to obtain a specific license from the Division for those activities.

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
ROOM 212
168 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Philip Griffin by phone at 801-536-4261, by FAX at 801-533-4097, or by Internet E-mail at pgriffin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2010

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.

R313-19. Requirements of General Applicability to Licensing of Radioactive Material.

R313-19-13. Exemptions.

(1) Source material.

(a) A person is exempt from Rules R313-19, R313-21, and R313-22 to the extent that the person receives, possesses, uses, owns, or transfers source material in a chemical mixture, compound, solution or alloy in which the source material is by weight less than 1/20 of one percent (0.05 percent) of the mixture, compound, solution, or alloy.

(b) A person is exempt from Rules R313-19, R313-21, and R313-22 to the extent that the person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material; provided, that, except as authorized in a specific license, such person shall not refine or process the ore.

(c) A person is exempt from Rules R313-19, R313-21, and R313-22 to the extent that the person receives, possesses, uses or transfers:

- (i) any quantities of thorium contained in:
 - (A) incandescent gas mantles,
 - (B) vacuum tubes,
 - (C) welding rods,

(D) electric lamps for illuminating purposes: provided that, each lamp does not contain more than 50 milligrams of thorium,

(E) germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting provided that each lamp does not contain more than two grams of thorium,

(F) rare earth metals and compounds, mixtures, and products containing not more than 0.25 percent by weight thorium, uranium, or any combination of these, or

(G) personnel neutron dosimeters provided that each dosimeter does not contain more than 50 milligrams of thorium;

(ii) source material contained in the following products:

(A) glazed ceramic tableware, provided that the glaze contains not more than 20 percent by weight source material,

(B) piezoelectric ceramic containing not more than two percent by weight source material, or

(C) glassware containing not more than ten percent by weight source material, but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass or ceramic used in construction;

(iii) photographic film, negatives and prints containing uranium or thorium;

(iv) a finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed four percent by weight and that this exemption shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of the product or part;

(v) uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of the counterweights, provided that:

(A) the counterweights are manufactured in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission authorizing distribution by the licensee pursuant to 10 CFR Part 40,

(B) each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM",

(C) each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED",

(D) The requirements specified in Subsections R313-19-13(1)(c)(v)(B) and (C) need not be met by counterweights manufactured prior to December 31, 1969, provided that such counterweights are impressed with the legend, "CAUTION - RADIOACTIVE MATERIAL - URANIUM", as previously required by the rules, and

(E) the exemption contained in Subsection R313-19-13(1)(c)(v) shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of counterweights other than repair or restoration of any plating or other covering;

(vi) natural or depleted uranium metal used as shielding constituting part of a shipping container which is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM" and the uranium metal is encased in mild steel or equally fire resistant metal of minimum wall thickness of one eighth inch (3.2 mm);

(vii) thorium contained in finished optical lenses, provided that each lens does not contain more than 30 percent by weight of thorium, and that this exemption shall not be deemed to authorize either:

(A) the shaping, grinding, or polishing of a lens or manufacturing processes other than the assembly of such lens into optical systems and devices without alteration of the lens, or

(B) the receipt, possession, use, or transfer of thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments;

(viii) uranium contained in detector heads for use in fire detection units, provided that each detector head contains not more than 0.005 microcurie (185.0 Bq) of uranium; or

(ix) thorium contained in a finished aircraft engine part containing nickel-thoria alloy, provided that:

(A) the thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide), and

(B) the thorium content in the nickel-thoria alloy does not exceed four percent by weight.

(d) The exemptions in Subsection R313-19-13(1)(c) do not authorize the manufacture of any of the products described.

(2) Radioactive material other than source material.

(a) Exempt concentrations.

(i) Except as provided in Subsection R313-19-13(2)(a)(ii) a person is exempt from Rules R313-19, R313-21 and R313-22 to the extent that the person receives, possesses, uses, transfers, owns or acquires products or materials containing:

(A) radioactive material introduced in concentrations not in excess of those listed in Section R313-19-70, or

(B) natural occurring radioactive materials containing less than 15 picocuries per gram radium-226.

(ii) A person may not introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under Subsection R313-19-13(2)(a)(i) or equivalent regulations of a Licensing State, the U.S. Nuclear Regulatory Commission or an Agreement State, except in accordance with a specific license issued pursuant to Subsection R313-22-75(1) ~~or the general license provided in Section R313-19-30~~.

(b) Exempt quantities.

(i) Except as provided in Subsections R313-19-13(2)(b)

(ii) ~~and (iii)~~ through (iv) a person is exempt from these rules to the extent that the person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities which do not exceed the applicable quantity set forth in Section R313-19-71.

(ii) Subsection R313-19-13(2)(b) does not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.

(iii) A person may not, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Section R313-19-71, knowing or having reason to believe that the quantities of radioactive material will be transferred to persons exempt under Subsection R313-19-13(2)(b) or equivalent regulations of a Licensing State, the U.S. Nuclear Regulatory Commission or an Agreement State, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, pursuant to 10 [C.F.R.]CFR Part 32 or by the Executive Secretary

pursuant to Subsection R313-22-75(2), which license states that the radioactive material may be transferred by the licensee to persons exempt under Subsection R313-19-13(2)(b) or the equivalent regulations of a Licensing State, the U.S. Nuclear Regulatory Commission or an Agreement State.

(iv) A person who possesses radioactive material received or acquired prior to September 25, 1971, under the general license formerly provided in 10 [C.F.R.]CFR Part 31.[5]4 is exempt from the requirements for a license set forth in Rule R313-19 to the extent that the person possesses, uses, transfers or owns the radioactive material. This exemption does not apply for radium-226.

(v) No person may, for purposes of producing an increased radiation level, combine quantities of radioactive material covered by this exemption so that the aggregate quantity exceeds the limits set forth in R313-19-71, except for radioactive material combined within a device placed in use before May 3, 1999, or as otherwise provided by these rules.

(c) Exempt items.

(i) Certain items containing radioactive material. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, a person is exempt from these rules to the extent that person receives, possesses, uses, transfers, owns or acquires the following products:

(A) Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

(I) 25 millicuries (925.0 MBq) of tritium per timepiece;

(II) five millicuries (185.0 MBq) of tritium per hand;

(III) 15 millicuries (555.0 MBq) of tritium per dial.

Bezels when used shall be considered as part of the dial;

(IV) 100 microcuries (3.7 MBq) of promethium-147 per watch or 200 microcuries (7.4 MBq) of promethium-147 per any other timepiece;

(V) 20 microcuries (0.74 MBq) of promethium-147 per watch hand or 40 microcuries (1.48 MBq) of promethium-147 per other timepiece hand;

(VI) 60 microcuries (2.22 MBq) of promethium-147 per watch dial or 120 microcuries (4.44 MBq) of promethium-147 per other timepiece dial. Bezels when used shall be considered as part of the dial;

(VII) the radiation dose rate from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

for wrist watches, 0.1 millirad (1.0 uGy) per hour at ten centimeters from any surface;

for pocket watches, 0.1 millirad (1.0 uGy) per hour at one centimeter from any surface;

for other timepieces, 0.2 millirad (2.0 uGy) per hour at ten centimeters from any surface;

(VIII) one microcurie (37.0 kBq) of radium-226 per timepiece in timepieces manufactured prior to the effective date of these rules.

(B) ~~[Lock illuminators containing not more than 15 millicuries (555.0 MBq) of tritium or not more than two millicuries (74.0 MBq) of promethium-147 installed in automobile locks. The levels of radiation from each lock illuminator containing promethium-147 will not exceed one millirad (10 uGy) per hour at~~

~~one centimeter from any surface when measured through 50 milligrams per square centimeter of absorber.~~

~~(C)~~ Precision balances containing not more than one millicurie (37.0 MBq) of tritium per balance or not more than 0.5 millicurie (18.5 MBq) of tritium per balance part manufactured before June 9, 2010.

~~(D)~~ Automobile shift quadrants containing not more than 25 millicuries (925 MBq) of tritium.

~~(E)~~(C) Marine compasses containing not more than 750 millicuries (27.8 GBq) of tritium gas and other marine navigational instruments containing not more than 250 millicuries (9.25 GBq) of tritium gas manufactured before June 9, 2010.

~~(F)~~ Thermostat dials and pointers containing not more than 25 millicuries (925.0 MBq) of tritium per thermostat.

~~(G)~~(D) Ionization chamber smoke detectors containing not more than 1 microcurie (37 kBq) of americium-241 per detector in the form of a foil and designed to protect life and property from fires.

(E) Electron tubes, including spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and other completely sealed tubes that are designed to conduct or control electrical currents; provided that each tube does not contain more than one of the following specified quantities of radioactive material:

(I) 150 millicuries (5.55 GBq) of tritium per microwave receiver protector tube or ten millicuries (370.0 MBq) of tritium per any other electron tube;

(II) one microcurie (37.0 kBq) of cobalt-60;

(III) five microcuries (185.0 kBq) of nickel-63;

(IV) 30 microcuries (1.11 MBq) of krypton-85;

(V) five microcuries (185.0 kBq) of cesium-137;

(VI) 30 microcuries (1.11 MBq) of promethium-147;

(VII) one microcurie (37.0 kBq) of radium-226;

and provided further, that the radiation dose rate from each electron tube containing radioactive material will not exceed one millirad (10.0 uGy) per hour at one centimeter from any surface when measured through seven milligrams per square centimeter of absorber.

~~(H)~~(F) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material, provided that:

(I) each source contains no more than one exempt quantity set forth in Section R313-19-71; and

(II) each instrument contains no more than ten exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one type or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of exempt quantities in Section R313-19-71, provided that the sum of the fractions shall not exceed unity;

(III) for purposes of Subsection R313-19-13(2)(c)(i)(H), 0.05 microcurie (1.85 kBq) of americium-241 is considered an exempt quantity under Section R313-19-71.

~~(I)~~ Spark gap irradiators containing not more than one microcurie (37.0 kBq) of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least three gallons (11.4 liters) per hour.

_____](ii) Self-luminous products containing radioactive material.

(A) Tritium, krypton-85 or promethium-147. Except for persons who manufacture, process or produce self-luminous products containing tritium, krypton-85 or promethium-147, a person is exempt from these rules to the extent that the person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 ~~[C.F.R.]~~CFR Part 32.22, which license authorizes the transfer of the product to persons who are exempt from regulatory requirements. The exemption in Subsection R313-19-13(2)(c)(ii) does not apply to tritium, krypton-85, or promethium-147 used in products for frivolous purposes or in toys or adornments.

(B) Radium-226. A person is exempt from these rules, to the extent that such person receives, possesses, uses, transfers, or owns articles containing less than 0.1 microcurie (3.7 kBq) of radium-226 which were acquired prior to the effective date of these rules.

(iii) Gas and aerosol detectors containing radioactive material.

(A) Except for persons who manufacture, process, or produce gas and aerosol detectors containing radioactive material, a person is exempt from these rules to the extent that the person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards, provided that detectors containing radioactive material shall have been manufactured, imported, or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 ~~[C.F.R.]~~CFR Part 32.26, or a Licensing State pursuant to Subsection R313-22-75(3) or equivalent requirements, which authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.

(B) Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State shall be considered exempt under Subsection R313-19-13(2)(c)(iii)(A), provided that the device is labeled in accordance with the specific license authorizing distribution of the general licensed device, and provided further that they meet the requirements of Subsection R313-22-75(3).

(C) Gas and aerosol detectors containing naturally occurring and accelerator-produced radioactive material (NARM) previously manufactured and distributed in accordance with a specific license issued by a Licensing State shall be considered exempt under Subsection R313-19-13(2)(c)(iii)(A), provided that the device is labeled in accordance with the specific license authorizing distribution, and provided further that they meet the requirements of Subsection R313-22-75(3).

(iv) Capsules containing carbon-14 urea for "in vivo" diagnostic use for humans.

(A) Except as provided in Subsection R313-19-13(2)(c)(iv)(B), any person is exempt from the requirements in Rules R313-19 and R313-32 provided that the person receives, possesses, uses, transfers, owns, or acquires capsules containing 37 kBq (1 uCi) carbon-14 urea (allowing for nominal variation that may occur

during the manufacturing process) each, for "in vivo" diagnostic use for humans.

(B) Any person who desires to use the capsules for research involving human subjects shall apply for and receive a specific license pursuant to Rule R313-32.

(C) Nothing in Subsection R313-19-13(2)(c)(iv) relieves persons from complying with applicable United States Food and Drug Administration, other Federal, and State requirements governing receipt, administration, and use of drugs.

(v) ~~[Resins containing scandium-46 and designed for sand consolidation in oil wells. A person is exempt from these rules to the extent that the person receives, possesses, uses, transfers, owns or acquires synthetic plastic resins containing scandium-46 which are designed for sand consolidation in oil wells. The resins shall have been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or shall have been manufactured in accordance with the specifications contained in a specific license issued by the Executive Secretary or an Agreement State to the manufacturer of resins pursuant to licensing requirements equivalent to those in 10 C.F.R. Part 32.16 and 32.17. This exemption does not authorize the manufacture of any resins containing scandium-46.~~

~~(vi)~~—[With respect to Subsections R313-19-13(2)(b)(iii), R313-19-13(2)(c)(i), (iii) and (iv), the authority to transfer possession or control by the manufacturer, processor, or producer of equipment, devices, commodities, or other products containing byproduct material whose subsequent possession, use, transfer, and disposal by other persons is exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

R313-19-30. Reciprocal Recognition of Licenses.

(1) Subject to these rules, a person who holds a specific license from the U.S. Nuclear Regulatory Commission, an Agreement State, or Licensing State, and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in the licensing document within this state, except in areas of exclusive federal jurisdiction, for a period not in excess of 180 days in a calendar year provided that:

(a) the licensing document does not limit the activity authorized by the document to specified installations or locations;

(b) the out-of-state licensee notifies the Executive Secretary in writing at least three days prior to engaging in such activity. Notifications shall indicate the location, period, and type of proposed possession and use within the state, and shall be accompanied by a copy of the pertinent licensing document. If, for a specific case, the three-day period would impose an undue hardship on the out-of-state licensee, the licensee may, upon application to the Executive Secretary, obtain permission to proceed sooner. The Executive Secretary may waive the requirement for filing additional written notifications during the remainder of the calendar year following the receipt of the initial notification from a person engaging in activities under the general license provided in Subsection R313-19-30(1);

(c) the out-of-state licensee complies with all applicable rules of the Board and with the terms and conditions of the licensing

document, except those terms and conditions which may be inconsistent with applicable rules of the Board;

(d) the out-of-state licensee supplies other information as the Executive Secretary may request; and

(e) the out-of-state licensee shall not transfer or dispose of radioactive material possessed or used under the general license provided in Subsection R313-19-30(1) except by transfer to a person[=

~~(i)] specifically licensed by the Executive Secretary or by the U.S. Nuclear Regulatory Commission, a Licensing State, or an Agreement State to receive the material[=~~

~~(ii) exempt from the requirements for a license for material under Subsection R313-19-13(2)(a)].~~

(2) Notwithstanding the provisions of Subsection R313-19-30(1), a person who holds a specific license issued by the U.S. Nuclear Regulatory Commission, a Licensing State, or an Agreement State authorizing the holder to manufacture, transfer, install, or service a device described in Subsection R313-21-22(4) within the areas subject to the jurisdiction of the licensing body is hereby granted a general license to install, transfer, demonstrate, or service a device in this state provided that:

(a) the person shall file a report with the Executive Secretary within thirty days after the end of a calendar quarter in which a device is transferred to or installed in this state. Reports shall identify each general licensee to whom a device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device;

(b) the device has been manufactured, labeled, installed, and serviced in accordance with applicable provisions of the specific license issued to the person by the Nuclear Regulatory Commission, a Licensing State, or an Agreement State;

(c) the person shall assure that any labels required to be affixed to the device under rules of the authority which licensed manufacture of the device bear a statement that "Removal of this label is prohibited"; and

(d) the holder of the specific license shall furnish to the general licensee to whom the device is transferred or on whose premises a device is installed a copy of the general license contained in Subsection R313-21-22(4) or in equivalent rules of the agency having jurisdiction over the manufacture and distribution of the device.

(3) The Executive Secretary may withdraw, limit, or qualify his acceptance of a specific license or equivalent licensing document issued by the U.S. Nuclear Regulatory Commission, a Licensing State or an Agreement State, or a product distributed pursuant to the licensing document, upon determining that the action is necessary in order to prevent undue hazard to public health and safety or the environment.

KEY: license, reciprocity, transportation, exemptions

Date of Enactment or Last Substantive Amendment: ~~[October 8, 2007]~~ **June 9, 2010**

Notice of Continuation: **October 5, 2006**

Authorizing, and Implemented or Interpreted Law: **19-3-104; 19-3-108**

**Environmental Quality, Radiation
Control
R313-21
General Licenses**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33555

FILED: 04/13/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed due to changes to the U.S. Nuclear Regulatory Commission's (NRC) regulations in 10 CFR Part 31 that were effective on 12/17/2007. The State has entered into an agreement with the NRC to establish and maintain a compatible program for the control of radioactive material in Utah. These changes are necessary to maintain the compatibility of the Utah Radiation Control Rules with federal regulations. There is also one typographical correction, and one correction of an incorrect rule citation.

SUMMARY OF THE RULE OR CHANGE: The rule change allows a licensee that has both a specific license and a general license to transfer a device from the general license to the specific license if: 1) the licensee's specific license allows for the possession of the device, or the specific license is amended to allow for possession of the device prior to the transfer; 2) the labeling on the device that is required because the device was initially distributed under a general license be removed or obliterated, and the device is labeled in accordance with Section R313-15-904 (including the manufacturer, model number and serial number); 3) the licensee obtains information concerning maintenance of the device that would be applicable under the specific license; and 4) the licensee reports the transfer to the Division. This rule does not require a licensee to transfer any device received under a general license to the licensee's specific license.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(4) and Subsection 19-3-104(8)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Division currently manages a specific licensing program and a general license program. A specific license is issued to an individual that contains specific requirements regarding the use of radioactive material by the individual. The individual must apply for and obtain the specific license prior to receiving radioactive material. A general license is issued by rule to anyone obtaining devices containing radioactive material that have

been distributed to the licensee under certain conditions and requirements. After receiving the devices, the general licensee must register each device with the Division, and pay the annual fee of \$20 per general license. The Division inspects specific and general licensees' compliance with the rules at specific intervals. Whenever possible, Division inspectors combine the inspection of devices licensed under the specific and general licenses held by the same licensee. However, there are times when Division inspectors travel to the same facility to perform the specific and general license inspections separately. There are currently 15 licensees with both a specific license and a general license that are regulated by the Division. If all of these licensees transferred their generally licensed devices to their specific licenses, the Division would not receive \$300 per year in registration fees (General Fund revenues). However, the Division would no longer have data entry work to enter and remove each of these devices as the licensee received new devices or transferred/disposed of old devices. The Division would not have to generate and issue a separate general license registration certificate, send out revised certificates to the licensees as the licensees' device inventory changes, nor generate additional paperwork associated with a separate inspection of the devices. Also, there would be no need to visit the licensees' facilities more frequently than the specific license inspection frequency. While it is hard to estimate the actual cost savings to the Division, it is reasonable to assume that the Division would save more than \$300 per year from the decreased registration and inspection activities associated with these licensees.

◆ **LOCAL GOVERNMENTS:** Local governments would not be impacted fiscally since they are not involved in the regulation of general or specific radioactive material licenses. Also, none of the entities with both a specific license and a general license are local government agencies.

◆ **SMALL BUSINESSES:** There is no anticipated fiscal affect on small businesses from the proposed rule changes, except for small businesses that possess both a specific license and a general license. The impact on affected small businesses is addressed below under "Compliance costs for affected persons."

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated fiscal affect on other persons from the proposed rule changes, except for persons that possess both a specific license and a general license. The impact on affected persons is addressed below under "Compliance costs for affected persons."

COMPLIANCE COSTS FOR AFFECTED PERSONS: For those affected persons transferring devices possessed under their general license to their specific license, there will be an initial cost associated with changing the labeling on each device to conform with the labeling of devices possessed under a specific license, and the affected person will have to report the transfer of the devices to the Division. The affected person can modify the device labels himself, or the affected person can employ a service technician to perform this work.

In those cases where the specific license will need to be amended prior to transferring the devices, the affected person will have to prepare and submit an amendment request to the Division. The costs associated with these actions are anticipated to be one-time expenses. Since each affected person will deal with these expenses in a unique manner, it is difficult to estimate the total cost to persons affected by this rule, but it is expected that the costs will be minimal for each affected person. Also, affected persons are not required to transfer devices from their general license to their specific license by the proposed rule change. Affected persons may have additional costs associated with required sealed source leak testing (for any contamination), physical inventories, and shutter checks; however, most of these required activities are likely to occur at the same frequency for the devices regardless of the license type. Affected persons who transfer all of their devices to a specific license will save \$20 per year in general license fees, and the affected persons will no longer incur expenses associated with reporting inventory changes to the Division as required for devices under a general license.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes to the rule are necessary for the Utah Radiation Control Rules to be compatible with NRC requirements, and the Division's program activities are adequate to protect the public health and safety. While there may be a small cost incurred by businesses opting to transfer devices containing radioactive material from a general license to a specific license, it is believed that businesses will benefit from the reduced on-going regulatory expenses and a simplified regulatory process by having only one license with the Division.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 RADIATION CONTROL
 ROOM 212
 168 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Philip Griffin by phone at 801-536-4261, by FAX at 801-533-4097, or by Internet E-mail at pgriffin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2010

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.

R313-21. General Licenses.

R313-21-22. General Licenses*--Radioactive Material Other Than Source Material.

NOTE: *Different general licenses are issued in this section, each of which has its own specific conditions and requirements.

(1) Certain devices and equipment. A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State for use pursuant to 10 CFR 31.3. This general license is subject to the provisions of R313-12-51 through R313-12-70, R313-14, R313-15, R313-18 and R313-19 as applicable.

(a) Static Elimination Devices. Devices designed for use as static eliminators which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 megabecquerel (500 uCi) of polonium-210 per device.

(b) Ion Generating Tube. Devices designed for ionization of air which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 megabecquerel (500 uCi) of polonium-210 per device or a total of not more than 1.85 gigabecquerel (50 mCi) of hydrogen-3 (tritium) per device.

(2) RESERVED.

(3) RESERVED.

(4) Certain detecting, measuring, gauging or controlling devices and certain devices for producing light or an ionized atmosphere.*

NOTE: *Persons possessing radioactive material in devices under a general license in R313-21-22(4) before January 15, 1975, may continue to possess, use, or transfer that material in accordance with the labeling requirements of R313-21-22(4) in effect on January 14, 1975.

(a) A general license is hereby issued to commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business, and state or local government agencies to own, acquire, receive, possess, use or transfer, in accordance with the provisions of R313-21-22(4)(b), (c) and (d), radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(b)(i) The general license in R313-21-22(4)(a) applies only to radioactive material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in:

(A) a specific license issued by the Executive Secretary pursuant to R313-22-75(4); or

(B) an equivalent specific license issued by the Nuclear Regulatory Commission, an Agreement State or a Licensing State.*

NOTE: *Regulations under the Federal Food, Drug, and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in 21 CFR 179.21.

(ii) The devices must have been received from one of the specific licensees described in R313-21-22(4)(b)(i) or through a transfer made under R313-21-22(4)(c)(ix).

(c) Any person who owns, acquires, receives, possesses, uses or transfers radioactive material in a device pursuant to the general license in R313-21-22(4)(a):

(i) shall assure that all labels affixed to the device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained thereon and shall comply with all instructions and precautions provided by the labels;

(ii) shall assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at other intervals as are specified in the label; however:

(A) Devices containing only krypton need not be tested for leakage of radioactive material, and

(B) Devices containing only tritium or not more than 3.7 megabecquerel (100 uCi) of other beta, gamma, or both, emitting material or 0.37 megabecquerel (10 uCi) of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose;

(iii) shall assure that other testing, installation, servicing, and removal from installation involving the radioactive materials, its shielding or containment, are performed:

(A) in accordance with the instructions provided by the labels; or

(B) by a person holding a specific license pursuant to R313-22 or from the Nuclear Regulatory Commission, an Agreement State, or a Licensing State to perform such activities;

(iv) shall maintain records showing compliance with the requirements of R313-21-22(4)(c)(ii) and (iii). The records shall show the results of tests. The records also shall show the dates of performance of, and the names of persons performing, testing, installation, servicing, and removal from the installation the radioactive material and its shielding or containment. The licensee shall retain these records as follows:

(A) Each record of a test for leakage ~~[øf]~~of radioactive material required by R313-21-22(4)(c)(ii) shall be retained for three years after the next required leak test is performed or until the sealed source is transferred or disposed of;

(B) Each record of a test of the on-off mechanism and indicator required by R313-21-22(4)(c)(ii) shall be retained for three years after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed of;

(C) Each record that is required by R313-21-22(4)(c)(iii) shall be retained for three years from the date of the recorded event or until the device is transferred or disposed of;

(v) shall immediately suspend operation of the device if there is a failure of, or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 185 becquerel (0.005 uCi) or more removable radioactive material. The device may not be operated until it has been repaired by the manufacturer or other person holding a specific license to repair the

device that was issued by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State. The device and any radioactive material from the device may only be disposed of by transfer to a person authorized by a specific license to receive the radioactive material in the device or as otherwise approved by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State. A report containing a brief description of the event and the remedial action taken; and, in the case of detection of 185 becquerel (0.005 uCi) or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use, must be furnished to the Executive Secretary within 30 days. Under these circumstances, the criteria set out in R313-15-402 may be applicable, as determined by the Executive Secretary on a case-by-case basis;

(vi) shall not abandon the device containing radioactive material;

(vii) shall not export the device containing radioactive materials except in accordance with 10 CFR 110;

(viii)(A) shall transfer or dispose of the device containing radioactive material only by export as provided by R313-21-22(4)(c)(vii), by transfer to another general licensee as authorized in R313-21-22(4)(c)(ix), to a person authorized to receive the device by a specific license issued under R313-22, to an authorized waste collector under R313-25, or equivalent regulations of the Nuclear Regulatory Commission, an Agreement State, or a Licensing State, or as otherwise approved under R313-21-22(4)(c)(viii)(C);

(B) shall furnish a report to the Executive Secretary within 30 days after transfer of a device to a specific licensee or export. The report must contain:

(I) the identification of the device by manufacturer's or initial transferor's name, model number, and serial number;

(II) the name, address, and license number of the person receiving the device, the license number is not applicable if exported; and

(III) the date of the transfer;

(C) shall obtain written approval from the Executive Secretary before transferring the device to any other specific licensee not specifically identified in R313-21-22(4)(c)(viii)(A); however, a holder of a specific license may transfer a device for possession and use under its own specific license without prior approval, if the holder:

(I) verifies that the specific license authorizes the possession and use, or applies for and obtains an amendment to the license authorizing the possession and use;

(II) removes, alters, covers, or clearly and unambiguously augments the existing label (otherwise required by R313-21-22(4)(c)(i)) so that the device is labeled in compliance with R313-15-904; however, the manufacturer, model number, and serial number must be retained;

(III) obtains the manufacturer's or initial transferor's information concerning maintenance that would be applicable under the specific license (such as leak testing procedures); and

(IV) reports the transfer under R313-21-22(4)(c)(viii)(B);

(ix) shall transfer the device to another general licensee only if:

(A) the device remains in use at a particular location. In this case, the transferor shall give the transferee a copy of

R313-21-22(4), R313-12-51, R313-15-1201, and R313-15-1202, and any safety documents identified in the label of the device. Within 30 days of the transfer, the transferor shall report to the Executive Secretary:

(I) the manufacturer's or initial transferor's name;
 (II) the model number and serial number of the device transferred;
 (III) the transferee's name and mailing address for the location of use; and
 (IV) the name, title, and phone number of the responsible individual identified by the transferee in accordance with R313-21-22(4)(c)(xii) to have knowledge of and authority to take actions to ensure compliance with the appropriate regulations and requirements; or

(B) the device is held in storage by an intermediate person in the original shipping container at its intended location of use prior to initial use by a general licensee;

(x) shall comply with the provisions of R313-15-1201 and R313-15-1202 for reporting radiation incidents, theft or loss of licensed material, but shall be exempt from the other requirements of R313-15 and R313-18;

(xi) shall respond to written requests from the Executive Secretary to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by submitting a letter to the Executive Secretary and provide written justification as to why it cannot comply;

(xii) shall appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, shall ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard;

(xiii)(A) shall register, in accordance with R313-21-22(4)(c)(xiii)(B) and (C), devices containing at least 370 megabecquerel (ten mCi) of cesium-137, 3.7 megabecquerel (0.1 mCi) of strontium-90, 37 megabecquerel (one mCi) of cobalt-60, 3.7 megabecquerel (0.1 mCi) of radium-226, or 37 megabecquerel (one mCi) of americium-241 or any other transuranic, (elements with atomic number greater than uranium-92), based on the activity indicated on the label. Each address for a location of use, as described under R313-21-22(4)(c)(xiii)(C)(IV) represents a separate general licensee and requires a separate registration and fee;

(B) if in possession of a device meeting the criteria of R313-21-22(4)(c)(xiii)(A), shall register these devices annually with the Executive Secretary and shall pay the fee required by R313-70. Registration shall include verifying, correcting, or adding, as appropriate, to the information provided in a request for registration received from the Executive Secretary. The registration information must be submitted to the Executive Secretary within 30 days of the date of the request for registration or as otherwise indicated in the request. In addition, a general licensee holding devices meeting the criteria of R313-21-22(4)(c)(xiii)(A) is subject to the bankruptcy notification requirement in R313-19-34(5) and (6);

(C) in registering devices, the general licensee shall furnish the following information and any other information specifically requested by the Executive Secretary:

(I) name and mailing address of the general licensee;
 (II) information about each device: the manufacturer or initial transferor, model number, serial number, the radioisotope and activity as indicated on the label;

(III) name, title, and telephone number of the responsible person designated as a representative of the general licensee under R313-21-22(4)(c)(xii);

(IV) address or location at which the device(s) are used, stored, or both. For portable devices, the address of the primary place of storage;

(V) certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and checking of label information; and

(VI) certification by the responsible representative of the general licensee that they are aware of the requirements of the general license; and

(D) persons generally licensed by the Nuclear Regulatory Commission, an Agreement State, or Licensing State with respect to devices meeting the criteria in R313-21-22(4)(c)(xiii)(A) are not subject to registration requirements if the devices are used in areas subject to Division jurisdiction for a period less than 180 days in any calendar year. The Executive Secretary will not request registration information from such licensees;

(xiv) shall report changes to the mailing address for the location of use, including changes in the name of a general licensee, to the Executive Secretary within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage; and

(xv) may not hold devices that are not in use for longer than 2 years. If devices with shutters are not being used, the shutter must be locked in the closed position. The testing required by R313-21-22(4)(c)(ii) need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the two-year time limit if the general licensee performs quarterly physical inventories of these devices while they are in standby.

(d) The general license in R313-21-22(4)(a) does not authorize the manufacture or import of devices containing radioactive material.

(e) The general license provided in R313-21-22(4)(a) is subject to the provisions of R313-12-51 through R313-12-53, R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, and R313-19-100.

(5) Luminous safety devices for aircraft.

(a) A general license is hereby issued to own, receive, acquire, possess and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided:

(i) each device contains not more than 370.0 gigabecquerel (10 Ci) of tritium or 11.1 gigabecquerel (300 mCi) of promethium-147; and

(ii) each device has been manufactured, assembled or initially transferred in accordance with a specific license issued by the Nuclear Regulatory Commission or an Agreement State, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the Executive Secretary or an Agreement State to the manufacturer or assembler of the device pursuant to licensing requirements equivalent to those in R313-22-75(5).

(b) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in R313-21-22(5) are exempt from the requirements of R313-15 and R313-18, except that they shall comply with the provisions of R313-15-1201 and R313-15-1202.

(c) This general license does not authorize the manufacture, assembly, repair, or import of luminous safety devices containing tritium or promethium-147.

(d) This general license does not authorize the export of luminous safety devices containing tritium or promethium-147.

(e) This general license does not authorize the ownership, receipt, acquisition, possession or use of promethium-147 contained in instrument dials.

(f) This general license is subject to the provisions of R313-12-51 through R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, and R313-19-100.

(6) Ownership of radioactive material. A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of R313-21, this general license does not authorize the manufacture, production, transfer, receipt, possession, use, import, or export of radioactive material except as authorized in a specific license.

(7) Calibration and reference sources.

(a) A general license is hereby issued to own, receive, acquire, possess, use and transfer, in the form of calibration or reference sources, americium-241, plutonium or radium-226 in accordance with the provisions of R313-21-22(7)(b) and (c), to a person who holds a specific license issued by the Executive Secretary which authorizes that person to receive, possess, use and transfer radioactive material.

(b) The general license in R313-21-22(7)(a) applies only to calibration or reference sources which have been manufactured or initially transferred in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the Nuclear Regulatory Commission pursuant to 10 CFR 32.57 or 10 CFR 70.39 or which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the Executive Secretary, a Licensing State, or an Agreement State in accordance with requirements equivalent to 10 CFR 32.57 or 10 CFR 70.39.

(c) The general license provided in R313-21-22(7)(a) is subject to the provisions of R313-12-51 through R313-12-53, R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, R313-19-100, R313-15 and R313-18. In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

(i) shall not possess at any one time, at any one location of storage or use, more than 185.0 kilobecquerel (5 uCi) of americium-241, 185.0 kilobecquerel (5 uCi) of plutonium, or 185.0 kilobecquerel (5 uCi) of radium-226 in such source;

(ii) shall not receive, possess, use or transfer a source unless the source, or the storage container, bears a label which includes one of the following statements or a substantially similar statement which contains the information called for in the following statement:

The receipt, possession, use and transfer of this source, Model No., Serial No., are subject to a general license and the regulations of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL
THIS SOURCE CONTAINS (AMERICIUM-241)
(PLUTONIUM)(RADIUM-226)*

DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

.....
Typed or printed name of the manufacturer or initial transferor

NOTE: *Show the name of the appropriate material.

(iii) shall not transfer, abandon, or dispose of a source except by transfer to a person authorized by a license from the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State to receive the source;

(iv) shall store a source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241, plutonium, or radium-226 which might otherwise escape during storage; and

(v) shall not use a source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(f) These general licenses do not authorize the manufacture, import, or export of calibration or reference sources containing americium-241, plutonium, or radium-226.

(8) RESERVED.

(9) General license for use of radioactive material for certain in vitro clinical or laboratory testing.*

NOTE: *The New Drug provisions of the Federal Food, Drug and Cosmetic Act also govern the availability and use of any specific diagnostic drug in interstate commerce.

(a) A general license is hereby issued to any physician, veterinarian in the practice of veterinary medicine, clinical laboratory or hospital to receive, acquire, possess, transfer or use, for the following stated tests, in accordance with the provisions of R313-21-22(9) (b), (c), (d), (e), and (f) the following radioactive materials in prepackaged units for use in in-vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals:

(i) iodine-125, in units not exceeding 370.0 kilobecquerel (10 uCi) each;

(ii) iodine-131, in units not exceeding 370.0 kilobecquerel (10 uCi) each;

(iii) carbon-14, in units not exceeding 370.0 kilobecquerel (10 uCi) each;

(iv) hydrogen-3 (tritium), in units not exceeding 1.85 megabecquerel (50 uCi) each;

(v) iron-59, in units not exceeding 740.0 kilobecquerel (20 uCi) each;

(vi) cobalt-57, in units not exceeding 370.0 kilobecquerel (10 uCi) each;

(vii) selenium-75, in units not to exceed 370.0 kilobecquerel (10 uCi) each; or

(viii) mock iodine-125, reference or calibration sources, in units not exceeding 1.85 kilobecquerel (0.05 uCi) of iodine-129 and 185.0 becquerel (0.005 uCi) of americium-241 each.

(b) A person shall not receive, acquire, possess, use or transfer radioactive material pursuant to the general license established by R313-21-22(9)(a) until that person has filed form DRC-07, "Registration Form-In Vitro Testing with Radioactive Material Under General License," with the Executive Secretary and received a Certificate of Registration signed by the Executive Secretary, or until that person has been authorized pursuant to R313-32 to use radioactive material under the general license in R313-21-22(9). The physician, veterinarian, clinical laboratory or hospital shall furnish on form DRC-07 the following information and other information as may be required by that form:

(i) name and address of the physician, veterinarian, clinical laboratory or hospital;

(ii) the location of use; and

(iii) a statement that the physician, veterinarian, clinical laboratory or hospital has appropriate radiation measuring instruments to carry out in vitro clinical or laboratory tests with radioactive material as authorized under the general license in R313-21-22(9)(a) and that the tests will be performed only by personnel competent in the use of radiation measuring instruments and in the handling of the radioactive material.

(c) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by R313-21-22(9)(a) shall comply with the following:

(i) The general licensee shall not possess at any one time, pursuant to the general license in R313-21-22(9)(a) at any one location of storage or use, a total amount of iodine-125, iodine-131, selenium-75, iron-59, cobalt-57, or any combination, in excess of 7.4 megabecquerel (200 uCi).

(ii) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.

(iii) The general licensee shall use the radioactive material only for the uses authorized by R313-21-22(9)(a).

(iv) The general licensee shall not transfer the radioactive material except to a person authorized to receive it pursuant to a license issued by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State or Licensing State, nor transfer the radioactive material in a manner other than in the unopened, labeled shipping container as received from the supplier.

(v) The general licensee shall dispose of the Mock Iodine-125 reference or calibration sources described in R313-21-22(9)(a)(viii) as required by R313-15-1001.

(vi) The general licensee shall pay annual fees pursuant to R313-70.

(d) The general licensee shall not receive, acquire, possess, or use radioactive material pursuant to R313-21-22(9)(a):

(i) Except as prepackaged units which are labeled in accordance with the provision of a specific license issued pursuant to R313-22-75([8]Z) or in accordance with the provisions of a

specific license issued by the Nuclear Regulatory Commission, an Agreement State, or a Licensing State which authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3(tritium), iron-59, selenium-75, cobalt-57, or Mock Iodine-125 to persons generally licensed under R313-22(9) or its equivalent, and

(ii) Unless the following statement, or a substantially similar statement which contains the information called for in the following statement, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

"This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians in the practice of veterinary medicine, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

.....
Name of Manufacturer"

(e) The physician, veterinarian, clinical laboratory or hospital possessing or using radioactive material under the general license in R313-21-22(9)(a) shall report in writing to the Executive Secretary, changes in the information previously furnished in the "Registration Form-In Vitro Testing with Radioactive Material Under General License", form DRC -07. The report shall be furnished within 30 days after the effective date of the change.

(f) Any person using radioactive material pursuant to the general license of R313-21-22(9)(a) is exempt from the requirements of R313-15 and R313-18 with respect to radioactive material covered by that general license, except that persons using the Mock Iodine-125 described in R313-21-22(9)(a)(viii) shall comply with the provisions of R313-15-1001, R313-15-1201 and R313-15-1202.

(10) Ice Detection Devices.

(a) A general license is hereby issued to own, receive, acquire, possess, use and transfer strontium-90 contained in ice detection devices, provided each device contains not more than 1.85 megabecquerel (50 uCi) of strontium-90 and each device has been manufactured or initially transferred in accordance with a specific license issued by the Nuclear Regulatory Commission, or each device has been manufactured in accordance with the specifications contained in a specific license issued by the Executive Secretary, an Agreement State, or a Licensing State to the manufacturer of the device pursuant to licensing requirements equivalent to those in 10 CFR 32.61.

(b) Persons who own, receive, acquire, possess, use or transfer strontium-90 contained in ice detection devices pursuant to the general license in R313-21-22(10)(a):

(i) shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from over-heating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State to

manufacture or service the device; or shall dispose of the device pursuant to the provisions of R313-15-1001;

(ii) shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

(iii) are exempt from the requirements of R313-15 and R313-18 except that the persons shall comply with the provisions of R313-15-1001, R313-15-1201 and R313-15-1202.

(c) This general license does not authorize the manufacture, assembly, disassembly, repair, or import of strontium-90 in ice detection devices.

(d) This general license is subject to the provision of R313-12-51 through R313-12-53, R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, and R313-19-100 of these rules.

KEY: radioactive materials, general licenses, source materials
Date of Enactment or Last Substantive Amendment: [February 11, 2009] June 9, 2010
Notice of Continuation: October 14, 2008
Authorizing, and Implemented or Interpreted Law: 19-3-104

Health, Community and Family Health Services, Children with Special Health Care Needs
R398-1
Newborn Screening

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 33559
 FILED: 04/14/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is the removal of obsolete criminal penalties, changing the laboratory address, and clarify release of records.

SUMMARY OF THE RULE OR CHANGE: The changes remove the reference to criminal penalties for violating this rule, three technical changes at Subsection R398-1-8(2), Section R398-1-11, and Section R398-1-14.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-10-6 and Section 26-1-30

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** It is possible that increased focus on use of civil money penalties could have a positive impact on state and local budgets, but any impact would be minimal.

♦ **LOCAL GOVERNMENTS:** It is possible that increased focus on use of civil money penalties could have a positive impact on state and local budgets, but any impact would be minimal.

♦ **SMALL BUSINESSES:** It is possible that increased focus on use of civil money penalties could have a minimal impact on small and large business.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** It is possible that increased focus on use of civil money penalties could have a minimal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No significant change to current enforcement practices is predicted and compliance costs are not expected to change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Criminal penalties created by rule are unlikely to have a fiscal impact on regulated business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HEALTH
 COMMUNITY AND FAMILY HEALTH SERVICES,
 CHILDREN WITH SPECIAL HEALTH CARE NEEDS
 44 N MARIO CAPECCHI DR
 SALT LAKE CITY, UT 84113
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Fay Keune by phone at 801-584-8256, by FAX at 801-536-0966, or by Internet E-mail at fkeune@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

R398. Health, Community and Family Health Services, Children with Special Health Care Needs.
R398-1. Newborn Screening.
R398-1-1. Purpose and Authority.

(1) The purpose of this rule is to facilitate early detection, prompt referral, early treatment, and prevention of disability and mental retardation in infants with certain genetic and endocrine disorders.

(2) Authority for the Newborn Screening program and promulgation of rules to implement the program are found in Sections 26-1-30(2)(a), (b), (c), (d), and (g) and 26-10-6.

R398-1-2. Definitions.
 (1) "Abnormal test result" means a result that is outside of the normal range for a given test.

(2) "Appropriate specimen" means a blood specimen submitted on the Utah Newborn Screening form that conforms with the criteria in R398-1-8.

(3) "Blood spot" means a clinical specimen(s) submitted on the filter paper (specially manufactured absorbent specimen collection paper) of the Newborn Screening form using the heel stick method.

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

(5) "Follow up" means the tracking of all newborns with an abnormal result, inadequate or unsatisfactory specimen or a quantity not sufficient specimen through to a normal result or confirmed diagnosis and referral.

(6) "Inadequate specimen" means a specimen determined by the Newborn Screening Laboratory to be unacceptable for testing.

(7) "Indeterminate result" means a result that requires another specimen to determine normal or abnormal status.

(8) "Institution" means a hospital, alternate birthing facility, or midwife service in Utah that provides maternity or nursery services or both.

(9) "Medical home/practitioner" means a person licensed by the Department of Commerce, Division of Occupational and Professional Licensing to practice medicine, naturopathy, or chiropractic or to be a nurse practitioner, as well as the licensed or unlicensed midwife who takes responsibility for delivery or the ongoing health care of a newborn.

(10) "Metabolic diseases" means those diseases screened by the Department which are caused by an inborn error of metabolism.

(11) "Newborn Screening form" means the Department's demographic form with attached Food and Drug Administration (FDA)-approved filter paper medical collection device.

(12) "Quantity not sufficient specimen" or "QNS specimen" means a specimen that has been partially tested but does not have enough blood available to complete the full testing.

(13) "Unsatisfactory specimen" means an inadequate specimen.

R398-1-3. Implementation.

(1) Each newborn in the state of Utah shall submit to the Newborn Screening testing, except as provided in Section R398-1-11.

(2) The Department of Health, after consulting with the Genetic Advisory Committee, will determine the Newborn Screening battery of tests based on demonstrated effectiveness and available funding. Disorders for which the infant blood is screened are:

- (a) Biotinidase Deficiency;
- (b) Congenital Adrenal Hyperplasia;
- (c) Congenital Hypothyroidism;
- (d) Galactosemia;
- (e) Hemoglobinopathy;
- (f) Amino Acid Metabolism Disorders:
 - (i) Phenylketonuria (phenylalanine hydroxylase deficiency and variants);
 - (ii) Tyrosinemia type 1 (fumarylacetoacetate hydrolase deficiency);
 - (iii) Tyrosinemia type 2 (tyrosine amino transferase deficiency);

(iv) Tyrosinemia type 3 (4-OH-phenylpyruvate dioxygenase deficiency);

(v) Maple Syrup Urine Disease (branched chain ketoacid dehydrogenase deficiency);

(vi) Homocystinuria (cystathionine beta synthase deficiency);

(vii) Citrullinemia (arginino succinic acid synthase deficiency);

(viii) Argininosuccinic aciduria (arginino succinic acid lyase deficiency);

(ix) Argininemia (arginase deficiency);

(x) Hyperprolinemia type 2 (pyrroline-5-carboxylate dehydrogenase deficiency);

(g) Fatty Acid Oxidation Disorders:

(i) Medium Chain Acyl CoA Dehydrogenase Deficiency;

(ii) Very Long Chain Acyl CoA Dehydrogenase Deficiency;

(iii) Short Chain Acyl CoA Dehydrogenase Deficiency;

(iv) Long Chain 3-OH Acyl CoA Dehydrogenase Deficiency;

(v) Short Chain 3-OH Acyl CoA Dehydrogenase Deficiency;

(vi) Primary carnitine deficiency (OCTN2 carnitine transporter defect);

(vii) Carnitine Palmitoyl Transferase I Deficiency;

(viii) Carnitine Palmitoyl Transferase 2 Deficiency;

(ix) Carnitine Acylcarnitine Translocase Deficiency;

(x) Multiple Acyl CoA Dehydrogenase Deficiency;

(h) Organic Acids Disorders:

(i) Propionic Acidemia (propionyl CoA carboxylase deficiency);

(ii) Methylmalonic acidemia (multiple enzymes);

(iii) Isovaleric acidemia (isovaleryl CoA dehydrogenase deficiency);

(iv) 2-Methylbutyryl CoA dehydrogenase deficiency;

(v) Isobutyryl CoA dehydrogenase deficiency;

(vi) 2-Methyl-3-OH-butyryl-CoA dehydrogenase deficiency;

(vii) Glutaric acidemia type 1 (glutaryl CoA dehydrogenase deficiency);

(viii) 3-Methylcrotonyl CoA carboxylase deficiency;

(ix) 3-Ketothiolase deficiency;

(x) 3-Hydroxy-3-methyl glutaryl CoA lyase deficiency;

(xi) Holocarboxylase synthase (multiple carboxylases) deficiency; and

(i) Cystic Fibrosis.

R398-1-4. Responsibility for Collection of the First Specimen.

(1) If the newborn is born in an institution, the institution must collect and submit an appropriate specimen, unless the newborn is transferred to another institution prior to 48 hours of age.

(2) If the newborn is born outside of an institution, the practitioner or other person primarily responsible for providing assistance to the mother at the birth must arrange for the collection and submission of an appropriate specimen.

(3) If there is no other person in attendance of the birth, the parent or legal guardian must arrange for the collection and submission of an appropriate specimen.

(4) If the newborn is transferred to another institution prior to 48 hours of age, the receiving health institution must collect and submit an appropriate specimen.

R398-1-5. Timing of Collection of First Specimen.

The first specimen shall be collected between 48 hours and five days of age. Except:

(1) If the newborn is discharged from an institution before 48 hours of age, an appropriate specimen must be collected within four hours of discharge.

(2) If the newborn is to receive a blood transfusion or dialysis, the appropriate specimen must be collected immediately before the procedure, except in emergency situations where time does not allow for collection of the specimen. If the newborn receives a blood transfusion or dialysis prior to collecting the appropriate specimen the following must be done:

(a) Repeat the collection and submission of an appropriate specimen 7-10 days after last transfusion or dialysis for a second screening specimen;

(b) Repeat the collection and submission of an appropriate specimen 120 days after last transfusion or dialysis for a first screening specimen.

R398-1-6. Parent Education.

The person who has responsibility under Section R398-1-4 shall inform the parent or legal guardian of the required collection and submission and the disorders screened. That person shall give the second half of the Newborn Screening form to the parent or legal guardian with instructions on how to arrange for collection and submission of the second specimen.

R398-1-7. Timing of Collection of the Second Specimen.

A second specimen shall be collected between 7 and 28 days of age.

(1) The parent or legal guardian shall arrange for the collection and submission of the appropriate second specimen through an institution, medical home/practitioner, or local health department.

(2) If the newborn's first specimen was obtained prior to 48 hours of age, the second specimen shall be collected by fourteen days of age.

(3) If the newborn is hospitalized beyond the seventh day of life, the institution shall arrange for the collection and submission of the appropriate second specimen.

R398-1-8. Criteria for Appropriate Specimen.

(1) The institution or medical home/practitioner collecting the appropriate specimen must:

(a) Use only a Newborn Screening form purchased from the Department. The fee for the Newborn Screening form is set by the Legislature in accordance with Section 26-1-6;

(b) Correctly store the Newborn Screening form;

(c) Not use the Newborn Screening form beyond the date of expiration;

(d) Not alter the Newborn Screening form in any way;

(e) Complete all information on the Newborn Screening form. If the infant is being adopted, the following may be omitted: infant's last name, birth mother's name, address, and telephone number. Infant must have an identifying name, and a contact person must be listed;

(f) Apply sufficient blood to the filter paper;

(g) Not contaminate the filter paper with any foreign substance;

(h) Not tear, perforate, scratch, or wrinkle the filter paper;

(i) Apply blood evenly to one side of the filter paper and be sure it soaks through to the other side;

(j) Apply blood to the filter paper in a manner that does not cause caking;

(k) Collect the blood in such a way as to not cause serum or tissue fluids to separate from the blood;

(l) Dry the specimen properly;

(m) Not remove the filter paper from the Newborn Screening form.

(2) Submit the completed Newborn Screening form to the Utah Department of Health, Newborn Screening Laboratory, [46-North Medical Drive, Salt Lake City, Utah 84113]4431 South 2700 West, Taylorsville, Utah 84119.

(a) The Newborn Screening form shall be placed in an envelope large enough to accommodate it without folding the form.

(b) If mailed, the Newborn Screening form shall be placed in the U.S. Postal system within 24 hours of the time the appropriate specimen was collected.

(c) If hand-delivered, the Newborn Screening form shall be delivered within 48 hours of the time the appropriate specimen was collected.

R398-1-9. Abnormal Result.

(1)(a) If the Department finds an abnormal result consistent with a disease state, the Department shall send written notice to the medical home/practitioner noted on the Newborn Screening form.

(b) If the Department finds an indeterminate result on the first screening, the Department shall determine whether to send a notice to the medical home/practitioner based on the results on the second screening specimen.

(2) The Department may require the medical home/practitioner to collect and submit additional specimens for screening or confirmatory testing. The Department shall pay for the initial confirmatory testing on the newborn requested by the Department. The Department may recommend additional diagnostic testing to the medical home/practitioner. The cost of additional testing recommended by the Department is not covered by the Department.

(3) The medical home/practitioner shall collect and submit specimens within the time frame and in the manner instructed by the Department.

(4) As instructed by the Department or the medical home/practitioner, the parent or legal guardian of a newborn identified with an abnormal test result shall promptly take the newborn to the Department or medical home/practitioner to have an appropriate specimen collected.

(5) The medical home/practitioner who makes the final diagnosis shall complete a diagnostic form and return it to the Department within 30 days of the notification letter from the Department.

R398-1-10. Inadequate or Unsatisfactory Specimen, or QNS Specimen.

(1) If the Department finds an inadequate or unsatisfactory specimen, or QNS specimen, the Department shall inform the medical home/practitioner noted on the Newborn Screening form.

(2) The medical home/practitioner shall submit an appropriate specimen in accordance with Section R398-1-8. The specimen shall be collected and submitted within two days of notice, and the form shall be labeled for testing as directed by the Department.

(3) The parent or legal guardian of a newborn identified with an inadequate or unsatisfactory specimen or QNS specimen shall promptly take the newborn to the medical home/practitioner to have an appropriate specimen collected.

R398-1-11. Testing Refusal.

A parent or legal guardian may refuse to allow the required testing for religious reasons only. The medical home/practitioner or institution shall file in the newborn's record documentation of refusal, reason, education of family about the disorders, and signed waiver by both parents or legal guardian. The practitioner or institution shall submit a copy of the refusal to the Utah Department of Health, [~~Family Health Services,~~] Newborn Screening Program, P.O. Box 144710, Salt Lake City, UT 84114-4710.

R398-1-12. Access to Medical Records.

(1) The Department shall have access to the medical records of a newborn in order to identify medical home/practitioner, reason appropriate specimen was not collected, or to collect missing demographic information.

(2) The institution shall enter the Newborn Screening form number, also known as the Birth Record Number, into the Vital Records database and the Newborn Hearing Screening database.

R398-1-13. Noncompliance by Parent or Legal Guardian.

If the medical home/practitioner or institution has information that leads it to believe that the parent or legal guardian is not complying with this rule, the medical home/practitioner or institution shall report such noncompliance as medical neglect to the Department.

R398-1-14. Confidentiality and Related Information.

(1) The Department initially releases test results to the institution of birth for first specimens and to the medical home/practitioner, as noted on the Newborn Screening form, for the second specimen.

(2) The Department notifies the medical home/practitioner noted on the Newborn Screening form as provided in Section R398-1-9(1) of any results that require follow up.

(3) The Department releases information to ~~the~~ a medical home/practitioner ~~[noted on the Newborn Screening form]~~ on a need to know basis; i.e., routine pediatric care, [for] timely and effective referral for diagnostic services or to ensure appropriate management for individuals with confirmed diagnosis. Release may be verbal, by a hard copy of results or available electronically by authorized access.

(4) Upon request of the parent or guardian, the Department may release results as directed in the release.

(5) All requests for test results or records are governed by Utah Code Title 26, Chapter 3.

(6) The Department may release information in summary, statistical, or other forms that do not identify particular individuals.

(7) A testing laboratory that analyzes newborn screening samples for the Department may not release information or samples without the Department's express written direction.

R398-1-15. Blood Spots.

(1) Blood spots become the property of the Department.

(2) The Department includes in parent education materials information about the Department's policy on the retention and use of residual newborn blood spots.

(3) The Department may use residual blood spots for newborn screening quality assessment activities.

(4) The Department may release blood spots for research upon the following:

(a) The person proposing to conduct the research applies in writing to the Department for approval to perform the research. The application shall include a written protocol for the proposed research, the person's professional qualifications to perform the proposed research, and other information if needed and requested by the Department. When appropriate, the proposal will then be submitted to the Department's Internal Review Board for approval.

(b) The Department shall de-identify blood spots it releases unless it obtains informed consent of a parent or guardian to release identifiable samples.

(c) All research must be first approved by the Department's Internal Review Board.

R398-1-16. Retention of Blood Spots.

(1) The Department retains blood spots for a minimum of 90 days.

(2) Prior to disposal, the Department shall de-identify and autoclave the blood spots.

R398-1-17. Reporting of Disorders.

If a diagnosis is made for one of the disorders screened by the Department that was not identified by the Department, the medical home/practitioner shall report it to the Department.

R398-1-18. Statutory Penalties.

As required by Subsection 63G-3-201(5): Any ~~[person]~~ medical home/practitioner or facility responsible for submission of a newborn screen that violates any provision of this rule may be assessed a civil money penalty ~~[not to exceed the sum of \$5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor]~~ as provided in Section 26-23-6.

KEY: health care, newborn screening
Date of Enactment or Last Substantive Amendment: ~~June 25, 2008~~ **2010**
Notice of Continuation: September 10, 2009
Authorizing, and Implemented or Interpreted Law: 26-1-6; 26-1-30(2)(a), (b), (c), (d), and (g); 26-10-6

Insurance, Administration
R590-175
Basic Health Care Plan Rule

NOTICE OF PROPOSED RULE
 (Repeal)

DAR FILE NO.: 33558
 FILED: 04/14/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed due to H.B. 188, Health System Reform, that passed in 2009. This bill eliminated the requirement for the department to adopt a Basic Health Care Plan. (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: This rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-201 and Section 31A-22-613.5

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule will have no fiscal effect on the department or the state budget. Instead of the basic health care plan being set in a rule it is now in the code. The department will regulate it either way with no change in work load.
- ◆ **LOCAL GOVERNMENTS:** The repeal of this rule will have no effect on local government since it deals solely with the relationship of the department with its licensees.
- ◆ **SMALL BUSINESSES:** The basic health care plan standards are now in the code rather than the rule, which insurers are already aware of. The basic health care plan now has the same benefits as Netcare, which, on average, is offered with lower benefits reducing the cost of coverage approximately 30%. This affects large and small employers and individual consumers the same.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The basic health care plan standards are now in the code rather than the rule, which insurers are already aware of. The basic health care plan now has the same benefits as Netcare,

which, on average, is offered with lower benefits reducing the cost of coverage approximately 30%. This affects large and small employers and individual consumers the same.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The basic health care plan standards are now in the code rather than the rule, which insurers are already aware of. The basic health care plan now has the same benefits as Netcare, which, on average, is offered with lower benefits reducing the cost of coverage approximately 30%. This affects large and small employers and individual consumers the same.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of this rule will have no fiscal impact on insurers. The new law will reduce cost and benefits to those that purchase the basic health care plan, which would include businesses.

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 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 NO LATER THAN AT 5:00 PM ON 05/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2010

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
~~**R590-175. Basic Health Care Plan Rule.**~~
R590-175-1. Authority.

~~This rule is issued pursuant to Subsection 31A-22-613.5(2) and the general rulemaking authority vested in the commissioner by Section 31A-2-201. Section 31A-22-613.5(2)(a) requires that the commissioner adopt a Basic Health Care Plan.~~

R590-175-2. Statement of Purpose and Scope.

- ~~(1) The purpose of this rule is to adopt a Basic Health Care Plan as:~~
 - ~~(a) a conversion plan per Section 31A-22-723; or~~
 - ~~(b) a basic coverage plan per Section 31A-30-109.~~
- ~~(2)(a) This rule applies to all insurers marketing health insurance policies subject to the open enrollment provisions of Chapter 30; and~~
- ~~(b) to all insurers subject to 31A-22-723.~~

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, 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 \$1,000 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) 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.~~
 - ~~9. OUTPATIENT REHABILITATION SERVICES. Benefits for outpatient rehabilitation services, e.g., physical therapy, occupational therapy, and speech therapy, shall be limited to not less than 10 visits for each illness or injury.~~
 - ~~10. HOME HEALTH CARE. Benefits for home health care shall be limited to not less than 30 days in any 12 month period and shall consist of services provided, in accordance with a plan of care, in the home by a licensed community home health agency or an approved hospital program for home health care when the person is physically unable to obtain necessary medical care on an outpatient basis, would otherwise be confined as an inpatient, and is under the care of a physician. A "plan of care" means a written plan that:~~
 - ~~(a) is approved by the physician prior to commencement of treatment, unless it is continuity of care under the same physician;~~
 - ~~(b) is based on the assessment data or physician orders; and~~
 - ~~(c) identifies the patient's needs, who will provide needed services, how often, treatment goals, and anticipated outcomes.~~
 - ~~Covered services shall not include health aide services~~

furnished when the person is not receiving professional services of a registered nurse (RN), licensed practical nurse (LPN), or licensed vocational nurse (LVN), nor shall it include housekeeping services.

- 11. ~~DURABLE MEDICAL EQUIPMENT.~~ Benefits for durable medical equipment, rental or purchase, at the option of the insurer. Prosthetics and orthotics shall be limited to not less than \$5,000 per person for the entire period for which coverage is in effect.
- 12. ~~COVERED SERVICES.~~ Subject to medical necessity, provider network, and prior approval criteria established by the insurer, and subject to the limitations and exclusions and other terms and conditions of the policy, the following shall be covered services under the basic health care plan:
 - (a) inpatient hospital services;
 - (i) semi-private room accommodations;
 - (ii) ICU;
 - (iii) hospital services and supplies;
 - (b) ambulatory service facility services;
 - (i) birthing center services, when maternity care is covered;
 - (ii) surgical facility services;
 - (c) office preventive services;
 - (d) office medical services;
 - (i) diagnostic services, e.g., x ray, lab tests;
 - (ii) therapeutic services, e.g., injection of medication;
 - (e) outpatient hospital services;
 - (i) emergency room services;
 - (ii) diagnostic services;
 - (iii) therapeutic services, e.g., chemotherapy, radiation therapy;
 - (iv) surgical facility services;
 - (f) inpatient medical services, e.g., physician visits;
 - (g) surgery;
 - (h) assistant at surgery;
 - (i) anesthesia, including children's general anesthesia for dental, if necessary;
 - (j) consultation;
 - (k) dental care for accidental injury to sound natural teeth;
 - (l) limited home health care;
 - (m) emergency ambulance transportation;
 - (n) prescription drugs;
 - (o) durable medical equipment, prosthetics and orthotics, as limited; and medical supplies;
 - (p) maternity services;
 - (i) for employer group conversion plans, maternity benefits are provided on the same basis as benefits for sickness;
 - (ii) for individual plans, there are no maternity benefits;
 - (iii) benefits for complications of pregnancy are provided on the same basis as benefits for sickness. Complications of pregnancy will not be excluded solely because the pregnancy is a preexisting condition. "Complications of pregnancy" means diseases or conditions, the diagnoses of which are distinct from pregnancy but are adversely affected or caused by pregnancy and not associated with a normal pregnancy.
 - Complications of pregnancy does not include false labor, occasional spotting, doctor prescribed rest during the period of pregnancy, morning sickness, and conditions of comparable severity associated with management of a difficult pregnancy. In no event will the presence of complications of pregnancy result in benefits being provided for services normal to care and treatment of pregnancy and childbirth. Such normal services include but are not limited to hospitalization for childbirth or termination of pregnancy by any means, anesthesia services, ultrasound examinations, prenatal diagnostic laboratory services, antepartum and postpartum care, vaginal or cesarean delivery, threatened premature termination, premature termination, and routine nursery care of the newborn;
 - (iv) newborn and maternity inpatient time limits will conform to Subsection 31A-22-610.2. For conversion plans, maternity will be covered with the lesser of benefits originally on plan prior to conversion or the basic benefit plan. This coverage benefit is only for existing pregnancies, known or unknown at the time of conversion. Additional premium for pregnancy is not allowed;
 - (q) limited outpatient rehabilitation services;

- (r) limited mental illness/substance abuse services;
- (s) diabetes as required by Section 31A-22-626.
- (t) inborn metabolic errors, PKU, nutritional benefits as required by Section 31A-22-623; and
- (u) mastectomy as required by Sections 31A-22-630 and 31A-22-710.
- 13. ~~EXCLUSIONS.~~ Benefits will not be provided for any of the following:
 - (a) services, supplies, or treatment provided prior to the effective date or after the termination date of coverage;
 - (b) charges in connection with a work-related injury or sickness for which coverage is provided under any state or federal workers' compensation, employer's liability, or occupational disease law;
 - (c) services, supplies, or treatment for which coverage is provided under any motor vehicle no-fault plan. When the person is required by law to have no-fault insurance in effect, this exclusion applies to charges up to the minimum coverage required by law whether or not such coverage is in effect;
 - (d) services, supplies, or treatment for injury or sickness resulting from war or any act of war whether declared or undeclared;
 - (e) services, supplies, or treatment for injury or sickness resulting from service in the military of any country;
 - (f) services, supplies, or treatment for which benefits are provided under Medicare or any other government program except Medicaid;
 - (g) services, supplies, or treatment for which no charge is made or for which the person is not required to pay;
 - (h) services or supplies not incident to or necessary for the treatment of injury or sickness or which are not medically necessary, as determined by the insurer;
 - (i) treatment or prevention of an injury or sickness, including mental illness, by means of treatments, procedures, techniques, or therapy outside generally accepted health care practice;
 - (j) services, supplies, or treatment required as a result of an injury or sickness sustained while committing a felony or engaging in an illegal occupation;
 - (k) services to the extent benefits are provided by any governmental unit except as required by federal law for treatment of veterans in Veterans Administration or armed forces facilities for non-service-related medical conditions;
 - (l) examinations, reports, or appearances in connection with legal proceedings; and services, supplies, or accommodations pursuant to a court order, whether or not injury or sickness is involved;
 - (m) investigative/experimental technology, treatment, procedure, facility, equipment, drug, device or supply, "technology," which does not, as determined by the insurer on a case-by-case basis, meet all of the following criteria:
 - (i) the technology must have final approval from appropriate governmental regulatory bodies, if applicable;
 - (ii) the technology must be available in significant number outside the clinical trial or research setting;
 - (iii) the available research regarding the technology must be substantial. For purposes of this definition, "substantial" means sufficient to allow the insurer to conclude that:
 - (A) the technology is both medically necessary and appropriate for the person's treatment;
 - (B) the technology is safe and efficacious; and
 - (C) more likely than not, the technology will be beneficial to the person's health;
 - (iv) the regional medical community as a whole must generally recognize the technology as appropriate;
 - (n) services in connection with any transplant of any whole organ or part thereof, live or cadaver, bone marrow, either as donor or recipient, or any artificial organ, except for the following:
 - (i) cornea transplants;
 - (ii) kidney transplants;
 - (iii) liver transplants for children under age 18 years;
 - (iv) bone marrow transplants for children under age 18 years; and

~~—(v) evaluation, treatment and therapy involving the use of myeloablative chemotherapy with autologous hematopoietic stem cell and/or colony-stimulating factor support for children under age 18 years;~~

~~—(o) custodial care;~~

~~—(i) "Custodial care" means:~~

~~—(A) institutional care, consisting mainly of room and board, which is for the primary purpose of controlling the person's environment; and~~

~~—(B) professional or personal care, consisting mainly of non-skilled nursing services with or without medical supervision, which is for the primary purpose of managing the person's disability or maintaining the person's degree of recovery already attained without reasonable expectation of significant further recovery.~~

~~—(ii) "Custodial care" does not mean outpatient palliative and supportive care provided by a hospice program to a person who is terminally ill with a life expectancy of not more than six months and is in lieu of institutional or inpatient hospital care;~~

~~—(p) services, supplies, or treatment in connection with cosmetic or reconstructive procedures which alter appearance but do not restore or improve impaired physical function or which are performed for psychological or emotional purposes, except when performed while a person is covered under this policy for the following:~~

~~—(i) repair of defects resulting from an accident occurring within 90 days of the effective date of this policy under creditable coverage or occurring during this policy;~~

~~—(ii) replacement of diseased tissue surgically removed for illness occurring within 90 days of this policy under creditable coverage or occurring during this policy;~~

~~—(iii) treatment of a birth defect in a child who has met the pre-existing conditions requirement since birth or date of placement for adoption; and~~

~~—(iv) mastectomy reconstruction as required by Sections 31A-22-630 and 31A-22-719;~~

~~—(q) dental services. This exclusion will not apply if dental services are required as a result of an accidental injury which occurs while coverage is in force, dental services are received within two years following the accidental injury, and the person has been continuously covered from the date of the accidental injury through the date the dental services are provided;~~

~~—(r) eyeglasses, contact lenses and/or servicing of eyeglasses and/or contact lenses. This exclusion does not apply to contact lenses in the case of keratoconus or post-cataract surgery when the contact lenses are medically necessary in the treatment of the condition;~~

~~—(s) medical, non-surgical, care of weak, strained, flat, unstable or unbalanced feet routine foot care. The exclusion of routine foot care does not apply to cutting or removal of corns, calluses, or nails when provided to a person who has a systemic disease, such as diabetes with peripheral neuropathy or circulatory insufficiency, of such severity that unskilled performance of the procedure would be hazardous;~~

~~—(t) orthopedic or corrective shoes, foot orthotics, or any other supportive devices for the feet;~~

~~—(u) drugs and medicines which do not bear the legend "Caution—federal law prohibits dispensing without a prescription" and/or which are not dispensed by a licensed pharmacist;~~

~~—(v) charges in connection with jaw realignment procedures including, but not limited to, osteotomy, upper or lower jaw augmentation or reduction procedures, and orthognathic surgery; charges in connection with treatment of temporomandibular joint (TMJ) dysfunction, including surgical procedures and injections of the TMJ, physical therapy, splints, and orthodontic appliances. This exclusion will not apply to:~~

~~—(i) the initial diagnostic evaluation of TMJ dysfunction;~~

~~—(ii) surgical correction of the TMJ required as a result of an accidental injury which occurs while this coverage is in force; and~~

~~—(iii) physical therapy services related to and subsequent to covered TMJ surgery;~~

~~—(w) treatment of obesity by means of surgical, medical or medication services and regardless of associated medical, emotional, or psychological conditions;~~

~~—(x) services or supplies in connection with genetic studies;~~

~~—(y) implantable contraceptives (hormonal or other);~~

~~—(z) reversal of a sterilization procedure;~~

~~—(aa) any treatment for or diagnosis of infertility, artificial insemination, in vitro fertilization, and any other male or female dysfunction, except as required by Section 31A-8-101;~~

~~—(bb) vision testing, vision training;~~

~~—(cc) radial keratotomy, laser and any surgical correction of errors of refraction;~~

~~—(dd) educational service or counseling, including weight control clinics, stop smoking clinics, cholesterol counseling, exercise programs or other types of physical fitness training, except for those benefits required by Section 31A-22-626;~~

~~—(ee) marriage counseling; family counseling; counseling for educational, social, occupational, religious, or other similar maladjustment; behavior modification, biofeedback, or rest cures as treatment for mental disorders; sensitivity or stress-management training; self help training; and residential treatment;~~

~~—(ff) treatment for mental disorders which are irreversible or for which there is little or no reasonable expectation for improvement, including mental retardation, personality disorders, and chronic organic brain disease. This exclusion does not apply to the initial assessment for diagnosis of the condition;~~

~~—(gg) psychotherapy, counseling, or other services in connection with learning disabilities, disruptive behavior disorders, conduct disorders, psychosexual disorders, or transexualism. This exclusion does not apply to the initial assessment for diagnosis of the condition;~~

~~—(hh) vitamins, special formulas, special diets, and food supplements except as provided by a hospital or skilled nursing facility during a confinement for which benefits are available, except as outlined in Section 31A-22-623;~~

~~—(ii) any devices used to aid hearing, including cochlear implants, the fitting of such devices and any routine hearing tests;~~

~~—(jj) acupuncture or acupressure;~~

~~—(kk) speech therapy for psychosocial speech delays;~~

~~—(ll) all shipping, handling, or postage charges except as incidentally provided, without a separate charge, in connection with covered services or supplies;~~

~~—(mm) interest or finance charges except as specifically required by law;~~

~~—(nn) charges for missed appointments, telephone consultations, and clerical services for completion of special reports or claim forms;~~

~~—(oo) travel expenses, whether or not prescribed;~~

~~—(pp) care, except urgent or emergency care, rendered outside the United States;~~

~~—(qq) services provided by a member of the person's immediate family or household; and~~

~~—(rr) autopsy procedures.~~

~~—(11) The basic health care plan is to be filed with the department before use.~~

~~—(12) Conversion coverage provided pursuant to Section 31A-22-723, may provide additional benefits in addition to the Basic Health Care Plan.~~

R590-175-4. Enforcement Date.

~~The commissioner will begin enforcing the revised provisions of this rule 45 days from the rule's effective date.~~

R590-175-5. Severability.

~~If a provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder~~

of the rule and the application of these provisions shall not be affected.

KEY: ~~insurance~~

Date of Enactment or Last Substantive Amendment: ~~August 13, 2009~~

Notice of Continuation: ~~November 8, 2005~~

Authorizing, and Implemented or Interpreted Law: ~~31A-22-613.5]~~

School and Institutional Trust Lands,
Administration
R850-50
Range Management

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33557

FILED: 04/14/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Due to the varying interpretations of the requirements of Subsection 63J-1-504(2)(a), the agency's legal group recently issued an opinion concerning the use of the term "fees" in Sections R850-50-500 and R850-50-1000. In order to resolve the questionable usage of the term "fees", the agency is proposing this change in the Range Management rule.

SUMMARY OF THE RULE OR CHANGE: In both Sections R850-50-500 and R850-50-1000, the terms "fee" and "grazing fee" have been changed to "assessment". Also in Section R850-50-1000, several minor changes in sentence structure have been made for clarification purposes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53C-5-102 and Subsection 53C-1-302(1)(a)(ii) and Subsection 53C-2-201(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There are no anticipated cost or savings to the state budget as a result of this rule amendment because the changes are in the terminology only and do not affect the existing process.

♦ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government as a result of this rule amendment as the changes are in the terminology only and do not affect the existing process.

♦ SMALL BUSINESSES: There are no anticipated cost or savings to small businesses as a result of this rule

amendment as the changes are in the terminology only and do not affect the existing process.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated cost or savings to persons other than small businesses, businesses, or local government entities as a result of this rule amendment as the changes are in the terminology only and do not affect the existing process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons beyond the already existing costs of obtaining or maintaining a grazing permit. This rule amendment changes only the terminology and does not affect the already existing process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These are nonsubstantive changes that are intended to clarify terminology. It will have no impact on costs to any private or public entity.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION

ROOM 500

675 E 500 S

SALT LAKE CITY, UT 84102-2818

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2010

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2010

AUTHORIZED BY: Kevin Carter, Director

R850. School and Institutional Trust Lands, Administration.

R850-50. Range Management.

R850-50-500. ~~[Grazing Fees]~~AUM Assessments and Annual Adjustments.

An annual ~~[fee]~~assessment shall be charged for ~~[the grazing of all]~~each AUM used by livestock on trust lands. ~~[The grazing fee]~~This assessment shall be established by the board and shall be reviewed annually and adjusted if appropriate.

R850-50-1000. Assignment and Subleasing of Grazing Permits.

1. Permittee shall not assign, partially assign, sublease, mortgage, pledge, or otherwise transfer, dispose, or encumber any interest in the permit without the written consent of the agency. To do so shall automatically, and without notice, work ~~[a]~~the forfeiture and cancellation of the permit.

2. ~~[The agency shall assess a fee]~~An annual assessment equal to 50% of the difference between the base ~~[grazing fee per AUM assessed by the agency]~~AUM assessment established under R850-50-500, and the AUM ~~[fee]~~payment received by the permittee through the sublease, multiplied by the number of AUMs subleased, or a \$1.00 per AUM minimum ~~[fee]~~assessment, whichever is greater, shall be charged for ~~[its]~~the approval of any sublease. The approval of any sublease shall be subject to the following restrictions:

(a) Consent for subleasing shall only be given if the sublease is compatible with the best interests of the beneficiaries and long-term management of the land and will not unreasonably conflict with the interests of other permittees in the area.

(b) Subleases in-lieu of a collateral assignment shall not be approved.

(c) ~~[Any]~~No sublease[s] shall ~~[not]~~be effective for more than five years.

3. ~~[The agency may assess an]~~An additional fee based upon either the fair market value of the permit or a flat fee per AUM may be charged for ~~[its]~~the approval of any assignment or partial assignment.

4. Mortgage agreements or collateral assignments are for the convenience of the permittee. The term of a mortgage agreement or collateral assignment shall not exceed the remaining term of the permit. If the grazing permit is renewed, the permittee may also renew the mortgage agreement or collateral assignment of the permit pursuant to these rules.

KEY: administrative procedures, range management

Date of Enactment or Last Substantive Amendment: ~~[May 1, 2005]~~**June 7, 2010**

Notice of Continuation: June 27, 2007

Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii); 53C-2-201(1)(a); 53C-5-102

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.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period, and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends May 21, 2010.

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.

From the end of the 30-day waiting period through August 29, 2010, an 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 the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303; 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

**Environmental Quality, Radiation
Control
R313-25-8
Technical Analyses**

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 33267

FILED: 04/14/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: At the 04/13/2010 Radiation Control Board meeting, the Board approved changes to a proposed rule based on comments received during the public comment period 01/02/2010 through 02/02/2010.

SUMMARY OF THE RULE OR CHANGE: Three changes were made to the proposed rule. These changes involved the addition of the word "concentrated" before the words "depleted uranium" throughout the proposed rule. The word "shall" replaced the word "will" in Subsection R313-25-8(2)(a) of the proposed rule, and the last sentence in Subsection R313-25-8(2)(a) was revised for clarity purposes. Specifically, the words "a qualitative analysis for" were deleted and the following words were added "and the results shall be analyzed qualitatively" to the sentence. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the January 1, 2010, issue of the Utah State Bulletin, on page 21. 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.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-03-104(4)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Agency has determined that the minor language change does not affect the budget that was described in the proposed rule filing.
- ◆ **LOCAL GOVERNMENTS:** The Agency has determined that the minor language change does not affect the budget that was described in the proposed rule filing.
- ◆ **SMALL BUSINESSES:** The Agency has determined that the minor language change does not affect small business as it was described in the proposed rule filing.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Agency has determined that the language change does

not affect other persons as it was described in the proposed rule filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to the proposed rule will not impact the affected persons anymore than as described in the proposed rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The minor changes to the proposed rule will not affect the fiscal impact anymore than what was described in the proposed rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
ROOM 212
168 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Dane Finerfrock by phone at 801-536-4250, by FAX at 801-533-4097, or by Internet E-mail at dfinerfrock@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2010

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.

R313-25. License Requirements for Land Disposal of Radioactive Waste - General Provisions.

R313-25-8. Technical Analyses.

(1) The specific technical information shall also include the following analyses needed to demonstrate that the performance objectives of R313-25 will be met:

(a) Analyses demonstrating that the general population will be protected from releases of radioactivity shall consider the pathways of air, soil, ground water, surface water, plant uptake, and exhumation by burrowing animals. The analyses shall clearly identify and differentiate between the roles performed by the natural disposal site characteristics and design features in isolating and segregating the wastes. The analyses shall clearly demonstrate a reasonable assurance that the exposures to humans from the release of radioactivity will not exceed the limits set forth in R313-25-19.

(b) Analyses of the protection of inadvertent intruders shall demonstrate a reasonable assurance that the waste classification and segregation requirements will be met and that adequate barriers to inadvertent intrusion will be provided.

(c) Analysis of the protection of individuals during operations shall include assessments of expected exposures due to routine operations and likely accidents during handling, storage, and

disposal of waste. The analysis shall provide reasonable assurance that exposures will be controlled to meet the requirements of R313-15.

(d) Analyses of the long-term stability of the disposal site shall be based upon analyses of active natural processes including erosion, mass wasting, slope failure, settlement of wastes and backfill, infiltration through covers over disposal areas and adjacent soils, and surface drainage of the disposal site. The analyses shall provide reasonable assurance that there will not be a need for ongoing active maintenance of the disposal site following closure.

(2)(a) Any facility that proposes to land dispose of significant quantities of concentrated depleted uranium[;] (more than one metric ton in total accumulation[;]) after [~~the effective date of this change~~] June 1, 2010, shall submit for the Executive Secretary's review and approval a performance assessment that demonstrates that the performance standards specified in 10 CFR Part 61 and corresponding provisions of Utah rules will be met for the total quantities of concentrated depleted uranium and other wastes, including wastes already disposed of and the quantities of concentrated depleted uranium the facility now proposes to dispose.

Any such performance assessment shall be revised as needed to reflect ongoing guidance and rulemaking from NRC. For purposes of this performance assessment, the compliance period [~~will~~] shall be a minimum of 10,000 years. Additional simulations [~~will~~] shall be performed for [~~a qualitative analysis for~~] the period where peak dose occurs and the results shall be analyzed qualitatively.

(b) No facility may dispose of significant quantities of concentrated depleted uranium prior to the approval by the Executive Secretary of the performance assessment required in R313-25-8(2)(a).

(c) For purposes of this R313-25-8(2) only, "concentrated depleted uranium" means waste with depleted uranium concentrations greater than 5 [~~%~~] percent by weight.

KEY: radiation, radioactive waste disposal, depleted uranium
Date of Enactment or Last Substantive Amendment: 2010
Notice of Continuation: October 5, 2006
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

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 agency is required to review the rule. This review is intended 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 upon filing.

NOTICES are governed by Section 63G-3-305.

Agriculture and Food, Regulatory Services **R70-101** Bedding, Upholstered Furniture and Quilted Clothing

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33542
FILED: 04/07/2010

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: By Section 4-10-3, the Utah Department of Agriculture and Food is authorized to make and enforce rules necessary to administer and enforce Title 4, Chapter 10.

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 THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to protect Utah consumers from fraud. The rule designates the license fees, labeling, terms, definitions, nomenclature and conditions that are commonly used and recognized in the manufacture, sale and distribution of bedding, upholstered furniture, quilted

clothing products, and filling materials. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
- ◆ Michelle Jack by phone at 801-538-7151, by FAX at 801-538-4949, or by Internet E-mail at mjack@utah.gov
- ◆ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 04/07/2010

Capitol Preservation Board (State), Administration **R131-1** Procurement of Architectural and Engineering Services

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33544
FILED: 04/07/2010

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 enacted under the authority of Section 63C-9-301 which directs the Capitol Preservation Board to make rules necessary to establish procedures for the procurement of architectural and engineering services.

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 Capitol Preservation Board and the Director have not received written comments, either in support or opposition to Rule R131-1.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R131-1 establishes procedures for the procurement of architectural and engineering services by the Capitol Preservation Board. Therefore, this rule should be continued.

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

CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
ROOM E110 EAST BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114-2110
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
- ◆ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov
- ◆ La Priel Dye by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at ldye@utah.gov
- ◆ Sarah Whitney by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at swhitney@utah.gov

AUTHORIZED BY: Allyson Gamble, Acting Executive Director

EFFECTIVE: 04/07/2010

Capitol Preservation Board (State),
Administration

R131-2

Capitol Hill Complex Facility Use

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33545
FILED: 04/07/2010

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 enacted under the authority of Section 63C-9-301 which directs the Capitol Preservation Board to make rules necessary to establish procedures to define conditions for public access and use of the Capitol Hill Complex and to establish procedures for receiving and deciding complaints regarding the access or use of the Capitol Hill Complex.

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 Capitol Preservation Board and the Director have not received written comments, either in support or opposition to Rule R131-2.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R131-2 establishes procedures to define conditions for public access and use of the Capitol Hill Complex. It also establishes procedures for receiving and deciding complaints regarding the access or use of the Capitol Hill Complex. Therefore, this rule should be continued.

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

CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
ROOM E110 EAST BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114-2110
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov

♦ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov
 ♦ La Priel Dye by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at ldye@utah.gov
 ♦ Sarah Whitney by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at swhitney@utah.gov

AUTHORIZED BY: Allyson Gamble, Acting Executive Director

EFFECTIVE: 04/07/2010

**Capitol Preservation Board (State),
Administration
R131-7
State Capitol Preservation Board
Master Planning Policy**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 33547
FILED: 04/07/2010

**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 enacted under the authority of Section 63C-9-402 which directs the Capitol Preservation Board to make rules necessary to provide a procedure for the Executive Director to devise and develop a master-planning process for Capitol Hill Facilities, for future capital facilities expansion of the state Capitol grounds, and for projected Capitol Hill facility growth needs.

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 Capitol Preservation Board and the Director have not received written comments either in support or opposition to Rule R131-7.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R131-7 provides for a procedure for the Executive Director to devise and develop a master-planning process for Capitol Hill Facilities; for future capital facilities expansion of the state Capitol grounds, and for projected Capitol Hill facility growth needs. Therefore, this rule should be continued.

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

CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
ROOM E110 EAST BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114-2110
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
 ♦ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov
 ♦ La Priel Dye by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at ldye@utah.gov
 ♦ Sarah Whitney by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at swhitney@utah.gov

AUTHORIZED BY: Allyson Gamble, Acting Executive Director

EFFECTIVE: 04/07/2010

**Capitol Preservation Board (State),
Administration
R131-8**

**CPB Facilities and Grounds:
Maintenance of Aesthetics**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 33549
FILED: 04/07/2010

**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 enacted under the authority of Section 63C-9-402 which directs the Executive Director to develop a master plan for the Board's approval to maintain, preserve, restore, and modify the Capitol Hill facilities and Capitol Hill grounds.

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 Capitol Preservation Board and the Director have not received written comments, either in support or opposition to Rule R131-8.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R131-8 directs the Executive Director to develop a master plan for the Board's approval to maintain, preserve, restore, and modify the Capitol Hill facilities and Capitol Hill grounds. Therefore, this rule should be continued.

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

CAPITOL PRESERVATION BOARD (STATE)
 ADMINISTRATION
 ROOM E110 EAST BUILDING
 420 N STATE ST
 SALT LAKE CITY, UT 84114-2110
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
- ◆ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov
- ◆ La Priel Dye by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at ldye@utah.gov
- ◆ Sarah Whitney by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at swhitney@utah.gov

AUTHORIZED BY: Allyson Gamble, Acting Executive Director

EFFECTIVE: 04/07/2010

**Capitol Preservation Board (State),
 Administration
 R131-9
 State Capitol Preservation Board Art
 Program and Policy**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION
 DAR FILE NO.: 33551
 FILED: 04/07/2010**

**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 enacted under Section 63C-9-402 which defines the authority and scope of

the Capitol Preservation Board's Executive Director to develop plans, programs and policies for the placement and care of objects under the care of the Board in Capitol Hill facilities and on Capitol Hill grounds.

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 Capitol Preservation Board and the Director have not received written comments, either in support or opposition to Rule R131-9.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R131-9 defines the authority and scope of the Capitol Preservation Board's Executive Director to develop plans, programs and policies for the placement and care of objects under the care of the Board in Capitol Hill facilities and on Capitol Hill grounds. Therefore, this rule should be continued.

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

CAPITOL PRESERVATION BOARD (STATE)
 ADMINISTRATION
 ROOM E110 EAST BUILDING
 420 N STATE ST
 SALT LAKE CITY, UT 84114-2110
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
- ◆ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov
- ◆ La Priel Dye by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at ldye@utah.gov
- ◆ Sarah Whitney by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at swhitney@utah.gov

AUTHORIZED BY: Allyson Gamble, Acting Executive Director

EFFECTIVE: 04/07/2010

**Health, Administration
 R380-40
 Local Health Department Minimum
 Performance Standards**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 33553
FILED: 04/08/2010

**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 26A-1-106(1)(c) provides that: "The department shall establish by rule minimum performance standards for basic programs of public health administration, personal health, laboratory services, health resources, and other preventive health programs not in conflict with state law as it finds necessary or desirable for the protection of the public health." This rule implements this requirement by setting minimum standards for local health departments.

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 opposing the rule. Meetings are held regularly with local health departments to discuss issues related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Local Health Officers and the Executive Staff of the Department of Health support continuation of the rule. Compliance with the statutory mandate supports continuation of the rule.

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

HEALTH
ADMINISTRATION
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:

♦ Doug Springmeyer by phone at 801-538-6971, by FAX at 801-538-6306, or by Internet E-mail at dspringm@utah.gov

AUTHORIZED BY: David Sundwall, MD, Executive Director

EFFECTIVE: 04/08/2010

Health, Epidemiology and Laboratory
Services, Epidemiology

R386-800

Immunization Coordination

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 33562
FILED: 04/15/2010

**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 or mandated by state law and implements or interprets Title 26, Chapter 6, of the Utah Communicable Disease Control Act, and Title 26, Chapter 3, of Health Statistics Act. This rule establishes a system to coordinate immunizations among health care providers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule continuation supports ongoing operation and maintenance of the Utah immunization information system used by clinicians throughout the state for clinical decision support and by schools/day cares/camps throughout the state for compliance with entry requirements - in order to continue to increase Utah's immunization coverage, prevent vaccine-preventable diseases, and improve the health of Utah's citizens.

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
EPIDEMIOLOGY
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:

♦ Jennifer Brown by phone at 801-538-6131, by FAX at 801-538-9913, or by Internet E-mail at jenniferbrown@utah.gov

AUTHORIZED BY: David Sundwall, Executive Director

EFFECTIVE: 04/15/2010

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-4424, or by Internet E-mail at jhjones@utah.gov
 ♦ Vilma Mosier by phone at 801-538-4041, by FAX at 801-538-4553, or by Internet E-mail at vmosier@utah.gov

AUTHORIZED BY: Ken Stettler, Director

EFFECTIVE: 04/05/2010

**Human Services, Administration,
 Administrative Services, Licensing
 R501-19
 Residential Treatment Programs**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 33538
 FILED: 04/05/2010

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 62A-2-101 and 62A-2-106 authorize the Office of Licensing to make rules to establish basic standards for licensees.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes definitions; legal requirements; staffing requirements; facility requirements; basic health and safety regulations; record keeping; and client services. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 ADMINISTRATION,
 ADMINISTRATIVE SERVICES, LICENSING
 120 N 200 W
 SALT LAKE CITY, UT 84103-1500
 or at the Division of Administrative Rules.

**Human Services, Administration,
 Administrative Services, Licensing
 R501-20
 Day Treatment Programs**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 33539
 FILED: 04/05/2010

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 62-A-101 and 62-A-106 authorize the Office of Licensing to make rules to establish basic standards for licensees.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: A day treatment program provides services to individuals who have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies. Day treatment is provided in lieu of, or in coordination with, a more restrictive residential or inpatient environment or service in accordance with Subsection 62A-2-101(4). Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 ADMINISTRATION, ADMINISTRATIVE SERVICES,
 LICENSING

120 N 200 W
SALT LAKE CITY, UT 84103-1500
or at the Division of Administrative Rules.

ADMINISTRATIVE SERVICES, LICENSING
120 N 200 W
SALT LAKE CITY, UT 84103-1500
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-4424, or by Internet E-mail at jhjones@utah.gov
- ◆ Ken Stettler by phone at 801-538-4235, by FAX at 801-538-4553, or by Internet E-mail at kstettler@utah.gov
- ◆ Vilma Mosier by phone at 801-538-4041, by FAX at 801-538-4553, or by Internet E-mail at vmosier@utah.gov

AUTHORIZED BY: Ken Stettler , Director

EFFECTIVE: 04/05/2010

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-4424, or by Internet E-mail at jhjones@utah.gov
- ◆ Vilma Mosier by phone at 801-538-4041, by FAX at 801-538-4553, or by Internet E-mail at vmosier@utah.gov

AUTHORIZED BY: Ken Stettler , Director

EFFECTIVE: 04/05/2010

Human Services, Administration,
Administrative Services, Licensing
R501-21
Outpatient Treatment Programs

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 33540
FILED: 04/05/2010

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 62-A-101 and 62-A-106 authorize the Office of Licensing to make rules to establish basic standards for licensees.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes definitions; legal requirements; staffing requirements; facility requirements; basic health; and safety regulations for outpatient treatment programs. Therefore, this rule should be continued.

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

Human Services, Administration,
Administrative Services, Licensing
R501-22
Residential Support Programs

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 33541
FILED: 04/05/2010

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 62-A-101 and 62-A-106 authorize the Office of Licensing to make rules to establish basic standards for licensees.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Residential support programs arrange for or provide the necessities of life as a protective service to individuals or families who are experiencing a dislocation or emergency which prevents them from providing these services for themselves or their families. Treatment is not a necessary component of residential support, however treatment shall be made available on request. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES,
LICENSING
120 N 200 W
SALT LAKE CITY, UT 84103-1500
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-4424, or by Internet E-mail at jhjones@utah.gov

AUTHORIZED BY: Ken Stettler , Director

EFFECTIVE: 04/05/2010

Regents (Board of), Administration
R765-626
Lender of Last Resort Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33556
FILED: 04/13/2010

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: Current federal law under 34 CFR Part 682.401(c) and Title 53B, Chapter 12, require a designated lender of last resort for the federal student loan program administered in each state.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received during the past five-year period.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Federal law requires the continuation of this rule since a provision for a lender of last resort for students attending an institution of higher education in Utah that may request a federal student loan must be established.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY, UT 84101-1284
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Ronell Crossley by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

AUTHORIZED BY: William Sederburg, Commissioner

EFFECTIVE: 04/13/2010

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Commerce

Real Estate

No. 33372 (NEW): R162-2c. Utah Residential Mortgage Practices and Licensing Rules
Published: 03/01/2010
Effective: 04/12/2010

No. 33373 (REP): R162-201. Residential Mortgage Definitions
Published: 03/01/2010
Effective: 04/12/2010

No. 33374 (REP): R162-202. Initial Application
Published: 03/01/2010
Effective: 04/12/2010

No. 33375 (REP): R162-203. Changes to Residential Mortgage Licensure Statement
Published: 03/01/2010
Effective: 04/12/2010

No. 33376 (REP): R162-204. Residential Mortgage Record Keeping Requirements
Published: 03/01/2010
Effective: 04/12/2010

No. 33377 (REP): R162-205. Residential Mortgage Unprofessional Conduct
Published: 03/01/2010
Effective: 04/12/2010

No. 33378 (REP): R162-207. License Renewal
Published: 03/01/2010
Effective: 04/12/2010

No. 33379 (REP): R162-208. Continuing Education
Published: 03/01/2010
Effective: 04/12/2010

No. 33380 (REP): R162-209. Administrative Proceedings
Published: 03/01/2010
Effective: 04/12/2010

No. 33381 (REP): R162-210. Certification of Prelicensing Education Providers
Published: 03/01/2010
Effective: 04/12/2010

No. 33382 (REP): R162-211. Adjusted License Terms
Published: 03/01/2010
Effective: 04/12/2010

Environmental Quality

Air Quality

No. 33308 (R&R): R307-840. Lead-Based Paint Accreditation, Certification and Work Practice Standards
Published: 02/01/2010
Effective: 04/08/2010

No. 33309 (NEW): R307-841. Residential Property and Child-Occupied Facility Renovation
Published: 02/01/2010
Effective: 04/08/2010

No. 33310 (NEW): R307-842. Lead-Based Paint Activities
Published: 02/01/2010
Effective: 04/08/2010

Radiation Control

No. 33368 (AMD): R313-34-3. Clarifications or Exemptions
Published: 03/01/2010
Effective: 04/15/2010

Human Services

Recovery Services

No. 33332 (AMD): R527-37. Closure Criteria for Support Cases
Published: 02/15/2010
Effective: 04/02/2010

NOTICES OF RULE EFFECTIVE DATES

Insurance

Administration

No. 33387 (AMD): R590-196. Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form
Published: 03/01/2010
Effective: 04/14/2010

No. 33349 (AMD): R865-9I-13. Nonresident's share of Pass-Through Entity Income Pursuant to Utah Code Ann. Sections 59-10-116, 59-10-117, 59-10-118, 59-10-1403.2 and 59-10-1405
Published: 02/15/2010
Effective: 04/08/2010

Judicial Performance Evaluation Commission

No. 33385 (AMD): R597-3. Judicial Performance Evaluations
Published: 03/01/2010
Effective: 04/15/2010

No. 33348 (AMD): R865-9I-44. Compensation Received by Nonresident Professional Athletes Pursuant to Utah Code Ann. Sections 59-10-116, 59-10-117, and 59-10-118
Published: 02/15/2010
Effective: 04/08/2010

Labor Commission

Boiler and Elevator Safety

No. 33362 (AMD): R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels
Published: 03/01/2010
Effective: 04/07/2010

No. 33351 (AMD): R865-9I-56. Determination of Amounts Withheld by a Pass-Through entity that is an S Corporation Pursuant to Utah Code Ann. Section 59-10-116, 59-10-117, 59-10-118, 59-10-1403.2, and 59-10-1405
Published: 02/15/2010
Effective: 04/08/2010

Natural Resources

Water Rights

No. 33066 (NEW): R655-16. Administrative Procedures for Declaring Beneficial Use Limitations for Supplemental Water Rights
Published: 11/01/2009
Effective: 04/07/2010

No. 33350 (AMD): R865-12L-5. Place of Sale Pursuant to Utah Code Ann. Section 59-12-207
Published: 02/15/2010
Effective: 04/08/2010

No. 33352 (AMD): R865-12L-6. Place of Transaction Pursuant to Utah Code Ann. Section 59-12-207
Published: 02/15/2010
Effective: 04/08/2010

No. 33066 (CPR): R655-16. Administrative Procedures for Declaring Beneficial Use Limitations for Supplemental Water Rights
Published: 03/01/2010
Effective: 04/07/2010

Transportation Commission

Administration

No. 33386 (AMD): R940-1-3. Base Toll Rate and Range for HOT Lanes
Published: 03/01/2010
Effective: 04/07/2010

Tax Commission

Auditing

No. 33384 (AMD): R865-9I-7. Change of Status as Resident or Nonresident Pursuant to Utah Code Ann. Section 59-10-120
Published: 03/01/2010
Effective: 04/08/2010

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, 2010, including notices of effective date received through April 15, 2010. 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 is not included in this issue of the Utah State Bulletin. The release of eRules version 2.0 has introduced different functionality with regards to the index; this functionality has yet to be fully tested. Persons interested in alternative methods of acquiring the same information should visit "Researching Administrative Rules" at: <http://www.rules.utah.gov/research.htm>

Questions regarding the index and the information it contains should be addressed to 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/>).
