

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 Occupational and Professional Licensing

Notice of Hearing Cancellation for the Filing on Rule R156-72 Published in the January 1, 2011, Bulletin Under DAR No. 34311

Based on comments received during the comment period with respect to the filing on Rule R156-72, published in the January 1, 2011, Bulletin (2011-1, pg. 13) under DAR No. 34311, the Division has determined more discussion is needed on the proposed amendments. Therefore, the Division is cancelling the January 31, 2011, rule hearing for that filing scheduled for 9:00 a.m. before the Division. The Division will also be allowing this proposed rule filing to lapse by taking no further action.

Questions can be directed to: Noel Taxin at phone: 801-530-6621, FAX at: 801-530-6511, or by e-mail at: ntaxin@utah.gov

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for February 2011 Medicaid Rate Changes

Effective February 1, 2011, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies, as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

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 December 16, 2010, 12:00 a.m., and December 30, 2010, 11:59 p.m. are included in this, the January 15, 2011 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 February 14, 2011. 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 May 15, 2011, 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

**Alcoholic Beverage Control,
Administration
R81-1-29
Disclosure of Conflicts of Interest**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 34337
FILED: 12/30/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The recent audit of the Department of Alcoholic Beverage Control by the Legislative Auditor General recommended a more formalized approach as to how commissioners should disclose actual or potential conflicts of interest.

SUMMARY OF THE RULE OR CHANGE: Over the years, commissioners have individually disclosed situations that may have presented an actual, potential, or appearance of a conflict of interest. The recent audit of the Department of Alcoholic Beverage Control by the Legislative Auditor General recommended a more formalized approach as to how commissioners should disclose actual or potential conflicts of interest. This change provides procedures for a commissioner to disclose an existing or potential conflict of interest to ensure that the decisions of the commission are based on a fair process.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** None--This change provides procedures for a commissioner to disclose an existing or potential conflict of interest to ensure that the decisions of the commission are based on a fair process. The passage of this change does not fiscally affect the state's budget.
- ◆ **LOCAL GOVERNMENTS:** None--This change provides procedures for a commissioner to disclose an existing or potential conflict of interest. The passage of this change will not fiscally affect local government agencies.
- ◆ **SMALL BUSINESSES:** None--This change provides procedures for a commissioner to disclose an existing or potential conflict of interest. The passage of this change will not fiscally affect small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--This change provides procedures for a commissioner to disclose an existing or potential conflict of interest. The passage of this change will not fiscally affect other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--All fees remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change will not have a fiscal impact on businesses. It merely provides procedures for a commissioner to disclose an existing or potential conflict of interest.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

AUTHORIZED BY: Dennis Kellen, Director

**R81. Alcoholic Beverage Control, Administration.
R81-1. Scope, Definitions, and General Provisions.
R81-1-29. Disclosure of Conflicts of Interest.**

(1) Authority. This rule is pursuant to 32A-12-306 that prohibits a commissioner from having a conflict of interest in the performance of the commissioner's duties, and 67-16-9 that prohibits a public officer from having personal investments in any business entity which will create a substantial conflict between the public officer's private interests and public duties.

(2) Purpose. This rule provides procedures for a commissioner to disclose an existing or potential conflict of interest to ensure that the decisions of the commission are based on a fair process.

(3) Application of Rule.

(a) A commissioner shall disclose during a meeting of the commission any substantial existing or potential conflict of interest including the existence and nature of a professional, financial, business, or personal interest with an applicant for a license or permit or with a licensee or permittee that may impact the commission member's ability to fairly and impartially vote on a particular issue involving that applicant, licensee or permittee.

(b) A commission member who believes he has a substantial existing or potential conflict of interest that will impact the commissioner's ability to fairly and impartially vote on a particular issue shall recuse himself from voting on that issue.

(c) If a commission member discloses a substantial existing or potential conflict of interest and does not recuse himself

from voting on the particular issue, the commission may, by majority vote, disqualify the commission member from participating and voting on the particular issue if the commission believes the conflict of interest is substantial and will impact the commission member's ability to fairly and impartially vote on the issue. The affected commission member may not participate in this vote.

(d) Any declaration of a conflict of interest must be recorded in the minutes of the meeting.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment:
[September 1, 2010] 2011

Notice of Continuation: August 31, 2006

Authorizing, and Implemented or Interpreted Law: 32A-1-106(9); 32A-1-107; 32A-1-119(5)(c); 32A-1-702; 32-1-703; 32A-1-704; 32A-1-807; 32A-3-103(1)(a); 32A-4-103(1)(a); 32A-4-106(1)(a); 32A-4-203(1)(a); 32A-4-304(1)(a); 32A-4-307(1)(a); 32A-4-401(1)(a); 32A-5-103(1)(a); 32A-6-103(2)(a); 32A-7-103(2)(a); 32A-7-106(5); 32A-8-103(1)(a); 32A-8-503(1)(a); 32A-9-103(1)(a); 32A-10-203(1)(a); 32A-10-206(14); 32A-10-303(1)(a); 32A-10-306(5); 32A-11-103(1)(a); 32A-12-212(1)(b) and (c)

**Alcoholic Beverage Control,
Administration
R81-1-30
Factors for Granting Licenses**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34336

FILED: 12/30/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The recent audit of the Department of Alcoholic Beverage Control by the Legislative Auditor General recommended that the commission develop a methodology for granting licenses. This change identifies the factors the commission may consider when granting licenses.

SUMMARY OF THE RULE OR CHANGE: The recent audit of the Department of Alcoholic Beverage Control by the Legislative Auditor General recommended that the commission develop a methodology for granting licenses. The methodology should include a complete list of the factors the commission may weigh when granting alcohol licenses. Most are statutory. However, the commission is also allowed to "consider any other factors or circumstances the commission considers necessary." This change identifies the

factors beyond statutory lists that the commission may consider when granting licenses. The non-statutory factors include: availability of licenses under the quota; length of time the applicant has been awaiting a license; opening date; whether a seasonal business; whether the location has been previously licensed or is a new location; whether the application involves a change of ownership of an existing location; whether the applicant holds other alcohol licenses at this or other locations; whether the applicant has a violation history or a pending violation; projected alcohol sales -- extent to which the license will be utilized; nature of entertainment; and public input in support or opposition to granting the license.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** None--This change identifies the non-statutory factors the commission may consider when granting licenses. The passage of this change will not fiscally affect the state's budget.
- ◆ **LOCAL GOVERNMENTS:** None--The commission distributes licenses for the State of Utah. The passage of this change will not fiscally affect local government agencies.
- ◆ **SMALL BUSINESSES:** None--Many of the applicants operate small businesses. The license fees remain unchanged and should not affect small businesses. This change merely identifies the non-statutory factors the commission may consider when granting licenses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--There are no costs or savings for other persons as a result of this amendment because they do not apply for licenses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Since the license fees remain unchanged, business should experience no additional compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change is in response to a recommendation in the recent audit of the Department of Alcoholic Beverage Control by the Legislative Auditor General. The change identifies the non-statutory factors the commission may consider when granting licenses. This change will also provide important information to potential licensees now that licenses are often at capacity under the quota system. Passage of this change will not have a fiscal impact on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

AUTHORIZED BY: Dennis Kellen, Director

R81. Alcoholic Beverage Control, Administration.**R81-1. Scope, Definitions, and General Provisions.****R81-1-30. Factors for Granting Licenses.**

(1) Definition. For purposes of this rule, "license" includes a license, permit, certificate of approval, and package agency.

(2) Authority. This rule is pursuant to 32A-1-107(1)(c) which gives the commission the authority to set policy by written rules that establish criteria and procedures for granting a license. It is also based on those statutes throughout the Alcoholic Beverage Control Act such as 32A-4-104(2)(e) that give the commission the authority to consider non-statutory factors or circumstances the commission considers necessary in granting a license.

(3) Purpose. This rule provides a list of non-statutory factors the commission considers in granting a license.

(4) Application of Rule. In addition to any statutory factor for granting a license, the commission also may consider the following non-statutory factors:

(a) availability of licenses under the quota;

(b) length of time the applicant has been awaiting a license;

(c) opening date;

(d) whether a seasonal business;

(e) whether the location has been previously licensed or is a new location;

(f) whether the application involves a change of ownership of an existing location;

(g) whether the applicant holds other alcohol licenses at this or other locations;

(h) whether the applicant has a violation history or a pending violation;

(i) projected alcohol sales -- extent to which the alcohol license will be utilized;

(j) nature of entertainment; and

(k) public input in support or opposition to granting the license.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: ~~September 1, 2010~~ 2011

Notice of Continuation: August 31, 2006

Authorizing, and Implemented or Interpreted Law: 32A-1-106(9); 32A-1-107; 32A-1-119(5)(c); 32A-1-702; 32-1-703; 32A-1-704; 32A-1-807; 32A-3-103(1)(a); 32A-4-103(1)(a); 32A-4-106(1)(a); 32A-4-203(1)(a); 32A-4-304(1)(a); 32A-4-307(1)(a);

32A-4-401(1)(a); 32A-5-103(1)(a); 32A-6-103(2)(a); 32A-7-103(2)(a); 32A-7-106(5); 32A-8-103(1)(a); 32A-8-503(1)(a); 32A-9-103(1)(a); 32A-10-203(1)(a); 32A-10-206(14); 32A-10-303(1)(a); 32A-10-306(5); 32A-11-103(1)(a); 32A-12-212(1)(b) and (c)

Alcoholic Beverage Control, Administration

R81-3-13

Operational Restrictions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34340

FILED: 12/30/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment will allow Type 5 Package Agencies to open at 8:00 a.m. for sales to licensees with the approval of the department.

SUMMARY OF THE RULE OR CHANGE: Type 5 Package Agencies in wineries, breweries, and distilleries have requested to open at 8:00 a.m. to sell their own products to licensees. This rule amendment will allow Type 5 Package Agencies to open as early as 8:00 a.m. for sales to licensees with the approval of the Department of Alcoholic Beverage Control.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107 and Subsection 32A-3-106(9)(c)(ii)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** None--This rule amendment will allow Type 5 Package Agencies to open as early as 8:00 a.m. to better service their licensees. The change in hours will not fiscally impact the state budget.

♦ **LOCAL GOVERNMENTS:** None--Package agency contracts are issued by the Department of Alcoholic Beverage Control. Changing the operating hours of the Type 5 Package Agencies will not fiscally impact local governments.

♦ **SMALL BUSINESSES:** None--Many of the Type 5 Package Agencies are small businesses. This rule amendment will allow them to open as early as 8:00 a.m. to better service their licensees but will not fiscally impact small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--There are no costs or savings for other persons as a result of this amendment as they do not hold Type 5 Package Agency contracts.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None-- Type 5 Package Agencies are already established and running and no additional fees will be required as a result of this rule amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is often inconvenient for Type 5 Package Agencies to service large licensee orders during regular operating hours. This rule amendment will allow the package agencies to service licensees without disrupting patrons during regular business hours.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

AUTHORIZED BY: Dennis Kellen, Director

R81. Alcoholic Beverage Control, Administration.

R81-3. Package Agencies.

R81-3-13. Operational Restrictions.

(1) Hours of Operation.

(a) Type 1, 2, and 5 package agencies may operate from 10:00 a.m. until 12:00 midnight, Monday through Saturday. However, the actual operating hours may be less in the discretion of the package agent with the approval of the department. Type 2 agencies shall be open for business at least seven hours a day, five days a week, except where closure is otherwise required by law. Type 5 package agencies may, in the discretion of the package agent, be open as early as 8:00 a.m. for sales to licensees with the approval of the department.

(b) Type 3 package agencies may operate from 10:00 a.m. until 10:00 p.m., Monday through Saturday, but may remain closed on Mondays in the discretion of the package agent. However, the actual operating hours may be less in the discretion of the package agent with the approval of the department, provided the agency operates at least seven hours a day.

(c) Type 4 package agencies may operate from 10:00 a.m. until 1:00 a.m., Monday through Friday, and 10:00 a.m. until 12:00 midnight on Saturday. However, the actual operating hours may be less in the discretion of the package agent with the approval of the department. A Type 4 package agency in a resort that is licensed

under 32A-4a, may operate 24 hours a day, Monday through Sunday to provide room service to guests of the resort.

(d) Any change in the hours of operation of any package agency requires prior department approval, and shall be submitted in writing by the package agent to the department.

(e)(i) A package agency shall not operate on a Sunday or legal holiday except to the extent authorized by 32A-3-106(9) which allows the following to operate on a Sunday or legal holiday:

(A) a package agency located in certain licensed wineries; and

(B) a package agency held by a resort that is licensed under 32A-4a that does not sell liquor in a manner similar to a state store which is limited to a Type 4 package agency.

(ii) If a legal holiday falls on a Sunday, the following Monday will be observed as the holiday by a Type 2 and 3 package agency.

(2) Size of Outlet. The retail selling space devoted to liquor sales in a type 2 or 3 package agency must be at least one hundred square feet.

(3) Inventory Size. Type 2 and 3 package agencies must maintain at least fifty code numbers of inventory at a retail value of at least five thousand dollars and must maintain a representative inventory by brand, code, and size.

(4) Access to General Public. Type 1, 2, and 3 package agencies must be easily accessible to the general consuming public.

(5) Purchase of Inventory. All new package agencies, at the discretion of the department, will purchase and maintain their inventory of liquor.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [~~January 26, 2010~~]2011

Notice of Continuation: September 6, 2006

Authorizing, and Implemented or Interpreted Law: 32A-1-107; 32A-3-106(9)(c)(ii)

Commerce, Occupational and
Professional Licensing
R156-1-102
Definitions

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 34323

FILED: 12/21/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change clarifies the legislative intent with regard to the meaning of the term "disciplinary action" as used in Subsection 58-1-401(5). The changes promote protection of public health and safety by allowing the Division

to take appropriate licensure action where an applicant for licensure has a lengthy conviction record that is outside the time parameters set forth in Subsection 58-1-401(5), but recently completed their jail sentence for the convictions before applying for licensure, and has not yet demonstrated a track record of good moral character or rehabilitation from unprofessional conduct.

SUMMARY OF THE RULE OR CHANGE: The change in Subsection R156-1-102(6) adds Subsection (a) to the current definition and adds Subsection (b) to clarify the term "disciplinary action", as used in Subsection 58-1-401(5), to mean an adverse action initiated by the Division and to not mean an adverse action taken against an applicant in response to an application for licensure.

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

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 occupations and professions regulated by the Division and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.
- ◆ **SMALL BUSINESSES:** The proposed amendments merely clarify legislative intent and codify existing Division practices. As a result, no costs or savings are anticipated by the Division.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments merely clarify legislative intent and codify existing Division practices. As a result, no costs or savings are anticipated by the Division.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments merely clarify legislative intent and codify existing Division practices. As a result, no costs or savings are anticipated by the Division.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this rule filing which codifies existing practices and clarifies what is meant by the phrase "disciplinary action" in existing provisions.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL
LICENSING
HEBER M WELLS BLDG
160 E 300 S

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-1. General Rule of the Division of Occupational and Professional Licensing.

R156-1-102. Definitions.

In addition to the definitions in Title 58, as used in Title 58 or this rule:

(1) "Active and in good standing" means a licensure status which allows the licensee full privileges to engage in the practice of the occupation or profession subject to the scope of the licensee's license classification.

(2) "Aggravating circumstances" means any consideration or factors that may justify an increase in the severity of an action to be imposed upon an applicant or licensee. Aggravating circumstances include:

- (a) prior record of disciplinary action, unlawful conduct, or unprofessional conduct;
- (b) dishonest or selfish motive;
- (c) pattern of misconduct;
- (d) multiple offenses;
- (e) obstruction of the disciplinary process by intentionally failing to comply with rules or orders of the Division;
- (f) submission of false evidence, false statements or other deceptive practices during the disciplinary process including creating, destroying or altering records after an investigation has begun;
- (g) refusal to acknowledge the wrongful nature of the misconduct involved, either to the client or to the Division;
- (h) vulnerability of the victim;
- (i) lack of good faith to make restitution or to rectify the consequences of the misconduct involved;
- (j) illegal conduct, including the use of controlled substances; and
- (k) intimidation or threats of withholding clients' records or other detrimental consequences if the client reports or testifies regarding the unprofessional or unlawful conduct.

(3) "Cancel" or "cancellation" means nondisciplinary action by the Division to rescind, repeal, annul, or void a license issued in error. Such action includes rescinding a license issued to an applicant whose payment of the required application fee is dishonored when presented for payment, or who has been issued a conditional license pending a criminal background check and the check cannot be completed due to the applicant's failure to resolve an outstanding warrant or to submit acceptable fingerprint cards.

(4) "Charges" means the acts or omissions alleged to constitute either unprofessional or unlawful conduct or both by a licensee, which serve as the basis to consider a licensee for inclusion in the diversion program authorized in Section 58-1-404.

(5) "Denial of licensure" means action by the Division refusing to issue a license to an applicant for initial licensure, renewal of licensure, reinstatement of licensure or relicensure.

(6)(a) "Disciplinary action" means adverse licensure action by the Division under the authority of Subsections 58-1-401(2)(a) through (2)(b).

(b) "Disciplinary action", as used in Subsection 58-1-401(5), shall not be construed to mean an adverse licensure action taken in response to an application for licensure. Rather, as used in Subsection 58-1-401(5), it shall be construed to mean an adverse action initiated by the Division.

(7) "Diversion agreement" means a formal written agreement between a licensee, the Division, and a diversion committee, outlining the terms and conditions with which a licensee must comply as a condition of entering in and remaining under the diversion program authorized in Section 58-1-404.

(8) "Diversion committees" mean diversion advisory committees authorized by Subsection 58-1-404(2)(a)(i) and created under Subsection R156-1-404a.

(9) "Duplicate license" means a license reissued to replace a license which has been lost, stolen, or mutilated.

(10) "Emergency review committees" mean emergency adjudicative proceedings review committees created by the Division under the authority of Subsection 58-1-108(2).

(11) "Expire" or "expiration" means the automatic termination of a license which occurs:

(a) at the expiration date shown upon a license if the licensee fails to renew the license before the expiration date; or

(b) prior to the expiration date shown on the license:

(i) upon the death of a licensee who is a natural person;

(ii) upon the dissolution of a licensee who is a partnership, corporation, or other business entity; or

(iii) upon the issuance of a new license which supersedes an old license, including a license which:

(A) replaces a temporary license;

(B) replaces a student or other interim license which is limited to one or more renewals or other renewal limitation; or

(C) is issued to a licensee in an upgraded classification permitting the licensee to engage in a broader scope of practice in the licensed occupation or profession.

(12) "Inactive" or "inactivation" means action by the Division to place a license on inactive status in accordance with Sections 58-1-305 and R156-1-305.

(13) "Investigative subpoena authority" means, except as otherwise specified in writing by the director, the Division regulatory and compliance officer, or if the Division regulatory and compliance officer is unable to so serve for any reason, a Department administrative law judge, or if both the Division regulatory and compliance officer and a Department administrative law judge are unable to so serve for any reason, a bureau manager designated by the director in writing.

(14) "License" means a right or privilege to engage in the practice of a regulated occupation or profession as a licensee.

(15) "Limit" or "limitation" means nondisciplinary action placing either terms and conditions or restrictions or both upon a license:

(a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(16) "Mitigating circumstances" means any consideration or factors that may justify a reduction in the severity of an action to be imposed upon an applicant or licensee.

(a) Mitigating circumstances include:

(i) absence of prior record of disciplinary action, unlawful conduct or unprofessional conduct;

(ii) personal, mental or emotional problems provided such problems have not posed a risk to the health, safety or welfare of the public or clients served such as drug or alcohol abuse while engaged in work situations or similar situations where the licensee or applicant should know that they should refrain from engaging in activities that may pose such a risk;

(iii) timely and good faith effort to make restitution or rectify the consequences of the misconduct involved;

(iv) full and free disclosure to the client or Division prior to the discovery of any misconduct;

(v) inexperience in the practice of the occupation and profession provided such inexperience is not the result of failure to obtain appropriate education or consultation that the applicant or licensee should have known they should obtain prior to beginning work on a particular matter;

(vi) imposition of other penalties or sanctions if the other penalties and sanctions have alleviated threats to the public health, safety, and welfare; and

(vii) remorse.

(b) The following factors should not be considered as mitigating circumstances:

(i) forced or compelled restitution;

(ii) withdrawal of complaint by client or other affected persons;

(iii) resignation prior to disciplinary proceedings;

(iv) failure of injured client to complain; and

(v) complainant's recommendation as to sanction.

(17) "Nondisciplinary action" means adverse licensure action by the Division under the authority of Subsections 58-1-401(1) or 58-1-401(2)(c) through (2)(d).

(18) "Peer committees" mean advisory peer committees to boards created by the legislature in Title 58 or by the Division under the authority of Subsection 58-1-203(1)(f).

(19) "Probation" means disciplinary action placing terms and conditions upon a license;

(a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(20) "Public reprimand" means disciplinary action to formally reprove or censure a licensee for unprofessional or unlawful conduct, with the documentation of the action being classified as a public record.

(21) "Regulatory authority" as used in Subsection 58-1-501(2)(d) means any governmental entity who licenses, certifies, registers, or otherwise regulates persons subject to its jurisdiction, or who grants the right to practice before or otherwise do business with the governmental entity.

(22) "Reinstate" or "reinstatement" means to activate an expired license or to restore a license which is restricted, as defined in Subsection (26)(b), or is suspended, or placed on probation, to a lesser restrictive license or an active in good standing license.

(23) "Relicense" or "relicensure" means to license an applicant who has previously been revoked or has previously surrendered a license.

(24) "Remove or modify restrictions" means to remove or modify restrictions, as defined in Subsection (25)(a), placed on a license issued to an applicant for licensure.

(25) "Restrict" or "restriction" means disciplinary action qualifying or limiting the scope of a license:

(a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure in accordance with Section 58-1-304; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(26) "Revoke" or "revocation" means disciplinary action by the Division extinguishing a license.

(27) "Suspend" or "suspension" means disciplinary action by the Division removing the right to use a license for a period of time or indefinitely as indicated in the disciplinary order, with the possibility of subsequent reinstatement of the right to use the license.

(28) "Surrender" means voluntary action by a licensee giving back or returning to the Division in accordance with Section 58-1-306, all rights and privileges associated with a license issued to the licensee.

(29) "Temporary license" or "temporary licensure" means a license issued by the Division on a temporary basis to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure in accordance with Section 58-1-303.

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

(31) "Warning or final disposition letters which do not constitute disciplinary action" as used in Subsection 58-1-108(3) mean letters which do not contain findings of fact or conclusions of law and do not constitute a reprimand, but which may address any or all of the following:

- (a) Division concerns;
- (b) allegations upon which those concerns are based;
- (c) potential for administrative or judicial action; and
- (d) disposition of Division concerns.

KEY: diversion programs, licensing, occupational licensing, supervision

Date of Enactment or Last Substantive Amendment:
[November 8, 2010]2011

Notice of Continuation: March 1, 2007

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

Commerce, Occupational and Professional Licensing **R156-55c-102** Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34338

FILED: 12/30/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 58-55-305(1)(k)(i) in the Construction Trades Licensing Act was enacted by the 2010 Legislative Session in S.B. 85 and required the Division to define by rule incidental plumbing that is allowed without having a license. (DAR NOTE: S.B. 85 (2010) is found at Chapter 27, Laws of Utah 2010, and was effective 05/11/2010.)

SUMMARY OF THE RULE OR CHANGE: New Subsections R156-55c-102(3) and (4) are added which define the incidental plumbing work allowed to be performed by a non-licensuree to include replacement or repair of various residential types of appliances, regardless of value, and replacement or repair of fixtures and other appliances having a value of less than \$300, labor and materials included.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-55-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The proposed amendments to the rule have been made to implement S.B. 85 which was enacted during the 2010 Legislative Session and will not result in any additional impact to any party beyond what was identified in the legislative fiscal notes associated with that bill.

◆ **LOCAL GOVERNMENTS:** The proposed amendments to the rule have been made to implement S.B. 85 which was enacted during the 2010 Legislative Session and will not result in any additional impact to any party beyond what was identified in the legislative fiscal notes associated with that bill.

◆ **SMALL BUSINESSES:** The proposed amendments to the rule have been made to implement S.B. 85 which was enacted during the 2010 Legislative Session and will not result in any additional impact to any party beyond what was identified in the legislative fiscal notes associated with that bill. The proposed amendments set a boundary of what may or may not be done by unlicensed persons or what must be done by licensed persons. Each of these types of businesses may be affected in the amount of work they may do; however, it is impossible to estimate the amount to which they may be affected.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments to the rule have been made to implement S.B 85 which was enacted during the 2010 Legislative Session and will not result in any additional impact to any party beyond what was identified in the legislative fiscal notes associated with that bill. The proposed amendments set a boundary of what may or may not be done by unlicensed persons or what must be done by licensed persons. Each of these types of businesses may be affected in the amount of work they may do; however, it is impossible to estimate the amount to which they may be affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments to the rule have been made to implement S.B 85 which was enacted during the 2010 Legislative Session and will not result in any additional impact to any party beyond what was identified in the legislative fiscal notes associated with that bill. The proposed amendments set a boundary of what may or may not be done by unlicensed persons or what must be done by licensed persons. Each of these types of businesses may be affected in the amount of work they may do; however, it is impossible to estimate the amount to which they may be affected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing implements a recent statutory change requiring the Division to define incidental plumbing work. No fiscal impact to businesses is anticipated beyond those addressed by the Legislature.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL
LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 01/26/2011 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-55c. Plumber Licensing Rule.

R156-55c-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 55, as used in Title 58, Chapters 1 and 55 or this rule:

(1) "Board" means the Plumbers Licensing Board.

(2) "Direct supervision", as used in this rule, means reasonable direction, oversight, inspection, and evaluation of the work of a person, in or out of the immediate presence of the supervision person, so as to ensure that the end result complies with applicable standards.

(3) "Minor plumbing work that is incidental", as used in Subsection 58-55-305(1)(k)(i) and this rule, means:

(a) repair or replacement of the following residential type appliances:

(i) dishwashers;

(ii) refrigerators;

(iii) freezers;

(iv) ice makers;

(v) stoves;

(vi) ranges;

(vii) clothes washers; and

(viii) clothes dryers; and

(b) repair or replacement of other plumbing fixtures and appliances inside the occupied space of a structure, when the cost of the repair or replacement does not exceed \$300 in total value, including all labor and materials, and including all changes or additions to the contracted or agreed upon work.

(4) "Minor plumbing work that is incidental", as used in Subsection 58-55-305(1)(k)(i), does not include installation or replacement of a water heater.

([3]5) "Plumber" means apprentice plumber, journeyman plumber, residential journeyman plumber, master plumber and residential master plumber.

([4]6) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 55, is further defined in accordance with Subsection 58-1-203(1)(e), in Subsection R156-55c-501.

KEY: occupational licensing, licensing, plumbers, plumbing
Date of Enactment or Last Substantive Amendment:
[November 22, 2010]2011

Notice of Continuation: November 8, 2006

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)
(a); 58-1-202(1)(a); 58-55-101

**Commerce, Occupational and
Professional Licensing
R156-60c
Professional Counselor Licensing Act
Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34339

FILED: 12/30/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Professional Counselor Licensing Board reviewed the rule and determined that changes need to be made. The current rule requires completion of four and one-half quarter hours of course work in subjects such as career development, cultural foundations, research and evaluation, and practicum. Quarter hours are rarely earned in quantities of half credits and a three semester credit hour course is substantially equivalent to a four quarter credit hour course. For this reason, the Division and Board recommend that the number of quarter hours required in these subjects be decreased from four and one-half to four. For similar reasons, the number of quarter credit hours required in individual and group therapy and internship is decreased. Because the number of quarter credit hours in these subjects decreased, the total number of quarter credit hours required in general behavioral sciences increased. S.B. 90 from the 2010 General Session of the Legislature changed the reference to the title "Certified Professional Counselor Intern" in the Professional Counselor Licensing Act to "Licensed Associate Professional Counselor". The proposed amendment updates the rule to make it consistent with the new statute. The proposed amendment allows for a licensee gathering hours of training needed to obtain the licensed professional counselor license to be licensed as either a licensed associate professional counselor or licensed associate professional counselor extern. The proposed amendment increases the number of contact hours of continuing education that a licensee can complete via distance learning, clinical readings, or internet based courses. The proposed amendment adds a "physician" as an acceptable supervisor of mental health therapy training because a physician falls under the definition of a mental health therapist established in Subsection 58-60-102(5). The proposed amendment removes the Utah Professional Counselor Law, Rules and Ethics Examination as a requirement for licensure as a licensed professional counselor because the Board and Division feel that the required passing scores on the two exams administered by the National Board for Certified Counselors sufficiently test counselors on professional ethics. In addition, professional counselors demonstrate current training in the laws, rules,

and ethics in the profession when they complete not less than six contact hours of continuing education in the subject of ethics during every two year license renewal period. The proposed amendment replaces the incorporation of the American Counseling Association Code of Ethics with incorporation of the American Mental Health Counselors Association (AMHCA) Code Ethics because the AMHCA Code of Ethics is specific to the practice of a mental health counselor. The filing also capitalizes terms "division" and "board", updates statutory and rule citations, and makes stylistic changes. (DAR NOTE: S.B. 90 (2010) is found at Chapter 214, Laws of Utah 2010, and was effective 05/11/2010.)

SUMMARY OF THE RULE OR CHANGE: Capitalized "division" and "board" and updated statutory and rule citations throughout the rule. In Subsection R156-60c-102(2), the current rule requires completion of four and one-half quarter hours of course work in practicum. Quarter hours are rarely earned in quantities of half credits and a three semester credit hour course is substantially equivalent to a four quarter credit hour course. The proposed amendment decreases the number of quarter hours required in a practicum course from four and one-half to four. In Subsections R156-60c-302a(2) (e), (f), (g), (m), and (n), the current rule requires completion of four and one-half quarter hours of course work in the following subject areas: career development, cultural foundations, research and evaluation. Quarter hours are rarely earned in quantities of half credits and a three semester credit hour course is substantially equivalent to a four quarter credit hour course. The proposed amendment decreases the number of quarter hours required in career development, cultural foundations, research and evaluation from four and one-half to four. In Subsections R156-60c-302a(2)(h) and (o), the proposed amendment decreases the number of quarter hours required in individual and group therapy and internship from nine to eight quarter hours. In Subsection R156-60c-302a(2)(p), due to amendments to prior subsections, it is necessary to increase the number of quarter hours required in behavioral sciences from 25.5 to 30. Also the reference to nine quarter credit hours is changed to eight quarter credit hours. In Subsections R156-60c-302a(4) and (5), the proposed amendments replace the title "certified professional counselor intern" with "licensed associate professional counselor". Subsection R156-60c-302b(1)(b) is added to clarify the experience requirement so as to allow for both licensed associate professional counselors and licensed associate professional counselor externs to gather hours of training needed to obtain the licensed professional counselor license. Subsection R156-60c-302b(1)(c) renumbers the subsection and adds a "physician" as an acceptable supervisor of mental health therapy training because a physician falls under the definition of a mental health therapist established in Subsection 58-60-102(5). In Section 3R156-60c-02c, the proposed amendment removes the Utah Professional Counselor Law, Rules and Ethics Examination as a requirement for licensure as a licensed professional counselor. In Subsections R156-60c-304(1) and (2), updated the term "certified professional counselor" to "licensed

associate professional counselor". In Subsection R156-60c-304(5)(c), the number of contact hours of continuing education completed via distance learning, clinical readings, or internet-based courses is increased from six to ten. The term "distance learning" is added to clarify the intent of the requirement. In Section R156-60c-306, the proposed amendment deletes the Utah Professional Counselor Law, Rules and Ethics Examination as a requirement for reinstatement of licensure. In Section R156-60c-401, the proposed amendment adds a "physician" as an acceptable supervisor of mental health therapy training. In Section R156-60c-402, the proposed amendments change the title "certified professional counselor intern" to "licensed associate professional counselor". The proposed amendments also allow for a licensee gathering hours of training needed to obtain the licensed professional counselor license to be licensed as either a licensed associate professional counselor or licensed associate professional counselor extern. In Section R156-60c-502, proposed amendment replaces the incorporation of the American Counseling Association Code of Ethics with incorporation of the American Mental Health Counselors Association (AMHCA) Code Ethics because the AMHCA Code of Ethics is specific to the practice of a mental health counselor.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-60-401 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds American Mental Health Counselors Association Code of Ethics, published by American Mental Health Counselors Association, March 2010
- ◆ Removes American Counseling Association's Code of Ethics, published by American Counseling Association, 2005

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. If a public college or university in Utah used a quarter credit system, they would possibly see a minor loss in revenue from the decreased number of quarter hours required for career development, cultural foundations, research and evaluation, practicum, individual and group therapy, internship, and behavioral sciences. However, no public colleges or universities in Utah with professional counselor programs currently use a quarter system.
- ◆ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed professional counselors and licensed associate professional counselors and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.
- ◆ **SMALL BUSINESSES:** The proposed amendments only apply to licensed professional counselors and licensed associate professional counselors and applicants for licensure in those classifications. Licensees and applicants

for licensure may work in a small business; however, the proposed amendments would not directly affect the business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Private colleges and universities that use a quarter credit system may see a minor loss in revenue from the decreased number of quarter hours required for career development, cultural foundations, research and evaluation, practicum, individual and group therapy, internship, and behavioral sciences. Any aggregate impact cannot be estimated by the Division. Due to the proposed amendments which decrease the number of quarter credit hours required in certain subjects, some applicants for licensure may save money they would otherwise spend in order to complete the additional quarter credit hours. However, any aggregate savings cannot be estimated. The proposed amendment which eliminates the requirement to take and pass the Utah Professional Counselor Law, Rules and Ethics Examination will save applicants a \$72 examination registration fee. The Division licenses approximately 70 new professional counselors in a year for an aggregate savings of \$5,040. Also allowing licensees to gather hours of training needed to obtain the professional counselor license while licensed as an extern will allow some licensees to qualify quicker for the professional counselor license. For some, this will translate into getting a new job or promotion sooner than they would under the current requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed professional counselors and licensed associate professional counselors and applicants for licensure in those classifications. Due to the proposed amendments which decrease the number of quarter credit hours required in certain subjects, some applicants for licensure may save money they would otherwise spend in order to complete the additional quarter credit hours. However, an exact savings amount cannot be estimated due to varying circumstances. The proposed amendment which eliminates the requirement to take and pass the Utah Professional Counselor Law, Rules and Ethics Examination will save applicants a \$72 examination registration fee. Also allowing licensees to gather hours of training needed to obtain the professional counselor license while licensed as an extern will allow some licensees to qualify quicker for the professional counselor license. For some, this will translate into getting a new job or promotion sooner than they would under the current requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing conforms the rule to recent statutory amendments that amended definitions. It eliminates the half-credit hour reference in certain required courses, removes the requirement for an examination that is deemed duplicative, updates statutory references, increases the number of permissible hours of continuing education via clinical readings or the Internet, and makes other technical changes. No fiscal impact to businesses is anticipated beyond those addressed by recent statutory amendments. Applicants should see a

cost savings as a result of the credit-hour change and elimination of the law, rules and ethics examination.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL
LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Rich Oborn by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at roborn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 02/07/2011 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-60c. Professional Counselor Licensing Act Rule.

R156-60c-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 60, as used in Title 58, Chapters 1 and 60, or this rule:

(1) "Internship" means:

(a) 900 clock hours of supervised counseling experience of which 360 hours must be in the provision of mental health therapy:

(i) in a public or private agency engaged in the clinical practice of mental health therapy as defined in Subsection 58-60-102(7); and

(ii) from a supervisor licensed as a mental health therapist as defined in Section R156-60c-401.

(2) "Practicum" means a supervised counseling experience in an appropriate setting of at least three semester or four ~~and 1/2~~ quarter hours duration for academic credit.

(3) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 60 is further defined, in accordance with Subsection 58-1-203(~~5~~1)(e), in Section R156-60c-502.

R156-60c-103. Authority - Purpose.

This rule is adopted by the ~~[d]~~ Division under the authority of Subsection 58-1-106(1) to enable the ~~[d]~~ Division to administer Title 58, Chapter 60, Part 4.

R156-60c-302a. Qualifications for Licensure - Education Requirements.

(1) Pursuant to Subsection 58-60-405(1)(d)(i), the degree and educational program which prepares one to competently engage in mental health therapy is established and clarified to be a masters or doctorate degree in Mental Health Counseling or an equivalent degree from an institution accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) or the Council for Higher Education Accreditation of the American Council on Education (CHEA), at the time the applicant obtained the education, which includes a minimum of 60 semester (90 quarter) hours of graduate studies and includes the specific course requirements as specified in Subsection (2).

(2) The core curriculum in Subsection 58-60-405(1)(d) shall consist of the following courses:

(a) a minimum of two semester or three quarter hours shall be in ethical standards, issues, behavior and decision-making based on the standards of the American Counseling Association (ACA), American Mental Health Counselors Association (AMHCA), or National Board of Certified Counselors (NBCC);

(b) a minimum of two semester or three quarter hours shall be in professional roles and functions of a mental health counselor, trends and history, professional preparation standards and credentialing;

(c) a minimum of two semester or three quarter hours shall be in individual theory and shall include several of the predominant theories, which may include humanistic, behavioral or cognitive theories of individual therapy;

(d) a minimum of two semester or three quarter hours shall be in group theory and shall include understanding of group development and multiple theories regarding group therapy;

(e) a minimum of three semester or four ~~and 1/2~~ quarter hours shall be in human growth and development across the life span, which may include:

(i) physical, social and psychosocial development;

(ii) personality development;

(iii) learning theory and cognitive development;

(iv) emotional development;

(f) a minimum of three semester or four ~~and 1/2~~ quarter hours shall be in career development;

(g) a minimum of three semester or four ~~and 1/2~~ quarter hours shall be in cultural foundations. Examples are:

(i) human diversity;

(ii) multicultural issues and trends;

(iii) gender issues;

(iv) exceptionality;

(v) disabilities; and

(vi) aging;

(h) a minimum of six semester or ~~nine~~ eight quarter hours shall be in the application of individual and group therapy and other therapeutic methods and interventions. Examples are:

(i) building, maintaining and terminating relationships;

(ii) solution-focused and brief therapy;

(iii) crisis intervention;

(iv) prevention of mental illness;

(v) treatment of specific syndromes;

(vi) case conceptualization; and

- (vii) referral, supportive and follow-up services;
- (i) a minimum of two semester or three quarter hours shall be in psychopathology and multi-axial diagnosis DSM classification;
- (j) a minimum of two semester or three quarter hours shall be in dysfunctional behaviors. Examples are:
- (i) addictions;
 - (ii) substance abuse;
 - (iii) cognitive dysfunction;
 - (iv) sexual dysfunction; and
 - (v) abuse and violence;
- (k) a minimum of two semester or three quarter hours shall be in a foundation course in test and measurement theory including the theory of test development, variety of test types and introduction to several tests used in mental health assessment;
- (l) a minimum of two semester or three quarter hours shall be in an advanced course in assessment of mental status including the assessment of DSM personality diagnosis;
- (m) a minimum of three semester or four ~~[and 1/2]~~ quarter hours shall be in research and evaluation. This shall not include a thesis, dissertation, or project, but may include:
- (i) statistics;
 - (ii) research methods, qualitative and quantitative;
 - (iii) use and interpretation of research data;
 - (iv) evaluation of client change; and
 - (v) program evaluation;
- (n) a minimum of three semester or four ~~[and 1/2]~~ quarter hours of practicum as defined in Subsection R156-60c-102(2);
- (o) a minimum of six semester or ~~[nine]~~eight quarter hours of internship as defined in Subsection R156-60c-102(1); and
- (p) a minimum of 17 semester or 25.5 quarter hours of course work in the behavioral sciences. No more than six semester or nine quarter hours of credit for thesis, dissertation or project hours shall be counted toward the required core curriculum hours in this subsection.
- (3) The supplemental course work shall consist of formal graduate level work meeting the requirements of Subsections (1) and (2) in regularly offered and scheduled classes. University based directed reading courses may be approved at the discretion of the ~~[b]~~Board.
- (4) The following degrees do not prepare a person to competently engage in mental health therapy: Career Counseling, College Counseling, Community Counseling, Gerontological Counseling, School Counseling, Student Affairs, Rehabilitation Counseling, Music Therapy, Art Therapy, or Dance Therapy. Applicants who have one of these degrees or comparable degrees and who complete the classes which have been included in the Mental Health Counseling degree and as outlined in Subsection (1) and (2), may request the Division and the Board to consider their education as equivalent to the requirements for licensure. Upon completion of this substantially equivalent education requirement, the applicant may be granted a license as a ~~[certified]~~licensed associate professional counselor ~~[intern]~~ under Subsection 58-60-405(2).
- (5) An applicant who has met the degree requirements under Subsection (1) or (4) which prepares one to competently engage in mental health therapy, but who is deficient in one or more, but no more than three of the courses provided in Subsection (2), may be granted a temporary professional counselor license as a

~~[certified]~~licensed associate professional counselor extern under Section 58-60-117. Furthermore, the deficient courses may not include ethics, psychopathology, advanced mental status, practicum, or internship.

R156-60c-302b. Qualifications for Licensure - Experience Requirements.

(1) The professional counselor and mental health therapy training qualifying an applicant for licensure as a professional counselor under Subsections 58-60-405(1)(e) and (f) shall:

(a) be completed in not less than two years;

~~(b) be completed while the applicant is licensed as a licensed associate professional counselor or licensed associate professional counselor extern;~~

~~[(b)]~~(c) be completed while the applicant is an employee, as defined in Subsection R156-60-102(3), of a public or private agency engaged in mental health therapy under the supervision of a qualified professional counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, physician, or marriage and family therapist; and

(c) be completed under a program of supervision by a mental health therapist meeting the requirements under Sections R156-60c-401 and R156-60c-402.

(2) An applicant for licensure as a professional counselor, who is not seeking licensure by endorsement based upon licensure in another jurisdiction, who has completed all or part of the professional counselor and mental health therapy training requirements under Subsection (1) outside the state may receive credit for that training completed outside of the state if it is demonstrated by the applicant that the training completed outside the state is equivalent to and in all respects meets the requirements for training under Subsections 58-60-405(1)(e) and (f), and Subsections R156-60c-302b(1). The applicant shall have the burden of demonstrating by evidence satisfactory to the ~~[d]~~Division and ~~[b]~~Board that the training completed outside the state is equivalent to and in all respects meets the requirements under this Subsection.

R156-60c-302c. Qualifications for Licensure - Examination Requirements.

(1) Under Subsection 58-60-405(1)(g), an applicant for licensure as a professional counselor must pass the following examinations:

(a) ~~[the Utah Professional Counselor Law, Rules and Ethics Examination;~~

~~_____ (b)]~~the National Counseling Examination of the National Board for Certified Counselors; and

~~[(e)]~~(b) the National Clinical Mental Health Counseling Examination of the National Board of Certified Counselors.

R156-60c-304. Continuing Education.

(1) There is hereby established a continuing education requirement for all individuals licensed under Title 58, Chapter 60, Part 4, as a professional counselor and ~~[certified]~~licensed associate professional counselor~~[intern]~~.

(2) During each two year period commencing September 30th of each even numbered year, a professional counselor or ~~[certified]~~licensed associate professional counselor ~~[intern]~~ shall be required to complete not ~~[less]~~fewer than 40 hours of continuing

education directly related to the licensee's professional practice of which a minimum of six hours must be completed in ethics/law.

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

(4) Continuing education under this section shall:

(a) be relevant to the licensee's professional practice;
 (b) be prepared and presented by individuals who are qualified by education, training and experience to provide continuing education regarding mental health therapy professional counseling; and

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

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

(a) unlimited hours shall be recognized for continuing education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences;

(b) a maximum of 10 hours per two year period may be recognized for teaching in a college or university, teaching qualified continuing education courses in the field of mental health therapy professional counseling, or supervision of an individual completing his experience requirement for licensure in a mental health therapist license classification; and

(c) a maximum of ~~six~~ 10 hours per two year period may be recognized for distance learning, clinical readings, or internet-based courses directly related to practice as a mental health therapist or professional counselor.

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

(7) A licensee who documents he is engaged in full-time activities or is subjected to circumstances which prevent that licensee from meeting the continuing 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.

R156-60c-306. License Reinstatement - Requirements.

In addition to the requirements established in Section R156-1-308e, an applicant for reinstatement of his license after two years following expiration of that license shall be required to meet the following reinstatement requirements:

(1) if deemed necessary, meet with the [b]Board for the purpose of evaluating the applicant's current ability to engage safely and competently in practice as a professional counselor and to make a determination of any additional education, experience or examination requirements which will be required before reinstatement;

(2) upon the recommendation of the [b]Board, establish a plan of supervision under an approved supervisor which may include up to 4,000 hours of professional counselor and mental health therapy training as a professional counselor-temporary;

(3) ~~[pass the Utah Professional Counselor Law, Rules and Ethics Examination;~~

~~(4)~~ pass the National Counseling Examination of the National Board for Certified Counselors if it is determined by the [b]Board that current taking and passing of the examination is necessary to demonstrate the applicant's ability to engage safely and competently in practice as a professional counselor;

([5]4) pass the National Clinical Mental Health Counseling Examination if it is determined by the [b]Board that current taking and passing of the examination is necessary to demonstrate the applicant's ability to engage safely and competently in practice as a professional counselor; and

([6]5) complete a minimum of 40 hours of professional education in subjects determined by the [b]Board as necessary to ensure the applicant's ability to engage safely and competently in practice as a professional counselor.

R156-60c-401. Requirements to be Qualified as a Professional Counselor Training Supervisor and Mental Health Therapist Training Supervisor.

In accordance with Subsections 58-60-405(1)(e) and (f), in order for an individual to be qualified as a professional counselor training supervisor or mental health therapist trainer, the individual shall have the following qualifications:

(1) be currently licensed in good standing in a profession set forth for a supervisor under Subsection 58-60-405(1)(e) in the state in which the supervised training is being performed;

(2) have engaged in lawful practice of mental health therapy as a physician, professional counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist for not ~~[less]~~ fewer than 4,000 hours in a period of not less than two years prior to beginning supervision activities; and

(3) be employed by or have a contract with the mental health agency that employs the supervisee, but not be employed by the supervisee, nor be employed by an agency owned in total or in part by the supervisee, or in which the supervisee has any controlling interest.

R156-60c-402. Duties and Responsibilities of a Supervisor of Professional Counselor and Mental Health Therapy Training.

The duties and responsibilities of a licensee providing supervision to an individual completing supervised professional counselor and mental health therapy training requirements for licensure as a professional counselor are to:

(1) be professionally responsible for the acts and practices of the supervisee which are a part of the required supervised training;

(2) be engaged in a relationship with the supervisee in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(3) be available for advice, consultation, and direction consistent with the standards and ethics of the profession and the requirements suggested by the total circumstances including the supervisee's level of training, diagnosis of patients, and other factors known to the supervisee and supervisor;

(4) provide periodic review of the client records assigned to the supervisee;

(5) comply with the confidentiality requirements of Section 58-60-114;

(6) monitor the performance of the supervisee for compliance with laws, standards, and ethics applicable to the practice of professional counseling and report violations to the [d]Division;

(7) supervise only a supervisee who is an employee of a public or private mental health agency;

(8) submit appropriate documentation to the [d]Division with respect to all work completed by the supervisee evidencing the performance of the supervisee during the period of supervised professional counselor and mental health therapy training, including the supervisor's evaluation of the supervisee's competence in the practice of professional counseling and mental health therapy;

(9) supervise not more than three supervisees at any given time unless approved by the [b]Board and [d]Division; and

(10) assure each supervisee is licensed as a [certified]licensed associate professional counselor [intern]or licensed associate professional counselor extern prior to beginning the supervised training of the supervisee as required under Subsection 58-60-405(1)(e) and (f).

R156-60c-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) acting as a supervisor or accepting supervision duties of a supervisor without complying with or ensuring the compliance with the requirements of Sections R156-60c-401 and R156-60c-402;

(2) engaging in the supervised practice of mental health therapy when not in compliance with Subsections R156-60c-~~302b~~401(3) and R156-60c-402(7);

(3) engaging in and aiding or abetting conduct or practices which are dishonest, deceptive or fraudulent;

(4) engaging in or aiding or abetting deceptive or fraudulent billing practices;

(5) failing to establish and maintain appropriate professional boundaries with a client or former client;

(6) engaging in dual or multiple relationships with a client or former client in which there is a risk of exploitation or potential harm to the client;

(7) engaging in sexual activities or sexual contact with a client with or without client consent;

(8) engaging in sexual activities or sexual contact with a former client within two years of documented termination of services;

(9) engaging in sexual activities or sexual contact at any time with a former client who is especially vulnerable or susceptible to being disadvantaged because of the client's personal history, current mental status, or any condition which could reasonably be expected to place the client at a disadvantage recognizing the power imbalance which exists or may exist between the professional counselor and the client;

(10) engaging in sexual activities or sexual contact with client's relatives or other individuals with whom the client maintains a relationship when that individual is especially vulnerable or susceptible to being disadvantaged because of his personal history, current mental status, or any condition which could reasonably be expected to place that individual at a disadvantage recognizing the

power imbalance which exists or may exist between the professional counselor and that individual;

(11) engaging in physical contact with a client when there is a risk of exploitation or potential harm to the client resulting from the contact;

(12) engaging in or aiding or abetting sexual harassment or any conduct which is exploitive or abusive with respect to a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;

(13) failing to render impartial, objective, and informed services, recommendations or opinions with respect to custodial or parental rights, divorce, domestic relationships, adoptions, sanity, competency, mental health or any other determination concerning an individual's civil or legal rights;

(14) exploiting a client for personal gain;

(15) using a professional client relationship to exploit a person that is known to have a personal relationship with a client for personal gain;

(16) failing to maintain appropriate client records for a period of not less than ten years from the documented termination of services to the client;

(17) failing to obtain informed consent from the client or legal guardian before taping, recording or permitting third party observations of client care or records;

(18) failing to cooperate with the Division during an investigation; and

(19) failing to abide by the provisions of the American ~~Counseling Association's~~ Mental Health Counselors Association Code of Ethics, ~~[2005]~~last amended March 2010, which is adopted and incorporated by reference.

KEY: licensing, counselors, mental health, professional counselors

Date of Enactment or Last Substantive Amendment: ~~[August 11, 2009]~~2011

Notice of Continuation: January 7, 2010

Authorizing, and Implemented or Interpreted Law: 58-60-401; 58-1-106(1)(a); 58-1-202(1)(a)

Education, Administration **R277-400** School Emergency Response Plans

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 34331

FILED: 12/30/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide language that allows schools to include firearm safety instruction as part of

violence prevention and intervention strategies in a school's emergency response plan. The amended rule also removes an incorrect citation in the authority and purpose section of the rule and updates terminology.

SUMMARY OF THE RULE OR CHANGE: The amended section provides new language regarding the inclusion of firearm safety instruction.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. The amended section of the rule allows schools to include firearm safety instruction in their emergency response plans which does not impact the state.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. The amended section of the rule allows public schools to include language on firearm safety instruction in their emergency response plans which should not financially impact school districts or schools.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. The amended section of the rule applies to public schools and does not impact 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, business, or local government entities. The amended section of the rule applies to public schools and does not impact individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The amended section of the rule permits public schools to allow firearm safety instruction as part of their emergency response plans; no compliance costs are necessary.

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 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

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

R277. Education, Administration.

R277-400. School Emergency Response Plans.

R277-400-1. Definitions.

[E]A. "Board" means the Utah State Board of Education.

[A]B. "Emergency" means a natural or man-made disaster, accident, act of war, or other circumstance which could reasonably endanger the safety of school children or disrupt the operation of the school.

[B]C. "Emergency Preparedness Plan" means policies and procedures developed to promote the safety and welfare of students, protect [district]school property, or regulate the operation of schools during an emergency occurring within a school district or a school.

D. "Emergency Response Plan" means a plan developed by a school district or school to prepare and protect students and staff in the event of school violence emergencies.

R277-400-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X Section 3 which vests general control and supervision of public education in the Board, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities [~~and Section 53A-1-402(1)(b) directs the Board to adopt rules for student health and safety~~].

B. The purpose of this rule is to establish general criteria for both Emergency Preparedness and Emergency Response plans required of schools and school districts in the event of natural disasters or school violence emergencies. This rule also directs school districts and charter schools to develop prevention, intervention, and response measures and to prepare staff and students to respond promptly and appropriately to school violence emergencies.

R277-400-3. Establishing School District Emergency Preparedness and Emergency Response Plans.

A. By July 1 of each year, each local board of education/local charter school board shall certify to the Board that its plan has been practiced at the school level, presented to and reviewed by its teachers, administrators, students and their parents, local law enforcement, and public safety representatives consistent with Section 53A-3-402(18).

B. As a part of a local board of education's/local charter school board's annual application for Safe and Drug Free School funds, the local board of education/local charter school board shall reference its Emergency Response plan.

C. The plan(s) shall be designed to meet individual school needs and features. A school district may direct schools within the school district to develop and implement individual plans.

D. The local board of education/local charter school board shall appoint a committee to prepare plan(s) or modify existing plan(s) to satisfy this rule. The committee shall consist of appropriate school and community representatives which may

include school and school district administrators, teachers, parents, community and municipal governmental officers, and fire and law enforcement personnel. Governmental agencies and bodies vested with responsibility for directing and coordinating emergency services on local and state levels shall be included on the committee.

E. The local board of education/local charter school board shall appoint appropriate persons at least once every three years to review the plan(s).

F. The Board shall develop Emergency Response plan models under Section 53A-3-402(1[7]8)(d).

R277-400-4. Notice and Preparation.

A. A copy of the plan(s) for each school within a school district shall be filed in the school district superintendent's office. A charter school plan shall be maintained by the local charter school board.

B. At the beginning of each school year, parents and staff shall receive a written notice of relevant sections of school district and school plans which are applicable to that school.

C. Each school shall designate an Emergency Preparedness/Emergency Response week prior to April 30 of each school year. Community, student, teacher awareness, or training[~~or in-service~~], such as those outlined in R277-400-7 and 8, would be appropriate activities offered during the week.

R277-400-5. Plan(s) Content--Educational Services and Student Supervision.

The plan shall contain measures which assure that, during an emergency, school children receive reasonably adequate educational services and supervision during school hours.

A. Evacuation procedures shall assure reasonable care and supervision of children until responsibility has been affirmatively assumed by another responsible party.

B. Release of a child below ninth grade at other than regularly scheduled hours is prohibited unless the parent or another responsible person has been notified and has assumed responsibility for the child. An older child may be released without such notification if a school official determines that the child is reasonably responsible and notification is not practicable.

C. School districts and charter schools shall, to the extent reasonably possible, provide educational services to school children whose regular school program has been disrupted by an extended emergency.

R277-400-6. Emergency Preparedness Training.

The plan shall contain measures which assure that school children receive emergency preparedness training.

A. School children shall be provided with training appropriate to their ages in rescue techniques, first aid, safety measures appropriate for specific emergencies, and other emergency skills.

B. Fire drills:

(1) During each school year, elementary schools shall conduct fire drills at least once each month during school sessions. A fire drill in secondary schools shall be conducted at least every two months, for a total of four fire drills during the nine month school year. The first fire drill shall be conducted within the first two weeks of the school year for both elementary and secondary

schools. An exception may be made, subject to the approval of the local fire chief, to postpone a fire drill due to severe weather conditions.

(2) Fire drills shall include the complete evacuation of all persons from the school building or portion thereof used for educational purposes. An exception may be made for the staff member responsible for notifying the local fire department and handling emergency communications.

(3) When required by the local fire chief, the local fire department shall be notified prior to each drill.

(4) When a fire alarm system is provided, fire drills shall be initiated by activation of the fire alarm system.

C. Schools shall hold at least one drill for other emergencies during the school year.

D. Resources and materials available for training shall be identified in the plan.

R277-400-7. Emergency Response Training.

A. Each school district and local charter school board shall provide an annual [in-service]training for school district and school building staff on employees roles, responsibilities and priorities in the emergency response plan.

B. School [D]districts and local charter school boards shall require schools to conduct at least one annual drill for school violence emergencies.

C. School [D]districts and local charter school boards shall require schools to review existing security measures and procedures within their schools and make adjustments as needs demonstrate and funds are available.

D. School [D]districts and local charter school boards shall develop standards and protections to the extent practicable for participants and attendees at school-related activities, with special attention to those off school property.

E. School [D]districts and schools shall coordinate with local law enforcement and other public safety representatives in appropriate drills for school safety emergencies.

R277-400-8. Prevention and Intervention.

A. School [D]districts and local charter school boards shall provide schools, as part of their regular curriculum, comprehensive violence prevention and intervention strategies such as resource lessons and materials on anger management, conflict resolution, and respect for diversity and other cultures.

B. As part of the violence prevention and intervention strategies, schools may provide age-appropriate instruction on firearm safety (not use) including appropriate steps to take if a student sees a firearm or facsimile in school.

[B]C. School [D]districts and local charter school boards shall also develop, to the extent resources permit, student assistance programs such as care teams, school intervention programs, and interagency case management teams.

[E]D. In developing student assistance programs, school districts and local charter school boards are encouraged to coordinate with and seek support from other state agencies and the Utah State Office of Education.

R277-400-9. Cooperation With Governmental Entities.

A. As appropriate, a local board of education or local charter school board may enter into cooperative agreements with

other governmental entities to assure proper coordination and support during emergencies.

B. ~~[A-s]~~ School districts and local charter school boards shall cooperate with other governmental entities, as reasonably feasible, to provide emergency relief services. The plan(s) shall contain procedures for assessing and providing school [district-] facilities, equipment, and personnel to meet public emergency needs.

C. The plan(s) developed under R277-400-5 shall delineate communication channels and lines of authority within the school district, charter school, city, county, and state.

(1) the Board, through its superintendent, is the chief officer for emergencies involving more than one school district, charter school, or state or federal aid;

(2) the local board, through its superintendent, is the chief officer for school district emergencies;

(3) the local charter school board through its director is the chief officer for local charter school emergencies;

(~~3~~)4 direction and control of emergency operations shall be exercised by the executive heads of government and school districts and charter schools. Local governments, ~~[and-]~~ school districts, and charter schools retain their autonomy and identity throughout all levels of emergency operations;

(~~4~~)5 personnel and resources received from outside sources shall be incorporated into the structure of the local government, ~~[and-]~~ school district, and charter school.

R277-400-10. Fiscal Procedures.

The plan(s) under R277-400-5 shall address procedures for recording school district or charter school funds expected for emergencies, for assessing and repairing damage, and for seeking reimbursement for emergency expenditures.

KEY: emergency preparedness, disasters, safety, safety education

Date of Enactment or Last Substantive Amendment: [August 1, 2000]2011

Notice of Continuation: September 6, 2007

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-402(1)(b)

Education, Administration **R277-403-1** Definitions

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 34332

FILED: 12/30/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to change the definition of

"Midpoint of the school year". The changes come from local education agency (LEA) response and ensure an appropriate and consistent window for assessment.

SUMMARY OF THE RULE OR CHANGE: The amendment changes the definition of "Midpoint of the school year".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-606.6(2)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The amendment provides changes to a definition that provides more flexibility to LEAs and does not impact the state.

◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The amendment provides changes to a definition that provides more flexibility to local education agencies when reporting required information; there is no financial impact to LEAs.

◆ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. The rule and amendment applies to public education and does not impact 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 rule and amendment provides a change in the definition that affects LEAs and does not impact individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. LEAs will have more flexibility in the timelines for reported required information.

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 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

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

**R277. Education, Administration.
R277-403. Student Reading Proficiency and Notice to Parents.
R277-403-1. Definitions.**

- A. "Board" means the Utah State Board of Education.
- B. "LEA" means a Utah school district or charter school.
- C. "Midpoint of the school year" means ~~January 15 of each school year unless an LEA identifies an alternative date as the midpoint in a public board meeting no later than September 30 of each year~~ the last school day of January as determined by individual LEA calendars.
- D. "Notification to parents" for purposes of this rule means notice by any reasonable means including electronic notice, notice by telephone, written notice, or personal notice.
- E. "Reading below grade level" for purposes of this rule means that a student requires additional instruction beyond that provided to typically developing peers in order to close the gap between the student's current level of reading achievement and that expected of all students in that grade as determined by valid and reliable assessment.
- F. "Reading remediation interventions" means instruction or activities or both in reading given to students in addition to their regular reading instruction, during another time in the school day, outside school hours, or in the summer, which is focused on specific needs as identified by reliable and valid assessments.
- G. "USOE" means the Utah State Office of Education.

KEY: students, reading, proficiency
Date of Enactment or Last Substantive Amendment: [~~October 11, 2010~~2011
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-606.6(2); 53A-1-401(3)

Education, Administration
R277-470-12
 Charter School Oversight and
 Monitoring

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 34333
 FILED: 12/30/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to include language explaining a charter school performance framework and the State Charter School Board's intent to take appropriate action

based on charter schools' compliance in a performance management program.

SUMMARY OF THE RULE OR CHANGE: The amendments add language in Section R277-470-12 about charter school performance framework.

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

- ANTICIPATED COST OR SAVINGS TO:
- ◆ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The amendments apply to Board-chartered schools and do not financially impact the state.
 - ◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. A performance framework is now clearly explained but creates no additional costs to charter schools.
 - ◆ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. This rule and the amendments apply to public charter schools and do not affect 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 rule affects Board-chartered schools and does not affect individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. A performance framework is now clearly explained and included with other requirements.

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 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

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

R277. Education, Administration.

R277-470. Charter Schools.

R277-470-12. Charter School Oversight and Monitoring.

A. The State Charter School Board shall provide direct oversight to the state's Board chartered schools, including:

~~(1) requiring and using a performance framework adopted by the State Charter School Board as a framework for measuring charter school quality;~~

~~(1)2~~ requiring that all charter schools shall be members of and accredited by Northwest Accreditation Commission;

~~(2)3~~ annual review of student achievement indicators for all schools, disaggregated for various student subgroups;

~~(3)4~~ quarterly review of summary financial records and disbursements and student enrollment;

~~(4)5~~ annual review conducted through site visits or random audits of personnel matters such as employee licensure and evaluations;

~~(5)6~~ regular review of other matters specific to effective charter school operations as determined by the USOE charter school staff;

~~(6)7~~ audits and investigations of claims of fraud or misuse of public assets or funds; and

~~(7)8~~ requiring that charter schools are in compliance with their charter agreement, as maintained by the USOE. It is presumed that the charter agreement maintained by the USOE is the final, official and complete agreement.

B. The Board ~~[retains the right to]~~may review or ~~[repeat]revoke~~ charter school authorization based upon factors that may include:

~~(1) failure to meet measures of charter school quality which includes adherence to a performance framework required and monitored by the State Charter School Board;~~

~~(1)2~~ financial deficiencies or irregularities; or

~~(2)3~~ persistently low student achievement inconsistent with comparable schools; or

~~(3)4~~ failure of the charter school to comply with state law, Board rules, or directives; or

~~(4)5~~ failure to comply with currently approved charter commitments.

C. All charter schools shall amend their charters by January 1, 2011 to include the following statement:

To the extent that any charter school's charter conflicts with applicable federal or state law or rule, the charter shall be interpreted and enforced to comply with such law or rule and all other provisions of the charter school shall remain in full force and effect.

D. A charter school shall notify the Board and the chartering entity of any and all lawsuits filed against the charter school within 30 days of the filing of the lawsuit.

E. District charter school authorizers shall:

(1) visit a charter school at least once during its first year of operation;

(2) visit a charter school as determined in the review process; and

(3) provide written reports to the charter schools after the visits.

KEY: education, charter schools

Date of Enactment or Last Substantive Amendment: ~~[December 9, 2010]~~2011

Notice of Continuation: October 10, 2008

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1a-515; 53A-1a-505; 53A-1a-513; 53A-1a-502; 53A-1-401(3); 53A-1a-510; 53A-1a-509; 41-6-115; 53A-1a-506; 53A-21-401; 53A-1a-519; 53A-1a-520; 53A-1a-501.5; 53A-1-301; 53A-1a-502.5; 53A-1a-506.5; 53A-12-103; 53A-11-504; 53A-11-903; 53A-11-904; 53A-1a-511; 53A-1-302 and 303; 53A-17a;109; 53-8-211; 62A-4a-403; 53A-11-605

Education, Administration
R277-520
Appropriate Licensing and Assignment
of Teachers

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34334

FILED: 12/30/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide language stating clearly that all public K-12 educators must be licensed. Although this rule currently provides criteria for educator licenses and implies that public educators serving in Utah K-12 schools must hold valid licenses, adding the new language will help prevent local education agencies (LEAs) from hiring and retaining unlicensed educators. In addition, high, objective, uniform state standard of evaluation (HOUSSE) was a federal licensing option that no longer exists so the definition and further reference to HOUSSE have been deleted from the rule.

SUMMARY OF THE RULE OR CHANGE: The amendments add a new Section R277-520-3, Required Licensing, remove the definition of "HOUSSE" and further references to HOUSSE, and renumber the sections appropriately.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. The amendments provide language for clarification for educator licensing and removal of outdated language, none of which has a financial impact.

♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The amendments provide language for clarification for educator licensing and removal of outdated language, neither of which has a financial impact on local education agencies.

♦ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. This rule and amendments do not apply to small businesses so there is no financial impact.

♦ 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 provide language for clarification for educator licensing and removal of outdated language, neither of which has a financial impact on individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Appropriate educator licensing has always been a requirement. The amendment provides clarification.

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

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THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

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

**R277. Education, Administration.
R277-520. Appropriate Licensing and Assignment of Teachers.
R277-520-1. Definitions.**

A. "At will employment" means employment that may be terminated for any reason or no reason with minimum notice to the employee consistent with the employer's designated payroll cycle.

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

C. "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file maintained on all licensed Utah educators. The file includes information such as:

- (1) personal directory information;
- (2) educational background;
- (3) endorsements;
- (4) employment history;
- (5) professional development information; and
- (6) a record of disciplinary action taken against the educator.

D. "Composite major" means credits earned in two or more related subjects, as determined by an accredited higher education institution.

E. "Core academic subjects or areas" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography under the Elementary and Secondary Education Act (ESEA), also known as the No Child Left Behind Act (NCLB), Title IX, Part A, 20 U.S.C. 7801, Section 9101(11).

F. "Demonstrated competency" means that a teacher shall demonstrate current expertise to teach a specific class or course through the use of lines of evidence which may include completed USOE-approved course work, content test(s), or years of successful experience including evidence of student performance.

G. "Eminence" means distinguished ability in rank, in attainment of superior knowledge and skill in comparison with the generally accepted standards and achievements in the area in which the authorization is sought as provided in R277-520-[5]6.

H. "Highly qualified" means a teacher has met the specific requirements of ESEA, NCLB, Title IX, Part A, 20 U.S.C. 7801, Section 9101(23).

~~I. "HOUSSE" means high, objective, uniform state standard of evaluation permitted under ESEA, NCLB, Title IX, Part A, 20 U.S.C. 7801, Section 9101(23)(C)(ii).~~

[J]. J-1 Visa means a visa issued by the U.S. Department of State to an international exchange visitor who has qualified by training and experience to work in U.S. schools for a period not to exceed three years. Such international exchange visitors may qualify for "highly qualified" status under NCLB only if assigned within their subject matter competency.

[K]. "LEA" means a school district or charter school.

[L]. "Letter of authorization" means a designation given to an individual for one year, such as an out-of-state candidate or individual pursuing an alternative license, who has not completed the requirements for a Level 1, 2, or 3 license or who has not completed necessary endorsement requirements and who is employed by a school district. A teacher working under a letter of authorization who is not an alternative routes to licensing (ARL) candidate, cannot be designated highly qualified under R277-520-1[G]H.

[M]. "Level 1 license" means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to candidates who have also met all ancillary requirements established by law or rule.

[N]M. "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license as well as completion of Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers, as provided in R277-522, a minimum of three years of successful teaching in a

public or accredited private school, and completion of all NCLB requirements at the time the applicant is licensed.

[Θ]N. "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, in the educator's field of practice, National Board certification or a doctorate in education or in a field related to a content area under R277-501-1M from an accredited institution.

[P]Q. "License areas of concentration" are obtained by completing an approved preparation program or an alternative preparation program in a specific area of educational studies such as Early Childhood (K-3), Elementary 1-8, Middle (5-9), Secondary (6-12), Administrative/Supervisory, Applied Technology Education, School Counselor, School Psychologist, School Social Worker, Special Education (K-12), Preschool Special Education (Birth-Age 5), Communication Disorders.

[Q]P. "License endorsement (endorsement)" means a specialty field or area earned through course work equivalent to at least an academic minor (with pedagogy) or through demonstrated competency; the endorsement shall be listed on the Professional Educator License indicating the specific qualification(s) of the holder.

[R]Q. "Major equivalency" means 30 semester hours of USOE and local board-approved postsecondary education credit or CACTUS-recorded professional development in NCLB core academic subjects as appropriate to satisfy NCLB highly qualified status.

[S]R. "No Child Left Behind Act (NCLB)" means the federal Elementary and Secondary Education Act, P.L. 107-110, Title IX, Part A, Section 9101(11).

[F]S. "Professional staff cost program funds" means funding provided to school districts based on the percentage of a district's professional staff that is appropriately licensed in the areas in which staff members teach.

[U]I. "State qualified" means that an individual has met the Board-approved requirements to teach core or non-core courses in Utah public schools.

[V]U. "SAEP" means State Approved Endorsement Program. This identifies an educator working on a professional development plan to obtain an endorsement.

[W]V. "USOE" means the Utah State Office of Education.

R277-520-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which gives the Board authority to adopt rules in accordance with its responsibilities, and Section 53A-6-104(2)(a) which authorizes the Board to rank, endorse, or classify licenses. This rule is also necessary in response to ESEA NCLB.

B. The purpose of this rule is to provide criteria for local boards to employ educators in appropriate assignments, for the Board to provide state funding to local school boards for appropriately qualified and assigned staff, and for the Board and local boards to satisfy the requirements of ESEA in order for local boards to receive federal funds.

R277-520-3. Required Licensing.

A. All teachers in public schools shall hold a Utah educator license along with appropriate areas of concentration and endorsements.

B. LEAs shall receive assistance from the USOE to the extent of resources available to have all teachers fully licensed.

C. LEAs are expected to hire teachers who are licensed or in the process of becoming fully licensed and endorsed. Failure to ensure that an educator has appropriate licensure consistent with timelines provided in R277-501 may result in the USOE withholding all LEA funds related to salary supplements under Section 53A-17a-153 and R277-110 and educator quality under Section 53A-17a-107(2) and R277-486 until teachers are appropriately licensed.

R277-520-[3]4. Appropriate Licenses with Areas of Concentration and Endorsements.

A. An early childhood teacher (kindergarten through 3) shall hold a Level 1, 2, or 3 license with an early childhood license area of concentration.

B. An elementary teacher (one through 8) shall hold a Level 1, 2, or 3 license with an elementary license area of concentration.

C. A secondary teacher (grades 6-12) including high school, middle-level, intermediate, and junior high schools, shall hold a Level 1, 2, or 3 license with a secondary license area of concentration with endorsements in all teaching assignment(s).

D. A teacher with a subject-specific assignment in grades 6, 7 or 8 shall hold a secondary license area of concentration with endorsement(s) for the specific teaching assignment(s) or an elementary license area of concentration with the appropriate subject/content endorsement(s).

E. An elementary (grades 7-8), a secondary or middle-level teacher may be assigned temporarily in a core or non-core academic area for which the teacher is not endorsed if the local board requests and receives a letter of authorization from the Board and the teacher is placed on an approved SAEP.

F. Secondary educators with special education areas of concentration may add content endorsement(s) to their educator licenses consistent with R277-520-1[Θ]1 (SAEP).

G. Educators who have qualified for a J-1 Visa as an international visitor and have provided documentation of holding the equivalent of a bachelors degree, subject content mastery, and appropriate work/graduate training may qualify for a Utah Level 1 license. Such temporary visitors may be exempted, at the employer's discretion, from subject content testing, license renewal requirements, and EYE requirements for the duration of their visa eligibility.

R277-520-[4]5. Routes to Utah Educator Licensing.

A. In order to receive a license, an educator shall have completed a bachelors degree at an approved higher education institution and:

(1) completed an approved institution of higher education teacher preparation program in the desired area of concentration; or

(2) completed an approved alternative preparation for licensing program, under alternative routes to licensing, consistent with R277-503.

B. An individual may receive a Utah license with an applied technology area of concentration following successful completion of a USOE-approved professional development program for teacher preparation in applied technology education.

C. An individual may receive a district-specific, competency-based license under Section 53A-6-104.5 and R277-520-[8]9.

R277-520-[5]6. Eminence.

A. The purpose of an eminence authorization is to allow individuals with exceptional training or expertise, consistent with R277-520-1F, to teach or work in the public schools on a limited basis. Documentation of the exceptional training, skill(s) or expertise may be required by the USOE prior to the approval of the eminence authorization.

B. Teachers with an eminence authorization may teach no more than 37 percent of the regular instructional load.

C. Teachers working under an eminence authorization shall never be considered highly qualified.

D. Local boards shall require an individual teaching with an eminence authorization to have a criminal background check consistent with Section 53A-3-410(1) prior to employment by the local board.

E. The local board of education that employs the teacher with an eminence authorization shall determine the amount and type of professional development required of the teacher.

F. A local board of education that employs teachers with eminence authorizations shall apply for renewal of the authorization(s) annually.

G. Eminence authorizations may apply to individuals without teaching licenses or to unusual and infrequent teacher situations where a license-holder is needed to teach in a subject area for which he is not endorsed, but in which he may be eminently qualified.

R277-520-[6]7. State Qualified Teachers[~~(Teachers Who Satisfy HOUSE Rules)~~].

A. A teacher has a Utah Level 1, 2 or 3 license or a district-specific competency-based license.

B. A teacher has an appropriate area of concentration.

C. A teacher in grades 6-12 has the required endorsement for the course(s) the teacher is teaching by means of:

(1) an academic teaching major from an accredited postsecondary institution, or a passing score on content test(s) and pedagogy test(s), if available, or USOE-approved pedagogy courses; or

(2) an academic major or minor from an accredited postsecondary institution; or

(3) completion of a personal development plan under an SAEP in the appropriate subject area(s) as explained under R277-520-1[0]1 with approval from the USOE specialist(s) in the endorsement subject areas.

D. On an annual basis, local boards/charter school boards shall request letters of authorization for teachers who are teaching classes for which they are not endorsed.

R277-520-[7]8. Highly Qualified Teachers.

A. A secondary teacher (7-12) is considered highly qualified if the teacher meets the requirements of R277-501-4.

B. An elementary/early childhood teacher (grades K-8) is considered highly qualified if the teacher meets the requirements of R277-501-5.

R277-520-[8]9. School District/Charter School Specific Competency-based Licensed Teachers.

A. The following procedures and timelines apply to the employment of educators who have not completed the traditional licensing process under R277-520-[5]6A, B, or C:

(1) A local board/charter school board may apply to the Board for a school district/charter school specific competency-based license to fill a position in the district.

(2) The employing school district shall request a school district/charter school specific competency-based license no later than 60 days after the date of the individual's first day of employment.

(3) The application for the school district/charter school specific competency-based license for an individual to teach one or more core academic subjects shall provide documentation of:

(a) the individual's bachelors degree; and

(b) for a K-6 grade teacher, the satisfactory results of the rigorous state test including subject knowledge and teaching skills in the required core academic subjects under Section 53A-6-104.5(3)(ii) as approved by the Board; or

(c) for the teacher in grades 7-12, demonstration of a high Level of competency in each of the core academic subjects in which the teacher teaches by completion of an academic major, a graduate degree, course work equivalent to an undergraduate academic major, advanced certification or credentialing, results or scores of a rigorous state core academic subject test in each of the core academic subjects in which the teacher teaches.

(4) The application for the school district/charter school specific competency-based license for non-core teachers in grades K-12 shall provide documentation of:

(a) a bachelors degree, associates degree or skill certification; and

(b) skills, talents or abilities specific to the teaching assignment, as determined by the local board/charter school board.

(5) Following receipt of documentation, the USOE shall approve a district/charter school specific competency-based license.

(6) If an individual employed under a school district/charter school specific competency-based license leaves the district before the end of the employment period, the district shall notify the USOE Licensing Section regarding the end-of-employment date.

(7) The school district/charter school specific competency-based license for an individual's district/charter school specific competency-based license shall be valid only in the district/charter school that originally requested the school district/charter school specific competency-based license and for the individual originally employed under the school district/charter school specific competency-based license.

B. The written copy of the state-issued district-specific competency-based license shall prominently state the name of the school district/charter school followed by DISTRICT/CHARTER SCHOOL-SPECIFIC COMPETENCY-BASED LICENSE.

C. A school district/charter school may change the assignment of a school district/charter school-specific competency-based license holder but notice to USOE shall be required and

additional competency-based documentation may be required for the teacher to remain qualified or highly qualified.

D. School district/charter school specific competency-based license holders are at-will employees consistent with Section 53A-8-106(5).

R277-520-[9]10. Routes to Appropriate Endorsements for Teachers.

Teachers shall be appropriately endorsed for their teaching assignment(s). To be highly qualified:

A. teachers may obtain the required endorsement(s) with a major or composite major or major equivalency consistent with their teaching assignment(s), including appropriate pedagogical competencies; or

B. teachers who have satisfactorily completed a minimum of nine semester hours of USOE-approved university level courses may complete a professional development plan under an SAEP in the appropriate subject area(s) with approval from USOE Curriculum specialists; or

C. teachers may demonstrate competency in the subject area(s) of their teaching assignment(s). In order to be endorsed through demonstrated competency, the educator shall pass designated Board-approved content knowledge and pedagogical knowledge assessments as they become available.

D. individuals shall be properly endorsed consistent with R277-520-[3]4 or have USOE-approved SAEPs. Otherwise, the Board may withhold professional staff cost program funds.

R277-520-1[0]1. Board-Approved Endorsement Program (SAEP).

A. Teachers in any educational program who are assigned to teach out of their area(s) of endorsement and who have at least nine hours of USOE-approved university level courses shall participate in an SAEP and make satisfactory progress within the period of the SAEP as determined by USOE specialists.

B. The employing school district shall identify teachers who do not meet the state qualified definition and provide a written justification to the USOE.

C. Individuals participating in SAEPs shall demonstrate progress toward completion of the required endorsement(s) annually, as determined jointly by the school district/charter school and the USOE.

D. An SAEP may be granted for one two-year period and may be renewed by the USOE, upon written justification from the school district, for one additional two-year period.

R277-520-1[4]2. Background Check Requirement and Withholding of State Funds for Non-Compliance.

A. Educators qualified under any provision of this rule shall also satisfy the criminal background requirement of Section 53A-3-410 prior to unsupervised access to students.

B. If LEAs do not appropriately employ and assign teachers consistent with this rule, they may have state appropriated professional staff cost program funds withheld pursuant to R277-486, Professional Staff Cost Formula.

C. Local boards/charter school boards shall report highly qualified educators in core academic subjects and educators who do not meet the requirements of highly qualified educators in core academic subjects beginning July 1, 2003.

KEY: educators, licenses, assignments

Date of Enactment or Last Substantive Amendment: [January 7, 2009]2011

Notice of Continuation: July 1, 2010

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-6-104(2)(a)

Education, Administration
R277-602
Special Needs Scholarships - Funding and Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34335

FILED: 12/30/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide language expanding the appeals committee from three to five members, revise the appeals process, and remove the Special Needs website address from the rule.

SUMMARY OF THE RULE OR CHANGE: The amendments change the appeals committee from three to five members, revise the appeal process to clarify what may be appealed and what the appeals process includes, and removes the Special Needs website from the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1a-707 and Subsection 53A-1-401(3) and Subsection 53A-1a-706(5)(b)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. The amendments provide for additional members to the appeals committee and provide clarification to the appeals process which does not result in any financial impact.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. The amendments provide for additional members to the appeals committee and provide clarification to the appeals process which will not result in any financial impact to schools participating in the Special Needs Scholarship Program.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. The changes to the rule provide for additional members to the appeals committee and clarification to the appeals process which will not result in any financial impact to schools participating in the Special Needs Scholarship Program.

◆ **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 changes to the rule provide for additional members to the appeals committee and clarification to the appeals process which will not result in any financial impact to individuals participating in the Special Needs Scholarship Program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes to the rule provide for additional members to the appeals committee and clarification to the appeals process which will not result in any compliance costs to schools or individuals participating in the Special Needs Scholarship Program.

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

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THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

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

R277. Education, Administration.
R277- 602. Special Needs Scholarships - Funding and Procedures.
R277-602-1. Definitions.

A. "Agreed upon procedure" for purposes of this rule means the agreed upon procedure as provided for under Section 53A-1a-705(1)(b)(i)(B).

B. "Annual assessment" for purposes of this rule means a formal testing procedure carried out under prescribed and uniform conditions that measures students' academic progress, consistent with Section 53A-1a-705(1)(f).

C. "Appeal" for purposes of the rule means an opportunity to discuss/contest a final administrative decision consistent with and expressly limited to the procedures of this rule.

D. "Assessment team" means the individuals designated under Section 53A-1a-703(1).

E. "Audit of a private school" for purposes of this rule means a financial audit provided by an independent certified public accountant, as provided under Section 53A-1a-705(1)(b).

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

G. "Days" means school days unless specifically designated otherwise in this rule.

H. "Disclosure to parents" for purposes of this rule means the express acknowledgments and acceptance required under Section 53A-1a-704(5) as part of parent application available through schools districts.

I. "Eligible student" for purposes of this rule means:

(1) the student's parent resides in Utah;

(2) the student has a disability as designated in 53A-1a-704(2)(b); and

(3) the student is school age.

(4) Eligible student also means that the student was enrolled in a public school in the school year prior to the school year in which the student will be enrolled in a private school, has an IEP and has obtained acceptance for admission to an eligible private school; and

(5) The requirement to be enrolled in a public school in the year prior and have an IEP does not apply if:

(a) the student is enrolled or has obtained acceptance for admission to an eligible private school that has previously served students with disabilities; and

(b) an assessment team is able to readily determine with reasonable certainty that the student has a disability and would qualify for special education services if enrolled in a public school and the appropriate level of special education services which would be provided were the student enrolled in a public school.

J. "Enrollment" for purposes of this rule means that the student has completed the school enrollment process, the school maintains required student enrollment information and documentation of age eligibility, the student is scheduled to receive services at the school, the student attends regularly, and has been accepted consistent with R277-419 and the student's IEP.

K. "Final administrative action" for purposes of this rule means the concluding action under Section 53A-1a-701 through 53A-1a-710 and this rule.

L. "Individual education program (IEP)" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with Board Special Education Rules and Part B of the Individuals with Disabilities Education Act (IDEA).

M. "Private school that has previously served students with disabilities" means a school that:

(1) has enrolled students within the last three years under the special needs scholarship program;

(2) has enrolled students within the last three years who have received special education services under Individual Services Plans (ISP from the school district where the school is geographically located; or

(3) can provide other evidence to the Board that is determinative of having enrolled students with disabilities within the last three years.

N. "Special Needs Scholarship Appeals Committee (Appeals Committee)" means a committee comprised of:

- (1) the special needs scholarship coordinator;
- (2) the USOE Special Education Director; ~~and~~
- (3) one individual appointed by the Superintendent or designee; and

~~(3)4~~ [a]two Board-designated special education advocates.

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

P. "Warrant" means payment by check to a private school.

R277-602-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board, Section 53A-1a-706(5)(b) which provides for Board rules to establish timelines for payments to private schools, Section 53A-3-410(6)(b)(i)(c) which provides for criminal background checks for employees and volunteers, Section 53A-1a-707 which provides for Board rules about eligibility of students for scholarships and the application process for students to participate in the scholarship program, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to outline responsibilities for parents/students, public schools, school districts or charter schools, and eligible private schools that accept scholarships from special needs students and the State Board of Education in providing choice for parents of special needs students who choose to have their children served in private schools and in providing accountability for the citizenry in the administration and distribution of the scholarship funds.

R277-602-3. Parent/Guardian Responsibilities.

A. If the student is enrolled in a public school or was enrolled in a public school in the year previous to the year in which the scholarship is sought, the parent/guardian shall submit an application, available from the USOE or online at www.usoe.org, to the school district or charter school within which the parent/guardian resides.

(1) The parent shall complete all required information on the application and submit the following documentation with the application form:

(a) documentation that the parent/guardian is a resident of the state of Utah;

(b) documentation that the student is at least five years of age before September 2 of the year of enrollment, consistent with Section 53A-3-402(6);

(c) documentation that the student is not more than 21 years of age and has not graduated from high school consistent with Section 53A-15-301(1)(a);

(d) documentation that the student has satisfied R277-602-3A or B; and

(e) documentation that the student has official acceptance at an eligible private school, as defined under Section 53A-1a-705;

(2) The parent shall sign the acknowledgments and refusal to consent to services on the application form consistent with Section 53A-1a-704.

(3) Any intentional falsification, misinformation, or incomplete information provided on the application may result in the cancellation of the scholarship to the student and non-payment to the private school.

B. If the student was not enrolled in a public school in the year previous to the year in which the scholarship is sought, the parent/guardian shall submit an application to the school district in which the private school is geographically located (school district responsible for child find under IDEA, Sec. 612(a)(3)).

(1) The parent shall complete all required information on the application and submit the following documentation with application form:

(a) documentation that the parent/guardian is a resident of the state of Utah;

(b) documentation that the student is at least five years of age, before September 2 of the year of enrollment;

(c) documentation that the student is not more than 21 years of age and has not graduated from high school consistent with Section 53A-15-301(1)(a);

(d) documentation that the student has satisfied R277-602-3A or B; and

(e) documentation that the student has official acceptance at an eligible private school, as defined under Section 53A-1a-705.

(2) The parent shall sign the acknowledgments and refusal to consent to services on the application form consistent with Section 53A-1a-704.

(3) The parent shall provide documentation of student's enrollment in an eligible private school as defined under Section 53A-1a-705;

(4) The parent shall participate in an assessment team meeting to determine if a student would qualify for special education services and the level of services for which the student would be eligible if enrolled in a public school.

C. Payment provisions

(1) The parent of a special needs scholarship student whose application is received on or before July 1 shall be eligible for quarterly scholarship payments equal to no more than the amount established in Section 53A-1a-706(2), with payments beginning on September 1.

(2) The parent of a special needs scholarship student whose application is received after July 1, but on or before September 1 that shall be eligible for quarterly scholarship payments equal to no more than three-fourths of the amount established in Section 53A-1a-706(2), with payments beginning on November 1.

(3) The parent of a special needs scholarship student whose application is received after September 1, but on or before November 1 shall be eligible for quarterly scholarship payments equal to no more than one-half of the amount established in Section 53A-1a-706(2), with payments beginning on February 1.

(4) The parent of a special needs scholarship student whose application is received on or before February 15 shall be eligible for quarterly scholarship payments equal to no more than one-fourth of the amount established in Section 53A-1a-706(2), with payments beginning on April 15.

D. A special needs scholarship shall be effective for three years subject to renewal under Section 53A-1a-704(6).

E. The parent shall, consistent with Section 53A-1a-706(8), endorse the warrant received by the private school from the USOE no more than 15 school days after the private school's receipt of the warrant.

F. The parent shall notify the Board in writing within five days if:

(1) the student does not continue in enrollment in an eligible private school for any reason including parent/student choice, suspension or expulsion of the student; or

(2) the student misses more than 10 consecutive days at which point the Board may modify the payment to the private school consistent with R277-419-1J.

G. The parent shall cooperate and respond within 10 days to an enrollment cross-checking request from the Board.

H. The parent shall notify the Board in writing by July 1 in the second and third year to indicate the student's continued enrollment.

R277-602-4. School District or Charter School Responsibilities.

A. The school district or charter school that receives the student's scholarship application consistent with Section 53A-1a-704(4) shall forward applications to the Board no more than 10 days following receipt of the application.

B. The school district or charter school that received the student's scholarship application shall:

(1) receive applications from students/parents;

(2) verify enrollment of the student seeking a scholarship in previous school year within a reasonable time following contact by the Board;

(3) verify the existence of the student's IEP and level of service to the USOE within a reasonable time;

(4) provide personnel to participate on an assessment team to determine:

(a) if a student who was previously enrolled in a private school that has previously served students with disabilities would qualify for special education services if enrolled in a public school and the appropriate level of special education services which would be provided were the child enrolled in a public school for purposes of determining the scholarship amount consistent with Section 53A-1a-706(2);

(b) if a student previously receiving a special needs scholarship is entitled to receive the scholarship during the subsequent eligibility period.

C. Special needs scholarship students shall not be enrolled in public or charter schools for dual enrollment or extracurricular activities, consistent with the parents'/guardians' assumption of full responsibility for students' services under Section 53A-1a-704(5).

D. School districts and charter schools shall cooperate with the Board in cross-checking special needs scholarship student enrollment information, as requested by the Board.

E. School district and charter school notification to students with IEPs:

(1) School districts and charter schools shall provide written notice to parents or guardians of students who have an IEP of the availability of a scholarship to attend a private school through the Special Needs Scholarship Program.

(2) The written notice shall consist of the following statement: School districts and charter schools are required by Utah law, 53A-1a-704(10), to inform parents of students with IEPs enrolled in public schools, of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.

(3) The written notice shall be provided no later than 30 days after the student initially qualifies for an IEP.

(4) The written notice shall be provided annually no later than February 1 to all students who have IEPs.

(5) The written notice shall include the address of the Internet website maintained by the Board [~~http://www.schools.utah.gov/admin/specialneeds.htm,~~] that provides prospective applicants and their parents with ~~[detailed]~~ program information and application forms for the Carson Smith Scholarship Program.

(6) A school district, school within a school district, or charter school that has an enrolled student who has an IEP shall post the address of the Carson Smith Internet website maintained by the Board [~~that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program]~~ on the school district's or school's website, if the school district or school has one.

R277-602-5. State Board of Education Responsibilities.

A. The Board shall provide applications, containing acknowledgments required under Section 53A-1a-704(5), for parents seeking a special needs scholarship online, at the Board offices, at school district or charter school offices, and at charter schools no later than April 1 prior to the school year in which admission is sought.

B. The Board shall provide a determination that a private school meets the eligibility requirements of Section 53A-1a-705 as soon as possible but no more than 30 days after the private school submits an application and completed documentation of eligibility. The Board may:

(1) provide reasonable timelines within the application for satisfaction of private school requirements;

(2) issue letters of warning, require the school to take corrective action within a time frame set by the Board, suspend the school from the program consistent with Section 53A-1a-708, or impose such other penalties as the Board determines appropriate under the circumstances.

(3) establish appropriate consequences or penalties for private schools that:

(a) fail to provide affidavits under Section 53A-1a-708;

(b) fail to administer assessments, fail to report assessments to parents or fail to report assessments to assessment team under Section 53a-1a-705(1)(f);

(c) fail to employ teachers with credentials required under Section 53A-1a-705(g);

(d) fail to provide to parents relevant credentials of teachers under Section 53A-1a-705(h);

(e) fail to require completed criminal background checks under Section 53A-3-410(2) and take appropriate action consistent with information received.

(4) initiate complaints and hold administrative hearings, as appropriate, and consistent with R277-602.

C. The Board shall make a list of eligible private schools updated annually and available no later than May 30 of each year.

D. Information about approved scholarships and availability and level of funding shall be provided to scholarship applicant parents/guardians no later than July 30 of each year.

E. The Board shall mail scholarships directly to private schools as soon as reasonably possible consistent with Section 53A-1a-706(8).

F. Beginning with the 2006-07 school year, the Board may begin scholarship payments to eligible private schools no earlier than July 1 but before payment dates established by Section 53A-1a-706(5)(a) if the parent/guardian negotiates a payment date with the USOE, provides reasonable advance notice to the USOE and assumes responsibility for transmission of the payment from the USOE to the private school.

G. If an annual legislative appropriation is inadequate to cover all scholarship applicants and documented levels of service, the Board shall establish by rule a lottery system for determining the scholarship recipients, with preference provided for under Section 53A-1a-706(1)(c)(i).

H. The Board shall verify and cross-check with school districts or charter school special needs scholarship student enrollment information consistent with Section 53A-1a-706(7).

R277-602-6. Responsibilities of Private Schools that Receive Special Needs Scholarships.

A. Private schools shall submit applications by May 1 prior to the school year in which it intends to enroll scholarship students.

B. Applications and appropriate documentation from private schools for eligibility to receive special needs scholarship students shall be provided to the USOE on forms designated by the USOE consistent with Section 53A-1a-705(3).

C. Private schools shall satisfy criminal background check requirements for employees and volunteers consistent with Section 53A-3-410.

D. Private schools that seek to enroll special needs scholarship students shall, in concert with the parent seeking a special needs scholarship for a student, initiate the assessment team meetings required under Sections 53A-1a-704(3) and 53A-1a-704(6).

(1) Meetings shall be scheduled at times and locations mutually acceptable to private schools, applicant parents and participating public school personnel.

(2) Designated private school and public school personnel shall maintain documentation of the meetings and the decisions made for the students.

(3) Documentation regarding required assessment team meetings, including documentation of meetings for students denied scholarships or services and students admitted into private schools and their levels of service, shall be maintained confidentially by the private and public schools, except the information shall be provided to the USOE for purposes of determining student scholarship eligibility, or for verification of compliance upon request by the USOE.

E. Private schools receiving scholarship payments under this rule shall provide complete student records in a timely manner to other private schools or public schools requesting student records if parents have transferred students under Section 53A-1a-704(7).

F. Private schools shall notify the Board within five days if:

(1) the student does not continue in enrollment in an eligible private school for any reason including parent/student choice, suspension or expulsion of the student; or

(2) the student misses more than 10 consecutive days of school.

G. Private schools shall satisfy health and safety laws and codes under Section 53A-1a-705(1)(d) including:

(1) the adoption of emergency preparedness response plans that include training for school personnel and parent notification for fire drills, natural disasters, and school safety emergencies and

(2) compliance with R392-200, Design, Construction, Operation, Sanitation, and Safety of Schools.

H. An approved eligible private school that changes ownership shall submit a new application for eligibility to receive Carson Smith scholarship payments from the Board; the application shall demonstrate that the school continues to meet the eligibility requirements of R277-602[-6].

(1) The application for renewed eligibility shall be received from the school within 60 calendar days of the change of ownership.

(2) Ownership changes on the date that an agreement is signed between previous owner and new owner.

(3) If the application is not received by the USOE within the 60 days, the new owner/school is presumed ineligible to receive continued Carson Smith scholarship payments from the USOE and, at the discretion of the Board, the USOE may reclaim any payments made to a school within the previous 60 days.

(4) If the application is not received by the USOE within 60 days after the change of ownership, the school is not an eligible school and shall submit a new application for Carson Smith eligibility consistent with the requirements and timelines of R277-602.

R277-602-7. Special Needs Scholarship Appeals.

A. A parent or legal guardian of an eligible student or a parent or legal guardian of a prospective eligible student may appeal ~~[any final administrative decision]~~ only the following actions under this rule[-]:

(1) alleged USOE violations of Section 53A-1a-701 through 710 or R277-602; or

(2) alleged USOE violations of required timelines.

B. The Appeals Committee may not grant an appeal contrary to the statutory provisions of Section 53A-1a-701 through 53A-1a-710.

C. An appeal shall be submitted in writing to the USOE Special Needs Scholarship Coordinator at: Utah State Office of Education, 250 East 500 South, P.O. Box 144200, Salt Lake City, UT 84114-4200.

(1) The appeal opportunity is expressly limited to an ~~[written]~~ appeal submitted in writing for USOE consideration. The appeal opportunity does not include an investigation required under or similar to an IDEA state complaint investigation.

(2) Appellants have no right to additional elements of due process beyond the specific provisions of this rule.

(3) Nothing in the appeals process established under R277-602[-8] shall be construed to limit, replace or adversely affect parental appeal rights available under IDEA.

D. Appeals shall be made within 15 days of written notification of the final administrative decision.

E. Appeals shall be considered by the Appeals Committee within 15 days of receipt of the written appeal.

F. The decision of the Appeals Committee shall be transmitted to parents no more than ten days following consideration by the Appeals Committee.

G. Appeals shall be finalized as expeditiously as possible in the joint interest of schools and students involved.

H. The Appeals Committee's decision is the final administrative action.

KEY: special needs students, scholarships

Date of Enactment or Last Substantive Amendment: [~~June 23, 2009~~]**2011**

Notice of Continuation: September 24, 2010

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1a-706(5)(b); 53A-3-410(6)(i)(c); 53A-1a-707; 53A-1-401(3)

Health, Health Systems Improvement, Licensing **R432-101** Specialty Hospital - Psychiatric

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34318

FILED: 12/20/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In Section R432-101-17, the change increases public awareness of out-of-state adjudicated delinquent juveniles admitted to licensed psychiatric hospitals in Utah. Some communities in the state are concerned about patients in these facilities and want to ensure that they are appropriately monitored. This amendment was recommended by the Health Facilities Committee and approved on 11/17/2010. This committee has representation from a broad cross section of the entities affected by this rule. In Section R432-101-12, the changes clarify and align the tuberculosis testing requirements for licensed health care facilities in Utah. The clarifications are in accordance with current law and will be consistent with all health facility rules. This amendment was approved by the Health Facilities Committee on 11/17/2010. This committee has representation from a broad cross section of the entities affected by this rule.

SUMMARY OF THE RULE OR CHANGE: In Section R432-101-17, this amendment will add a requirement in the admission criteria of the psychiatric hospital for all out-of-state adjudicated delinquent juveniles to be processed and

monitored through the appropriate interstate compact. In Section R432-101-12, this amendment will require employee tuberculosis testing to be completed within two weeks of hire, after suspected exposure or development of symptoms.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** These rule amendments will have no effect on state budgets since there will be no change in current practice.

♦ **LOCAL GOVERNMENTS:** These rule amendments will have no effect on local government budgets since there will be no change in current practice.

♦ **SMALL BUSINESSES:** These rule amendments will have no effect on small businesses since there will be no change in current practice.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule amendments will have no effect on persons since there will be no change in current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These rule amendments will have no effect on persons since there will be no change in current practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The public will be protected as a result of these rule changes and the fiscal impact is expected to be minimal but will be carefully evaluated based on public comment.

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

HEALTH

HEALTH SYSTEMS IMPROVEMENT, LICENSING

CANNON HEALTH BLDG

288 N 1460 W

SALT LAKE CITY, UT 84116-3231

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov

♦ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

AUTHORIZED BY: David Sundwall, MD, Executive Director

R432. Health, Health Systems Improvement, Licensing.**R432-101. Specialty Hospital - Psychiatric.****R432-101-12. Infection Control.**

(1) The facility shall have a written plan to effectively prevent, identify, report, evaluate and control infections.

(2) The plan shall include a method to collect and monitor data and carry out necessary follow-up actions.

(3) Infection control actions shall be documented consistent with the requirements of the plan and in accordance with Department requirements and standards of medical practice.

(4) In-service education and training of employees shall be provided to all service and program components of the hospital.

(5) The infection control plan shall be reviewed and revised as necessary, but at least annually.

(6) The hospital shall implement an employee health surveillance program and infection control policy which meets the requirements of R432-100-10 and the following:

(a) complete at the time a person is hired, an employee health inventory that includes the following:

(i) conditions that may predispose the employee to acquiring or transmitting infectious diseases;

(ii) conditions that may prevent the employee from satisfactorily performing assigned duties.

(b) develop employee health screening and immunization components of personnel health programs in accordance with Rule R386-702, concerning communicable diseases;

(c) ~~conduct~~ employee skin testing by the Mantoux Method or other FDA approved in-vitro serologic test and follow up for tuberculosis shall be done in accordance with R388-804, Special [concerning m]Measures for the C[e]ontrol of T[t]uberculosis.[:]

(i) The licensee shall ensure that all employees are skin tested[ing] for tuberculosis within two weeks of. [must be conducted on each employee annually and after suspected exposure to a resident with active tuberculosis;]

(A) initial hiring

(B) suspected exposure to a person with active tuberculosis; and

(C) development of symptoms of tuberculosis.

(ii) all employees with known positive reaction to skin tests are exempt from skin testing.

(d) report all infections and communicable diseases reportable by law to the local health department in accordance with Section R386-702-2, concerning reportable diseases; and

(e) comply with the Occupational Safety and Health Administration's Bloodborne Pathogen Standard.

R432-101-17. Admission and Discharge.

(1) The hospital shall develop written admission, exclusion and discharge policies consistent with the Plan for Patient Care Services and the Utilization Review plan. These policies shall be available to the public upon request.

(2) The hospital shall make available to the public and each potential patient information regarding the various services provided, methods and therapies used by the hospital, and associated costs of such services.

(3) Admission criteria shall be clearly stated in writing in hospital policies.

(a) The facility shall assess and screen all potential patients prior to admission and admit a patient only if it determines

that the facility is the least restrictive setting appropriate for their needs. The pre-screening process shall include an evaluation of the patient's past criminal and violent behavior.

(b) Patients shall be admitted for treatment and care only if the hospital is properly licensed for the treatment required and has the staff and resources to meet the medical, physical, and emotional needs of the patient.

(c) Patients shall be admitted by, and remain under the care of, a member of the medical staff. There shall be a written order for admission and care of the patient at the time of admission. A documented telephone order is acceptable.

(d) There shall be procedures to govern the referral of ineligible patients to alternate sources of treatment where possible.

(e) Involuntary commitment must be in accordance with Section 62A-12-234.

(f) All out of state adjudicated delinquent juveniles admitted to the hospital shall be processed and monitored through the appropriate Interstate Compact.

(4) The patient shall be discharged when the hospital is no longer able to meet the patient's identified needs, when care can be delivered in a less restrictive setting, or when the patient no longer needs care.

(a) There shall be an order for patient discharge by a member of the medical staff except as indicated in R432-101-17(4) (b) below.

(b) In cases of discharge against medical advice, AMA, the attending physician or qualified designee shall be contacted and the response documented in the patient record.

(c) Discharge planning shall be coordinated with the patient, family, and other parties or agencies who are able to meet the patient's needs.

(d) Upon discharge of a patient, all money and valuables of that patient which have been entrusted to the hospital shall be surrendered to the patient in exchange for a signed receipt.

KEY: health facilities

Date of Enactment or Last Substantive Amendment: ~~[May 1, 1997]~~ **2011**

Notice of Continuation: December 13, 2010

Authorizing, and Implemented or Interpreted Law: 26-21-2.1; 26-21-5; 26-21-6; 26-21-20

Health, Health Systems Improvement,
Licensing
R432-150
Nursing Care Facility

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34319
FILED: 12/20/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In Section R432-150-10, the changes clarify and align the tuberculosis testing requirements for licensed health care facilities in Utah. The clarifications are in accordance with current law and will be consistent with all health facility rules. This amendment was approved by the Health Facilities Committee on 11/17/2010. This committee has representation from a broad cross section of the entities affected by this rule. In Section R432-150-12, H.B. 133 passed in the 2003 Legislature permitting a health care facility to be issued a license for a period of time not to exceed 24 months. These rule amendments are required to be consistent with the amendments to Section 26-21-8. (DAR NOTE: H.B. 133 (2003) is found at Chapter 326, Laws of Utah 2003, and was effective 05/05/2003.)

SUMMARY OF THE RULE OR CHANGE: In Section R432-150-10, this amendment will require employee tuberculosis testing to be completed within two weeks of hire, after suspected exposure or development of symptoms. In Section R432-150-12, this rule amendment aligns this rule with the current licensing period of 24 months instead of annually.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** In Section R432-150-10, this rule amendment will have no effect on state budgets since there will be no change in current practice. In Section R432-150-12, this rule amendment will have no effect on state budgets since facility licenses have historically (since 2003) been issued every two years. There will be no change in current practice.

◆ **LOCAL GOVERNMENTS:** In Section R432-150-10, this rule amendment will have no effect on local government budgets since there will be no change in current practice. In Section R432-150-12, this rule amendment will have no effect on local government budgets since facility licenses have historically (since 2003) been issued every two years. There will be no change in current practice.

◆ **SMALL BUSINESSES:** In Section R432-150-10, this rule amendment will have no effect on small businesses since there will be no change in current practice. In Section R432-150-12, this rule amendment will have no effect on small business budgets since facility licenses have historically (since 2003) been issued every two years. There will be no change in current practice.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** In Section R432-150-10, this rule amendment will have no effect on persons since there will be no change in current practice. In Section R432-150-12, this rule amendment will have no effect on persons since facility licenses have historically (since 2003) been issued every two years. There will be no change in current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In Section R432-150-10, this rule amendment will have no effect on persons since there will be no change in current practice. In Section R432-150-12, this rule amendment will have no effect on persons since facility licenses have historically (since 2003) been issued every two years. There will be no change in current practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No adverse fiscal impact on business is expected due to the changes in tuberculosis testing in this rule.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
◆ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

AUTHORIZED BY: David Sundwall, MD, Executive Director

R432. Health, Health Systems Improvement, Licensing.**R432-150. Nursing Care Facility.****R432-150-10. Staff and Personnel.**

(1) The administrator shall employ personnel who are able and competent to perform their respective duties, services, and functions.

(a) The administrator, director of nursing or health services supervisor, and department supervisors shall develop job descriptions for each position including job title, job summary, responsibilities, qualifications, required skills and licenses, and physical requirements.

(b) All personnel must have access to facility policy and procedure manuals and other information necessary to effectively perform duties and carry out responsibilities.

(c) All personnel must be licensed, certified or registered as required by the Utah Department of Commerce. A copy of the license, certification or registration shall be maintained for Department review.

(2) The facility shall maintain staffing records, including employee performance evaluations, for the preceding 12 months.

(3) The facility shall establish a personnel health program through written personnel health policies and procedures.

(4) The facility shall complete a health evaluation and inventory for each employee upon hire.

(a) The health inventory shall obtain at least the employee's history of the following:

(i) conditions that predispose the employee to acquiring or transmitting infectious diseases; and

(ii) conditions which may prevent the employee from performing certain assigned duties satisfactorily.

(b) The health inventory shall include health screening and immunization components of the employee's personnel health program.

(c) Infection control shall include staff immunization as necessary to prevent the spread of disease.

(d) Employee skin testing by the Mantoux method or other FDA approved in-vitro serologic test and follow up for tuberculosis shall be done in accordance with R388-804[-], Special Measures for the Control of Tuberculosis~~[Control Rule]~~.

(i) The licensee shall ensure that all employees are skin-tested for tuberculosis within two weeks of:

(A) initial hiring;

(B) suspected exposure to a person with active tuberculosis; and

(C) development of symptoms of tuberculosis.

(ii) Skin testing shall be exempted for all employees with known positive reaction to skin tests.

(e) All infections and communicable diseases reportable by law shall be reported by the facility to the local health department in accordance with R386-702-2.

(5) The facility shall plan and document in-service training for all personnel.

(a) The following topics shall be addressed at least annually:

(i) fire prevention;

(ii) review and drill of emergency procedures and evacuation plan;

(iii) the reporting of resident abuse, neglect or exploitation to the proper authorities;

(iv) prevention and control of infections;

(v) accident prevention and safety procedures including instruction in body mechanics for all employees required to lift, turn, position, or ambulate residents; and proper safety precautions when floors are wet or waxed;

(vi) training in Cardiopulmonary Resuscitation (CPR) for licensed nursing personnel and others as appropriate;

(vii) proper use and documentation of restraints;

(viii) resident rights;

(ix) A basic understanding of the various types of mental illness, including symptoms, expected behaviors and intervention approaches; and

(x) confidentiality of resident information.

(6) Any person who provides nursing care, including nurse aides and orderlies, must work under the supervision of an RN or LPN and shall demonstrate competency and dependability in resident care.

(a) A facility may not have an employee working in the facility as a nurse aide for more than four months, on full-time, temporary, per diem, or other basis, unless that individual has successfully completed a State Department of Education-approved training and testing program.

(b) The facility shall verify through the nurse aide registry prior to employment that nurse aide applicants do not have a verified report of abuse, neglect, or exploitation. If such a verified report exists, the facility may not hire the applicant.

(c) If an individual has not performed paid nursing or nursing related services for a continuous period of 24 consecutive months since the most recent completion of a training and competency evaluation program, the facility shall require the individual to complete a new training and competency evaluation program.

(d) The facility shall conduct regular performance reviews and regular in-service education to ensure that individuals used as nurse aides are competent to perform services as nurse aides.

(7) The facility may utilize volunteers in the daily activities of the facility provided that volunteers are not included in the facility's staffing plan in lieu of facility employees.

(a) Volunteers shall be supervised and familiar with resident's rights and the facility's policies and procedures.

(b) Volunteers who provide personal care to residents shall be screened according to facility policy and under the direct supervision of a qualified employee.

(8) An employee who reports suspected abuse, neglect, or exploitation shall not be subject to retaliation, disciplinary action, or termination by the facility for making the report.

R432-150-12. Resident Rights.

(1) The facility shall establish written residents' rights.

(2) The facility shall post resident rights in areas accessible to residents. A copy of the residents' rights document shall be available to the residents, the residents' guardian or responsible person, and to the public and the Department upon request.

(3) The facility shall ensure that each resident admitted to the facility has the right to:

(a) be informed, prior to or at the time of admission and for the duration of stay, of resident rights and of all rules and regulations governing resident conduct.

(b) be informed, prior to or at the time of admission and for the duration of stay, of services available in the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate or not covered under Titles XVIII or XIX of the Social Security Act.

(c) be informed by a licensed practitioner of current total health status, including current medical condition, unless medically contraindicated, the right to refuse treatment, and the right to formulate an advance directive in accordance with UCA Section 75-2-1101;

(d) be transferred or discharged only for medical reasons, for personal welfare or that of other residents, or for nonpayment for the stay, and to be given reasonable advance notice to ensure orderly transfer or discharge;

(e) be encouraged and assisted throughout the period of stay to exercise all rights as a resident and as a citizen, and to voice grievances and recommend changes in policies and services to facility staff and outside representatives of personal choice, free from restraint, interference, coercion, discrimination, or reprisal;

(f) manage personal financial affairs or to be given at least a quarterly accounting of financial transactions made on his

behalf should the facility accept his written delegation of this responsibility;

(g) be free from mental and physical abuse, and from chemical and physical restraints;

(h) be assured confidential treatment of personal and medical records, including photographs, and to approve or refuse their release to any individual outside the facility, except in the case of transfer to another health facility, or as required by law or third party payment contract;

(i) be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs;

(j) not be required to perform services for the facility that are not included for therapeutic purposes in the plan of care;

(k) associate and communicate privately with persons of the resident's choice, and to send and receive personal mail unopened;

(l) meet with social, religious, and community groups and participate in activities provided that the activities do not interfere with the rights of other residents in the facility;

(m) retain and use personal clothing and possessions as space permits, unless to do so would infringe upon rights of other residents;

(n) if married, to be assured privacy for visits by the spouse; and if both are residents in the facility, to be permitted to share a room;

(o) have members of the clergy admitted at the request of the resident or responsible person at any time;

(p) allow relatives or responsible persons to visit critically ill residents at any time;

(q) be allowed privacy for visits with family, friends, clergy, social workers or for professional or business purposes;

(r) have confidential access to telephones for both free local calls and for accommodation of long distance calls according to facility policy;

(s) have access to the State Long Term Care Ombudsman Program or representatives of the Long Term Care Ombudsman Program;

(t) choose activities, schedules, and health care consistent with individual interests, assessments and care plan;

(u) interact with members of the community both inside and outside the facility; and

(v) make choices about all aspects of life in the facility that are significant to the resident.

(4) A resident has the right to organize and participate in resident and family groups in the facility.

(a) A resident's family has the right to meet in the facility with the families of other residents in the facility.

(b) The facility shall provide a resident or family group, if one exists, with private space.

(c) Staff or visitors may attend meetings at the group's invitation.

(d) The facility shall designate a staff person responsible for providing assistance and responding to written requests that result from group meetings.

(e) If a resident or family group exists, the facility shall listen to the views and act upon the grievances and recommendations of residents and families concerning proposed

policy and operational decisions affecting resident care and life in the facility.

(5) The facility must accommodate resident needs and preferences, except when the health and safety of the individual or other residents may be endangered. A resident must be given at least a 24-hour notice before an involuntary room move is made in the facility.

(a) In an emergency when there is actual or threatened harm to others, property or self, the 24 hour notice requirement for an involuntary room move may be waived. The circumstances requiring the emergency room change must be documented for Department review.

(b) The facility must make and document efforts to accommodate the resident's adjustment and choices regarding room and roommate changes.

(6) If a facility is entrusted with residents' monies or valuables, the facility shall comply with the following:

(a) The licensee or facility staff may not use residents' monies or valuables as his own or mingle them with his own. Residents' monies and valuables shall be separate, intact and free from any liability that the licensee incurs in the use of his own or the institution's funds and valuables.

(b) The facility shall maintain adequate safeguards and accurate records of residents' monies and valuables entrusted to the licensee's care.

(i) Records of residents' monies which are maintained as a drawing account must include a control account for all receipts and expenditures, an account for each resident, and supporting vouchers filed in chronological order.

(ii) Each account shall be kept current with columns for debits, credits, and balance.

(iii) Records of residents' monies and other valuables entrusted to the licensee for safekeeping must include a copy of the receipt furnished to the resident or to the person responsible for the resident.

(c) The facility must deposit residents' monies not kept in the facility within five days of receipt of such funds in an interest-bearing account in a local bank or savings and loan association authorized to do business in Utah, the deposits of which shall be insured.

(d) A person, firm, partnership, association or corporation which is licensed to operate more than one health facility shall maintain a separate account for each such facility and shall not commingle resident funds from one facility with another.

(e) If the amount of residents' money entrusted to a licensee exceeds \$100, the facility must deposit all money in excess of \$100 in an interest-bearing account.

(f) Upon ~~annual~~ license renewal, the facility shall provide evidence of the purchase a surety bond or other equivalent assurance to secure all resident funds.

(g) When a resident is discharged, all money and valuables of that resident which have been entrusted to the licensee must be surrendered to the resident in exchange for a signed receipt. Money and valuables kept within the facility shall be surrendered upon demand and those kept in an interest-bearing account shall be made available within three working days.

(h) Within 30 days following the death of a resident, except in a medical examiner case, the facility must surrender all money and valuables of that resident which have been entrusted to

the licensee to the person responsible for the resident or to the executor or the administrator of the estate in exchange for a signed receipt. If a resident dies without a representative or known heirs, the facility must immediately notify in writing the local probate court and the Department. (7) Facility smoking policies must comply with the Utah Indoor Clean Air Act, R392-510, 1995 and the rules adopted there under and Section 31-4.4 of the 1994 Life Safety Code.

KEY: health facilities

Date of Enactment or Last Substantive Amendment: [~~August 5, 2005~~2011]

Notice of Continuation: September 27, 2007

Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-16

Health, Health Systems Improvement, Licensing **R432-600** Abortion Clinic Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34320

FILED: 12/20/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In Section R432-600-6, H.B. 133 passed in the 2003 Legislature permitting a health care facility to be issued a license for a period of time not to exceed 24 months. These rule amendments are required to be consistent with the amendments to Section 26-21-8. In Section R432-600-11, the changes clarify and align the tuberculosis testing requirements for licensed health care facilities in Utah. The clarifications are in accordance with current law and will be consistent with all health facility rules. This amendment was approved by the Health Facilities Committee on 11/17/2010. This committee has representation from a broad cross section of the entities affected by this rule. (DAR NOTE: H.B. 133 (2003) is found at Chapter 326, Laws of Utah 2003, and was effective 05/05/2003.)

SUMMARY OF THE RULE OR CHANGE: In Section R432-600-6, this rule amendment aligns this rule with the current licensing period of 24 months instead of annually. In Section R432-600-11, this amendment will require employee tuberculosis testing to be completed within two weeks of hire, after suspected exposure or development of symptoms.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** In Section R432-600-6, this rule amendment will have no effect on state budgets since facility licenses have historically (since 2003) been issued every two years. There will be no change in current practice. In Section R432-600-11, this rule amendment will have no effect on state budgets since there will be no change in current practice.

♦ **LOCAL GOVERNMENTS:** In Section R432-600-6, this rule amendment will have no effect on local government budgets since facility licenses have historically (since 2003) been issued every two years. There will be no change in current practice. In Section R432-600-11, this rule amendment will have no effect on local government budgets since there will be no change in current practice.

♦ **SMALL BUSINESSES:** In Section R432-600-6, this rule amendment will have no effect on small business budgets since facility licenses have historically (since 2003) been issued every two years. There will be no change in current practice. In Section R432-600-11, this rule amendment will have no effect on small businesses since there will be no change in current practice.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** In Section R432-600-6, this rule amendment will have no effect on persons since facility licenses have historically (since 2003) been issued every two years. There will be no change in current practice. In Section R432-600-11, this rule amendment will have no effect on persons since there will be no change in current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In Section R432-600-6, this rule amendment will have no effect on persons since facility licenses have historically (since 2003) been issued every two years. There will be no change in current practice. In Section R432-600-11, this rule amendment will have no effect on persons since there will be no change in current practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No adverse fiscal impact on business is expected due to the changes in tuberculosis testing in this rule.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
♦ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

AUTHORIZED BY: David Sundwall, MD, Executive Director

R432. Health, Health Systems Improvement, Licensing.

R432-600. Abortion Clinic Rule.

R432-600-6. Organization.

(1) Each clinic shall be operated by a licensee. If the licensee is other than a single individual, there shall be an organized functioning governing body to assure accountability.

(2) The licensee shall be responsible for the organization, management, operation, and control of the facility.

(3) Responsibilities shall include at least the following:

(a) Comply with all applicable federal, state and local laws, rules and requirements;

(b) Adopt and institute by-laws, protocols, policies and procedures relative to the operation of the clinic;

(c) Appoint, in writing, a qualified administrator to be responsible for the implementation of facility bylaws, policies and procedures, and for the overall management of the facility;

(d) Appoint, in writing, a qualified medical director to be responsible for clinical services;

(e) Establish a quality assurance committee in conjunction with the medical staff;

(f) Secure contracts for services not provided directly by the clinic;

(g) Receive and respond to the [~~annual~~]inspection report by the Department;

(h) Notify the Department in writing the name of a new administrator within five days of a change of administrator.

(i) Compile statistics on the distribution of the informed consent material as required in Section 76-7-313.

R432-600-11. Health Surveillance.

(1) The Facility shall establish a personnel health program through written personnel health policies and procedures which shall protect the health and safety of personnel and clients commensurate with the service offered.

(2) An employee placement health evaluation to include at least a health inventory shall be completed when an employee is hired.

(3) The health inventory shall obtain at least the employee's history of the following:

(a) conditions that predispose the employee to acquiring or transmitting infectious diseases;

(b) condition which may prevent the employee from performing certain assigned duties satisfactorily;

(4) Employee health screening and immunization components of personnel health programs shall be developed in accordance with ~~R386-702~~[~~388-804~~]. Communicable Disease Rules;

(5) Employee skin testing by the Mantoux Method or other FDA approved in-vitro serologic test and follow up for

tuberculosis shall be done in accordance with ~~R388-804~~[~~386-702-5~~], Special Measures for control of Tuberculosis;

~~(a) The licensee shall ensure that all employees are s[S]kin tested for[ing must be conducted on each employee annually and after suspect exposure to a resident with active] tuberculosis within two weeks of:[.]~~

~~(i) initial hiring;~~

~~(ii) suspected exposure to a person with active tuberculosis; and~~

~~(iii) development of symptoms of tuberculosis.~~

(b) Skin testing shall be exempted for all employees with known positive reaction to skin tests.

(6) All infections and communicable diseases reportable by law shall be reported by the facility to the local health department in accordance with R386-702-2.

KEY: health facilities

Date of Enactment or Last Substantive Amendment: ~~February 24, 1998~~[**2011**]

Notice of Continuation: December 13, 2010

Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-6; 26-21-16

**Health, Health Systems Improvement,
Licensing
R432-700
Home Health Agency Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34321

FILED: 12/20/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In Section R432-700-11, the changes to clarify and align the tuberculosis testing requirements for licensed health care facilities in Utah. The clarifications are in accordance with current law and will be consistent with all health facility rules. This amendment was approved by the Health Facilities Committee on 11/17/2010. This committee has representation from a broad cross section of the entities affected by this rule. In Section R432-700-4, the change removes a duplication of a word.

SUMMARY OF THE RULE OR CHANGE: In Section R432-700-11, this amendment will require employee tuberculosis testing to be completed within two weeks of hire, after suspected exposure or development of symptoms. In Section R432-700-4, removes the word "to" since it was listed twice.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: These rule amendments will have no effect on state budgets since there will be no change in current practice.
- ◆ LOCAL GOVERNMENTS: These rules amendments will have no effect on local government budgets since there will be no change in current practice.
- ◆ SMALL BUSINESSES: These rule amendments will have no effect on small businesses since there will be no change in current practice.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule amendments will have no effect on persons since there will be no change in current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These rule amendments will have no effect on persons since there will be no change in current practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No adverse fiscal impact on business is expected due to the changes in tuberculosis testing in this rule.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
- ◆ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

AUTHORIZED BY: David Sundwall, MD, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-700. Home Health Agency Rule.
R432-700-4. Definitions.

- (1) See common definitions rule R432-1-3.
- (2) Special definitions:
 - (a) "Branch Office" means a location from which a home health agency provides services within a portion of the total

geographic area served by the parent agency. The branch office is a part of the parent home health agency and shares administration and services.

(b) "Parent Home Health Agency" means the agency that has administrative control of branch offices.

(c) "Service Agreement" means a written agreement for services between the client and the personal care provider which outlines how the services are to be provided according to [to] the requirements of R432-700-30.

R432-700-11. Health Surveillance.

(1) The agency shall establish and implement a policy and procedure for health screening of all agency health care workers (persons with direct patient contact) to identify any situation which would prevent the employee from performing assigned duties in a satisfactory manner.

(2) Employee health screening and immunization components of personnel health programs shall be developed in accordance with R386-704, Communicable Disease Rules.

(3) Employee [S]skin testing by the Mantoux Method or other FDA approved in-vitro serologic test and follow up for tuberculosis shall be done in accordance with R388-804, Special Measures for Control of Tuberculosis.

(a) ~~[Skin testing must be conducted on each health care worker who has direct patient contact annually and after known exposure to a patient with active tuberculosis.]~~ The licensee shall ensure that all employees are skin-tested for tuberculosis within two weeks of:

- (i) initial hiring;
- (ii) suspected exposure to a person with active tuberculosis; and
- (iii) development of symptoms of tuberculosis.

(b) Skin testing shall be exempted for all employees with known positive reaction to skin tests.

(4) All infections and communicable diseases reportable by law shall be reported by the facility to the local health department in accordance with R386-702-2.

KEY: health facilities

Date of Enactment or Last Substantive Amendment: [January 5, 2010]2011

Notice of Continuation: September 27, 2007

Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-2.1

Health, Health Systems Improvement,
Primary Care And Rural Health
R434-50
Assistance for People with Bleeding
Disorders

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 34327

FILED: 12/21/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule establishes the criteria for awarding grants and financial need review criteria as required under Subsection 26-47-103(1)(b)(iii)(D).

SUMMARY OF THE RULE OR CHANGE: The rule establishes criteria for awarding grants and financial need review criteria, and establishes the criteria for persons with bleeding disorders to receive financial assistance for bleeding disorder services, including health insurance coverage and premiums.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 26-47-101(5)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Cost to the Utah Department of Health to print and distribute the new rule throughout the state, as well as administrative costs to manage and monitor the grant. Rulemaking will require an increased workload to the Department. The estimated cost to the Department includes: printing (\$75), cost of envelopes (\$50), postage (\$325), costs of \$450 based on past experience; estimated administrative costs include personnel time for .2 FTE (\$11,000), office space rental (\$600), telephone and fax (\$150), which totals \$11,750. Program information is also entered and maintained in a newly created database which is estimated to cost \$800 annually.

◆ **LOCAL GOVERNMENTS:** No costs are foreseen to local governments. Local governments are not affected as only eligible individuals with bleeding disorders are affected and they are required to work through the Utah Hemophilia Foundation.

◆ **SMALL BUSINESSES:** No costs are foreseen to small businesses. Small businesses are not affected as only eligible individuals with bleeding disorders are affected and they are required to work through the Utah Hemophilia Foundation.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No costs are foreseen to other persons. Cost savings are anticipated to persons diagnosed with hemophilia or a bleeding disorder that are awarded funding under this program. The application to become eligible for funding through the Program is available to other persons to fill out and submit online. The only costs to other persons would be the time spent filling out the application and submitting it to the Utah Hemophilia Foundation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs related to applying for a grant are minimal for affected persons. The application to become eligible for funding through the Program is available to other persons to

fill out and submit online. The only costs to other persons would be the time spent filling out the application and submitting it to the Utah Hemophilia Foundation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This is an important program for persons with bleeding disorders. Fiscal impact to business is positive as payments are made available to assist access to this service.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, PRIMARY
CARE AND RURAL HEALTH
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Erin Olsen by phone at 801-273-6618, by FAX at 801-273-4146, or by Internet E-mail at elolsen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

AUTHORIZED BY: David Sundwall, MD, Executive Director

R434. Health Systems Improvement, Primary Care and Rural Health.**R434-50. Assistance for People with Bleeding Disorders.****R434-50-1. Authority and Purpose.**

This rule is required by Section 26-47-103 (5). It implements Section 103 of the Health Care Assistance Act, Title 26, Chapter 47.

R434-50-2. Definitions.

The definitions as they appear in Section 26-47-103 (1) apply. In addition, "Department" means the Utah Department of Health.

R434-50-3. Grant Application.

An applicant responding to a request for grant application under this program shall submit its application as directed in the grant application guidance issued by the department.

R434-50-4. Criteria for Awarding Grants.

The department shall consider:

(1) the extent to which the applicant:
(a) demonstrates that it will provide assistance to the greatest number of persons with bleeding disorders residing across the State of Utah;

(b) utilizes other sources of funding, including private funding, to provide bleeding disorder services; and

(c) provides:

(i) information that meets the requirements established in Section 26-47-103 (3);

(ii) a description of the individuals to be served by the grant;

(iii) the estimated number of individuals to be served with the grant award; and

(iv) the results of an assessment of need demonstrating the need for the bleeding disorder services that the grantee proposes to provide.

(2) the cost to the person with a bleeding disorder for the bleeding disorder services;

(3) the degree to which the applicant meets the requirements of the statute; and

(4) the degree to which the application is feasible, clearly described, and ready to be implemented.

R434-50-5. Qualified Service Recipients.

(1) As required by Section 26-47-103 (1)(b)(iii)(D), the Department establishes that to meet the definition of a person with a bleeding disorder the individual's health insurance must be at or greater than 7.5 percent of the individual's adjusted gross income.

(2) The grantee must assure that each individual to whom it provides service under a grant awarded under this rule meets the requirements of this rule and Section 26-47-103 (1)(b).

KEY: bleeding disorders, grants

Date of Enactment or Last Substantive Amendment: 2011
Authorizing, and Implemented or Interpreted Law: 26-47-103(5)(a)

Public Safety, Criminal Investigations
and Technical Services, Criminal
Identification
R722-350
Certificate of Eligibility

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 34324

FILED: 12/21/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this proposed rule is to establish procedures for applying for a certificate of eligibility to expunge certain criminal records and to carry out the statutory change found at H.B. 21 in the 2010 General Session of the Utah Legislature. (DAR NOTE: H.B. 21 (2010) is found at Chapter 283, Laws of Utah 2010, and was effective 05/11/2010.)

SUMMARY OF THE RULE OR CHANGE: The new rule establishes procedures for applying for a certificate of eligibility to expunge certain criminal records.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 77, Chapter 40

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There are no aggregate anticipated costs or savings to the state budget. This proposed rule addresses the actual process of applying for a certificate of eligibility to expunge certain types of criminal records and the adjudicative proceedings, thus no aggregate cost or savings to the state budget is anticipated.

◆ LOCAL GOVERNMENTS: There are no aggregate anticipated costs or savings to local government. This proposed rule addresses the actual process of applying for a certificate of eligibility to expunge certain types of criminal records and the adjudicative proceedings, thus no aggregate cost or savings to local government is anticipated.

◆ SMALL BUSINESSES: There are no aggregate anticipated costs or savings to small businesses. This proposed rule addresses the actual process of applying for a certificate of eligibility to expunge certain types of criminal records and the adjudicative proceedings, thus no aggregate cost or savings to small businesses is anticipated.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. This proposed rule addresses the actual process of applying for a certificate of eligibility to expunge certain types of criminal records and the adjudicative proceedings, thus no aggregate cost or savings to persons other than small businesses, businesses, or local government entities is anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs. As this rule addresses the application for a certificate of eligibility to expunge certain criminal records, and certain adjudicative proceedings relating to the expungement process, there are no anticipated compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This should not have any particular effect on business since it is only implementing procedures for the application and issuance of a certificate of eligibility according to statutory requirements.

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

PUBLIC SAFETY
CRIMINAL INVESTIGATIONS AND TECHNICAL
SERVICES, CRIMINAL IDENTIFICATION
3888 W 5400 S
TAYLORSVILLE, UT 84118
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Alice Moffat by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

AUTHORIZED BY: Alice Moffat, Bureau Chief

R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.

R722-350. Certificate of Eligibility.

R722-350-1. Purpose.

The purpose of these rules is to establish procedures by which a petitioner may seek a certificate of eligibility pursuant to Title 77 Chapter 40.

R722-350-2. Authority.

Section 77-40-111 authorizes the department to promulgate rules to implement procedures for the application and issuance of certificates of eligibility.

R722-350-2. Definitions.

Terms used in this rule are defined in Section 77-40-102.

R722-350-3. Application for a Certificate of Eligibility.

(1)(a) An application for a certificate of eligibility must be made in writing to the bureau by filing out the application form established by the bureau.

(b) An application form must be accompanied by a payment of \$25.00 in the form of cash, check, money order, or credit card.

(2) Upon receipt of a completed application form and payment of the application fee, the bureau shall determine whether the petitioner meets the requirements for a certificate of eligibility found in Sections 77-40-104 and 77-40-105 by reviewing federal, state and local government records.

(3) If the bureau has insufficient information to determine if the petitioner meets the requirements for a certificate of eligibility, the bureau may request that the petitioner submit additional information.

(4) If the bureau is unable to obtain disposition information regarding the petitioner's criminal history or cannot determine whether the petitioner meets the requirements for a certificate of eligibility found in Sections 77-40-104 and 77-40-105, the bureau shall send a letter to the petitioner, at the address indicated on the application form, indicating that the petitioner may obtain a special certificate for each criminal episode upon the payment of \$56.00, per special certificate.

(5) If the bureau determines that the petitioner meets the requirements for the issuance of a certificate of eligibility found in Section 77-40-104, the bureau shall send the certificate of eligibility to the petitioner, at the address indicated on the application form, unless the charges were dismissed pursuant to a plea in abeyance, agreement under Title 77, Chapter 2a, Pleas in Abeyance, or a

diversion agreement under Title 77, Chapter 2, Prosecution, Screening, and Diversion.

(6) If the bureau determines that the petitioner meets the requirements for the issuance of a certificate of eligibility under any other circumstances, the bureau shall send a letter to the petitioner, at the address indicated on the application form, indicating that the petitioner must pay \$56.00 for each certificate of eligibility.

(7) If the bureau determines that the petitioner does not meet the criteria for the issuance of a certificate of eligibility, the bureau shall send a letter to the petitioner, at the address indicated on the application form, which describes the reasons why the petitioner's application was denied and notifies the petitioner that the petitioner may seek agency review of the bureau's decision by following the procedures outlined in R722-350-4.

R722-350-4. Agency Review of a Decision to Deny an Application for a Certificate of Eligibility.

(1) A petitioner may seek review of the denial of an application for a certificate of eligibility, as provided by Section 63G-4-301, by mailing a written request for review to the bureau within 30 days from the date the denial letter is issued.

(2) The request for review must:

(a) be signed by the petitioner;

(b) state the specific grounds upon which relief is requested;

(c) state the date upon which it was mailed; and

(d) include documentation which supports the petitioner's request for review.

(3) An employee of the bureau shall be designated to review the petitioner's written request, any accompanying documents supplied by the petitioner, and the materials contained in the application file to determine whether the petitioner meets the requirements for the issuance of a certificate found in Section 77-40-104 and 77-40-105.

(4)(a) Within a reasonable time after receiving the request for review, the bureau shall issue a final written order on review, which shall be mailed to the petitioner at the address indicated on the application.

(b) If upon further review the bureau is unable to determine whether the petitioner meets the requirements for a certificate of eligibility found in Sections 77-40-104 and 77-40-105, the bureau shall send a letter to the petitioner, at the address indicated on the application form, indicating that the petitioner may obtain a special certificate for each criminal episode upon the payment of \$56.00, per special certificate.

(c) If further review indicates that the petitioner meets the requirements for the issuance of a certificate of eligibility found in Section 77-40-104, the bureau shall send a certificate of eligibility to the petitioner, unless the charges were dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance, or a diversion agreement under Title 77, Chapter 2, Prosecution, Screening, and Diversion.

(d) If further review indicates that the petitioner meets the requirements for the issuance of a certificate of eligibility under any other circumstances, the order shall indicate that the petitioner must pay \$56.00 for each certificate of eligibility.

(e) If further review indicates that the petitioner does not meet the requirements for the issuance of a certificate, the order shall describe the reasons why the bureau's decision was upheld and

notify the petitioner that the petitioner's opportunity to review the bureau's decision is limited to review by the district court as described in R722-350-5.

R722-350-5. Judicial Review.

A petitioner may seek judicial review of the bureau's final written order on review denying an application for a certificate of eligibility as provided by Section 63G-4-402, by filing a complaint in the district court within 30 days from the date that the bureau's final written order is issued.

KEY: expungement, certificate of eligibility

Date of Enactment or Last Substantive Amendment: February 21, 2011

Authorizing, and Implemented or Interpreted Law: 77-40

Tax Commission, Administration

R861-1A-43

Electronic Meetings Pursuant to Utah Code Ann. Section 52-4-207

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34326

FILED: 12/21/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments are necessary to be consistent with new commission procedures.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language that limited commissioner participation electronically in meetings to commission administrative rule meetings; and deletes language that is internally redundant.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 52-4-207

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: None--The amendments broaden the ability of commissioners to participate in commission public meetings by electronic means.

◆ LOCAL GOVERNMENTS: None--The amendments broaden the ability of commissioners to participate in commission public meetings by electronic means.

◆ SMALL BUSINESSES: None--The amendments broaden the ability of commissioners to participate in commission public meetings by electronic means.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--The amendments broaden the ability of commissioners to participate in commission public meetings by electronic means.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendments broaden the ability of commissioners to participate in commission public meetings by electronic means.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

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

TAX COMMISSION
ADMINISTRATION
210 N 1950 W
SALT LAKE CITY, UT 84134-0002
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2011

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-43. Electronic Meetings Pursuant to Utah Code Ann. Section 52-4-207.

(1) A commissioner may participate electronically in a meeting open to the public under Section 52-4-207 if ~~[all of the following conditions are met:~~

~~(a) the purpose of the meeting is to discuss a commission administrative rule;~~

~~(b) [two commissioners are present at a single anchor location]; and the number of separate connections for commissioners who are not present at the anchor location is no more than two].~~

(2)(a) The commission shall indicate in a public notice if the public may participate electronically in a meeting open to the public under Section 52-4-207.

(b) A notice provided under Subsection (2)(a) shall direct the public on how to participate electronically in the meeting.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements

Date of Enactment or Last Substantive Amendment: ~~January 21, 2010~~ 2011

Notice of Continuation: March 20, 2007

Authorizing, and Implemented or Interpreted Law: 52-4-207

End of the Notices of Proposed Rules Section

NOTICES OF EXPEDITED RULES

Under the provisions of Subsection 53C-1-201(3)(c), the School and Institutional Trust Lands Administration is permitted to establish a procedure for the expedited approval of administrative rules. Use of this procedure, found at Rule R850-10, is based on written findings by the agency director showing:

- (a) the changes in business opportunities affecting the assets of the trust;
 - (b) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;
 - (c) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss of the specific opportunity;
 - (d) approval by at least five board members; and
 - (e) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for the agency's findings, with the Division of Administrative Rules and notified interested parties as provided in Subsection 63G-3-301(5).
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School And Institutional Trust Lands, Administration **R850-100** Trust Land Management Planning

NOTICE OF EXPEDITED RULE

DAR FILE NO.: 34329

FILED: 12/22/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The existing planning rule does not address coordination with federal land use planning. The proposed rule amendments would permit the agency to utilize the Bureau of Land Management's (BLM) coordination and consistency obligations to the maximum extent feasible to ensure that the interests of the Utah school trust and its beneficiaries are adequately protected in the federal planning process. In accordance with the statutory procedure for expedited rulemaking, the director makes the following findings with respect to the proposed rule amendments: 1) Changes in Business Opportunities: federal land management agencies have an obligation to "coordinate" their plans with existing state and local plans during federal planning processes. The School and Institutional Trust Lands Administration (SITLA) has never developed or submitted trust asset plans during federal planning processes. During the recent Piute County land planning effort, it became apparent that the BLM was not motivated to cooperate in addressing land tenure issues. It was also evident during the Resource Management Planning (RMP) efforts conducted by the BLM for the Vernal, Price, and Moab Districts, that land tenure adjustment issues were low priority considerations. The consequence of this lack of priority is the capture of

significant trust resources within federal enclaves with no adequate RMP provision for repositioning trust assets to areas where revenue could be derived in fulfillment of SITLA's constitutional and statutory mandate. BLM has recently announced that it is starting the process to develop a RMP for the Cedar City Field Office (Iron and Beaver Counties). Scoping comments for this RMP are due on 12/27/2010. SITLA needs to expeditiously develop a plan indicating trust lands that can be acquired by the United States, and what federal lands should be made available for acquisition as the plan is developed. In addition, the federal plan needs to coordinate with SITLA's expectations of access to lands retained in trust ownership. In addition, the BLM has announced in the last two weeks that, in settlement discussions with environmental groups concerning RMPs in the eastern portion of the state, it is considering amending existing RMPs through Master Leasing Plan (MLP) and Travel Management Plan (TMP) processes, which may remove additional lands from availability for mineral development and/or limit access to trust lands. SITLA needs a formal mechanism for participation in the projected RMP amendment process to ensure that the interests of the trust are protected; 2) Potential Loss of Opportunities: SITLA's internal legal analysis indicates that the coordination and consistency requirements contained in BLM's statutory and regulatory provisions for land use planning provide a means for guiding BLM's planning efforts toward SITLA's planning objectives, particularly in the area of road access and land tenure adjustment. These regulatory requirements will provide an additional layer of involvement and guidance in addition to the State of Utah's role as a likely "cooperating entity" in the planning and National Environmental Policy Act (NEPA) process for the RMPs and RMP amendments. In addition, development of SITLA plans would, to the extent that BLM's ultimate decisions are not protective of trust interests, provide an additional basis for protest/appeals of BLM's final planning decisions; 3) Need for Expedited Process: the "normal procedures" established under Section

63G-3-301 would not allow for the promulgation of a rule in time to affect the planning process. BLM's RMP process for the Cedar City Field Office area is in process now, and BLM has indicated that the litigation settlement that would initiate the MLP process for the Vernal RMP area is imminent; 4) Board Approval: the expedited rule amendment was approved by five board members, as required by rule; and 5) Rule Filing: a copy of the expedited rule amendment and the rule analysis, stating the specific reasons and justifications for its findings are hereby filed with the Division of Administrative Rules and interested parties have been notified as provided in Subsection 63G-3-301(10).

SUMMARY OF THE RULE OR CHANGE: Section R850-100-100 has been modified to remove "the public" and insert "interested parties" to reflect statute. Public notification and participation is through the RDCC process. Section R850-100-150 has been modified to reference other rules that allow specific agency actions to proceed notwithstanding the absence of a specific authorizing plan. This section is meant to confirm and ensure that a claim cannot be made that a plan is necessary before an individual agency action may proceed. Modifications to Section R850-100-175 enhance the agency's ability to use the coordination and consistency requirements of the federal land planning process to ensure agency goals are met with respect to the use of trust lands in particular areas, to protect access to trust lands, and to provide pre-planning for the disposition of trust lands where incompatible with federal management and acquisition of replacement lands. The modifications to Sections R850-100-300 and R850-100-400 clarify when planning may be undertaken in joint planning and that public review and comment on agency plans through the public RDCC process. The addition of Section R850-100-500 allows the agency to create land management, tenure adjustment, and access plans for particular areas, as determined by the director. Plans may designate areas where particular uses will be permitted or denied; identify trust lands for disposal to the United States or other entities as well as identify lands for acquisition from such entities; and, identify access routes necessary for the economic use of existing or acquired trust lands. These plans will require board approval after input from interested parties and review by RDCC (encompassing public comment).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53C-1-302(1)(a)(ii) and Subsection 53C-2-201(3)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is a potential savings to the state budget as the intent of these amendments will protect and safeguard the trust assets for future use against their being rendered unusable as a result of federal planning processes.
- ◆ **LOCAL GOVERNMENTS:** It is not anticipated that there will be any additional cost or savings to local government as a result of the amendments to this rule as they affect only the planning process for the trust lands and their use.

- ◆ **SMALL BUSINESSES:** It is not anticipated that there will be any additional cost or savings to small businesses as a result of the amendments to this rule because they affect only the planning process for the trust lands and their use.

- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** It is not anticipated that there will be any additional cost or savings to persons other than small businesses, businesses, or local government entities as a result of the amendments to this rule because they affect only the planning process for the trust lands and their use.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only anticipated compliance costs for affected persons would be in the event that person or entity was required to allow or provide for actions or use of the trust land as stipulated in a specific plan.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As this rule is focused on developing plans regarding federal/trust asset management, there is no anticipated impact on individuals or small business.

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:

- ◆ Kevin Carter by phone at 801-538-5101, by FAX at 801-538-5118, or by Internet E-mail at kevincarter@utah.gov

EFFECTIVE: 12/22/2010

AUTHORIZED BY: Kevin Carter, Director

R850. School and Institutional Trust Lands, Administration.

R850-100. Trust Land Management Planning.

R850-100-100. Authorities.

This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and [Sections]Subsections 53C-1-302(1)(a)(ii) and 53C-2-201(3) which require that planning procedures be developed for trust lands, and for the opportunity for [the public]interested parties to participate in the planning process.

R850-100-150. Scope.

Nothing in this rule is intended to supersede or replace the provisions of R850-21-150, R850-22-150, R850-23-150, R850-24-125, R850-30-150, R850-40-150, R850-41-150, R850-50-150, R850-70-150, R850-80-150, R850-90-150, R850-120-150, or R850-140-350.

R850-100-175. Definitions.

The general definitions provided in R850-1-200 apply to this section. In addition, the words and terms used in Section R850-100-500 shall have the following-described meanings, unless otherwise indicated:

1. Public Lands: Lands and resources administered by the federal Bureau of Land Management or USDA Forest Service.

2. Interested Parties:

(a) The beneficiaries of the lands involved in any planning effort;

(b) local government officials.

3. Land Management, Tenure Adjustment, and Access Plans: A plan to evaluate and direct the management, disposal, and acquisition of lands in a specific area, and to provide for the establishment, maintenance, or both, of access to retained or acquired lands.

4. Local Government Officials: Elected county or municipal officials with jurisdiction over areas included in a planning effort.

R850-100-200. Simultaneous Use of Trust Land Assets.

The agency shall encourage the simultaneous use of compatible, revenue generating activities on trust lands.

R850-100-300. Joint Planning.

The agency may participate in joint planning with other land management agencies when the director determines that the commitment of agency resources is justified, and trust management obligations will be facilitated.

R850-100-400. Assessments of Natural and Cultural Resources.

1. The Resource Development Coordinating Committee (RDCC) process provides a natural resource assessment for purposes of trust land management. No other natural resource analysis is required beyond consultation with the RDCC. The public may comment on proposed trust land plans and uses through the RDCC process.

2. Cultural resource analysis on specific actions shall be conducted pursuant to R850-60.

R850-100-500. Land Management, Tenure, and Access Plans.

1. The agency may develop land management, tenure adjustment, and access plans for selected geographical regions of the state.

2. The planning criteria, regions, and boundaries shall be established by the director.

3. Plans developed under this section may:

(a) Designate areas where particular uses will be permitted or denied;

(b) identify trust lands designated for disposal to the federal government or other entities;

(c) identify public lands desired for acquisition;

(d) identify other lands and assets for acquisition that are not located on public lands; and

(e) identify access routes across public lands necessary for the economic development of trust lands within the planning boundaries.

4. Before adopting a plan developed under this section, the agency shall submit the plan for approval by the board of trustees.

(a) Prior to presenting a plan to the board for approval, the agency shall solicit input from interested parties; and,

(b) submit the plan for review by the RDCC.

KEY: management, natural resource assessment, land use

Date of Enactment or Last Substantive Amendment: ~~July 16, 2002~~December 22, 2010

Notice of Continuation: August 15, 2007

Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii); 53C-2-201(3)

End of the Notices of Expedited 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.

Community And Culture, Housing And Community Development

R199-11

Community Development Block Grants (CDBG)

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34325
FILED: 12/21/2010

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: 24 CFR 570 as authorized by Section 9-4-202 requires the state to administer the CDBG program and enact policies and procedures.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Nothing received to date.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule needs to stay for the purposes of the CDBG program. Therefore, this rule should be continued. No opposition has been expressed.

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

DEVELOPMENTROOM 500
324 S STATE ST
SALT LAKE CITY, UT 84111-2388
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Keith Heaton by phone at 801-538-8732, by FAX at 801-538-8888, or by Internet E-mail at kheaton@utah.gov

AUTHORIZED BY: Gordon Walker, Director

EFFECTIVE: 12/21/2010

Insurance, Administration

R590-233

Health Benefit Plan Insurance Standards

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34330
FILED: 12/23/2010

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 31A-2-201(3)(a) authorizes rules to implement the Insurance Code. Sections 31A-2-202 and 31A-23a-412 authorize the commissioner to request reports, conduct examinations, and inspect records of any licensee. Subsection 31A-22-605(4) requires the commissioner to adopt rules to establish standards for

disclosure in the sale of, and benefits to be provided by individual and franchise accident and health policies. Section 31A-22-623 authorizes the commissioner to establish by rule minimum standards of coverage for dietary products for inborn metabolic errors. Section 31A-22-626 authorizes the commissioner to establish by rule minimum standards of coverage for diabetes for accident and health insurance. Subsection 31A-23a-402(8) authorizes the commissioner to define by rule acts and practices that are unfair and unreasonable. Subsection 31A-26-301(1) authorizes the commissioner to set standards for timely payment of claims.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule in the past five years.

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 provide reasonable standardization and simplification of terms and coverages of insurance policies in order to facilitate public

understanding and comparison and to prohibit provisions which may be misleading or confusing in connection either with the purchase of such coverages or with the settlement of claims, and to provide for full disclosure in the sale of such insurance. Therefore, this rule should be continued.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 12/23/2010

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules (Division). However, if the agency fails to file either the review or the extension by the five-year anniversary date of the rule, the rule expires.

Upon expiration of the rule, the Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule, and it must follow regular rulemaking procedures to replace the rule if necessary.

The rules listed below were *not* reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

Natural Resources, Forestry, Fire And State Lands

R652-122

County Cooperative Agreements with State for Fire Protection

FIVE-YEAR REVIEW EXPIRATION

DAR FILE NO.: 34322

FILED: 12/20/2010

SUMMARY: Because a five-year review was not filed by the deadline, the rule has expired and is removed from the Administrative Code.

EFFECTIVE: 12/17/2010

End of the Notices of Notices of Five Year Expirations 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

Agriculture and Food

Regulatory Services

No. 34000 (AMD): R70-940-7. Blending

Published: 09/15/2010

Effective: 12/23/2010

Commerce

Real Estate

No. 34194 (REP): R162-1. Authority and Definitions

Published: 11/15/2010

Effective: 12/22/2010

No. 34195 (REP): R162-2. Exam and License Application Requirements

Published: 11/15/2010

Effective: 12/22/2010

No. 34191 (NEW): R162-2f. Real Estate Licensing and Practices Rules

Published: 11/15/2010

Effective: 12/22/2010

No. 34196 (REP): R162-3. License Status Change

Published: 11/15/2010

Effective: 12/22/2010

No. 34197 (REP): R162-4. Office Procedures - Real Estate Principal Brokerage

Published: 11/15/2010

Effective: 12/22/2010

No. 34198 (REP): R162-5. Property Management

Published: 11/15/2010

Effective: 12/22/2010

No. 34199 (REP): R162-6. Licensee Conduct

Published: 11/15/2010

Effective: 12/22/2010

No. 34200 (REP): R162-7. Enforcement

Published: 11/15/2010

Effective: 12/22/2010

No. 34201 (REP): R162-8. Prelicensing Education

Published: 11/15/2010

Effective: 12/22/2010

No. 34202 (REP): R162-9. Continuing Education

Published: 11/15/2010

Effective: 12/22/2010

No. 34203 (REP): R162-10. Administrative Procedures

Published: 11/15/2010

Effective: 12/22/2010

No. 34204 (REP): R162-11. Undivided Fractionalized Long-Term Estates

Published: 11/15/2010

Effective: 12/22/2010

Governor

Economic Development, Pete Suazo Utah Athletic Commission

No. 34182 (AMD): R359-1-501. Promoter's Responsibilities in Arranging a Contest

Published: 11/15/2010

Effective: 12/22/2010

No. 34181 (AMD): R359-1-502. Ringside Equipment

Published: 11/15/2010

Effective: 12/22/2010

No. 34180 (AMD): R359-1-511. Event Officials

Published: 11/15/2010

Effective: 12/22/2010

No. 34179 (AMD): R359-1-901. "White-Collar Contests"

Published: 11/15/2010

Effective: 12/22/2010

NOTICES OF RULE EFFECTIVE DATES

Health

Health Care Financing, Coverage and Reimbursement Policy
No. 34209 (AMD): R414-2A. Inpatient Hospital Services
Published: 11/15/2010
Effective: 01/01/2011

No. 34210 (AMD): R414-3A. Outpatient Hospital Services
Published: 11/15/2010
Effective: 01/01/2011

No. 34211 (AMD): R414-7B. Nursing Assistant Training and
Competency Evaluation Program
Published: 11/15/2010
Effective: 12/28/2010

Human Services

Child and Family Services
No. 34160 (AMD): R512-301. Out of Home Services,
Responsibilities Pertaining to a Parent or Guardian
Published: 11/15/2010
Effective: 12/22/2010

No. 34161 (AMD): R512-305. Out of Home Services,
Transition to Adult Living Services
Published: 11/15/2010
Effective: 12/22/2010

No. 34162 (AMD): R512-306. Transition to Adult Living
Services, Education and Training Voucher
Published: 11/15/2010
Effective: 12/22/2010

No. 34163 (AMD): R512-308. Out of Home Services,
Guardianship Services and Placements
Published: 11/15/2010
Effective: 12/22/2010

No. 34164 (AMD): R512-500. Kinship Services. Placement
and Background Screening
Published: 11/15/2010
Effective: 12/22/2010

Insurance

Administration
No. 34152 (AMD): R590-222-5. License Requirements
Published: 11/01/2010
Effective: 12/20/2010

Public Safety

Administration
No. 34174 (AMD): R698-5. Hazardous Chemical Emergency
Response Commission
Published: 11/15/2010
Effective: 12/22/2010

Workforce Services

Employment Development
No. 34172 (AMD): R986-200. Family Employment Program
Published: 11/15/2010
Effective: 01/01/2011

No. 34173 (AMD): R986-700. Child Care Assistance
Published: 11/15/2010
Effective: 01/01/2011

End of the Notices of Rule Effective Dates Section

**2010 COMPLETE RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

This Rules Index is a complete index that reflects all effective changes to Utah's administrative rules for 2010. The Index lists changes made effective from January 2, 2010 through January 1, 2011. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules 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).

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/>).

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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R23-22-7	Requirements for the Disposition of Real Property by DFCM	33683	NSC	07/08/2010	Not Printed
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R277-403	Student Reading Proficiency and Notice to Parents	33945	NEW	10/11/2010	2010-17/34
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R277-410-1	Definitions	34036	NSC	10/21/2010	Not Printed

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R277-438-1	Definitions	34040	NSC	10/21/2010	Not Printed
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R277-501	Educator Licensing Renewal and Timelines	33561	AMD	06/08/2010	2010-9/11
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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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	33701	R307-309	5YR	06/02/2010	2010-13/145
	33702	R307-310	5YR	06/02/2010	2010-13/146
	34190	R307-401-7	NSC	12/01/2010	Not Printed
	34051	R307-401-9	AMD	01/01/2011	2010-18/13
	34052	R307-405-3	AMD	01/01/2011	2010-18/15
	34053	R307-415-3	AMD	01/01/2011	2010-18/17
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	33731	R81-4C-1	AMD	09/01/2010	2010-13/9
	34059	R81-4C-1	NSC	10/18/2010	Not Printed
	33155	R81-4D-1	AMD	01/26/2010	2009-24/10
	33156	R81-4D-14	AMD	01/26/2010	2009-24/11
	33157	R81-4E	NEW	01/26/2010	2009-24/12
	33339	R81-4E-4	NSC	02/11/2010	Not Printed
	33469	R81-7-1	AMD	05/26/2010	2010-8/6
	34058	R81-7-1	AMD	11/17/2010	2010-19/8
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	34049	R414-308-4	AMD	11/01/2010	2010-18/31	
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	34149	R884-24P-53	AMD	12/15/2010	2010-21/38	
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	33543	R131-1	NSC	04/26/2010	Not Printed	
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	33462	R309-515-6	AMD	05/13/2010	2010-7/18
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	34142	R277-403-1	NSC	10/28/2010	Not Printed
	33805	R277-476	5YR	07/01/2010	2010-14/57
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	33180	R162-102	AMD	01/27/2010	2009-24/30
	33908	R162-102	AMD	10/09/2010	2010-17/26
	33224	R162-104	AMD	01/27/2010	2009-24/33
	33225	R162-105	AMD	01/27/2010	2009-24/39
	33226	R162-106-1	AMD	02/03/2010	2009-24/42
	33907	R162-106-5	AMD	10/09/2010	2010-17/29
	33398	R162-106-7	AMD	04/28/2010	2010-6/7
	33148	R162-110	NEW	01/07/2010	2009-23/13
	33909	R162-110	AMD	10/09/2010	2010-17/30
	33303	R162-110-1	NSC	01/28/2010	Not Printed
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	33526	R162-2-2	AMD	05/25/2010	2010-8/8
	34191	R162-2f	NEW	12/22/2010	2010-22/14
	33565	R162-3	AMD	06/21/2010	2010-10/56
	34196	R162-3	REP	12/22/2010	2010-22/36
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	33919	R313-19	AMD	10/13/2010	2010-17/61
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	34002	R645-100-200	NSC	10/21/2010	Not Printed
	33670	R645-103-200	AMD	07/28/2010	2010-12/43
	33394	R645-105	5YR	02/17/2010	2010-6/40
	34003	R645-106-100	NSC	10/21/2010	Not Printed
	33671	R645-201-300	AMD	07/28/2010	2010-12/46
	33672	R645-300-100	AMD	07/28/2010	2010-12/49
	33673	R645-301-100	AMD	07/28/2010	2010-12/52
	33674	R645-301-400	AMD	07/28/2010	2010-12/56
	33509	R645-301-600	NSC	04/14/2010	Not Printed
	34004	R645-301-700	NSC	10/21/2010	Not Printed
	34005	R645-301-800	NSC	10/21/2010	Not Printed

	33395	R645-400	5YR	02/17/2010	2010-6/40
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	34056	R162-57a	NEW	11/08/2010	2010-19/19
	34165	R162-57a	NSC	12/01/2010	Not Printed
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	33303	R162-110-1	NSC	01/28/2010	Not Printed
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	33764	R512-200	AMD	08/11/2010	2010-13/99
	33926	R512-201	AMD	10/13/2010	2010-17/101
	33927	R512-202	AMD	10/13/2010	2010-17/103
	33765	R512-300	AMD	08/11/2010	2010-13/101

	34160	R512-301	AMD	12/22/2010	2010-22/84
	34161	R512-305	AMD	12/22/2010	2010-22/87
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Commerce, Occupational and Professional Licensing	33615	R156-60a	AMD	07/08/2010	2010-11/94
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	34246	R315-302-3	NSC	12/09/2010	Not Printed
	33145	R315-316	AMD	01/15/2010	2009-23/17
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	33832	R309-515	NSC	07/28/2010	Not Printed
	33462	R309-515-6	AMD	05/13/2010	2010-7/18
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Environmental Quality, Drinking Water	33489	R309-515	5YR	03/22/2010	2010-8/51
	33832	R309-515	NSC	07/28/2010	Not Printed
	33462	R309-515-6	AMD	05/13/2010	2010-7/18
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	34103	R156-41	NSC	10/27/2010	Not Printed
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	33546	R131-7	NSC	04/26/2010	Not Printed	
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	33743	R277-472	NEW	08/09/2010	2010-13/58
	33902	R277-472	NSC	09/21/2010	Not Printed
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	33637	R861-1A-42	NSC	05/27/2010	Not Printed
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