

# 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 Division of Administrative Rules, part of the Department of Administrative Services, produces the *Bulletin* under authority of Section 63G-3-402.

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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, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. 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)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. 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**

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## **Health Health Care Financing, Coverage and Reimbursement Policy**

### **Notice for March 2016 Medicaid Rate Changes**

Effective March 1, 2016, 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**





# EXECUTIVE DOCUMENTS

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Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either Executive Orders, Proclamations, and Declarations. Executive Orders set policy for the executive branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. Proclamations call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. Declarations designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Division of Administrative Rules for publication and distribution.

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## Rescinding Prior Executive Orders, Utah Exec. Order No. 2016-1

### EXECUTIVE ORDER

#### Rescinding Prior Executive Orders

**WHEREAS**, as Governor of the Great State of Utah, I am endowed with the constitutional and statutory authority to direct the business of the state of Utah; and

**WHEREAS**, in times of emergency, to conduct the business of the state, protect its citizens, and direct the actions of executive employees and agencies a Governor may issue executive orders; and

**WHEREAS**, each Governor of this state has made great contributions to effective governance and addressing the critical issues and challenges of their time through executive orders; and

**WHEREAS**, many prior executive orders have completed their purpose, become unnecessary, or have been replaced by subsequent orders or state and federal laws;

**NOW, THEREFORE**, I, Gary R. Herbert, Governor of the State of Utah, by the authority vested in me by the Constitution and laws of the State, do hereby rescind the following executive orders:

(1) Executive Order issued February 23, 1977, by Governor Matheson, directing the Utah Department of Development Services to establish a liaison between the Division of Industrial Promotion and the Minority Economic Coalition of Utah and to serve as the Utah Office of Minority Economic Business Enterprise. This order is rescinded because a subsequent order, Executive Order 2013-07 created the Utah Multicultural Affairs Office and Utah Multicultural Commission, and fulfills the same purposes;

(2) Executive Order issued April 18, 1977, by Governor Matheson, creating the Utah Advisory Council on Family Planning Services as an advisory body to the State Division of Health. This order is rescinded because Utah Code sections 63-40-1 through 63-40-7, upon which the order was based, were repealed by Laws of Utah 2004, Chapter 352, Section 28, effective May 3, 2004;

(3) Executive Order issued March 28, 1978, by Governor Matheson, establishing the "Governor's Committee on Employment of the Handicapped" created to promote and to encourage employment of disabled individualist and vocational, economic, and social opportunities. This order is rescinded because Utah's 2012 Employment First statute, Utah Code 62A-5-103.3, fulfills the same purpose;

(4) Executive Order issued June 19, 1978, by Governor Matheson, creating the Motor Vehicle Carrier Advisory Committee to study the motor carrier industry and recommend changes to the Department of Transportation. This order is rescinded because the Motor Carrier Advisory Board created by Utah Code 72-9-201 fulfills the same purpose;

(5) Executive Order issued February 22, 1979, by Governor Matheson, creating the Environmental Coordinating Committee. This order is rescinded because a subsequent Executive Order on June 29, 1981, "Dissolving the Environmental Coordinating Committee," and the Resource Development Coordinating Committee, created by Utah Code Title 63J Chapter 4 Part 5, fulfills the same purposes;

(6) Executive Order issued May 4, 1979, by Governor Matheson, proclaiming a code of fair practices to govern Executive Branch agencies. This order is rescinded because a subsequent executive order issued by Governor Bangertter on July 25, 1986, "Proclaiming the Code of Fair Practices to be the governing policy throughout every department of the executive branch of government of the state," fulfills the same purpose;

(7) Executive Order issued August 15, 1979, by Governor Matheson, creating the State Economic Opportunity Office within the Department of Community and Economic Development to develop solutions to issues related to poverty. This order is rescinded because of the creation of the State Community Services Office in Utah Code Title 35A Chapter 8 Part 10;

(8) Executive Order issued October 16, 1979, by Governor Matheson, creating a Community Development Division within the Department of Community and Economic Development to provide financial and technical assistance to the communities of the state. This order is rescinded because the purpose of the order was fulfilled by Utah Code Section 35A-1-202(d), which created the Housing and Community Development Division;

(9) Executive Order issued December 11, 1979, by Governor Matheson, creating the Office of the Handicapped within the Department of Social Services. This order is rescinded because Utah Code 62A-5-102(1) created the Division of Services for People with Disabilities, which acquired the responsibilities addressed in the order.

(10) Executive Order issued January 22, 1980, by Governor Matheson, creating the Utah Transportation Environmental Council under the direction of the Utah Highways Environmental Advisory Committee. This order is rescinded because the purpose of this order has been fulfilled through various state and federal laws passed in the last 35 years;

(11) Executive Order issued January 26, 1980, by Governor Matheson, designating the National Association of State Budget Officers as the agency in charge of the study and research of state budgeting. This order is rescinded because the order was ceremonial and its purpose has been fulfilled;

(12) Executive Order issued April 15, 1980, by Governor Matheson, increasing the membership of the Motor Vehicle Carrier Advisory Committee. This order is rescinded because of the creation of the Motor Carrier Advisory Board in Utah Code 72-9-201;

(13) Executive Order issued April 26, 1980, by Governor Matheson, establishing the Advisory Committee on Consumer Affairs to investigate and to understand the relationship between retail trade associations and consumer groups in the state. This order is rescinded because its purpose was fulfilled on October 15, 1980, when the final report contemplated by the order was completed;

(14) Executive Order issued April 30, 1980, by Governor Matheson, creating the Human Resources Coordinating Committee as an interagency and interdisciplinary committee to address social, economic, and health needs of future generations of Utahns. This order is rescinded because the statutes referenced in the order have been changed and the purposes of the order are now fulfilled by state agencies;

(15) Executive Order issued August 12, 1980, by Governor Matheson, creating the Rural Development Council as an intergovernmental committee responsible for the development of rural goals in the areas of housing, health, water and sewer, education, income maintenance, social services, job creation, economic development, energy, transportation, communications, public facilities, and natural resources. This order is rescinded because the order specifies the Council was to function for eighteen months. Additionally, the Governor's Rural Partnership Board created by Utah Code 63C-10-102 fulfills the same purpose;

(16) Executive Order issued April 20, 1981, by Governor Matheson, creating the Governor's Small Business Advisory Council. This order is rescinded because an Executive Order issued by Governor Bangertter on February 3, 1986, "Establishing the Utah Advisory Council on Small Business," fulfilled the same purpose;

(17) Executive Order issued May 15, 1981, by Governor Matheson, creating a State Cash Management Committee within the executive branch to analyze the current cash flow practices within the state. This order is rescinded because current practices involving the Division of Finance, the Treasurer's Office, and the Governor's Office of Management and Budget address the same cash flow practices;

(18) Executive Order issued February 25, 1982, by Governor Matheson, ordering the Department of Administrative Services, through the State Building Board, to develop procedures and methods for the naming of public facilities after Utahns who have provided significant service to their fellow citizens. This order is rescinded because Building Board Administrative Rule, R23-10, authorized by Utah Code 63A-5-103(1) (e) fulfills the same purpose;

(19) Executive Order issued May 18, 1982, by Governor Matheson, merging the Division of Manufactured Housing and Recreational Vehicles with the Division of Contractors in order to obtain efficient use of personnel, facilities, and costs. This order is rescinded because statutory provisions restructuring agencies addressing manufactured housing and recreational vehicles and contractors have fulfilled the charges of the order;

(20) Executive Order issued July 14, 1982, by Governor Matheson, establishing the Utah Resource for Genetic and Epidemiologic Research as a resource for the collection, storage, study, and dissemination of data and medical information. This order is rescinded because a subsequent executive order issued by Governor Bangerter on February 20, 1986 "Creating the Resource for Genetic and Epidemiologic Research," fulfilled the same purpose. Additionally, Utah Code 63-2-85.3 repealed by the Laws of Utah 1991, Chapter 259 in House Bill 246 repealed the authority cited in the order;

(21) Executive Order issued February 14, 1983, by Governor Matheson, developing an emergency plan with assistance from the Department of Public Safety and the Division of Facilities Construction and Management to preserve the life and safety of workers in each state facility during emergency situations. This order is rescinded because a subsequent order issued by Governor Huntsman on May 1, 2006, Executive Order 2006-02, "State Agency Participation in Comprehensive Preparedness Initiative," fulfilled a similar purpose;

(22) Executive Order issued March 8, 1983, by Governor Matheson, creating a State Advisory Committee for Risk Management to provide unbiased expertise for the evaluation of insurance and risk management-related matters. This order is rescinded because the Division of Risk Management has developed an advisory committee consisting of contributors to the State Risk Pool to fulfill the same purpose;

(23) Executive Order issued May 20, 1983, by Governor Matheson, creating the Utah State Occupational Information Coordinating Committee as required by Section 125 of the Job Training Partnership Act of 1982. This order is rescinded because a subsequent order issued by Governor Leavitt on May 3, 1994, creating the Utah State Occupational Information Coordinating Committee, fulfilled the same purposes;

(24) Executive Order issued June 6, 1983, by Governor Matheson, dissolving the Utah Transportation Environmental Council. This order is rescinded because the purpose of this order has been supplanted by numerous environmental laws enacted and amended over the last 32 years;

(25) Executive Order issued September 21, 1984, by Governor Matheson, establishing a formula for the allocation of the State Ceiling as defined and required by the Tax Reform Act of 1984. This order is rescinded because Utah Code 63N-5-101 codifies the same process;

(26) Executive Order issued December 14, 1984, by Governor Matheson, establishing the Aid to Families with Dependent Children Intern Program to assist single heads-of-households to become self-sufficient. This order is rescinded because a subsequent order issued by Governor Bangerter on October 25, 1985, "Establishing the Aid To Families with Dependent Children Intern 8 Program," amended the program;

(27) Executive Order issued December 31, 1984, by Governor Matheson, reestablishing a formula for the allocation of the State Ceiling according the Tax Reform Act of 1984 and amending the order of September 21, 1984. This order is rescinded because Utah Code 63N-5-101 codifies the same process;

(28) Executive Order issued January 11, 1985, by Governor Bangerter, reestablishing a formula for the allocation of the State Ceiling according the Tax Reform Act of 1984, amending the order of December 31, 1984. This order is rescinded because Utah Code 63N-5-101 codifies the same process;

(29) Executive Order issued February 5, 1985, by Governor Bangerter, reestablishing a formula for the allocation of the State Ceiling according the Tax Reform Act of 1984, amending the order of January 11, 1985. This order is rescinded because Utah Code 63N-5-101 codifies the same process;

(30) Executive Order issued March 21, 1985, by Governor Bangerter, reestablishing a formula for the allocation of the State Ceiling according the Tax Reform Act of 1984, amending the order of February 5, 1985. This order is rescinded because Utah Code 63N-5-101 codifies the same process;

(31) Executive Order issued May 15, 1985, by Governor Bangerter, designating the Utah State Occupational Information Coordinating Committee as required by the Job Training Partnership Act of 1982. This order is rescinded because a subsequent order issued by Governor Leavitt on May 3, 1994 created a superseding committee;

(32) Executive Order issued September 27, 1985, by Governor Bangerter, establishing a Governor's Advisory Council on Intergovernmental Affairs to advise the Governor, executive agencies and the Legislature on matters pertaining to the operation of local governments in the state. This order is rescinded because Laws of Utah 2003, Chapter 36, Senate bill 67 codified this order. The codifying statute was later repealed and the functions of the council were assumed by the University of Utah Center for Public Policy and Administration;

(33) Executive Order issued November 4, 1985, by Governor Bangerter, establishing a Governor's Council on Veterans' Issues to promote the understanding of veterans' issues and to communicate the concerns of veterans to the Governor. This order is rescinded because Utah Code 71-8-4 codified the purpose of the order with the formal creation of the Veterans Advisory Council;

(34) Executive Order issued January 29, 1986, by Governor Bangerter, establishing the Utah State Committee on Geographic Names to work with the United States Board of Geographic Names and to review all geographic name changes. This order is rescinded because the Committee was replaced by a subsequent order issued by Governor Huntsman on December 15, 2005, Executive Order 2005-022, "Creating the Utah Committee on Geographic Names";

(35) Executive Order issued February 3, 1986, by Governor Bangerter, establishing the Utah Advisory Council on Small Business to serve as an advocate for the Utah small business community with state government and to act in an advisory capacity to the Business Development Subcommittee of the Utah Board of Business and Economic Development. This order is rescinded because the Laws of Utah 1988, Chapter 78, Senate Bill 163, created the Small Business Advisory Council. Utah Code 63-55-209, sunset this Council in 1999;

(36) Executive Order issued April 7, 1986, by Governor Bangerter, establishing a formula for the allocation of the Unified Volume Cap. This order is rescinded because Utah Code 63M-1-3001 codified the same process;

(37) Executive Order issued September 2, 1986, by Governor Bangerter, establishing the Housing Development Advisory Council within the Department of Community and Economic Development to develop and recommend innovative mechanisms and programs to encourage public and private sector cooperation in housing development activities. This order is rescinded because Utah Code 35A-8-503 created the Olene Walker Housing Loan Fund Board to accomplish a similar purpose;

(38) Executive Order issued May 11, 1987, by Governor Bangerter, designating the Utah Housing Finance Agency as the agency with the responsibility to determine and announce the state housing credit ceiling for each calendar year. This order is rescinded because Utah Code 35A-8-725 designated the Utah Housing Corporation as the agency with this responsibility;

(39) Executive Order issued June 30, 1988, by Governor Bangerter, creating the State Lands Grazing Advisory Council. This order is rescinded because the Division of State Lands and Forestry was substantially restructured in 1994 in conjunction with the creation of the School and Institutional Trust Lands Administration and the Division of Forestry, Fire and State Lands. This restructuring fulfilled the purpose of this council;

(40) Executive Order issued April 20, 1989, by Governor Bangerter, creating a Governor's Council on Veterans Issues. This order is rescinded because Utah Code 71-8-4 created the Veterans Advisory Council to fulfill the same purpose;

(41) Executive Order issued October 31, 1989, by Governor Bangerter, creating the Governor's Council on Juvenile Sex Offenders. This order is rescinded because the Board of Juvenile Justice the Utah Commission on Criminal and Juvenile Justice, and the Utah Sentence Commission all have oversight of this policy area;

(42) Executive Order issued January 7, 1994, by Governor Leavitt, creating the Utah Commission on National and Community Service. This order is rescinded because Utah Code 9-1-8 created the Utah Commission on Service and Volunteerism, which has been given responsibility for the same functions;

(43) Executive Order issued May 3, 1994, by Governor Leavitt, Creating the Utah State Occupational Information Coordinating Committee. This order is rescinded because Executive Order 2014-10 issued on December 10, 2014 creating the "Utah Futures Steering Committee," replaced this function;

(44) Executive Order issued June 6, 1996, by Governor Leavitt, establishing the Utah Wireless Interagency Network. This order is rescinded because Utah Communications Authority, created by Utah Code Title 63H, Chapter 7, has responsibility for managing the statewide radio network;

(45) Executive Order issued May 27, 1998 by Governor Leavitt, creating the Council of Economic Advisors. This bill is rescinded because the Governor's Office of Economic Development created by Utah Code Title 63N, has assumed these functions;

(46) Executive Order issued June 23, 1999, by Governor Leavitt, establishing a State Building Energy Efficiency Program. This order is rescinded because Utah Code Title 63A-5-701 codified the purpose of this order;

(47) Executive Order issued November 9, 2001, by Governor Leavitt, establishing the Homeland Security Task Force. This order is rescinded because the State Information and Analysis Center now performs these functions;

(48) Executive Order issued November 1, 2003, by Governor Leavitt, creating An Outdoor Recreation Economic Ecosystem Task Force. This order is rescinded because Executive Order 2005-12, issued June 10, 2005 by Governor Huntsman replaced the function of this order;

(49) Executive Order 2005-12 issued June 10, 2005, by Governor Huntsman, creating the Outdoor Recreation Economic Ecosystem Task Force. This order is rescinded because Utah Code Title 63N Chapter 9 codifies the Outdoor Recreation Office, which absorbed the functions of the Task Force;

(50) Executive Order 2007-02 issued March 8, 2007, by Governor Huntsman, creating the Utah State Interoperability Executive Committee. This order is rescinded because Utah Communications Authority, created by Utah Code Title 63H, Chapter 7, created the Office of the Statewide Interoperability Coordinator;

(51) Executive Order 2008-01 issued February 8, 2008, by Governor Huntsman, creating the Public Health Emergency Preparedness Advisory Committee. This order is rescinded because requirements surrounding grant funding have put in place a substantively equivalent process;

(52) Executive Order 2010-02, issued January 2, 2010, establishing a "System For Allocating Volume Cap For Recovery Zone Bonds in the State Consistent With the Provisions of the United States Internal Revenue Code of 1986." This order is rescinded because the Recovery Zone Bond Program expired in December of 2010.

**IN WITNESS, WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah on this, the 29th day of January 2016.

(State Seal)

**Gary R. Herbert**  
Governor

**Attest:**

**Spencer J. Cox**  
Lieutenant Governor

2016/01/EO



## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between January 16, 2016, 12:00 a.m., and February 01, 2016, 11:59 p.m. are included in this, the February 15, 2016, 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 (example). Deletions made to existing rules are struck out with brackets surrounding them ([~~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 usually printed. If a **PROPOSED RULE** is too long to print, the Division of Administrative Rules may 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 March 16, 2016. 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 June 14, 2016, 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.

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, R15-4-5a, R15-4-9, and R15-4-10.

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

**Commerce, Occupational and  
Professional Licensing  
R156-55d  
Burglar Alarm Licensing Rule**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 40164

FILED: 01/28/2016

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Division and Alarm System Security and Licensing Board reviewed the rule and are proposing various general cleanup amendments to this rule. Proposed amendments delete references to associations that no longer exist, remove requested documents containing information that is currently gathered by applicant fingerprint cards, add clarification of definitions, and add requirements for disclosing criminal history.

**SUMMARY OF THE RULE OR CHANGE:** In Subsection R156-55d-102(3), the amendment clarifies that an alarm company must have control over a person for that person to fall within the definition of "employee". The proposed new Subsection R156-55d-102(5) defines and clarifies the definition for "sensitive alarm system information". In Section R156-55d-302a, the proposed amendment removes the requirement for documents containing information that is currently gathered by applicant fingerprint and reformats remaining subsections. In Sections R156-55d-302c and R156-55d-302d, the amendment adds "Qualifying Agent" to the section title for clarification. In Section R156-55d-302e, the amendment adds "Alarm Company" to the section title for clarification. In Section R156-55d-306, the proposed amendment removes the requirement for a qualifying agent to submit a certification of criminal history or non-history as they have already submitted fingerprints with an application and criminal history is verified by the Division using the fingerprints. In Subsection R156-55d-502(1)(c), the proposed amendment removes a reference to an association that no longer exists. Subsection R156-55d-502(1)(f) is added to designate that failing to report an arrest, charge, indictment, or violation is considered unprofessional conduct. The remaining subsections are renumbered. In Subsection R156-55d-603(1), the proposed amendment removes a reference to an association that no longer exists. In Section R156-55d-604, the proposed amendments clarify the distinction between the business receiving the service and the alarm company providing the service. Section R156-55d-605 is a new section that adds an operating standard of conduct that requires notification within 72 hours of an arrest, charge, or indictment for any criminal offense above the level of a Class C misdemeanor.

**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) and Subsection 58-55-302(3)(k) and Subsection 58-55-302(3)(l) and Subsection 58-55-302(4)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$75 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. The proposed amendments will not significantly increase the workload of the Division.

◆ **LOCAL GOVERNMENTS:** The proposed amendments apply only to licensed burglar alarm company agents, burglar alarm companies, burglar alarm company qualifiers and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

◆ **SMALL BUSINESSES:** The proposed amendments apply only to licensed burglar alarm company agents, burglar alarm companies, burglar alarm company qualifiers and applicants for licensure in those classifications. A small business may save a minimal amount due to not having to provide a certification of criminal history or non-history. The average cost of the certification is \$15 per applicant.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments apply only to licensed burglar alarm company agents, burglar alarm companies, burglar alarm company qualifiers and applicants for licensure in those classifications. As a result, other persons, such as associations, may save a minimal amount due to not having to provide a certification of criminal history or non-history. The average cost of the certification is \$15 per applicant.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed amendments apply only to licensed burglar alarm company agents, burglar alarm companies, burglar alarm company qualifiers and applicants for licensure in those classifications. Affected persons may save a minimal amount due to not having to provide a certification of criminal history or non-history. The average cost of the certification is \$15 per applicant.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** As stated in the rule analysis, this rule change updates the existing "Burglar Alarm Licensing Rule" by deleting references to associations that no longer exist, clarifying definitions, and requiring burglar alarm company employees to report to their employer (then burglar alarm companies to notify the Division) if an employee is arrested, charged, or indicted for any criminal offense above a Class C misdemeanor. No fiscal impact to businesses is anticipated.



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:  
 ♦ Jana Johansen by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at janajohansen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:  
 ♦ 02/24/2016 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.**  
**R156-55d. Burglar Alarm Licensing Rule.**  
**R156-55d-101. Title.**

This rule is known as the "Burglar Alarm Licensing Rule".

**R156-55d-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) "Alarm company agent", as defined in Subsection 58-55-102(2), is further defined for clarification to include a direct seller in accordance with 26 U.S.C. Section 3508.
- (2) "Conviction", as used in this rule, means criminal conduct where the filing of a criminal charge has resulted in:
  - (a) a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation;
  - (b) a pending diversion agreement;
  - (c) a plea of nolo contendere;
  - (d) a guilty plea;
  - (e) a finding of guilt based on evidence presented to a judge or jury; or
  - (f) a conviction which has been reduced pursuant to Section 76-3-402.
- (3) "Employee", as used in Subsection 58-55-102(17), means an individual:
  - (a) whose manner and means of work performance are subject to the right of control of, or are controlled by, ~~another person~~ an alarm company;
  - (b) whose compensation for federal income tax purposes is reported, or is required to be reported on a W-2 form issued by the ~~controlling person~~ company; ~~and~~

(c) who is entitled to workers compensation and unemployment insurance provided by the individual's employer per state or federal law; and

~~\_\_\_\_\_~~ (d) who performs services in Utah as an alarm company agent while employed by a licensed alarm company.

(4) "Immediate 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.

~~(5) "Sensitive alarm system information, as defined in Subsection 58-55-102(39), is further defined for clarification to include any information that would permit a person to compromise, bypass, deactivate, or disable any part of an alarm system. Sensitive alarm system information does not include knowledge of what is installed in the home nor the location, by general description, of the equipment installed unless the knowledge would permit a person to compromise, bypass, deactivate, or disable any part of an alarm system.~~

~~([5]b)~~ "Unprofessional conduct", as defined in Title 58, Chapters 1 and 55, is further defined, in accordance with Subsection 58-1-203(1), in Section R156-55d-502.

**R156-55d-302a. Qualifications for Licensure -- Application Requirements.**

(1) An application for licensure as an alarm company shall include:

~~(a) [a record of criminal history or certification of no record of criminal history with respect to the applicant's qualifying agent, issued by the Bureau of Criminal Identification, Utah Department of Public Safety;~~

~~\_\_\_\_\_~~ ~~(b)~~ two fingerprint cards containing:

- (i) the fingerprints of the applicant's qualifying agent;
- (ii) the fingerprints of each of the applicant's officers, directors, shareholders owning more than 5% of the stock of the company, partners, and proprietors; and
- (iii) the fingerprints of each of the applicant's management personnel who will have responsibility for any of the company's operations as an alarm company within the state;

~~([e]b)~~ a fee established in accordance with Section 63J-1-504 equal to the cost of conducting a check of records of the Federal Bureau of Investigation, and the Bureau of Criminal Identification, Utah Department of Public Safety, for each individual for whom fingerprints are required under Subsection (1) (b); and

~~([d]c)~~ ~~[a copy of a]~~ current photo identification for each individual for whom fingerprints are required under Subsection (1) (b). Acceptable photo identification shall include:

- (i) a driver license issued by a state of the United States of American or Washington, District of Columbia; or
- (ii) an identification card issued by the state of Utah.

(2) An application for license as an alarm company agent shall include:

~~(a) [a record of criminal history or certification of no record of criminal history with respect to the applicant, issued by the Bureau of Criminal Identification, Utah Department of Public Safety;~~

~~\_\_\_\_\_~~ ~~(b)~~ two fingerprint cards containing the fingerprints of the applicant;

([e]b) a fee established in accordance with Section 63J-1-504 equal to the cost of conducting a check of records of the Federal Bureau of Investigation, and the Bureau of Criminal Identification, Utah Department of Public Safety, regarding the applicant; and

([d]c) ~~a copy of a~~ current photo identification for the applicant. Acceptable identification shall include:

- (i) a driver license issued by a state of the United States of America or Washington, District of Columbia; or
- (ii) an identification card issued by the state of Utah.

**R156-55d-302c. Qualifications for Licensure -- Experience Requirements -- Qualifying Agent.**

In accordance with Subsections 58-1-203(1) and 58-1-301(3) the experience requirements for an alarm company applicant's qualifying agent in Subsection 58-55-302(3)(k)(i) are established as follows:

(1) An applicant shall have within the past ten years:

(a) not less than 6,000 hours of experience in a lawfully operated alarm company business of which not less than 2,000 hours shall have been in a managerial, supervisory, or administrative position; or

(b) not less than 6,000 hours of experience in a lawfully operated alarm company business combined with not less than 2,000 hours of managerial, supervisory, or administrative experience in a lawfully operated construction company.

(2) All experience under Subsection (1) shall be as an employee or in accordance with 26 U.S.C. Section 3508 as a direct seller, and under the immediate supervision of the applicant's employer;

(3) All experience must be obtained while lawfully engaged as an alarm company agent and working for a lawfully operated burglar alarm company.

(4) A total of 2,000 hours of work experience constitutes one year (12 months) of work experience.

(5) An applicant may claim no more than 2,000 hours of work experience in any 12 month period.

(6) No credit shall be given for experience obtained illegally.

**R156-55d-302d. Qualifications for Licensure -- Examination Requirements -- Qualifying Agent.**

In accordance with Subsections 58-1-203(1) and 58-1-301(3), the examination requirements for an alarm company applicant's qualifying agent in Subsection 58-55-302(3)(k)(i)(C) are defined, clarified, or established in that an individual to be approved as a qualifying agent of an alarm company shall:

(1) pass the Utah Burglar Alarm Law and Rule Examination with a score of not less than 75%;

(2) pass the Burglar Alarm Qualifier Examination with a score of not less than 75%; and

(3) an applicant for licensure who fails an examination shall wait 30 days before retaking a failed examination.

**R156-55d-302e. Qualifications for Licensure -- Insurance Requirements -- Alarm Company.**

In accordance with Subsections 58-1-203(1) and 58-1-301(3), the insurance requirements for licensure as an alarm

company in Section 58-55-302(3)(k)(x)(A) are defined, clarified, or established as follows:

(1) an applicant for an alarm company license shall file with the Division a "certificate of insurance" issued by an insurance company or agent licensed in the state demonstrating the applicant is covered by comprehensive public liability coverage in an amount of not less than \$300,000 for each incident, and not less than \$1,000,000 in total;

(2) the terms and conditions of the policy of insurance coverage shall provide that the Division shall be notified if the insurance coverage terminates for any reason; and

(3) all licensed alarm companies shall have available on file and shall present to the Division upon demand, evidence of insurance coverage meeting the requirements of this section for all periods of time in which the alarm company is licensed in this state as an alarm company.

**R156-55d-306. Change of Qualifying Agent.**

In accordance with Subsection 58-55-304(6), an alarm company whose qualifier has ceased association or employment shall file with the Division an application for change of qualifier on forms provided by the Division accompanied by a record of criminal history or certification of no record of criminal history[;] and a fee established by the Division, ~~fingerprints, and copy of an identification as required under Subsection R156-55d-302a(1)].~~

**R156-55d-502. Unprofessional Conduct.**

(1) "Unprofessional conduct" includes:

(a) failing as an alarm company to notify the Division of the cessation of performance of its qualifying agent or failing to replace its qualifying agent as required under Section R156-55d-306;

(b) failing as an alarm company agent to carry or display a copy of the licensee's license as required under Section R156-55d-601;

(c) failing as an alarm agent to carry or display a copy of his Electronic Security Association (ESA) [~~formerly known as the National Burglar and Fire Alarm Association (NBFAA)~~] level one certification or equivalent training as required under Section R156-55d-603;

(d) employing as an alarm company a qualifying agent or alarm company agent knowing that individual has engaged in conduct inconsistent with the duties and responsibilities of an alarm company agent.

(e) failing to comply with operating standards established by rule;

(f) failing as a burglar alarm company or a burglar alarm company agent to report an arrest, charge, indictment, or violation as required by Subsection R156-55d-605;

([f]g) a judgment on, or a judicial or prosecutorial agreement concerning a felony, or a misdemeanor involving moral turpitude, entered against an individual by a federal, state or local court, regardless of whether the court has made a finding of guilt, accepted a plea of guilty or nolo contendere by an individual, or a settlement or agreement whereby an individual has entered into participation as a first offender, or an action of deferred adjudication, or other program or arrangement where judgment or conviction is withheld;

([g]h) making false, misleading, deceptive, fraudulent, or exaggerated claims by an alarm company agent; and

([h]i) an alarm business or company having a residential or commercial false alarm rate 100% above the average of the residential or commercial false alarm rate of the municipality or county jurisdiction in which the alarm business or company's alarm systems are located.

(2) Unprofessional conduct by an alarm company agent, whether compensated as a W-2 employee or compensated in accordance with 26 U.S.C. Section 3508 as a direct seller, may also be unprofessional conduct of the alarm company employing the alarm company agent.

**R156-55d-603. Operating Standards -- Alarm Installer.**

In accordance with Subsection 58-55-308(1), the operating standards for the installer of an alarm system include the following:

(1) An alarm agent must be fully trained in the installation of an alarm system in accordance with the Electronic Security Association (ESA) [~~formerly known as the National Burglar and Fire Alarm Association (NBFAA)~~] level one certification or equivalent training requirements prior to the alarm agent installing any alarm system in any residence, business, or public building within the state.

(2) An alarm agent upon receiving initial licensure may work under the direct supervision of an alarm agent who has level one certification for a period of six months from the time of initial licensure without being required to hold a level one certificate.

(3) An alarm agent shall carry evidence of the [~~NBFAA~~]ESA level one certification or equivalent training with him at all times.

**R156-55d-604. Operating Standards -- Alarm System User Training.**

In accordance with Subsection 58-55-308(1), the operating standards for the installation of an alarm system including the following:

(1) Upon completion of the installation of an alarm system by an alarm [~~business or~~]company, the installing alarm agent shall review with the alarm user, or in the case of a [~~company~~]business with its employees, the operation of the alarm system to ensure that the user understands the function of the alarm system.

(2) The alarm [~~business or~~]company shall maintain training records, including installer and user false alarm prevention checklists, the dates of the training and the location of the training on each alarm system installed. These records shall be maintained in the files of the alarm [~~business or~~]company for at least three years from the date of the training.

**R156-55d-605. Operating Standards -- Standards of Conduct.**

In accordance with Subsection 58-55-302(k)(iii)(B)(vii), the following standards shall apply with respect to notifying the Division of an arrest, charge, indictment, or violation.

(1) A licensed burglar alarm company agent shall notify the licensee's employing burglar alarm company within 72 hours of being arrested, charged, or indicted for any criminal offense above the level of a Class C misdemeanor.

(2) Within 72 hours after receiving notification pursuant to Subsection (1), the employing burglar alarm company shall provide written notification to the Division of the arrest, charge, indictment, or violation.

(3) The written notification required under Subsection (2) shall include:

- (a) the employee's name;
  - (b) the name of the arresting agency, if applicable;
  - (c) the agency case number or similar case identifier;
  - (d) the date of the arrest, charge, indictment, or violation;
- and
- (e) the nature of the criminal offense or violation.

**KEY: licensing, alarm company, burglar alarms**  
**Date of Enactment or Last Substantive Amendment: [~~October 23, 2014~~]2016**

**Notice of Continuation: February 7, 2012**  
**Authorizing, and Implemented or Interpreted Law: 58-55-101; 58-1-106(1)(a); 58-1-202(1)(a); 58-55-302(3)(k); 58-55-302(3)(l); 58-55-302(4); 58-55-308**

**Crime Victim Reparations,  
Administration  
R270-1-17  
Prescription or Over-the-Counter  
Medications**

**NOTICE OF PROPOSED RULE  
(Amendment)  
DAR FILE NO.: 40177  
FILED: 02/01/2016**

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** In Section R270-1-17, wording is added that relates to prescription or over-the-counter medications, and the reimbursement thereof.

**SUMMARY OF THE RULE OR CHANGE:** The only changes made to this rule was new language in Section R270-1-17 as it relates to prescriptions or over-the-counter medications, and the reimbursement thereof.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 63M-7-501

**ANTICIPATED COST OR SAVINGS TO:**  
♦ **THE STATE BUDGET:** There are no anticipated costs or savings that are expected to the state budget. The change only relates to reimbursement for the duration of an approved treatment plan. The change does not guarantee reimbursement or cost that would affect the state budget.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings that are expected to local governments. Local government is not affected by the change in the rule, as it only applies to the administration of crime victim reparations.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings that are expected to small businesses. Small businesses are not affected by the change in the rule, as it only applies to the administration of crime victim reparations.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings that are expected to persons other than small businesses, businesses, or local government entities. Said persons are not affected by the change in the rule, as it only applies to the administration of crime victim reparations.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no anticipated compliance costs for affected persons. The changes only apply to the consideration for reimbursement for the duration of an approved treatment plan.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are no anticipated fiscal impacts that this rule may have on businesses. Businesses are not affected by the change in the rule, as it only applies to the administration of crime victim reparation, and only relates to reimbursement for the duration of an approved treatment plan.

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

CRIME VICTIM REPARATIONS  
ADMINISTRATION  
ROOM 200  
350 E 500 S  
SALT LAKE CITY, UT 84111-3347  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Gary Scheller by phone at 801-238-2362, by FAX at 801-533-4127, or by Internet E-mail at garys@utah.gov  
◆ Nicole Alder by phone at 801-538-3240, or by Internet E-mail at nicolealder@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016

AUTHORIZED BY: Gary Scheller, Director

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**R270. Crime Victim Reparations, Administration.**

**R270-1. Award and Reparation Standards.**

**R270-1-17. Prescription or Over-the-Counter Medications.**

A. Reimbursement of prescription or over-the-counter medications and/or medication management services used in

conjunction with mental health therapy shall be considered only for the duration of an approved Treatment Plan.

B. Reimbursement of prescription or over-the-counter medications used in conjunction with medical treatment shall be considered only during the course of treatment by the physician.

C. Medication management rates shall be limited to a maximum of \$62.50 per thirty minute session.

**KEY: victim compensation, victims of crimes**

**Date of Enactment or Last Substantive Amendment: [~~August 21, 2015~~2016**

**Notice of Continuation: June 29, 2011**

**Authorizing, and Implemented or Interpreted Law: 63M-7-501 et seq.**

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## Crime Victim Reparations, Administration R270-5 Electronic Meetings

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 40148

FILED: 01/20/2016

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to adopt a rule governing the use of electronic meetings. Rule R270-5 establishes procedures for conducting Crime Victim Reparations and Assistance Board meetings by electronic means.

**SUMMARY OF THE RULE OR CHANGE:** This rule establishes procedures for conducting Crime Victim Reparations and Assistance Board meetings by electronic means.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 52-4-207

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There are no anticipated costs or savings that are expected to the state budget. This rule simply establishes procedures for conducting Crime Victim Reparations and Assistance Board meetings by electronic means.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings that are expected to the local government. This rule simply establishes procedures for conducting Crime Victim Reparations and Assistance Board meetings by electronic means.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings that are expected to small businesses. This rule

simply establishes procedures for conducting Crime Victim Reparations and Assistance Board meetings by electronic means, which is not applicable to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings that are expected to the persons other than small businesses, businesses, or local government entities. This rule simply establishes procedures for conducting Crime Victim Reparations and Assistance Board meetings by electronic means and does not affect said persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no anticipated compliance costs for the affected persons. This rule simply establishes procedures for conducting Crime Victim Reparations and Assistance Board meetings by electronic means.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are no anticipated fiscal impacts that this rule may have on businesses. Businesses are not affected by the procedures for conducting Crime Victim Reparations and Assistance Board meetings by electronic means.

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

CRIME VICTIM REPARATIONS  
ADMINISTRATION  
ROOM 200  
350 E 500 S  
SALT LAKE CITY, UT 84111-3347  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Gary Scheller by phone at 801-238-2362, by FAX at 801-533-4127, or by Internet E-mail at garys@utah.gov  
◆ Nicole Alder by phone at 801-538-3240, or by Internet E-mail at nicolealder@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016

AUTHORIZED BY: Gary Scheller, Director

**R270. Crime Victim Reparations, Administration.**

**R270-5. Electronic Meetings.**

**R270-5-1. Authorization and Purpose.**

(1) Purpose. Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to adopt a rule governing the use of electronic meetings. This Rule R270-5 establishes procedures for conducting Crime Victim Reparations and Assistance Board (hereinafter "Board") meetings by electronic means.

(2) Procedure. The following provisions govern any meeting at which one or more Board members appear electronically pursuant to Section 52-4-207:

(a) If one or more members of the Board desire to participate electronically, such member(s) shall contact the Director of the Crime Victim Reparations and Assistance Board (hereinafter "Director"). The Director shall assess the practicality of facility requirements needed to conduct the meeting electronically in a manner that allows for the attendance, participation and monitoring as required by this Rule. If it is practical, the Presiding Officer or Director shall determine whether to allow for such electronic participation, and the public notice of the meeting shall so indicate. In addition, the notice shall specify the anchor location where the members of the Board not participating electronically will be present and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(b) Notice of the meeting and the agenda shall be posted at the anchor location and be provided in accordance with the Open and Public Meetings Act. The anchor location is the physical location where the electronic meeting originates or where the participants are connected. The anchor location shall be identified in the public notice for the meeting. Unless otherwise designated in the notice, the anchor location shall be a room in the Utah Office for Victims of Crime office located at 350 East 500 South, Salt Lake City, Utah where the Board would normally meet if the Board was not holding an electronic meeting.

(c) Notice of the possibility of an electronic meeting shall be given to the Board members at least 24 hours before the meeting. In addition, the notice shall describe how a Board member may participate in the meeting electronically.

(d) When notice is given of the possibility of a Board member participating electronically, any Board member may do so and any voting Board member, whether at the anchor location or participating electronically, shall be counted as present for purposes of a quorum and may fully participate and vote. At the commencement of the meeting, or at such time as any Board member initially appears electronically, the Presiding Officer shall identify for the record all those who are participating electronically. Votes by members of the Board who are not at the anchor location of the meeting shall be confirmed by the Presiding Officer.

(e) The anchor location will have space and facilities so that interested persons and the public may attend, monitor and participate in the open portions of the meeting, as appropriate.

**KEY: electronic meetings, procedures**

**Date of Enactment or Last Substantive Amendment: 2016**

**Authorizing, and Implemented or Interpreted Law: 52-4-207**

Health, Child Care Center Licensing  
Committee  
**R381-60**  
Hourly Child Care Centers

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 40163

FILED: 01/28/2016

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed changes are mostly to clarify rules and to facilitate compliance with required training topics.

**SUMMARY OF THE RULE OR CHANGE:** This rule changes are proposed by the Child Care Center Licensing Committee. They include clarification of some terms, language required to adjust the policies and procedures and emergency and disaster plan to the new federal Office of Child Care training requirements, and renumbering.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 3

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** No state agencies operate child care centers. Therefore, the Department does not anticipate any cost or savings as a result of this change.

♦ **LOCAL GOVERNMENTS:** Some local governments operate hourly child care centers. Since the proposed changes are mostly clarification to the current rule and training for caregivers that is provided by Child Care Licensing at no cost, the Department does not anticipate any new costs or savings to child care programs operated by state agencies.

♦ **SMALL BUSINESSES:** Almost all hourly child care centers are small businesses. Since the proposed changes are mostly documentation of policies and procedures and emergency and disaster plan and training for caregivers, which is provided by Child Care Licensing at no cost, the Department does not anticipate any new costs or savings to child care small business.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule will not change any of the requirements for child care programs, except required training for caregivers which is provided by Child Care Licensing at no cost, the Department does not anticipate any new costs or savings to entities or persons that are not small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because this rule will not change any of the requirements for child care programs, the Department does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact to business because any required training for child care programs is provided at no cost.

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

HEALTH

CHILD CARE CENTER LICENSING COMMITTEE

3760 S HIGHLAND DR

SALT LAKE CITY, UT 84106

or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016**

**THIS RULE MAY BECOME EFFECTIVE ON:** 03/24/2016

**AUTHORIZED BY:** Joseph Miner, MD, Executive Director

**R381. Health, Child Care Center Licensing Committee.****R381-60. Hourly Child Care Centers.****R381-60-2. Definitions.**

(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Body fluids" means blood, urine, feces, vomit, mucous, and saliva.

(4) "Caregiver" means an employee or volunteer who provides direct care to children.

(5) "CPSC" means the Consumer Product Safety Commission.

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

(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and is at least 2" by 2" in size.

(8) "Director" means a person who meets the director qualifications of this rule, and who assumes the day-to-day responsibilities for the facility to be in compliance with Child Care Licensing rules.

(9) "Direct Supervision" for infants, toddlers, and preschoolers means the caregiver can see and hear all of the children in his or her assigned group, and is near enough to intervene when necessary. "Direct Supervision" for school age children means the caregiver must be able to hear school age children and must be near enough to intervene when necessary.

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

(11) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

(12) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(13) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child cannot get to.

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

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

(16) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

(17) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies and vitamin or mineral supplements.

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

(19) "Person" means an individual or a business entity.

(20) "Physical Abuse" means causing non-accidental physical harm to a child.

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

(22) "Protective cushioning" means cushioning material that has been tested to and meets American Society for Testing and Materials (ASTM) Specification F 1292, such as unitary surfaces, wood chips, engineered wood fiber, and shredded rubber mulch. Protective cushioning may also include pea gravel or sand as allowed by the Consumer Product Safety Commission (CPSC).

(23) "Provider" means the licensee or ~~[a staff member to whom the licensee has delegated a duty under this rule]~~ the entity providing child care services.

(24) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

(25) "School Age" means ~~[kindergarten and older age children]~~ children ages five through twelve.

(26) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1.(2).

(27) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5b-103(10).

(28) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, or play pen.

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

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

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

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

(31) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

(32) "Volunteer" means a person who provides care to a child but does not receive direct or indirect compensation for doing so.

#### **R381-60-7. Personnel.**

(1) The center must have a director who is at least 21 years of age, who has completed the Center Director Training class offered by the Department, and who has one of the following:

(a) an associates, bachelors, or graduate degree in child development, early childhood education, elementary education, or recreation from an accredited college;

(b) a college degree in a related field with documented four courses of higher education completed in child development;

(c) valid proof of a level 8, 9, or 10 Utah Early Childhood Career Ladder certification issued by the Utah Office of Child Care or the Utah Child Care Professional Development Institute;

(d) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, or other credential that the licensee demonstrates as equivalent to the Department; or

(e) a currently valid National Administrator Credential (NAC) ~~[issued by the National Child Care Association]~~ as approved by the Department, plus one of the following:

(i) valid proof of successful completion of 12 semester credit hours of early childhood development courses from an accredited college; or

(ii) valid proof of completion of the following six Utah Early Childhood Career Ladder courses, or their equivalent, as approved by the Utah Child Care Professional Development Institute: Child Development Ages and Stages, Learning in the Early Years, A Great Place for Kids, Strong and Smart, Learning to Get Along, and Advanced Child Development.

(f) two years experience in child care, elementary education, or a related field.

(2) Any new Center director must complete the Department's Center Director Training Class no later than 60 working days after assuming director duties.

(3) All caregivers included in the required caregiver to child ratios shall be at least 18 years of age.

(4) A volunteer may be included in the provider to child ratio only if the volunteer meets all of the caregiver requirements of this rule.

(5) Each new ~~[director, assistant director,]~~ caregiver, and volunteers who count in the caregiver to child ratio shall receive at least 2.5 hours of pre-service [orientation] training prior to assuming caregiving duties. Orientation training shall be documented in the caregiver's file and shall include the following topics:

(a) specific job responsibilities;

(b) the Department-approved center's written policies and procedures;

([b]c) the Department-approved center's emergency and disaster plan;

([e]d) the current child care licensing rules found in Sections R381-60-11 through 24;

~~[(d) procedure for releasing children to authorized individuals only;~~

~~[(e) proper cleanup of body fluids;]~~

~~(f) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;~~

~~(f) recognizing the signs of homelessness and available assistance;~~

~~(g) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies; and~~

~~(h) prevention of sudden infant death syndrome and use of safe sleeping practices.~~

~~(g) obtaining assistance in emergencies, as specified in the center's emergency and disaster plan.~~

~~(h) If the center provides infant or toddler care, new caregiver orientation training topics shall also include:~~

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

~~(ii) preventing sudden infant death syndrome.]~~

(6) The following individuals shall complete a minimum of 10 hours of child care training each year, based on the center's license date:

(a) the director;

(b) all caregivers;

(c) all substitutes who work an average of 10 hours a week or more, as averaged over any three month period; and

(d) all volunteers that the provider includes in the ~~provider~~ caregiver to child ratio.

(7) Documentation of annual training shall be kept in each caregiver's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.

(8) Caregivers who begin employment partway through the license year shall complete a proportionate number of training hours based on the number of months worked prior to the center's relicensure date.

(9) Annual training hours shall include the following topics:

(a) the current child care licensing rules found in Sections R381-60-11 through 24;

(b) a review of the Department-approved center's policies and procedures and emergency and disaster plans, including any updates;

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

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

(e) positive guidance[-];

~~(f) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;~~

~~(g) prevention of sudden infant death syndrome and use of safe sleeping practices; and~~

~~(h) recognizing the signs of homelessness and available assistance;~~

~~(10) If the center provides infant or toddler care, annual training topics for the center director and all infant and toddler caregivers shall also include:~~

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

~~(b) preventing sudden infant death syndrome.]~~

(11) A minimum of 5 hours of the required annual in-service training shall be face-to-face instruction.

### **R381-60-8. Administration.**

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

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

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

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

(5) Either the center director or a designee with authority to act on behalf of the center director shall be present at the facility whenever the center is open for care.

(6) Director designees shall be at least 21 years of age, and shall have completed their ~~orientation~~ pre-service training.

(7) There shall be a working telephone at the facility, and the center director shall inform the Department of any changes to the center's telephone number within 48 hours of the change.

(8) The provider shall report to the Child Care Licensing Program within the next Department business day any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless that medical service was part of the child's medical treatment plan identified by the parent. The provider shall also submit a written report to Child Care Licensing within five working days of the incident.

(9) The center director shall train and supervise all staff to:

(a) ensure their compliance with this rule;

(b) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

~~(10) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:~~

~~(a) direct supervision and protection of children at all times, including when they are sleeping, using the bathroom, in a mixed-group activity, on the playground, and during off-site activities;~~

~~(b) maintaining required caregiver to child ratios when the center has more than the expected number of children, or fewer than the scheduled number of caregivers;~~

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

~~(d) procedures to ensure that the center releases children to authorized individuals only;~~

~~(e) confidentiality and release of information;~~

~~(f) the use of movies and video or computer games, including what industry ratings the center allows;~~

~~(g) recognizing early signs of illness and determining when there is a need for exclusion from the center;~~

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

~~(i) how long a child will cry before the parent is contacted.]~~

(10) The licensee shall establish, and shall ensure that all caregivers follow, written policies and procedures for the health and safety of each child in care. The licensee shall submit to the Department these policies and procedures for approval on a form provided by Child Care Licensing.



(11) The provider shall ensure that the written policies and procedures are available for review by staff and the Department during business hours.

#### **R381-60-9. Records.**

(1) The provider shall maintain the following general records on-site for review by the Department:

(a) documentation of the previous 12 months of fire and disaster drills as specified in R381-60-10(9) and (11);

(b) current animal vaccination records as required in R381-60-22(2);

(c) a six week record of child attendance, including sign-in and sign-out records;

(d) a current local health department inspection;

(e) a current local fire department inspection;

(f) copy of all covered individuals' background screening cards issued by the Department.

(2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:

(a) an admission form containing the following information for each child:

(i) name;

(ii) date of birth;

(iii) the parent's name, address, and phone number, including a daytime phone number;

(iv) the names of people authorized by the parent to pick up the child;

(v) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent; and

(vi) medical conditions, including a certification that all immunizations are current.

(b) a transportation permission form, if the center provides transportation services;

(c) a six week record of medication permission forms, and a six week record of medications actually administered; and

(d) a six week record of incident, accident, and injury reports.

(3) The provider shall ensure that information in children's files is not released without written parental permission.

(4) The provider shall maintain the following records for each staff member on-site for review by the Department:

(a) date of initial employment;

(b) copy of the current background screening card issued by the Department;

(c) a six week record of days worked, and the times worked each day;

(d) ~~orientation~~ pre-service training documentation for caregivers, and for volunteers who ~~work at the center at least once each month~~ count in the caregiver to child ratio;

(e) annual training documentation for all providers and substitutes who work an average of 10 hours or more a week, as averaged over any three month period; and

(f) current first aid and CPR certification, if applicable as required in R381-60-10(2), R381-60-20(2)(d), and R381-60-21(2).

#### **R381-60-10. Emergency Preparedness.**

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

(2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification. Equivalent CPR certification must include hands-on testing.

(3) The licensee shall maintain first-aid supplies in the center, including at least antiseptic, band-aids, and tweezers.

~~\_\_\_\_\_ (4) The provider shall have a written emergency and disaster plan which shall include at least the following:~~

~~\_\_\_\_\_ (a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;~~

~~\_\_\_\_\_ (b) procedures for responding to fire, earthquake, flood, power failure, and water failure;~~

~~\_\_\_\_\_ (c) the location of and procedure for emergency shut off of gas, electricity, and water;~~

~~\_\_\_\_\_ (d) an emergency relocation site where children may be housed if the center is uninhabitable;~~

~~\_\_\_\_\_ (e) a means of posting the relocation site address in a conspicuous location that can be seen even if the center is closed;~~

~~\_\_\_\_\_ (f) the transportation route and means of getting staff and children to the emergency relocation site;~~

~~\_\_\_\_\_ (g) a means of accounting for each child's presence in route to and at the relocation site;~~

~~\_\_\_\_\_ (h) a means of accessing children's emergency contact information and emergency releases;~~

~~\_\_\_\_\_ (i) provisions for emergency supplies, including at least food, water, a first aid kit, diapers if the center cares for diapered children, and a cell phone;~~

~~\_\_\_\_\_ (j) procedures for ensuring adequate supervision of children during emergency situations, including while at the center's emergency relocation site; and~~

~~\_\_\_\_\_ (k) staff assignments for specific tasks during an emergency.]~~

(4) The licensee shall submit to the Department a written emergency preparedness and disaster response plan for approval on a form provided by Child Care Licensing.

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

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

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

(8) The provider shall conduct fire evacuation drills monthly. Drills shall include complete exit of all children and staff from the building.

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

(a) the date and time of the drill;

(b) the number of children participating;

(c) the name of the person supervising the drill;

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

(e) any problems encountered.

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

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

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

(b) the date and time of the drill;

(c) the number of children participating;

(d) the name of the person supervising the drill; and

(e) any problems encountered.

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

**KEY: child care facilities, hourly child care centers**

**Date of Enactment or Last Substantive Amendment: [2015]2016**

**Authorizing, and Implemented or Interpreted Law: 26-39-203(1)**

(a)

## Health, Child Care Center Licensing Committee R381-70

### Out of School Time Child Care Programs

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40162

FILED: 01/28/2016

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed changes are mostly to clarify rules and to facilitate compliance with required training topics.

**SUMMARY OF THE RULE OR CHANGE:** This rule changes are proposed by the Child Care Center Licensing Committee. They include clarification of some terms, language required to adjust the policies and procedures and emergency and disaster plan to the new federal Office of Child Care requirements, and renumbering.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 3

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** No state agencies operate licensed homes. Therefore, the Department does not anticipate any cost or savings as a result of this change.

◆ **LOCAL GOVERNMENTS:** Some local governments operate child care centers. Since the proposed changes are mostly clarification to the current rule and training for caregivers that is provided by Child Care Licensing at no cost, the Department does not anticipate any new costs or savings to child care programs operated by state agencies.

◆ **SMALL BUSINESSES:** Almost all child care centers are small businesses. Since the proposed changes are mostly documentation of policies and procedures and emergency and disaster plan and training for caregivers, which is provided by Child Care Licensing at no cost, the Department does not anticipate any new costs or savings to child care small business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule will not change any of the requirements for child care programs, except required training for caregivers which is provided by Child Care Licensing at no cost, the Department does not anticipate any new costs or savings to entities or persons that are not small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because this rule will not change any of the requirements for child care programs, the Department does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact to business because any required training for child care programs is provided at no cost.

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

HEALTH

CHILD CARE CENTER LICENSING COMMITTEE

3760 S HIGHLAND DR

SALT LAKE CITY, UT 84106

or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at [sbolivar@utah.gov](mailto:sbolivar@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016**

**THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2016**

**AUTHORIZED BY: Joseph Miner, MD, Executive Director**

**R381. Health, Child Care Center Licensing Committee.**

**R381-70. Out of School Time Child Care Programs.**

**R381-70-2. Definitions.**

(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Body Fluids" means blood, urine, feces, vomit, mucous, and saliva.

(4) "Caregiver" means an employee or volunteer who provides direct care to children.

(5) "CPSC" means the Consumer Product Safety Commission.

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

(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and that is at least 2" by 2" in size.

(8) "Director" means a person who meets the director qualifications of this rule, and who assumes the day-to-day responsibilities for the facility to be in compliance with Child Care Licensing rules.

(9) "Direct Supervision" means the caregiver must be able to hear all of the children and must be near enough to intervene when necessary.

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

(11) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

(12) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(13) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child cannot get to.

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

(15) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

(16) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies.

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

(18) "Person" means an individual or a business entity.

(19) "Physical Abuse" means causing non-accidental physical harm to a child.

(20) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one user to stand on, and upon which the users can move freely.

(21) "Protective Barrier" means an enclosing structure such as bars, lattice, or a solid panel, around an elevated play equipment platform that is intended to prevent a child from either accidentally or deliberately passing through the barrier.

(22) "Protective cushioning" means cushioning material that is approved by the American Society for Testing and Materials. For example, sand, pea gravel, engineered wood fibers, shredded tires, or unitary cushioning material, such as rubber mats or poured rubber-like material.

(23) "Provider" means the licensee or ~~[a staff member to whom the licensee has delegated a duty under this rule]~~ the entity providing child care services.

(24) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

(25) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1(2).

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

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

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

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

(28) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

(29) "Volunteer" means a person who provides care to a child but does not receive direct or indirect compensation for doing so. A volunteer is not included in the provider to child ratio, unless the volunteer meets all of the caregiver requirements of this rule.

#### **R381-70-7. Personnel.**

(1) The program must have a director who is at least 21 years of age, who has completed the Center Director Training class offered by the Department, and who has one of the following educational credentials:

(a) an associates, bachelors, or graduate degree from an accredited college and successful completion of at least 12 semester credit hours of coursework in childhood development, elementary education, or a related field;

(b) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, or other credential that the licensee demonstrates as equivalent to the Department; or

(c) a currently valid National Administrator Credential (NAC) ~~[issued by the National Child Care Association,]~~ as approved by the Department, plus one of the following:

(i) valid proof of successful completion of 12 semester credit hours of coursework in childhood development, elementary education, or a related field; or

(ii) valid proof of completion of the following six Utah Career Ladder courses, or their equivalent, as approved by the Utah Child Care Professional Development Institute: Child Development: Ages and Stages; Advanced Child Development; School Age Course 1; School Age Course 2; School Age Course 3; and School Age Course 4.

(2) Any new Center director must complete the Department's Center Director Training Class no later than 60 working days after assuming director duties.

(3) All caregivers shall be at least 18 years of age.

(4) All assistant caregivers shall be at least 16 years of age, and shall work under the immediate supervision of a caregiver who is at least 18 years of age.

(5) Assistant caregivers may be included in caregiver to child ratios, but shall not be left unsupervised with children.

(6) Assistant caregivers shall meet all of the caregiver requirements under this rule, except the caregiver age requirement of 18 years.

(7) Whenever there are children at the program, there shall be at least one caregiver present who can demonstrate the English literacy skills needed to care for children and respond to emergencies.

(8) Each new ~~director, assistant director, caregiver, assistant caregiver, and volunteers who count in the caregiver to child ratio,~~ shall receive at least 2.5 hours of pre-service [orientation]-pre-service training prior to assuming caregiving duties. [Orientation]-Pre-service training shall be documented and shall include the following topics:

- (a) job description and duties;
- (b) the Department-approved program's written policies and procedures;
- (c) the Department-approved program's emergency and disaster plan;
- (d) the current child care licensing rules found in Sections R381-70-11 through 22;
- (e) introduction and orientation to the children assigned to the caregiver;
- (f) a review of the information in the health assessment for each child in their assigned group;

~~[(g) procedure for releasing children to authorized individuals only;~~

~~(h) proper cleanup of body fluids;~~  
~~[(i) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;~~

~~[(j) obtaining assistance in emergencies, as specified in the program's emergency and disaster plan.]~~

(h) recognizing the signs of homelessness and available assistance;

(i) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies; and

(j) prevention of sudden infant death syndrome and use of safe sleeping practices.

(9) The program director, assistant director, all caregivers, and substitutes who work an average of 10 hours a week or more, as averaged over any three month period, shall complete a minimum of 2 hours of training for each month during which they are employed, or 20 hours of training each year, based on the program's license date.

(a) Documentation of annual training shall be kept in each caregiver's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.

(b) Annual training hours shall include the following topics:

(i) a review of the current child care licensing rules found in Sections R381-70-11 through 22;

(ii) a review of the Department-approved program's written policies and procedures and emergency and disaster plans, including any updates;

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

(iv) principles of child growth and development, including development of the brain; ~~[and]~~

(v) positive guidance; ~~[-]~~

(vi) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;

(vii) prevention of sudden infant death syndrome and use of safe sleeping practices; and

(viii) recognizing the signs of homelessness and available assistance;

(10) A minimum of 10 hours of the required annual in-service training shall be face-to-face instruction.

#### **R381-70-8. Administration.**

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

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

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

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

(5) Either the program director or a designee with authority to act on behalf of the program director shall be present at the facility whenever the program is open for care.

(6) Director designees shall be at least 21 years of age, and shall have completed their ~~[orientation]-pre-service~~ training.

(7) Each week, the program director shall be on-site at the program during operating hours for at least 50% of the time the program is open to children, in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.

(8) The program director must have sufficient freedom from other responsibilities to manage the program and respond to emergencies.

(9) There shall be a working telephone at the facility, and the program director shall inform each child's parent and the Department of any changes to the program's telephone number within 48 hours of the change.

(10) The provider shall report to the Child Care Licensing Program within the next Department business day any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless that medical service was part of the child's medical treatment plan identified by the parent. The provider shall also submit a written report to Child Care Licensing within five working days of the incident.

(11) The duties and responsibilities of the program director include the following:

(a) appoint one or more individuals who meet the background screening and training requirements of this rule to be a director designee, with authority to act on behalf of the program director in his or her absence;

(b) train and supervise staff to:

(i) ensure their compliance with this rule;

(ii) ensure they meet the needs of the children in care as specified in this rule; and

(iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

(12) ~~[The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:~~

~~\_\_\_\_\_ (a) supervision and protection of children at all times, including when they are using the bathroom, on the playground, and during off-site activities;~~

~~\_\_\_\_\_ (b) maintaining required caregiver to child ratios when the program has more than the expected number of children, or fewer than the scheduled number of caregivers;~~

~~\_\_\_\_\_ (c) procedures to account for each child's attendance and whereabouts;~~

~~\_\_\_\_\_ (d) procedures to ensure that the program releases children to authorized individuals only;~~

~~\_\_\_\_\_ (e) confidentiality and release of information;~~

~~\_\_\_\_\_ (f) the use of movies and video or computer games, including what industry ratings the program allows;~~

~~\_\_\_\_\_ (g) recognizing early signs of illness and determining when there is a need for exclusion from the program;~~

~~\_\_\_\_\_ (h) discipline of children, including behavioral expectations of children and discipline methods used;~~

~~\_\_\_\_\_ (i) transportation to and from off-site activities, or to and from home, if the program offers these services; and~~

~~\_\_\_\_\_ (j) if the program offers transportation to or from school, policies addressing:~~

~~\_\_\_\_\_ (i) how long children will be unattended before and after school;~~

~~\_\_\_\_\_ (ii) what steps will be taken if children fail to meet the vehicle;~~

~~\_\_\_\_\_ (iii) how and when parents will be notified of delays or problems with transportation to and from school; and~~

~~\_\_\_\_\_ (iv) the use of size-appropriate safety restraints.~~

~~\_\_\_\_\_ (k) if the program has a computer that is connected to the internet and that is accessible to any child in care:~~

~~\_\_\_\_\_ (i) written policies for parents explaining how children's computer use is monitored; and~~

~~\_\_\_\_\_ (ii) a signed parent permission form for each child who is allowed to use the computer.~~

~~\_\_\_\_\_ (12) The licensee shall establish, and shall ensure that all caregivers follow, written policies and procedures for the health and safety of each child in care. The licensee shall submit to the Department these policies and procedures for approval on a form provided by Child Care Licensing.~~

(13) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.

#### **R381-70-9. Records.**

(1) The provider shall maintain the following general records on-site for review by the Department:

(a) documentation of the previous 12 months of fire and disaster drills as specified in R381-70-10(9) and R381-70-10(11);

(b) current animal vaccination records as required in R381-70-22(3);

(c) a six week record of child attendance, including sign-in and sign-out records;

(d) a current local health department inspection;

(e) a current local fire department inspection;

(f) copy of all covered individuals' background screening cards issued by the Department.

(2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:

(a) an admission form containing the following information for each child:

(i) name;

(ii) date of birth;

(iii) the parent's name, address, and phone number, including a daytime phone number;

(iv) the names of people authorized by the parent to pick up the child;

(v) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent;

(vi) if available, the name, address, and phone number of an out of area/state emergency contact person for the child; and

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

(b) a current annual health assessment form as required in R381-70-14(5);

(c) a transportation permission form, if the program provides transportation services;

(d) a six week record of medication permission forms, and a six week record of medications actually administered; and

(e) a six week record of incident, accident, and injury reports.

(3) The provider shall ensure that information in children's files is not released without written parental permission.

(4) The provider shall maintain the following records for each staff member on-site for review by the Department:

(a) date of initial employment;

(b) copy of the current background screening card issued by the Department;

(c) a six week record of days and hours worked;

(d) ~~[orientation]~~ pre-service training documentation for caregivers, and for volunteers who ~~[work at the program at least once each month]~~ count in the caregiver to child ratio;

(e) annual training documentation for all providers and substitutes who work an average of 10 hours a week or more, as averaged over any three month period; and

(f) current first aid and CPR certification, if applicable as required in R381-70-10(2), R381-70-20(5)(d), and R381-70-21(2).

#### **R381-70-10. Emergency Preparedness.**

(1) The provider shall post the program's street address and emergency numbers, including ambulance, fire, police, and poison control, near each telephone in the facility.

(2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and CPR certification.

(3) The program shall maintain first aid supplies in the center, including at least antiseptic, band-aids, and tweezers.

~~[(4) The provider shall have a written emergency and disaster plan which shall include at least the following:~~

~~\_\_\_\_\_ (a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;~~

~~\_\_\_\_\_ (b) procedures for responding to fire, earthquake, flood, power failure, and water failure;~~

~~\_\_\_\_\_ (c) the location of and procedure for emergency shut off of gas, electricity, and water;~~

- ~~(d) an emergency relocation site where children may be housed if the facility is uninhabitable;~~  
~~(e) a means of posting the relocation site address in a conspicuous location that can be seen even if the facility is closed;~~  
~~(f) the transportation route and means of getting staff and children to the emergency relocation site;~~  
~~(g) a means of accounting for each child's presence in route to and at the relocation site;~~  
~~(h) a means of accessing children's emergency contact information and emergency releases; including contact information for an out of area/state emergency contact person for the child, if available;~~  
~~(i) provisions for emergency supplies, including at least food, water, a first aid kit, and a cell phone;~~  
~~(j) procedures for ensuring adequate supervision of children during emergency situations, including while at the program's emergency relocation site; and~~  
~~(k) staff assignments for specific tasks during an emergency.]~~

(4) The licensee shall submit to the Department a written emergency preparedness and disaster response plan for approval on a form provided by Child Care Licensing.

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

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

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

(8) The provider shall conduct fire evacuation drills monthly during each month that the program is open. Drills shall include complete exit of all children and staff from the building.

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

- (a) the date and time of the drill;
- (b) the number of children participating;
- (c) the name of the person supervising the drill;
- (d) the total time to complete the evacuation; and
- (e) any problems encountered.

(10) The provider shall conduct drills for disasters other than fires at least once every six months that the program is open.

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

- (a) the type of disaster, such as earthquake, flood, prolonged power outage, tornado;
- (b) the date and time of the drill;
- (c) the number of children participating;
- (d) the name of the person supervising the drill; and
- (e) any problems encountered.

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

**KEY: child care facilities, child care, child care centers, out of school time child care programs**

**Date of Enactment or Last Substantive Amendment: [2015]2016  
 Authorizing, and Implemented or Interpreted Law: 26-39-203(1)  
 (a)**

## Health, Child Care Center Licensing Committee R381-100 Child Care Centers

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 40161  
 FILED: 01/28/2016

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed changes are mostly to clarify rules and to facilitate compliance with required training topics.

**SUMMARY OF THE RULE OR CHANGE:** This rule changes are proposed by the Child Care Center Licensing Committee. They include clarification of some terms, language required to adjust the policies and procedures and emergency and disaster plan to the new federal Office of Child Care training requirements, renumbering, and an additional mixed age group table for older toddlers and two-year-olds.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 3

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** Some state agencies operate child care centers. However, the agency does not anticipate any cost or savings as a result of this change.

◆ **LOCAL GOVERNMENTS:** Some local governments operate child care centers. Since the proposed changes are mostly clarification to the current rule and training for new directors is provided by Child Care Licensing at no cost, the Department does not anticipate any new costs or savings to child care programs operated by state agencies.

◆ **SMALL BUSINESSES:** Almost all child care centers are small businesses. Since the proposed changes are mostly documentation of policies and procedures and emergency and disaster plan and training for caregivers, which is provided by Child Care Licensing at no cost, the Department does not anticipate any new costs or savings to child care small business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule will not change any of the requirements for child care programs, except required training for caregivers which is provided by Child Care Licensing at no cost, the Department does not anticipate any new costs or savings to entities or persons that are not small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because this rule will not change any of the requirements for child care programs, the Department does not anticipate any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to business because any required training for child care programs is provided at no cost.

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

HEALTH  
CHILD CARE CENTER LICENSING COMMITTEE  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R381. Health, Child Care Center Licensing Committee.**

**R381-100. Child Care Centers.**

**R381-100-2. Definitions.**

(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Body fluids" means blood, urine, feces, vomit, mucous, and saliva.

(4) "Caregiver" means an employee or volunteer who provides direct care to children.

(5) "CPSC" means the Consumer Product Safety Commission.

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

(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and is at least 2" by 2" in size.

(8) "Director" means a person who meets the director qualifications of this rule, and who assumes the day-to-day responsibilities for the facility to be in compliance with Child Care Licensing rules.

(9) "Direct Supervision" for infants, toddlers, and preschoolers means the caregiver can see and hear all of the children in his or her assigned group, and is near enough to intervene when necessary. "Direct Supervision" for school age children means the caregiver must be able to hear school age children and must be near enough to intervene when necessary.

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

(11) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

(12) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(13) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child cannot get to.

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

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

(16) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

(17) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies and vitamin and mineral supplements.

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

(19) "Person" means an individual or a business entity.

(20) "Physical Abuse" means causing non-accidental physical harm to a child.

(21) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one user to stand on, and upon which the users can move freely.

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

(23) "Protective Barrier" means an enclosing structure such as bars, lattice, or a solid panel, around an elevated play equipment platform that is intended to prevent a child from either accidentally or deliberately passing through the barrier.

(24) "Protective cushioning" means cushioning material that has been tested to and meets American Society for Testing and Materials Specification F 1292, such as unitary surfaces, wood chips, engineered wood fiber, and shredded rubber mulch. Protective cushioning may also include pea gravel or sand as allowed by the Consumer Product Safety Commission (CPSC).

(25) "Provider" means the licensee or ~~[a staff member to whom the licensee has delegated a duty under this rule]~~ the entity providing child care services.

(26) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

(27) "School Age" means children ages five through twelve.

(28) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1.(1)(2).

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

(30) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, or play pen.

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

- (a) a sandbox;
- (b) a stationary circular tricycle;
- (c) a sensory table; or

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

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

(33) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

(34) "Volunteer" means a person who provides care to a child but does not receive direct or indirect compensation for doing so.

### R381-100-7. Personnel.

(1) The center must have a director who is at least 21 years of age, who has completed the Center Director Training class offered by the Department, and who has one of the following educational credentials:

(a) an associates, bachelors, or graduate degree from an accredited college and successful completion of at least 12 semester credit hours of early childhood development courses;

(b) valid proof of a level 8, 9, or 10 Utah Early Childhood Career Ladder certification issued by the Utah Office of Child Care or the Utah Child Care Professional Development Institute;

(c) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, or other credential that the licensee demonstrates as equivalent to the Department; or

(d) a currently valid National Administrator Credential (NAC) ~~issued by the National Child Care Association~~ as approved by the Department, plus one of the following:

(i) valid proof of successful completion of 12 semester credit hours of early childhood development courses from an accredited college; or

(ii) valid proof of completion of the following six Utah Early Childhood Career Ladder courses, or their equivalent, as approved by the Utah Child Care Professional Development Institute: Child Development Ages and Stages, Learning in the Early Years, A Great Place for Kids, Strong and Smart, Learning to Get Along, and Advanced Child Development.

(e) Any bachelors or higher college degree, and valid proof of completion of the following six Utah Early Childhood Career Ladder courses, or their equivalent, as approved by the Utah Child Care Professional Development Institute: Child Development Ages and Stages, Learning in the Early Years, A Great Place for Kids, Strong and Smart, Learning to Get Along, and Advanced Child Development.

(2) Any new Center director must complete the Department's Center Director Training Class no later than 60 working days after assuming director duties.

(3) All caregivers shall be at least 18 years of age.

(4) All assistant caregivers shall be at least 16 years of age, and shall work under the immediate supervision of a caregiver who is at least 18 years of age.

(5) Assistant caregivers may be included in caregiver to child ratios, but shall not be left unsupervised with any child in care.

(6) Assistant caregivers shall meet all of the caregiver requirements under this rule, except the caregiver age requirement of 18 years.

(7) A volunteer may be included in the provider to child ratio only if the volunteer meets all of the caregiver requirements of this rule.

(8) Whenever there are children at the center, there shall be at least one caregiver present who can demonstrate the English literacy skills needed to care for children and respond to emergencies.

(9) Each new ~~director, assistant director, caregiver, assistant caregiver, and volunteers who count in the caregiver to child ratio,~~ shall receive at least 2.5 hours of pre-service~~orientation~~ training prior to assuming caregiving duties. ~~Orientation~~Pre-service training shall be documented in the caregiver's file and shall include the following topics:

(a) job description and duties;

(b) the Department-approved center's written policies and procedures;

(c) the Department-approved center's emergency and disaster plan;

(d) the current child care licensing rules found in Sections R381-100-11 through 24;

(e) introduction and orientation to the children assigned to the caregiver;

(f) a review of the information in the health assessment for each child in their assigned group;

~~[(g) procedure for releasing children to authorized individuals only;~~

~~—(h) proper cleanup of body fluids;~~

~~—[(g)(4)] signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;~~

~~—(h) recognizing the signs of homelessness and available assistance;~~

~~[(j) obtaining assistance in emergencies, as specified in the center's emergency and disaster plan;~~

~~—(k) If the center provides infant or toddler care, new caregiver orientation training topics shall also include:]~~

(i) ~~preventing~~prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies; and

~~[(4)] preventing~~prevention of sudden infant death syndrome and use of safe sleeping practices.

(10) The following individuals shall complete a minimum of 20 hours of child care training each year, based on the center's license date:

(a) the director;

(b) the assistant director, if the center has one;

(c) all caregivers;

(d) all substitutes who work an average of 10 hours a week or more, as averaged over any three month period; and

(e) all volunteers that the provider includes in the ~~provider~~caregiver to child ratio.

(11) Documentation of annual training shall be kept in each caregiver's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.

(12) Caregivers who begin employment partway through the license year shall complete a proportionate number of training hours based on the number of months worked prior to the center's relicensure date.

(13) Annual training hours shall include the following topics:



(a) the current child care licensing rules found in Sections R381-100-11 through 24;

(b) a review of the Department-approved center's written policies and procedures and emergency and disaster plans, including any updates;

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

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

(e) positive guidance[-];

(f) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;

(g) prevention of sudden infant death syndrome and use of safe sleeping practices; and

(h) recognizing the signs of homelessness and available assistance;

~~[(14) If the center provides infant or toddler care, annual training topics for the center director and all infant and toddler caregivers shall also include:~~

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

~~(b) preventing sudden infant death syndrome.]~~

~~[(15)]14~~ A minimum of 10 hours of the required annual in-service training shall be face-to-face instruction.

**R381-100-8. Administration.**

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

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

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

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

(5) Either the center director or a designee with authority to act on behalf of the center director shall be present at the facility whenever the center is open for care.

(6) Director designees shall be at least 21 years of age, and shall have completed their ~~orientation~~ pre-service training.

(7) The center director shall be on-site at the center for at least 20 hours per week during operating hours in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.

(8) The center director must have sufficient freedom from other responsibilities to manage the center and respond to emergencies.

(9) There shall be a working telephone at the facility, and the center director shall inform a parent and the Department of any changes to the center's telephone number within 48 hours of the change.

(10) The provider shall report to the Child Care Licensing Program within the next Department business day any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless that medical service was part of the child's medical treatment plan identified by the parent. The provider shall also submit a written report to Child Care Licensing within five working days of the incident.

(11) The duties and responsibilities of the center director include the following:

(a) appoint one or more individuals who meet the background screening and training requirements of this rule to be a director designee, with authority to act on behalf of the center director in his or her absence;

(b) train and supervise staff to:

(i) ensure their compliance with this rule;

(ii) ensure they meet the needs of the children in care as specified in this rule; and

(iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

~~[(12) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:~~

~~(a) direct supervision and protection of children at all times, including when they are sleeping, using the bathroom, in a mixed-group activity, on the playground, and during off-site activities;~~

~~(b) maintaining required caregiver to child ratios when the center has more than the expected number of children, or fewer than the scheduled number of caregivers;~~

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

~~(d) procedures to ensure that the center releases children to authorized individuals only;~~

~~(e) confidentiality and release of information;~~

~~(f) the use of movies and video or computer games, including what industry ratings the center allows;~~

~~(g) recognizing early signs of illness and determining when there is a need for exclusion from the center;~~

~~(h) ensuring that food preparation and diapering/handwashing are not done in the same sink in infant and toddler areas;~~

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

~~(j) transportation to and from off-site activities, or to and from home, if the center offers these services; and~~

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

~~(i) how long children will be unattended before and after school;~~

~~(ii) what steps will be taken if children fail to meet the vehicle;~~

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

~~(iv) the use of size-appropriate safety restraints.~~

](12) The licensee shall establish, and shall ensure that all caregivers follow, written policies and procedures for the health and safety of each child in care. The licensee shall submit to the Department these policies and procedures for approval on a form provided by Child Care Licensing.

(13) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.

**R381-100-9. Records.**

(1) The provider shall maintain the following general records on-site for review by the Department:

(a) documentation of the previous 12 months of fire and disaster drills as specified in R381-10(11)(12)(13)(14);

(b) current animal vaccination records as required in R381-100-22(3);

(c) a six week record of child attendance, including sign-in and sign-out records;

(d) a current local health department inspection;

(e) a current local fire department inspection;

(f) copy of all covered individuals' background screening cards issued by the Department.

(2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:

(a) an admission form containing the following information for each child:

(i) name;

(ii) date of birth;

(iii) the parent's name, address, and phone number, including a daytime phone number;

(iv) the names of people authorized by the parent to pick up the child;

(v) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent;

(vi) if available, the name, address, and phone number of an out of area/state emergency contact person for the child; and

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

(b) a current annual health assessment form as required in R381-100-14(5);

(c) for each infant, toddler, and preschooler, current immunization records or documentation of a legally valid exemption, as specified in R381-100-14(4);

(d) a transportation permission form, if the center provides transportation services;

(e) a six week record of medication permission forms, and a six week record of medications actually administered; and

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

(g) a six week record of eating, sleeping, and diaper changes as required in R381-100-23(12) R381-100-24(15).

(3) The provider shall ensure that information in children's files is not released without written parental permission.

(4) The provider shall maintain the following records for each staff member on-site for review by the Department:

(a) date of initial employment;

(b) copy of the current background screening card issued by the Department;

(c) a six week record of days worked, and the times worked each day;

(d) ~~[orientation-]pre-service~~ training documentation for caregivers, and for volunteers who ~~[work at the center at least once each month]~~ count in the caregiver to child ratio;

(e) annual training documentation for all ~~[providers]~~ caregivers and substitutes who work an average of 10 hours or more a week, as averaged over any three month period; and

(f) current first aid and CPR certification, if applicable as required in R381-100-10(2), R381-100-20(5)(d), and R381-100-21(2).

### **R381-100-10. Emergency Preparedness.**

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

(2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification. Equivalent CPR certification must include hands-on testing.

(3) The licensee shall maintain first-aid supplies in the center, including at least antiseptic, band-aids, and tweezers.

~~[(4) The provider shall have a written emergency and disaster plan which shall include at least the following:~~

~~(a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;~~

~~(b) procedures for responding to fire, earthquake, flood, power failure, and water failure;~~

~~(c) the location of and procedure for emergency shut off of gas, electricity, and water;~~

~~(d) an emergency relocation site where children may be housed if the center is uninhabitable;~~

~~(e) a means of posting the relocation site address in a conspicuous location that can be seen even if the center is closed;~~

~~(f) the transportation route and means of getting staff and children to the emergency relocation site;~~

~~(g) a means of accounting for each child's presence in route to and at the relocation site;~~

~~(h) a means of accessing children's emergency contact information and emergency releases; including contact information for an out of area/state emergency contact person for the child, if available;~~

~~(i) provisions for emergency supplies, including at least food, water, a first aid kit, diapers if the center cares for diapered children, and a cell phone;~~

~~(j) procedures for ensuring adequate supervision of children during emergency situations, including while at the center's emergency relocation site; and~~

~~(k) staff assignments for specific tasks during an emergency.~~

[(4) The licensee shall submit to the Department a written emergency preparedness and disaster response plan for approval on a form provided by Child Care Licensing.

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

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

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

(8) The provider shall conduct fire evacuation drills monthly. Drills shall include complete exit of all children and staff from the building.

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

(a) the date and time of the drill;

(b) the number of children participating;

(c) the name of the person supervising the drill;

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

(e) any problems encountered.

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

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

- (a) the type of disaster, such as earthquake, flood, prolonged power outage, tornado;
- (b) the date and time of the drill;
- (c) the number of children participating;
- (d) the name of the person supervising the drill; and
- (e) any problems encountered.

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

**R381-100-11. Supervision and Ratios.**

(1) The provider shall ensure that caregivers provide and maintain direct supervision of all children at all times.

(2) Caregivers shall actively supervise children on the playground to minimize the risk of injury to a child.

(3) There shall be at least two caregivers with the children at all times when there are more than 8 children or more than 2 infants present.

(4) The licensee shall maintain the minimum caregiver to child ratios and group sizes in Table 5 for single age groups of children.

TABLE 4

Minimum Caregiver to Child Ratios and Group Sizes

Ages of Children	# of Caregivers	# of Children	Maximum Group Size
birth - 23 months	1	4	8
2 years old	1	7	14
3 years old	1	12	24
4 years old	1	15	30
5 years old and school age	1	20	40

(5) A center constructed prior to 1 January 2004 which has been licensed and operated as a child care center continuously since 1 January 2004 is exempt from maximum group size requirements, if the required caregiver to child ratios are maintained, and the required square footage for each classroom is maintained.

(6) Mixed age groups shall meet the ratios and group sizes specified in Tables 5-[15]-16.

TABLE 5

Older Toddlers and Two-year-olds

# Caregivers Required	Age	# Children Present
1	18 to 23 months	1-3
	2	1-6
	Total children: up to 7	
2	18 to 23 months	1-6
	2	1-13
	Total children: up to 14	

TABLE 6

Two-year-olds and Three-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-9
	Total children: up to 10	
2	2	1-13
	3	1-19
	Total children: up to 20	

TABLE [6]7

Two-year-olds and Four-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	4	1-10
	Total children: up to 11	
2	2	1-13
	4	1-21
	Total children: up to 22	

TABLE [7]8

Two-year-olds and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	5-12	1-13
	Total children: up to 14	
2	2	1-13
	5-12	1-27
	Total children: up to 28	

TABLE [8]9

Three-year-olds and Four-year-olds

# Caregivers Required	Age	# Children Present
1	3	1-11
	4	1-13
	Total children: up to 14	
2	3	1-23
	4	1-27
	Total children: up to 28	

TABLE [9]10

Three-year-olds and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	3	1-11
	5-12	1-15
	Total children: up to 16	
2	3	1-23
	5-12	1-31
	Total children: up to 32	

TABLE [10]11

Four-year-olds and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	4	1-14
	5-12	1-17
	Total children: up to 18	
2	4	1-29
	5-12	1-35
	Total children: up to 36	

TABLE [11] 12

Two-year-olds, Three-year-olds, and Four-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-9
	4	1-9
	Total children: up to 11	
2	2	1-13
	3	1-20
	4	1-20
	Total children: up to 22	

TABLE [12] 13

Two-year-olds, Three-year-olds, and Five-twelve Year Olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-11
	5-12	1-11
	Total children: up to 13	
2	2	1-13
	3	1-24
	5-12	1-24
	Total children: up to 26	

TABLE [13] 14

Two-year-olds, Four-year-olds, and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	4	1-12
	5-12	1-12
	Total: up to 14	
2	2	1-13
	4	1-26
	5-12	1-26
	Total children: up to 28	

TABLE [14] 15

Three-year-olds, Four-year-olds, and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	3	1-11
	4	1-14
	5-12	1-14
	Total: up to 16	
2	3	1-23
	4	1-30
	5-12	1-30
	Total children: up to 32	

TABLE [15] 16

Two-year-olds, Three-year-olds, Four-year-olds, and Five-11-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-11
	4	1-11
	5-12	1-11
	Total children: up to 14	
2	2	1-13
	3	1-25
	4	1-25
	5-12	1-25
	Total children: up to 28	

(7) Infants and toddlers may be included in mixed age groups only when 8 or fewer children are present in the group.

(8) If more than 2 infants or toddlers are included in a mixed age group, there shall be at least 2 caregivers with the group.

(9) During nap time the caregiver to child ratio may double for not more than two hours for children age 18 months and older, if the children are in a restful or non-active state, and if a means of communication is maintained with another caregiver who is on-site. The caregiver supervising the napping children must be able to contact the other on-site caregiver without having to leave children unattended in the napping area.

(10) The children of the licensee or any employee, age four or older, are not counted in the caregiver to child ratios when the parent of the child is working at the center, but are counted in the maximum group size.

**KEY: child care facilities, child care, child care centers**

**Date of Enactment or Last Substantive Amendment: [2015]2016**

**Authorizing, and Implemented or Interpreted Law: 26-39-203(1)(a)**

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-2B** Inpatient Hospital Intensive Physical Rehabilitation Services

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 40180  
FILED: 02/01/2016

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to consolidate the scope of inpatient intensive physical rehabilitation services to the Medicaid provider manual.

**SUMMARY OF THE RULE OR CHANGE:** This amendment removes all provisions in the rule text and defers to the scope of services found in the "Hospital Services Utah Medicaid Provider Manual".

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-1-5 and Section 26-18-3

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no impact to the state budget because services provided to Medicaid recipients remain unaffected by this change.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because services provided to Medicaid recipients remain unaffected by this change.

- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because services provided to Medicaid recipients remain unaffected by this change.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid recipients because services provided to Medicaid recipients remain unaffected by this change.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs to a single Medicaid provider or to a Medicaid recipient because services provided remain unaffected by this change.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact to business because the amendment does not affect any services provided to Medicaid recipients.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HEALTH  
 HEALTH CARE FINANCING,  
 COVERAGE AND REIMBURSEMENT POLICY  
 CANNON HEALTH BLDG  
 288 N 1460 W  
 SALT LAKE CITY, UT 84116-3231  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-2B. Inpatient [Hospital-]Intensive Physical Rehabilitation Services.**

**R414-2B-1. Introduction.**

Inpatient intensive physical rehabilitation services are provided for Medicaid recipients in accordance with the Hospital Services Utah Medicaid Provider Manual and Attachment 4.19-A of the Medicaid State Plan, as incorporated into Section R414-1-5.

**R414-2B-100. Authority and Purpose.**

(1) This rule defines the scope of inpatient hospital intensive physical rehabilitation services available to Medicaid clients who meet the level of care criteria for admission to a distinct part rehabilitation unit in an acute care general hospital.

~~(2) Inpatient hospital services are required under Section 1901 et seq. and Section 1905(a)(1) of the Social Security Act, and by 42 CFR 440.10 (October 1, 1991, edition). The requirement that inpatient hospital physical rehabilitation services covered by Utah Medicaid be provided in a distinct part rehabilitation unit of an acute-care general hospital brings rehabilitation service under this authority.~~

~~(3) This rule is authorized by Sections 26-1-5, 26-1-15, and 26-18-6, and by Subsections 26-18-3(2) and 26-18-5(3) and (4).~~

**R414-2B-200. Definitions.**

~~(1) Terms used in this rule are defined in R414-1-1 and R414-2A-200.~~

~~(2) In addition:~~

~~(a) "individualized treatment plan" means a coordinated, multidisciplinary plan of care developed:~~

~~(i) by a rehabilitation treatment team consistent with 42 CFR 412.29(d) and 42 CFR 456.80 (October 1, 1991, edition), which are incorporated by reference; and~~

~~(ii) in consultation with the patient, spouse, parents, legal guardian, or others into whose care the patient may be released;~~

~~(b) "inpatient hospital intensive physical rehabilitation" means an intense program of physical rehabilitation provided:~~

~~(i) in a distinct part rehabilitation unit of an acute-care general hospital;~~

~~(ii) by a multidisciplinary, coordinated team; and~~

~~(iii) for the purpose of upgrading a patient's ability to function;~~

~~(c) "multidisciplinary treatment team" means a group of professionals responsible for and involved in a patient's care, consisting of:~~

~~(i) a physician, a rehabilitation nurse, and a therapist; and optionally~~

~~(ii) one or more additional physicians, physiatrists, rehabilitation nurses, social workers, psychologists, or therapists;~~

~~(d) "program manager" means an individual assigned to:~~

~~(i) assume responsibility for implementation of a patient's individualized treatment plan;~~

~~(ii) ensure that the patient is adequately oriented to the rehabilitation program;~~

~~(iii) ensure that the patient's treatment proceeds in an orderly, purposeful, and goal-directed manner;~~

~~(iv) ensure program response to the needs and preferences of the patient;~~

~~(v) promote participation of the patient on an ongoing basis in discussion of plans, goals, status, etc.;~~

~~(vi) consistently participate in multidisciplinary team conferences concerning the patient; and~~

~~(vii) ensure that the discharge plan and arrangements for appropriate follow-up and supportive services are properly made.~~

**R414-2B-300. Program Access Requirements.**

~~(1) Hospital admission requirements for inpatient intensive physical rehabilitation services are specified in R414-2A-300. In addition, patient hospital intensive physical rehabilitation is a covered Medicaid service only when:~~

~~(a) the admission is the initial admission for rehabilitation service, or the admission results from a deterioration as a result of a secondary illness and an inpatient intensive physical rehabilitation~~

program is needed to restore the level of function as closely as possible to the pre-secondary illness level;

(b) the patient requires close medical supervision by a physician with specialized training or experience in rehabilitation;

(c) the patient requires 24-hour-a-day nursing care or supervision by a registered nurse with specialized training or experience in rehabilitation;

(d) the severity of the patient's illness and the intensity of service required are such that these services cannot be provided in an alternative setting;

(e) the patient meets the admission criteria accepted by division staff and physician consultants for one of the categories of trauma or disease specified in R414-2B-300(2).

(f) a multidisciplinary team approach is required for delivery of an intensive physical rehabilitation program;

(g) the patient's cognitive and sensory capacity will allow active participation by the patient in an intensive physical rehabilitation program; and

(h) a program manager is assigned, an estimated length of stay is documented in the medical record within 5 days of the client's admission to the hospital, and appropriate discharge planning, including home care assessment, is initiated.

(2) Inpatient hospital intensive physical rehabilitation services may be provided to Medicaid clients only when one or more of the following diagnoses is present:

(a) Stroke: neurological deficit secondary to recent cerebrovascular disease (i. e., thrombosis, aneurysm, hemorrhagic or embolic) resulting in disability requiring initial intensive treatment. Rehabilitation therapy must begin within 60 days from the onset of the stroke.

(b) Spinal cord injury: trauma resulting in quadriplegia or paraplegia requiring initial intensive inpatient physical rehabilitation therapy.

(c) Head injury or brain injury, or both: head trauma with documented neurological deficits requiring initial intensive inpatient physical rehabilitation therapy.

(d) Brain or spine surgery requiring post-surgery intensive inpatient physical rehabilitation therapy.

(e) One of the following diseases of the central nervous system manifested by debilitation of the neurological system or neuromuscular system, or both, requiring intensive inpatient physical rehabilitation therapy:

(i) Parkinson's disease;

(ii) multiple sclerosis;

(iii) post meningoencephalitis;

(iv) amyotrophic lateral sclerosis;

(v) myelopathy (i. e., transverse myelitis, infarction).

(f) One of the following neuromuscular diseases:

(i) myopathy;

(ii) myositis.

(g) One of the following diseases of the peripheral nervous system:

(i) Guillain-Barre syndrome;

(ii) subacute peripheral neuropathy;

(iii) chronic peripheral neuropathy.

(h) Amputation with complicating medical condition: loss of one or more extremities resulting in disability requiring an initial intensive physical rehabilitation program. Amputation alone does not

qualify the patient for intensive physical rehabilitation. The complicating medical condition must be a separate disease process that requires the close attention and medical supervision of a physician.

(i) Fracture of the femur with a complicating medical condition. The fracture must be complex or unusual requiring initial intensive physical rehabilitation. The fracture alone does not qualify the patient for intensive physical rehabilitation. The complicating medical condition must be a separate disease process that requires the close attention and medical supervision of a physician.

(j) Arthritis and rheumatic diseases: muscular deficit or skeletal deficit, or both, secondary to rheumatic disease, e.g., rheumatoid arthritis, polymyositis, systemic lupus, or other connective tissue disease resulting in disability requiring an intensive physical rehabilitation program.

(k) Major multiple trauma: multi-system injury, from varying etiology, resulting in limitation or disability requiring an initial intensive physical rehabilitation program.

(l) Burns: limitation of function in the extremities as a result of burns involving at least 15% of the body.

(3) Coverage of inpatient hospital intensive physical rehabilitation service is limited to those cases for which an individualized treatment plan is developed by the physician and staff of the rehabilitation unit. The plan of care shall include all of the following:

(a) problems identified, specific patient care needs, and treatment or services to be provided;

(b) realistic, measurable, and time-specific long-term and short-term goals, based on the patient's needs and preferences;

(c) specific time intervals at which treatment or goals shall be reviewed;

(d) identification of time frames anticipated for accomplishment of the patient's specific treatment goals;

(e) measures to be used to assess the outcome of treatment or services;

(f) name and title of the treatment team member identified as the program manager for the individual patient; and

(g) written identification, including name and title, of the team members or other individuals responsible for implementing, documenting, and monitoring progress for each element of the individualized treatment plan.

(4) Inpatient hospital intensive physical rehabilitation services for a patient who has suffered a stroke or other cerebral vascular accident may be provided only for those patients where admission and therapy is initiated within the first 60 days after onset of the incident.

(5) Inpatient hospital intensive physical rehabilitation services shall be supported in the patient's medical record showing evidence that team conferences are held every two weeks. The team conferences shall:

(a) address the patient's progress or the problems impeding progress;

(b) consider possible resolutions to such problems; and

(c) reassess the validity of the rehabilitation goals initially established.

(6) Inpatient intensive physical rehabilitation services shall be limited in amount, duration, and scope to that which is medically necessary and reasonable to accomplish the purpose and objectives of rehabilitation.

**R414-2B-500. Miscellaneous Restrictions.**

- ~~\_\_\_\_\_ (1) An off-unit pass must be:~~
  - ~~\_\_\_\_\_ (a) ordered by the attending physician;~~
  - ~~\_\_\_\_\_ (b) adequately documented and evaluated in the progress notes of the patient's chart as supporting the patient's individualized treatment plan; and~~
  - ~~\_\_\_\_\_ (c) for the purpose of testing the patient's readiness for discharge and ability to function outside the institutional setting.~~
- ~~\_\_\_\_\_ (2) A therapeutic leave of absence must be:~~
  - ~~\_\_\_\_\_ (a) ordered by the attending physician;~~
  - ~~\_\_\_\_\_ (b) planned by the physician or interdisciplinary team pursuant to established goals and objectives working toward discharge; and~~
  - ~~\_\_\_\_\_ (c) adequately documented and evaluated in the progress notes of the patient's chart as supporting the patient's individualized treatment plan.~~

**R414-2B-600. Prior Authorization.**

- ~~\_\_\_\_\_ (1) All inpatient hospital intensive physical rehabilitation services require prior authorization, as follows:~~
  - ~~\_\_\_\_\_ (a) The provider must make an initial telephone request for prior authorization of service to the Bureau of Managed Health Care, Utilization Management Unit, no later than the fifth working day following admission of the patient into an inpatient hospital intensive physical rehabilitation program.~~
  - ~~\_\_\_\_\_ (b) The provider must submit written documentation from the patient's medical record to justify and support initial information provided at the time of the initial telephone contact. The provider shall submit written documentation postmarked no later than the tenth working day following admission of the patient into an inpatient hospital intensive physical rehabilitation program. The documentation must indicate all of the following:~~
    - ~~\_\_\_\_\_ (i) the diagnosis and rehabilitation needs meet the established admission criteria specified in R414-2A-300 and R414-2B-300.~~
    - ~~\_\_\_\_\_ (ii) clear and convincing evidence that the patient's rehabilitation needs cannot be met in a less restrictive setting;~~
    - ~~\_\_\_\_\_ (iii) a reasonable expectation of improvement in the patient's ability to perform activities of daily living that will be of significant practical value when measured against the documented condition at the time of the initial evaluation;~~
    - ~~\_\_\_\_\_ (iv) the plan of care is directed toward restoring function rather than toward maintenance of function; and~~
    - ~~\_\_\_\_\_ (v) the patient requires a coordinated program of care and will receive physical, occupational, or speech therapy services, or all three, for at least three hours per day, no fewer than 5.5 days per week (total of 16.5 hours per week minimum), in addition to any other rehabilitative modalities determined to be necessary.]~~

**KEY:** [m]Medicaid

**Date of Enactment or Last Substantive Amendment:** [~~1992~~]2016

**Notice of Continuation:** October 2, 2012

**Authorizing, and Implemented or Interpreted Law:** 26-1-5; 26-18-3(2)

Health, Family Health and  
Preparedness, Emergency Medical  
Services  
**R426-7**  
Emergency Medical Services  
Prehospital Data System Rules

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 40178

FILED: 02/01/2016

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The data standards have changed. The amendment allows for needed updates.

**SUMMARY OF THE RULE OR CHANGE:** The amendment updates data collection requirements for data elements to comply with National Emergency Medical Service (EMS) Standards, and improves the ability for health providers to use data more rapidly to possibly improving patient care. The elements are deleted from the rule and are referenced as Department policy. This allows timely updates as new national standards are adopted.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 8a

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** State budget will not be impacted as data collection is currently administered.
- ◆ **LOCAL GOVERNMENTS:** Local government budgets may be impacted as EMS providers are required to enter data within 14 days after the end or middle of the month instead of up to 2 months. Impacts would be slight, if incurred. Therefore, most likely no impacts.
- ◆ **SMALL BUSINESSES:** Small business budgets may be impacted as EMS providers are required to enter data within 14 days after the end or middle of the month instead of up to 2 months. Impacts would be slight, if incurred. Therefore, most likely no impacts.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Other businesses, individuals, etc., may be impacted as EMS providers are required to enter data within 14 days after the end or middle of the month instead of up to 2 months. Impacts would be slight, if incurred. Therefore, most likely no impacts.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Compliance costs for affected persons (patients) would not be likely due to improved data submission times and new data elements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to business because the changes are related to new submission deadlines but do not include substantive additions to submission requirements.

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

HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 EMERGENCY MEDICAL SERVICES  
 3760 S HIGHLAND DR  
 SALT LAKE CITY, UT 84106  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R426. Health, Family Health and Preparedness, Emergency Medical Services.**

**R426-7. Emergency Medical Services Prehospital Data System Rules.**

**R426-7-100. Authority and Purpose.**

- (1) This rule is established under Title 26 Chapter 8a.
- (2) The purpose of this rule is to establish minimum mandatory EMS data reporting requirements.

**R426-7-200. Prehospital Data Set.**

- (1) Emergency medical service providers shall collect data as identified by the Department in this rule.
- (2) Emergency Medical Services Providers shall submit the data to the Department electronically in the National Emergency Medical Services Information System (NEMSIS) format for every dispatch instance, regardless of patient disposition. In cases of mass casualty, data is required for every individual with whom EMS had contact, whether care was given or refused. ~~[For Emergency Medical Services Providers directly using a reporting system provided by the Department, the data is considered submitted to the Department as soon as it has been entered or updated in the Department-provided system.]~~
- (3) The Department adopts by reference the National Highway Traffic Safety Administration (NHTSA) Uniform Pre-Hospital Emergency Medical Services (EMS) Dataset version 3.4 published in 2015 and the Utah NEMSIS 3.4 Elements and Values List published in 2016.
- (4) Emergency Medical Services Providers shall submit NEMSIS Demographic data elements within 30 days after the end of each calendar quarter in the format defined in the NEMSIS EMSDemographicDataSet. Some data may change less frequently

than quarterly, but Emergency Medical Services Providers shall submit all required data elements quarterly regardless of whether the data have changed. For Emergency Medical Services Providers directly using a reporting system provided by the Department, the data is considered submitted to the Department as soon as it has been entered or updated in the Department-provided system.

~~[(4)](5)~~ Emergency Medical Services Providers shall submit NEMSIS EMS incident data elements for each Patient Care Report ~~[within 30 days of the end of the month in which the EMS incident occurred,]~~ in the format defined in the NEMSIS EMSDataSet ~~[-],~~ as follows: incidents occurring between the 1st and 15th of a calendar month shall be submitted no later than the last day of the same calendar month; incidents occurring between the 16th and last day of a calendar month shall be submitted no later than the 15th of the following calendar month.

(a) For Emergency Medical Services Providers directly using a reporting system provided by the Department, the data is considered submitted to the Department as soon as it has been entered or updated in the Department-provided system.

(b) Emergency Medical Services Providers shall provide the Department 90 days notice when changing reporting systems.

~~[(5)](6)~~ If the Department determines that there are errors in the data, it may ask the data supplier for corrections. The data supplier shall correct the data and resubmit it to the Department within 30 days of receipt from the Department. If data is returned to the supplier for corrections, the Emergency Medical Services Provider is not in compliance with this rule until corrected data is returned, accepted and approved by the Department.

~~[(6)]~~ The minimum required demographic data elements that must be reported under this rule include the following NEMSIS-EMSDemographicDataSet elements:

- ~~\_\_\_\_\_~~ D01\_01 EMS Agency Number
- ~~\_\_\_\_\_~~ D01\_02 EMS Agency Name
- ~~\_\_\_\_\_~~ D01\_03 EMS Agency State
- ~~\_\_\_\_\_~~ D01\_04 EMS Agency County
- ~~\_\_\_\_\_~~ D01\_05 Primary Type of Service
- ~~\_\_\_\_\_~~ D01\_06 Other Types of Service
- ~~\_\_\_\_\_~~ D01\_07 Level of Service
- ~~\_\_\_\_\_~~ D01\_08 Organizational Type
- ~~\_\_\_\_\_~~ D01\_09 Organization Status
- ~~\_\_\_\_\_~~ D01\_10 Statistical Year
- ~~\_\_\_\_\_~~ D01\_11 Other Agencies In Area
- ~~\_\_\_\_\_~~ D01\_12 Total Service Size Area
- ~~\_\_\_\_\_~~ D01\_13 Total Service Area Population
- ~~\_\_\_\_\_~~ D01\_14 911 Call Volume per Year
- ~~\_\_\_\_\_~~ D01\_15 EMS Dispatch Volume per Year
- ~~\_\_\_\_\_~~ D01\_16 EMS Transport Volume per Year
- ~~\_\_\_\_\_~~ D01\_17 EMS Patient Contact Volume per Year
- ~~\_\_\_\_\_~~ D01\_18 EMS Billable Calls per Year
- ~~\_\_\_\_\_~~ D01\_19 EMS Agency Time Zone
- ~~\_\_\_\_\_~~ D01\_20 EMS Agency Daylight Savings Time Use
- ~~\_\_\_\_\_~~ D01\_21 National Provider Identifier
- ~~\_\_\_\_\_~~ D02\_01 Agency Contact Last Name
- ~~\_\_\_\_\_~~ D02\_02 Agency Contact Middle Name/Initial
- ~~\_\_\_\_\_~~ D02\_03 Agency Contact First Name
- ~~\_\_\_\_\_~~ D02\_04 Agency Contact Address
- ~~\_\_\_\_\_~~ D02\_05 Agency Contact City
- ~~\_\_\_\_\_~~ D02\_06 Agency Contact State
- ~~\_\_\_\_\_~~ D02\_07 Agency Contact Zip Code



- ~~\_\_\_\_\_ D02\_08 Agency Contact Telephone Number~~
- ~~\_\_\_\_\_ D02\_09 Agency Contact Fax Number~~
- ~~\_\_\_\_\_ D02\_10 Agency Contact Email Address~~
- ~~\_\_\_\_\_ D02\_11 Agency Contact Web Address~~
- ~~\_\_\_\_\_ D03\_01 Agency Medical Director Last Name~~
- ~~\_\_\_\_\_ D03\_02 Agency Medical Director Middle Name/Initial~~
- ~~\_\_\_\_\_ D03\_03 Agency Medical Director First Name~~
- ~~\_\_\_\_\_ D03\_04 Agency Medical Director Address~~
- ~~\_\_\_\_\_ D03\_05 Agency Medical Director City~~
- ~~\_\_\_\_\_ D03\_06 Agency Medical Director State~~
- ~~\_\_\_\_\_ D03\_07 Agency Medical Director Zip Code~~
- ~~\_\_\_\_\_ D03\_08 Agency Medical Director Telephone Number~~
- ~~\_\_\_\_\_ D03\_09 Agency Medical Director Fax Number~~
- ~~\_\_\_\_\_ D03\_10 Agency Medical Director's Medical Specialty~~
- ~~\_\_\_\_\_ D03\_11 Agency Medical Director Email Address~~
- ~~\_\_\_\_\_ D04\_01 State Certification Licensure Levels~~
- ~~\_\_\_\_\_ D04\_02 EMS Unit Call Sign~~
- ~~\_\_\_\_\_ D04\_04 Procedures~~
- ~~\_\_\_\_\_ D04\_05 Personnel Level Permitted to Use the Procedure~~
- ~~\_\_\_\_\_ D04\_06 Medications Given~~
- ~~\_\_\_\_\_ D04\_07 Personnel Level Permitted to Use the Medication~~
- ~~\_\_\_\_\_ D04\_08 Protocol~~
- ~~\_\_\_\_\_ D04\_09 Personnel Level Permitted to Use the Protocol~~
- ~~\_\_\_\_\_ D04\_10 Billing Status~~
- ~~\_\_\_\_\_ D04\_11 Hospitals Served~~
- ~~\_\_\_\_\_ D04\_13 Other Destinations~~
- ~~\_\_\_\_\_ D04\_15 Destination Type~~
- ~~\_\_\_\_\_ D04\_17 EMD Vendor~~
- ~~\_\_\_\_\_ D05\_01 Station Name~~
- ~~\_\_\_\_\_ D05\_02 Station Number~~
- ~~\_\_\_\_\_ D05\_03 Station Zone~~
- ~~\_\_\_\_\_ D05\_04 Station GPS~~
- ~~\_\_\_\_\_ D05\_05 Station Address~~
- ~~\_\_\_\_\_ D05\_06 Station City~~
- ~~\_\_\_\_\_ D05\_07 Station State~~
- ~~\_\_\_\_\_ D05\_08 Station Zip~~
- ~~\_\_\_\_\_ D05\_09 Station Telephone Number~~
- ~~\_\_\_\_\_ D06\_01 Unit/Vehicle Number~~
- ~~\_\_\_\_\_ D06\_03 Vehicle Type~~
- ~~\_\_\_\_\_ D06\_07 Vehicle Model Year~~
- ~~\_\_\_\_\_ D07\_02 State/Licensure ID Number~~
- ~~\_\_\_\_\_ D07\_03 Personnel's Employment Status~~
- ~~\_\_\_\_\_ D08\_01 EMS Personnel's Last Name~~
- ~~\_\_\_\_\_ D08\_03 EMS Personnel's First Name~~
- ~~(7) The minimum required Patient Care Report data elements that must be reported under this rule include the following NEMSIS EMSDataSet elements:~~
- ~~\_\_\_\_\_ E01\_01 Patient Care Report Number~~
- ~~\_\_\_\_\_ E01\_02 Software Creator~~
- ~~\_\_\_\_\_ E01\_03 Software Name~~
- ~~\_\_\_\_\_ E01\_04 Software Version~~
- ~~\_\_\_\_\_ E02\_01 EMS Agency Number~~
- ~~\_\_\_\_\_ E02\_02 Incident Number~~
- ~~\_\_\_\_\_ E02\_04 Type of Service Requested~~
- ~~\_\_\_\_\_ E02\_05 Primary Role of the Unit~~
- ~~\_\_\_\_\_ E02\_06 Type of Dispatch Delay~~
- ~~\_\_\_\_\_ E02\_07 Type of Response Delay~~
- ~~\_\_\_\_\_ E02\_08 Type of Scene Delay~~
- ~~\_\_\_\_\_ E02\_09 Type of Transport Delay~~
- ~~\_\_\_\_\_ E02\_10 Type of Turn-Around Delay~~
- ~~\_\_\_\_\_ E02\_12 EMS Unit Call Sign (Radio Number)~~
- ~~\_\_\_\_\_ E02\_20 Response Mode to Scene~~
- ~~\_\_\_\_\_ E03\_01 Complaint Reported by Dispatch~~
- ~~\_\_\_\_\_ E03\_02 EMD Performed~~
- ~~\_\_\_\_\_ E04\_01 Crew Member ID~~
- ~~\_\_\_\_\_ E05\_01 Incident or Onset Date/Time~~
- ~~\_\_\_\_\_ E05\_02 PSAP Call Date/Time~~
- ~~\_\_\_\_\_ E05\_03 Dispatch Notified Date/Time~~
- ~~\_\_\_\_\_ E05\_04 Unit Notified by Dispatch Date/Time~~
- ~~\_\_\_\_\_ E05\_05 Unit En Route Date/Time~~
- ~~\_\_\_\_\_ E05\_06 Unit Arrived on Scene Date/Time~~
- ~~\_\_\_\_\_ E05\_07 Arrived at Patient Date/Time~~
- ~~\_\_\_\_\_ E05\_08 Transfer of Patient Care Date/Time~~
- ~~\_\_\_\_\_ E05\_09 Unit Left Scene Date/Time~~
- ~~\_\_\_\_\_ E05\_10 Patient Arrived at Destination Date/Time~~
- ~~\_\_\_\_\_ E05\_11 Unit Back in Service Date/Time~~
- ~~\_\_\_\_\_ E05\_12 Unit Cancelled Date/Time~~
- ~~\_\_\_\_\_ E05\_13 Unit Back at Home Location Date/Time~~
- ~~\_\_\_\_\_ E06\_01 Last Name~~
- ~~\_\_\_\_\_ E06\_02 First Name~~
- ~~\_\_\_\_\_ E06\_03 Middle Initial/Name~~
- ~~\_\_\_\_\_ E06\_04 Patient's Home Address~~
- ~~\_\_\_\_\_ E06\_05 Patient's Home City~~
- ~~\_\_\_\_\_ E06\_06 Patient's Home County~~
- ~~\_\_\_\_\_ E06\_07 Patient's Home State~~
- ~~\_\_\_\_\_ E06\_08 Patient's Home Zip Code~~
- ~~\_\_\_\_\_ E06\_09 Patient's Home Country~~
- ~~\_\_\_\_\_ E06\_10 Social Security Number~~
- ~~\_\_\_\_\_ E06\_11 Gender~~
- ~~\_\_\_\_\_ E06\_12 Race~~
- ~~\_\_\_\_\_ E06\_13 Ethnicity~~
- ~~\_\_\_\_\_ E06\_14 Age~~
- ~~\_\_\_\_\_ E06\_15 Age Units~~
- ~~\_\_\_\_\_ E06\_16 Date of Birth~~
- ~~\_\_\_\_\_ E06\_17 Primary or Home Telephone Number~~
- ~~\_\_\_\_\_ E07\_01 Primary Method of Payment~~
- ~~\_\_\_\_\_ E07\_15 Work-Related~~
- ~~\_\_\_\_\_ E07\_16 Patient's Occupational Industry~~
- ~~\_\_\_\_\_ E07\_17 Patient's Occupation~~
- ~~\_\_\_\_\_ E07\_34 CMS Service Level~~
- ~~\_\_\_\_\_ E07\_35 Condition Code Number~~
- ~~\_\_\_\_\_ E08\_05 Number of Patients at Scene~~
- ~~\_\_\_\_\_ E08\_06 Mass Casualty Incident~~
- ~~\_\_\_\_\_ E08\_07 Incident Location Type~~
- ~~\_\_\_\_\_ E08\_11 Incident Address~~
- ~~\_\_\_\_\_ E08\_12 Incident City~~
- ~~\_\_\_\_\_ E08\_13 Incident County~~
- ~~\_\_\_\_\_ E08\_14 Incident State~~
- ~~\_\_\_\_\_ E08\_15 Incident ZIP Code~~
- ~~\_\_\_\_\_ E09\_01 Prior Aid~~
- ~~\_\_\_\_\_ E09\_02 Prior Aid Performed by~~
- ~~\_\_\_\_\_ E09\_03 Outcome of the Prior Aid~~
- ~~\_\_\_\_\_ E09\_04 Possible Injury~~
- ~~\_\_\_\_\_ E09\_05 Chief Complaint~~
- ~~\_\_\_\_\_ E09\_06 Duration of Chief Complaint~~
- ~~\_\_\_\_\_ E09\_07 Time Units of Duration of Chief Complaint~~
- ~~\_\_\_\_\_ E09\_11 Chief Complaint Anatomie Location~~
- ~~\_\_\_\_\_ E09\_12 Chief Complaint Organ System~~

<del>E09_13 Primary Symptom</del>	<del>E15_10 NHTSA Injury Matrix Lower Extremities</del>
<del>E09_14 Other Associated Symptoms</del>	<del>E15_11 NHTSA Injury Matrix Unspecified</del>
<del>E09_15 Providers Primary Impression</del>	<del>E16_01 Estimated Body Weight</del>
<del>E09_16 Provider's Secondary Impression</del>	<del>E16_02 Broselow/Luten Color</del>
<del>E10_01 Cause of Injury</del>	<del>E16_03 Date/Time of Assessment</del>
<del>E10_02 Intent of the Injury</del>	<del>E16_04 Skin Assessment</del>
<del>E10_03 Mechanism of Injury</del>	<del>E16_05 Head/Face Assessment</del>
<del>E10_04 Vehicular Injury Indicators</del>	<del>E16_06 Neck Assessment</del>
<del>E10_05 Area of the Vehicle impacted by the collision</del>	<del>E16_07 Chest/Lungs Assessment</del>
<del>E10_06 Seat Row Location of Patient in Vehicle</del>	<del>E16_08 Heart Assessment</del>
<del>E10_07 Position of Patient in the Seat of the Vehicle</del>	<del>E16_09 Abdomen Left Upper Assessment</del>
<del>E10_08 Use of Occupant Safety Equipment</del>	<del>E16_10 Abdomen Left Lower Assessment</del>
<del>E10_09 Airbag Deployment</del>	<del>E16_11 Abdomen Right Upper Assessment</del>
<del>E10_10 Height of Fall</del>	<del>E16_12 Abdomen Right Lower Assessment</del>
<del>E11_01 Cardiac Arrest</del>	<del>E16_13 GU Assessment</del>
<del>E11_02 Cardiac Arrest Etiology</del>	<del>E16_14 Back Cervical Assessment</del>
<del>E11_03 Resuscitation Attempted</del>	<del>E16_15 Back Thoracic Assessment</del>
<del>E11_04 Arrest Witnessed by</del>	<del>16_16 Back Lumbar/Sacral Assessment</del>
<del>E11_05 First Monitored Rhythm of the Patient</del>	<del>E16_17 Extremities-Right Upper Assessment</del>
<del>E11_06 Any Return of Spontaneous Circulation</del>	<del>E16_18 Extremities-Right Lower Assessment</del>
<del>E11_08 Estimated Time of Arrest Prior to EMS Arrival</del>	<del>E16_19 Extremities-Left Upper Assessment</del>
<del>E11_10 Reason CPR Discontinued</del>	<del>E16_20 Extremities-Left Lower Assessment</del>
<del>E12_01 Barriers to Patient Care</del>	<del>E16_21 Eyes-Left Assessment</del>
<del>E12_08 Medication Allergies</del>	<del>E16_22 Eyes-Right Assessment</del>
<del>E12_14 Current Medications</del>	<del>E16_23 Mental Status Assessment</del>
<del>E12_18 Presence of Emergency Information Form</del>	<del>E16_24 Neurological Assessment</del>
<del>E12_19 Alcohol/Drug Use Indicators</del>	<del>E18_01 Date/Time Medication Administered</del>
<del>E12_20 Pregnancy</del>	<del>E18_02 Medication Administered Prior to this Units EMS Care</del>
<del>E13_01 Run Report Narrative</del>	<del>E18_03 Medication Given</del>
<del>E14_01 Date/Time Vital Signs Taken</del>	<del>E18_04 Medication Administered Route</del>
<del>E14_02 Obtained Prior to this Units EMS Care</del>	<del>E18_05 Medication Dosage</del>
<del>E14_03 Cardiac Rhythm</del>	<del>E18_06 Medication Dosage Units</del>
<del>E14_04 SBP (Systolic Blood Pressure)</del>	<del>E18_07 Response to Medication</del>
<del>E14_05 DBP (Diastolic Blood Pressure)</del>	<del>E18_08 Medication Complication</del>
<del>E14_07 Pulse Rate</del>	<del>E18_09 Medication Crew Member ID</del>
<del>E14_09 Pulse Oximetry</del>	<del>E18_10 Medication Authorization</del>
<del>E14_10 Pulse Rhythm</del>	<del>E19_01 Date/Time Procedure Performed Successfully</del>
<del>E14_11 Respiratory Rate</del>	<del>E19_03 Procedure</del>
<del>E14_14 Blood Glucose Level</del>	<del>E19_04 Size of Procedure Equipment</del>
<del>E14_15 Glasgow Coma Score-Eye</del>	<del>E19_05 Number of Procedure Attempts</del>
<del>E14_16 Glasgow Coma Score-Verbal</del>	<del>E19_06 Procedure Successful</del>
<del>E14_17 Glasgow Coma Score-Motor</del>	<del>E19_07 Procedure Complication</del>
<del>E14_18 Glasgow Coma Score-Qualifier</del>	<del>E19_08 Response to Procedure</del>
<del>E14_19 Total Glasgow Coma Score</del>	<del>E19_09 Procedure Crew Members ID</del>
<del>E14_20 Temperature</del>	<del>E19_10 Procedure Authorization</del>
<del>E14_22 Level of Responsiveness</del>	<del>E19_12 Successful IV Site</del>
<del>E14_24 Stroke Scale</del>	<del>E19_13 Tube Confirmation</del>
<del>E14_26 APGAR</del>	<del>E19_14 Destination Confirmation of Tube Placement</del>
<del>E14_27 Revised Trauma Score</del>	<del>E20_01 Destination/Transferred To, Name</del>
<del>E14_28 Pediatric Trauma Score</del>	<del>E20_03 Destination Street Address</del>
<del>E15_01 NHTSA Injury Matrix External/Skin</del>	<del>E20_04 Destination City</del>
<del>E15_02 NHTSA Injury Matrix Head</del>	<del>E20_05 Destination State</del>
<del>E15_03 NHTSA Injury Matrix Face</del>	<del>E20_06 Destination County</del>
<del>E15_04 NHTSA Injury Matrix Neck</del>	<del>E20_07 Destination Zip Code</del>
<del>E15_05 NHTSA Injury Matrix Thorax</del>	<del>E20_10 Incident/Patient Disposition</del>
<del>E15_06 NHTSA Injury Matrix Abdomen</del>	<del>E20_14 Transport Mode from Scene</del>
<del>E15_07 NHTSA Injury Matrix Spine</del>	<del>E20_15 Condition of Patient at Destination</del>
<del>E15_08 NHTSA Injury Matrix Upper Extremities</del>	<del>E20_16 Reason for Choosing Destination</del>
<del>E15_09 NHTSA Injury Matrix Pelvis</del>	

~~E20\_17 Type of Destination  
 E22\_01 Emergency Department Disposition  
 E22\_02 Hospital Disposition  
 E23\_03 Personal Protective Equipment Used  
 E23\_09 Research Survey Field  
 E23\_10 Who Generated this Report?  
 E23\_11 Research Survey Field Title  
 (8) Emergency Medical Services Providers shall use elements E23\_09 and E23\_11 to report biosurveillance indicators. When any of the following indicators are present in an incident, the Emergency Medical Services Provider shall provide an instance of E23\_09 and E23\_11, with E23\_09 set to "true" and E23\_11 set to one of the following:~~

- ~~B01\_01 Abdominal Pain~~
- ~~B01\_02 Altered Level of Consciousness~~
- ~~B01\_03 Apparent Death~~
- ~~B01\_04 Bloody Diarrhea~~
- ~~B01\_05 Fever~~
- ~~B01\_06 Headache~~
- ~~B01\_07 Inhalation~~
- ~~B01\_08 Rash/Blistering~~
- ~~B01\_09 Nausea/Vomiting~~
- ~~B01\_10 Paralysis~~
- ~~B01\_11 Respiratory Arrest~~
- ~~B01\_12 Respiratory Distress~~
- ~~B01\_13 Seizures]~~

~~[(9)](7) Emergency Medical Services Providers are not required to submit other NEMSIS data elements but may optionally do so. [Emergency Medical Services Providers may also use additional instances of E23\_09 and E23\_11 for their own purposes.]~~

~~[(10)](8) For each patient transported to a licensed acute care facility or a specialty hospital with an emergency department, each responding emergency medical services provider unit that cared for the patient during the incident shall provide a report of patient status, containing information critical to the ongoing care of the patient, to the receiving facility within one hour after the patient arrives at the receiving facility in at least one of the following formats:~~

- ~~(a) NEMSIS XML; or~~
- ~~(b) Paper form.~~

~~[(11)](9) For each patient transported to a licensed acute care facility or a specialty hospital with an emergency department, the receiving facility shall provide at least the following information to each Emergency Medical Services Provider that cared for the patient, within 24 hours of [upon] request by the Emergency Medical Services Provider:~~

- ~~(a) The patient's emergency department disposition; [and]~~
- ~~(b) the patient's hospital disposition[-]; and~~
- ~~(c) the patient's demographic information, including payment source.~~

**KEY: emergency medical services**

**Date of Enactment or Last Substantive Amendment: [October 18, 2013]2016**

**Notice of Continuation: November 10, 2015**

**Authorizing, Implemented, or Interpreted Law: 28-8a**

## Health, Center for Health Data, Health Care Statistics **R428-1** Health Data Plan and Incorporated Documents

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 40170  
 FILED: 01/29/2016

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to update material incorporated by reference to reflect technical requirements expected for compliance with submissions from health care facilities, including both inpatient and ambulatory surgery encounters; to make minor technical edits; and to also update version numbering for the "All Payer Claims Database Data Submittal Guide".

**SUMMARY OF THE RULE OR CHANGE:** The changes are as follows: 1) to update versions of documents incorporated by reference within Rule R428-1, specifically, "Utah Hospital Inpatient Discharge Data Submittal Manual, Data Element Descriptions and Definitions, Version VI", February 2014 and "Utah Ambulatory Surgical Submittal Manual, Data Element Descriptions and Definitions, Version III", November 2009 should be replaced by "Utah Healthcare Facility Data Submission Guide, Version 1", January 15, 2016; 2) to clarify data elements and related requirements where needed to make uniform with existing practice; and 3) to update the version number for "All Payer Claims Database Data Submittal Guide" from version 2.2 to version 2.2.1.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 33a

**MATERIALS INCORPORATED BY REFERENCES:**

- ◆ Updates Utah All-Payer Claims Database Data Submission Guide, published by Utah Department of Health, 01/29/2016
- ◆ Adds Utah Healthcare Facility Data Submission Guide, published by Utah Department of Health, 01/15/2016

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule amendment adds a new data submittal guide which covers both inpatient and ambulatory care encounters and updates version numbering where appropriate. The Utah Department of Health (UDOH) determines enactment of the amended version will not create any cost or savings impact to the state budget or UDOH's

budget, since the change will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** This filing does not create any direct cost or savings impact to local governments since they are not directly affected by the rule nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** None--Small businesses are not impacted by this rule change since all potentially impacted businesses have more than 50 employees. As a result, the rule will have no effect on small business budgets for costs or savings.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Technical changes will not create any cost or savings to businesses, individuals, local governments or persons that are not small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons for the consolidated facilities data submittal guide (DSG) or for the updated version numbering associated with the "All Payer Claims Database DSG".

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact on business because technical changes do not add compliance costs to affected businesses.

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

HEALTH  
CENTER FOR HEALTH DATA,  
HEALTH CARE STATISTICS  
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:

◆ Mike Martin by phone at 801-538-9205, by FAX at 801-538-9916, or by Internet E-mail at mikemartin@utah.gov  
◆ Stephanie Saperstein by phone at 801-538-6430, or by Internet E-mail at stephaniesaperstein@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R428. Health, Center for Health Data, Health Care Statistics.**

**R428-1. Health Data Plan and Incorporated Documents.**

**R428-1-1. Legal Authority.**

This rule is promulgated in accordance with Title 26, Chapter 33a.

**R428-1-2. Purpose.**

This rule adopts and incorporates documents related to the collection, analysis, and dissemination of data covered in this title.

**R428-1-3. Health Data Plan Adoption.**

As required by Section 26-33a-104, the Health Data Committee adopts by rule the health data plan dated October 3, 1991.

**R428-1-4. Incorporation by Reference.**

The following documents are adopted and incorporated by reference:

(1) [~~Utah Hospital Inpatient Discharge Data Submittal Manual, Data Element Descriptions and Definitions, Version VI, February 2014~~

(2) [~~Utah Ambulatory Surgery Data Submission Manual, Version IV, March 2015~~] Utah Healthcare Facility Data Submission Guide, Version 1, January 15, 2016

(2[3]) HEDIS 2014, Volume 3: Specifications for Survey Measures, published by NCQA

(3[4]) HEDIS 2014, Volume 5: HEDIS Compliance Audit: Standards, Policies, and Procedures, published by NCQA

(4[5]) Utah All-Payer Claims Database Data Submission Guide Version 2.1

(5[6]) Utah All-Payer Claims Database Data Submission Guide Version 2.2.1

**KEY: health, health policy, health planning**

**Date of Enactment or Last Substantive Amendment:** [~~November 30, 2015~~] 2016

**Notice of Continuation:** November 21, 2011

**Authorizing, and Implemented or Interpreted Law:** 26-33a-104

## Health, Center for Health Data, Health Care Statistics

### **R428-2**

## Health Data Authority Standards for Health Data

### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 40171

FILED: 01/29/2016

### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to incorporate a new policy requiring yearly update of contact information by healthcare facilities; to add a new subsection clarifying the process for handling rejected data and subsequent resubmission; to update the title to the new consolidated facilities data submittal guide; to introduce new definitions; and to make minor grammatical edits.

**SUMMARY OF THE RULE OR CHANGE:** The changes are as follows: 1) add new definitions for "Emergency Room Data" and "Healthcare Facility Data"; 2) add one new subsection outlining protocol for rejected data submissions; 3) add one new section requiring healthcare facilities to provide current contact information to the office by September 1 of each year, and within 30 days of learning they will be required to submit under this rule; and 4) update title for the facilities data submittal guide to "Utah Healthcare Facility Data Submission Guide" in Rule R428-2.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 33a

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule amendment makes technical changes and also updates the data submittal guide required for use by Utah healthcare facilities, which are required to submit data to the Utah Department of Health's (UDOH) Office of Health Care Statistics. UDOH determines enactment of these changes and the amended version will not create any cost or savings impact to the state budget or UDOH's budget since the change will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** This filing does not create any direct cost or savings impact to local governments since they are not directly affected by the rule; nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** None--Small businesses are not impacted by this rule change since all potentially impacted businesses have more than 50 employees. As a result, the rule will have no effect on small business budgets for costs or savings.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Technical changes will not create any cost or savings to businesses, individuals, local governments, or persons that are not small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. The change clarifies definitions and two requirements, which does not result in compliance costs.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact on business because technical changes do not add compliance costs to affected businesses.

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

HEALTH  
CENTER FOR HEALTH DATA,  
HEALTH CARE STATISTICS  
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:**

◆ Mike Martin by phone at 801-538-9205, by FAX at 801-538-9916, or by Internet E-mail at mikemartin@utah.gov  
◆ Stephanie Saperstein by phone at 801-538-6430, or by Internet E-mail at stephaniesaperstein@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016**

**THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016**

**AUTHORIZED BY: Joseph Miner, MD, Executive Director**

**R428. Health, Center for Health Data, Health Care Statistics.**

**R428-2. Health Data Authority Standards for Health Data.**

**R428-2-1. Legal Authority.**

This rule is promulgated under authority granted by Title 26, Chapter 33a.

**R428-2-2. Purpose.**

This rule establishes definitions, requirements, and general guidelines relating to the collection, control, use and release of data pursuant to Title 26, Chapter 33a.

**R428-2-3. Definitions.**

(1) The terms used in this rule are defined in Section 26-33a-102.

(2) In addition, the following definitions apply to all of Title R428:

(a) "Adjudicated claim" means a claim submitted to a carrier for payment where the carrier has made a determination whether the services provided fall under the carrier's benefit.

(b) "Ambulatory surgery data" means the consolidation of complete billing, medical, and personal information describing a patient, the services received, and charges billed for a surgical or diagnostic procedure treatment in an outpatient setting into a data record.

(c) "Ambulatory surgical facility" is defined in Section 26-21-2.

(d) "Carrier" means any of the following Third Party Payors as defined in 26-33a-102(16):

(i) an insurer engaged in the business of health care or dental insurance in the state of Utah, as defined in Section 31A-1-301;

(ii) a business under an administrative services organization or administrative services contract arrangement;

(iii) a third party administrator, as defined in Section 31A-1-301, licensed by the state of Utah that collects premiums or settles claims of residents of the state, for health care insurance policies or health benefit plans, as defined in Section 31A-1-301;

(iv) a governmental plan, as defined in Section 414 (d), Internal Revenue Code, that provides health care benefits;

(v) a program funded or administered by Utah for the provision of health care services, including Medicaid, the Utah Children's Health Insurance Program created under Section 26-40-103, and the medical assistance programs described in Title 26, Chapter 18 or any entity under a contract with the Utah Department of Health to serve clients under such a program;

(vi) a non-electing church plan, as described in Section 410 (d), Internal Revenue Code, that provides health care benefits;

(vii) a licensed professional employer organization as defined in Section 31a-40-102 acting as an administrator of a health care insurance plan;

(viii) a health benefit plan funded by a self-insurance arrangement;

(ix) the Public Employees' Benefit and Insurance Program created in Section 49-20-103;

(x) a pharmacy benefit manager, defined to be a person that provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of any other carrier defined in subsection R428-2-3.

(e) "Claim" means a request or demand on a carrier for payment of a benefit.

(f) "Covered period" means the calendar year on which the data used for calculation of HEDIS measures is based.

(g) "Data element" means the specific information collected and recorded for the purpose of health care and health service delivery. Data elements include information to identify the individual, health care provider, data supplier, service provided, charge for service, payer source, medical diagnosis, and medical treatment.

(h) "Discharge data" means the consolidation of complete billing, medical, and personal information describing a patient, the services received, and charges billed for a single inpatient hospital stay into a discharge data record.

(i) "Electronic media" means a compact disc, digital video disc, external hard drive, or other media where data is stored in digital form.

(j) "Electronic transaction" means to submit data directly via electronic connection from a hospital or ambulatory surgery facility to the Office according to Electronic Data Interchange standards established by the American National Standards Institute's Accredited Standards Committee, known as the Health Care Transaction Set (837) ASC X 12N.

(k) "Eligible Enrollee" means an enrollee who meets the criteria outlined in the NCQA survey specifications.

(l) "Emergency Room Data" means the consolidation of complete billing, medical, and personal information describing a patient, the services received, and charges billed for a single visit and treatment of a patient in an emergency room into an emergency room data record.

(m[H]) "Enrollee" means any individual who has entered into a contract with a carrier for health care or on whose behalf such an arrangement has been made.

(n) "Health Insurance" has the same meaning as found in Section 31A-1-301.

(o[m]) "Health[-]care claims data" means information consisting of, or derived directly from, member enrollment, medical claims, and pharmacy claims that this rule requires a carrier to report.

[----- (n) "Health Insurance" has the same meaning as found in Section 31A-1-301.]

(p) "Healthcare Facility" means a hospital or ambulatory surgical facility.

(q) "Healthcare Facility Data" means ambulatory surgery data, discharge data, or emergency room data.

(r[ø]) "HEDIS" means the Healthcare Effectiveness Data and Information Set, a set of standardized performance measures developed by the NCQA.

(s[þ]) "HEDIS data" means the complete set of HEDIS measures calculated by the carriers according to NCQA specifications, including a set of required measures and voluntary measures defined by the department, in consultation with the carriers.

(t[ç]) "Hospital" means a general acute hospital or specialty hospital as defined in Section 21-21-2 that is licensed under Rule R432.

(u[ř]) "Level 1 data element" means a required reportable data element.

(v[š]) "Level 2 data element" means a data element that is reported when the information is available from the patient's hospital record.

(w[ř]) "NCQA" means the National Committee for Quality Assurance, a not-for-profit organization committed to evaluating and reporting on the quality of managed care plans.

(x[þ]) "Office" means the Office of Health Care Statistics within the Utah Department of Health.

(y[ř]) "Order" means an action of the committee that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.

(z[ř]) "Patient Social Security number" is the social security number of a person receiving health care.

(aa[ř]) "Performance Measure" means the quantitative, numerical measure of an aspect of the carrier, or its membership in part or in its entirety, or qualitative, descriptive information on the carrier in its entirety as described in HEDIS.

(bb[ř]) "Public Use Data Set" means a data extract or a subset of a database that is deemed by the Office to not include identifiable data or where the probability of identifying individuals is minimal.

(cc[ř]) "Report" means a disclosure of data or information collected or produced by the committee or Office, including but not limited to a compilation, study, or analysis designed to meet the needs of specific audiences.

(dd[aa]) "Research Data Set" means a data extract or subset of a database intended for use by investigators or researchers for bona fide research purposes that may include identifiable information or where there is more than a minimal probability that the data could be used to identify individuals.

(ee[bb]) "Record linkage number" is an irreversible, unique, encrypted number that will replace patient social security number.

(ff[ee]) "Sample file" means the data file containing records of selected eligible enrollees drawn by the survey agency from the carrier's sampling frame.

(gg[dd]) "Sampling Frame" means the carrier enrollment file as described criteria outlined by the NCQA survey specifications.

(hh[ee]) "Submission year" means the year immediately following the covered period.

(ii[ff]) "Survey agency" means an independent contractor on contract with the Office of Health Care Statistics.

(jj[gg]) "Utah Health Care Performance Measurement Plan" means the plan for data collection and public reporting of health-related measures, adopted by the Utah Health Data Committee to establish a statewide health performance reporting system.

(kk[hh]) "Uniform billing form" means the uniform billing form recommended for use by the National Uniform Billing Committee.

~~(ll[ii]) ["Submittal Manual for Inpatient Data" means the document referenced in Subsection R428-1-4(1)].~~

~~(jj) "Submittal Manual for Ambulatory Surgery Data" means the document referenced in Subsection R428-1-4(2). "Utah Healthcare Facility Data Submission Guide" means the document referenced in Subsection R42814(1).~~

(mm[~~kk~~]) "NCQA Survey Specifications" means the document referenced in Subsection R428-1-4(2[3])

(nn[~~ll~~]) "NCQA HEDIS Specifications" means the document referenced in Subsection R428-1-4(3[4])

(oo[~~mm~~]) "Data Submission Guide for Claims Data" means the document referenced in Subsection R428-1-4(4[5]) for data submissions required from April 1, 2015 to February 29, 2016 and the document referenced in Subsection R428-1-4(5[6]) for data submissions beginning March 1, 2016.

#### **R428-2-4. Technical Assistance.**

The Office may provide technical assistance or consultation to a data supplier upon request and resource availability. The consultation shall be to enable a data supplier to submit required data according to Title R428.

#### **R428-2-5. Data Classification and Access.**

(1) Data collected by the committee are not public, and as such are exempt from the classification and release requirements specified in Title 63g, Chapter 2, Government Records Access and Management Act.

(2) Any person having access to data collected or produced by the committee or the Office under Title 26, Chapter 33a shall not:

- (a) take any action that might provide information to any unauthorized individual or agency;
- (b) scan, copy, remove, or review any information to which specific authorization has not been granted;
- (c) discuss information with unauthorized persons which could lead to identification of individuals;
- (d) give access to any information by sharing passwords or file access codes.

(3) Any person having access to data collected or produced by the committee or the Office under Title 26, Chapter 33a shall:

- (a) maintain the data in a safe manner which restricts unauthorized access;
- (b) limit use of the data to the purposes for which access is authorized;
- (c) report immediately any unauthorized access to the Office or its designated security officer.

(4) A failure to report known violations by others is subject to the same punishment as a personal violation.

(5) The Office shall deny a person access to the facilities, services and data as a consequence of any violation of the responsibilities specified in this section.

#### **R428-2-6. Editing and Validation.**

(1) Each data supplier shall review each required record prior to submission. The review shall consist of checks for accuracy, consistency, completeness, and conformity.

(2) The Office may subject submitted data to edit checks. The Office may require the data supplier to correct data failing an edit check as follows:

- (a) The Office may, by first class U.S. mail or email, inform the submitting data supplier of any data failing an edit check.

(b) The submitting data supplier shall make necessary corrections and resubmit all corrected data to the Office within 10 business days of the date the Office notified the supplier.

(3) The Office or its designee may reject any data submission that fails to conform to the submission requirements. A data supplier whose submission is rejected shall resubmit the data in the appropriate, corrected format to the Office or its designee within 10 state business days of notice that the data does not meet the submission requirements.

#### **R428-2-7. Error Rates.**

The committee may establish and order reporting quality standards based on non-reporting or edit failure rates.

#### **R428-2-8. Data Disclosure.**

(1) The committee may disclose data received from data suppliers or data or information derived from this data as specified in Title 26, Chapter 33a.

(2) The Office may prepare reports relating to health care cost, quality, access, health promotion programs, or public health. These actions may be to meet legislative intent or upon request from individuals, government agencies, or private organizations. The Office may create reports in a variety of formats including print or electronic documents, searchable databases, web-sites, or other user-oriented methods for displaying information.

(3) Unless otherwise specified by the committee, the time period for data suppliers and health care providers to prepare a response as required in Subsections 26-33a-107(1) and 26-33a-107(3) shall be 15 business days. If a data supplier fails to respond in the specified time frame, the committee may conclude that the information is correct and suitable for release.

(4) The committee may note in a report that accurate appraisal of a certain category or entity cannot be presented because of a failure to comply with the committee's request for data, edit corrections, or data validation.

(5) The Office may release to the data supplier or its designee any data elements provided by the supplier without notification when a data supplier requests the data be so supplied.

(6) The committee may disclose data in computer readable formats.

(7) The Director of the Office may approve the disclosure of a public use data set upon receipt of a written request that includes the following:

- (a) the name, address, e-mail and telephone number of the requester;
- (b) a statement of the purpose for which the data will be used;
- (c) agreement to other terms and conditions as deemed necessary by the Office.

(8) The committee may approve the release of a research data set to an institution, association or organization for bona fide research of health care cost, quality, access, health promotion programs, or public health issues. The requester must provide:

- (a) the name, address, e-mail and telephone number of the requester and for each person who will have access to the research data set;
- (b) a statement of the purpose for which the research data set will be used;

(c) the starting and ending dates for which the research data set is requested;

(d) an explanation of why a public use data set could not be used for to accomplish the stated research purposes, including a separate justification for each element containing identified data requested;

(e) evidence of the integrity and ability to safeguard the data from any breach of confidentiality;

(f) evidence of competency to effectively use the data in the manner proposed;

(g) a satisfactory review from an Office-approved institutional review board;

(h) a guarantee that no further disclosure will occur without prior approval of the Office;

(i) a signed agreement to comply with other terms and conditions as stipulated by the committee.

#### **R428-2-9. Penalties.**

(1) The Office may apply civil penalties or subject violators to legal prosecution.

(2) Sections 26-23-6 and 26-33a-110 specify civil and criminal penalties for failure to comply with the requirements of Title R428 or Title 26, Chapter 33a.

(3) Notwithstanding Subsection R428-2-9(2), any person that violates any provision of Title R428 may be assessed an administrative civil money penalty not to exceed \$3,000 upon an administrative finding of a first violation and up to \$5,000 for a subsequent similar violation within two years. A person may also be subject to penalties imposed by a civil or criminal court, which may not exceed \$5,000 or a class B misdemeanor for the first violation and a class A misdemeanor for any subsequent similar violation within two years.

(4) Notwithstanding Subsection R428-2-9(2) and R428-2-9(3), a data supplier that violates any provision of Title R428 may be assessed an administrative civil money penalty for each day of non-compliance. Fines may be imposed as follows:

(a) Not to exceed the sum of \$10,000 per violation

(b) Each day of violation is a separate violation

(c) Deadlines established in separate sections of Title R428 are considered as separate provisions.

(5) The Office may impose a fine on any data supplier that misses a deadline to submit data required in Title R428 as follows:

(a) A fine of \$250 per violation shall be imposed until the data has been supplied as required

(b) The fines shall increase to \$500 per violation for each violation when any data supplier that is currently in violation misses another deadline

(c) After forty-five consecutive calendar days of violation, the Office may adjust the per day penalty subject to the limits in (4)(a) taking into account the following aggravating and mitigating circumstances:

(i) Prior violation history and history of compliance

(ii) Good faith efforts to prevent violations

(iii) The size and financial capability of the data supplier.

#### **R428-2-10. Exemptions and Extensions.**

(1) The committee may grant exemptions or extensions from reporting requirements in Title R428 to data suppliers under certain circumstances.

(2) The committee may grant an exemption to a data supplier when the supplier demonstrates that compliance imposes an unreasonable cost.

(a) A data supplier may request an exemption from any particular requirement or set of requirements of Title R428. The data supplier must submit a request for exemption no less than 30 calendar days before the date the supplier would have to comply with the requirement.

(b) The committee may grant an exemption for a maximum of one calendar year. A data supplier wishing an additional exemption must submit an additional, separate request.

(3) The committee may grant an extension to a data supplier when the supplier demonstrates that technical or unforeseen difficulties prevent compliance.

(a) A data supplier may request an extension for any deadline required in Title R428. For each deadline for which the data supplier requests an extension, the data supplier must submit its request no less than seven calendar days before the deadline in question.

(b) The committee may grant an extension for a maximum of 30 calendar days. A data supplier wishing an additional extension must submit an additional, separate request.

(4) The supplier requesting an extension or exemption shall include:

(a) The data supplier's name, mailing address, telephone number, and contact person;

(b) the dates the exemption or extension is to start and end;

(c) a description of the relief sought, including reference to specific sections or language of the requirement;

(d) a statement of facts, reasons, or legal authority in support of the request; and

(e) a proposed alternative to the requirement or deadline.

(5) A carrier that covers fewer than 2,500 individual Utah residents as of January 1 of a given year is exempt from all requirements of this title except that once a carrier has covered a cumulative total of 2,500 such individuals during a calendar year, they are no longer considered exempt for the remainder of that year.

#### **R428-2-11. Contractor Liability.**

(1) A data supplier may contract with another entity to submit required data elements on their behalf under Title R428. In such cases, the data supplier must notify the Office of the identity and contact information of the contractor.

(2) Regardless of the existence of a contractor, the responsibility for complying with all requirements of Title R428 remains solely with the data supplier.

#### **R428-2-12. Data Supplier Contacts.**

(1) Data suppliers required to submit healthcare claims data or healthcare facility data shall provide current contact information to the Office by September 1 of each year using a web-site provided by the Office for this purpose.

(2) Each data supplier newly required to submit healthcare claims data or healthcare facility data under this rule, including by a change to the rule or because it no longer qualifies for an exemption, shall provide contact information to the Office within 30 days of learning that they will be required to submit data under this rule.

(3) Each data supplier shall designate a person who is responsible for submitting data and a person who is responsible for



communicating with the Office regarding the submission of the data. Each data supplier shall notify the Office of changes in this designation within thirty calendar days.

**KEY:** health, health policy, health planning  
**Date of Enactment or Last Substantive Amendment:** [~~November 30, 2015~~]**2016**  
**Notice of Continuation:** November 30, 2011  
**Authorizing, and Implemented or Interpreted Law:** 26-33a-104

## Health, Center for Health Data, Health Care Statistics **R428-10**

### Health Data Authority Hospital Inpatient Reporting Rule

#### NOTICE OF PROPOSED RULE

(Repeal and Reenact)  
DAR FILE NO.: 40172  
FILED: 01/29/2016

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment is in response to a review of both Rules R428-10 and R428-11 that identified both rules, for purposes of better consistency and clarity of existing practice, could be consolidated into one administrative rule. (DAR NOTE: The proposed repeal of Rule R428-11 is under DAR No. 40173 in this issue, February 15, 2016, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** The proposed repeal and reenactment changes the rule title to accurately reflect consolidation of Rules R428-10 and R428-11 into the new Rule R428-10; updates definitions in rule purpose; clarifies rule purpose and also data reporting requirements by healthcare facilities; and makes technical and conforming amendments.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 33a

#### ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This amendment reflects the consolidation of Rules R428-10 and R428-11 that improves consistency and clarity of the new Rule R428-10. The Utah Department of Health (UDOH) determines that these changes will not create any cost or savings impact to the state budget or UDOH's budget, since the changes will not increase workload and can be carried out with existing budget.
- ◆ **LOCAL GOVERNMENTS:** This filing does not create any direct cost or savings impact to local governments since they are not directly affected by the rule nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

- ◆ **SMALL BUSINESSES:** None--Small businesses will not be impacted by this rule change. As a result, the rule will have no effect on small business budgets for costs or savings.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Consolidation of Rules R428-10 and R428-11 into a new Rule R428-10 that includes a few technical changes will not create any cost or savings to businesses, individuals, local governments, or persons that are not small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for persons affected by these changes to Rule R428-10. Although there are several modifications within this amendment, they will not impact affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact on business because there were no substantive changes to the requirements and the technical changes do not add compliance costs to affected businesses.

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

HEALTH  
CENTER FOR HEALTH DATA,  
HEALTH CARE STATISTICS  
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:

- ◆ Mike Martin by phone at 801-538-9205, by FAX at 801-538-9916, or by Internet E-mail at mikemartin@utah.gov
- ◆ Stephanie Saperstein by phone at 801-538-6430, or by Internet E-mail at stephaniesaperstein@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R428. Health, Center for Health Data, Health Care Statistics.**  
~~**R428-10. Health Data Authority Hospital Inpatient Reporting Rule.**~~

~~**R428-10-1. Legal Authority.**~~  
~~\_\_\_\_\_ This rule is promulgated under authority granted by Title 26, Chapter 33a, and in accordance with the Health Data Plan.~~

~~**R428-10-2. Purpose.**~~  
~~\_\_\_\_\_ This rule establishes the reporting standards for inpatient discharge data by licensed hospitals. The data will be used to develop and maintain a statewide hospital discharge data base.~~

**R428-10-3. Source of Inpatient Hospital Discharge Data.**

- (1) The source for hospital inpatient discharge data shall be Utah licensed hospitals.
- (2) Each hospital shall report discharge data records for each inpatient discharged from its facility.
- (3) For a patient with multiple discharges, each hospital shall submit a single discharge data record for each discharge. For a patient with multiple billing claims each hospital shall consolidate the multiple billings into a single discharge data record for submission after the patient's discharge.
- (4) A hospital may designate an intermediary or may submit discharge data directly to the committee.
- (5) Each hospital is responsible for compliance with these rules. Use of a designated intermediary does not relieve the hospital of its reporting responsibility.
- (6) Each hospital shall designate a department or other appropriate entity within the hospital and a person responsible for submitting the discharge data records. This person shall also be responsible for communicating with the Office.
- (7) The Department of Health may conduct on-site audits to verify the accuracy of all submittals.

**R428-10-4. Data Submittal Schedule.**

Each hospital shall submit to the Office discharge data according to the schedule shown in Table 1. The Director of the Office may approve an alternate schedule that meets the needs of the committee.

TABLE

(1) HOSPITAL DISCHARGE DATA SUBMITTAL SCHEDULE

PATIENT'S DATE OF DISCHARGE IS BETWEEN	DISCHARGE DATA RECORD IS DUE BY
January 1 through March 31	May 15
April 1 through June 30	August 15
July 1 through September 30	November 15
October 1 through December 31	February 15

**R428-10-5. Data Element Reporting.**

- (1) Tables 2 and 3 list the required data elements. Each hospital shall collect and report all data elements shown in Table 2. Each hospital shall report data elements shown in Table 3 whenever the information is a part of the hospital's patient record. Hospitals shall base data submissions on the specifications in the Submittal Manual for Inpatient Data.
- (2) Each hospital shall collect patient social security number as a required data element on the hospital discharge record and report the patient social security number with the complete discharge record according to the submittal schedule.
- (3) The Office shall adopt an encryption method for the patient social security number by creating a record linkage number as the control number.
- (4) Each hospital shall submit the reported data elements on encrypted electronic media acceptable to the Office or send electronically through the Utah Health Information Network or another compatible electronic data interchange network or other secure upload or secure email method.
- (5) The Office shall accept data that complies with data standards established in Rule R590-164, Uniform Health Billing Rule.

TABLE

(2) LEVEL 1 DATA ELEMENTS

CATEGORY	NAME
Provider	
1.	Provider identifier (hospital name)
Patient	
2.	Patient control number
3.	Patient's medical record number
4.	Patient Social Security Number
5.	Patient name
6.	Patient's address, city, state, zip
7.	Patient's date of birth
8.	Patient's gender
Service	
9.	Admission date
10.	Type of admission/visit
11.	Point of origin for admission or visit
12.	Patient's discharge status
13.	Statement covers period
14.	Condition codes (do not resuscitate, homeless, others)
Charge	
15.	Service line
16.	Revenue codes
17.	HCPCS Procedure codes including modifiers
18.	Unit or basis for measurement code
19.	Service units/days
20.	Total charges by revenue code
Payer	
21.	Payer's identification
22.	Patient's relationship to insured
Diagnosis and Treatment	
23.	Diagnosis version qualifier
24.	Principal diagnosis with present on admission
25.	Other diagnosis codes with present on admission
26.	Admitting diagnosis code
27.	Patient's reason for visit codes
28.	External cause of injury codes (E-code) with present on admission
29.	Principal ICD procedure code
30.	Other ICD procedure codes
31.	Date of principal procedure
Physician	
32.	Attending provider primary ID
33.	Operating physician primary ID
34.	Other operating physician primary ID
35.	Rendering physician primary ID
36.	Referring provider primary ID
Other	
37.	Type of bill

TABLE

(3) LEVEL 2 DATA ELEMENTS

CATEGORY	NAME
Patient	
1.	Patient marital status
2.	Patient race and ethnicity
Employer	
3.	Employer name
Charge	
4.	Prior payments
5.	Estimated amount due

_____	Payer
_____ 6.	Insured names
_____ 7.	Certificate/Social Security Number/Health Insurance Claim/Identification Number
_____ 8.	Insured group names
_____	Physician
_____ 9.	Attending provider secondary ID
_____ 10.	Attending provider specialty information
_____ 11.	Operating physician secondary ID
_____ 12.	Operating physician specialty information
_____ 13.	Other operating physician secondary ID
_____ 14.	Other operating physic. specialty information
_____ 15.	Rendering physician secondary ID
_____ 16.	Rendering physician specialty information
_____ 17.	Referring provider secondary ID
_____ 18.	Referring provider specialty information
_____ 19.	Resident ID
_____ 20.	Resident ID Type]

**R428-10. Health Data Authority Healthcare Facility Data Reporting Rule.**

**R428-10-1. Legal Authority.**

This rule is promulgated under authority granted by Title 26, Chapter 33a and in accordance with the Utah Health Data Plan as adopted in section R428-1.

**R428-10-2. Purpose.**

This rule establishes requirements for healthcare facilities to submit data to the Utah Department of Health.

**R428-10-3. Coordination of Rules.**

The Office will use data collected in this section to develop and maintain a statewide Healthcare Facility Database. Upon receipt of emergency room data, the Office shall provide a copy of the emergency room data to the Bureau of Emergency Medical Services and Preparedness for use as described in R426.

**R428-10-4. Data Reporting.**

(1) Healthcare facilities shall submit ambulatory surgery data to the Office. In addition, hospitals shall submit discharge data and emergency data to the Office.

(2) Healthcare facilities shall submit healthcare facility data to the Office in accordance with the Utah Healthcare Facility Data Submission Guide.

(3) Healthcare facilities shall submit data for all fields required in this section if the data are available. Healthcare facilities shall notify the Office or its designee of any data elements or fields required to be reported under this rule, but are not available to the healthcare facility.

(4)(a) Healthcare facilities shall submit healthcare facility data to the Office or its designee according to the schedule in the Utah Healthcare Facility Data Submission Guide.

(b) The Director of the Office may approve an alternate submission date as long as it meets the needs of the committee.

(5) Healthcare facilities shall submit healthcare facility data by a secure method according to the Utah Healthcare Facility Data Submission Guide.

(6) The Office or its designee may conduct on-site audits to verify the accuracy and completeness of all submittals.

**KEY: health, health data, hospital policy, health planning**

**Date of Enactment or Last Substantive Amendment: [~~August 5, 2014~~]2016**

**Notice of Continuation: November 30, 2011**

**Authorizing, and Implemented or Interpreted Law: 26-33a-104; 26-33a-108**

**Health, Center for Health Data, Health Care Statistics  
R428-11  
Health Data Authority Ambulatory Surgical Data Reporting Rule**

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 40173

FILED: 01/29/2016

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being repealed because its substantive elements are being incorporated into a new Rule R428-10. Rule R428-11 can be repealed without any effect on work done by the Utah Health Data Committee or Utah Department of Health (UDOH). At its meeting on 01/12/2016, the Committee voted with unanimous consent to repeal Rule R428-11. Therefore, this rule is no longer needed. (DAR NOTE: the proposed repeal and reenactment of Rule R428-10 is under DAR No. 40172 in this issue, February 15, 2016, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** The rule is repealed in its entirety.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 33a

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** Staff will no longer need to monitor rule text for Rule R428-10. Repeal of this rule will result in approximate savings to the state of \$50 per year, which equals about 1.5 hours staff time.

◆ **LOCAL GOVERNMENTS:** Because the substantive provisions of this rule are being incorporated into the new Rule R428-10, no costs or savings to local governments should result from this filing.

◆ **SMALL BUSINESSES:** Because the substantive provisions of this rule are being incorporated into the new Rule R428-10, no costs or savings to small businesses should result from this filing.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because the substantive provisions of this rule are being incorporated into the new Rule R428-10, no costs or savings to other persons should result from this filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are expected with this repeal, which relieves affected persons from any obligations to comply with the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on business because technical changes do not add compliance costs to affected businesses.

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

HEALTH  
CENTER FOR HEALTH DATA,  
HEALTH CARE STATISTICS  
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:

◆ Mike Martin by phone at 801-538-9205, by FAX at 801-538-9916, or by Internet E-mail at mikemartin@utah.gov  
◆ Stephanie Saperstein by phone at 801-538-6430, or by Internet E-mail at stephaniesaperstein@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R428. Health, Center for Health Data, Health Care Statistics.**

~~[R428-11. Health Data Authority Ambulatory Surgical Data Reporting Rule.~~

~~**R428-11-1. Legal Authority.**~~

~~————— This rule is promulgated under authority granted by Title 26, Chapter 33a, and in accordance with the Health Data Plan.~~

~~**R428-11-2. Purpose.**~~

~~————— This rule establishes the reporting standards for ambulatory surgery data by licensed hospitals and ambulatory surgical facilities. The data will be used to develop and maintain a statewide ambulatory surgical data base.~~

~~**R428-11-3. Source of Ambulatory Surgical Data.**~~

~~————— The reporting sources for ambulatory surgery data are Utah licensed general acute care hospitals and ambulatory surgical facilities.~~

~~————— (1) A general acute care hospital shall report discharge data records for each surgical outpatient discharged from its facility.~~

~~————— (2) An ambulatory surgical facility shall report surgical and diagnostic procedure data records for each patient discharged from its facility.~~

~~————— (3) For a patient with multiple discharges, each hospital or ambulatory surgical facility submitting electronic media shall submit a single data record for each discharge. For a patient with multiple billing claims each hospital or ambulatory surgical facility shall consolidate the multiple billings into a single data record for submission after the patient's discharge.~~

~~————— (4) A hospital or ambulatory surgical facility may designate an intermediary or may submit ambulatory surgery data directly to the Office.~~

~~————— (5) Each hospital and ambulatory surgical facility is responsible for compliance with the rule. Use of a designated intermediary does not relieve the hospital or ambulatory surgical facility of its reporting responsibility.~~

~~————— (6) Each hospital and ambulatory surgical facility shall designate a department or other appropriate entity and a person who is responsible for submitting the discharge data records. This person shall also be responsible for communicating with the Office.~~

~~————— (7) The Department of Health may conduct on-site audits to verify the accuracy of all submittals.~~

~~**R428-11-4. Data Submittal Schedule.**~~

~~————— (1) Each hospital and ambulatory surgical facility shall submit ambulatory surgery data to the Office.~~

~~————— (2) Each quarterly submission is due no later than the 15th day of the second month following the last day of a calendar quarter. The Director of the Office may approve an alternate schedule as long as it meets the needs of the committee.~~

~~**R428-11-5. Data Reporting.**~~

~~————— (1) Each hospital and ambulatory surgical facility shall submit ambulatory surgery data described in the Submittal Manual for Ambulatory Surgery Data.~~

~~————— (2) Each hospital and ambulatory surgical facility shall submit data for all fields contained in the Submittal Manual for Ambulatory Surgery Data if the data are available to the hospital and ambulatory surgical facility.~~

~~————— (3) The Office shall adopt an encryption method for the patient social security number by creating a record linkage number as the control number.~~

~~————— (4) Each hospital and ambulatory surgical facility shall submit ambulatory surgery data on encrypted electronic media acceptable to the Office or send them electronically through the Utah Health Information Network or another compatible electronic data interchange network or other secure upload or secure email method.~~

~~**KEY: health, hospital policy, health planning**~~

~~**Date of Enactment or Last Substantive Amendment: October 1, 2015**~~

~~**Notice of Continuation: November 14, 2012**~~

~~**Authorizing, and Implemented or Interpreted Law: 26-33a-104; 26-33a-108]**~~

Health, Center for Health Data, Health  
Care Statistics  
**R428-13**  
Health Data Authority. Audit and  
Reporting of Health Plan Performance  
Measures

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 40174  
FILED: 01/29/2016

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is in response to a review of Rule R428-13 that identified inconsistencies in the writing of the rule.

SUMMARY OF THE RULE OR CHANGE: The changes are as follows: 1) clarify terms and requirements used in the rule; 2) make technical and conforming amendments; 3) delete Section R428-13-4, "Release of Performance Measures", because similar reference is contained in Rule R428-2; and 4) edit numbering of sections where needed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 33a

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: This amendment makes technical changes that improve consistency and clarity of Rule R428-13. The Utah Department of Health (UDOH) determines enactment of the amended version will not create any cost or savings impact to the state budget or UDOH's budget since the change will not increase workload and can be carried out with existing budget.
- ◆ LOCAL GOVERNMENTS: This filing does not create any direct cost or savings impact to local governments since they are not directly affected by the rule nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.
- ◆ SMALL BUSINESSES: None--Small businesses are not impacted by this rule change since all potentially impacted businesses have more than 50 employees. As a result, the rule will have no effect on small business budgets for costs or savings.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Technical changes will not create any cost or savings to businesses, individuals, local governments or persons that are not small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for persons affected by these changes to Rule R428-13. Although there are several

modifications within this amendment, they will not impact affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on business because technical changes do not add compliance costs to affected businesses.

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

HEALTH  
CENTER FOR HEALTH DATA,  
HEALTH CARE STATISTICS  
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:

- ◆ Mike Martin by phone at 801-538-9205, by FAX at 801-538-9916, or by Internet E-mail at mikemartin@utah.gov
- ◆ Stephanie Saperstein by phone at 801-538-6430, or by Internet E-mail at stephaniesaperstein@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R428. Health, Center for Health Data, Health Care Statistics.  
R428-13. Health Data Authority. Audit and Reporting of Health  
Plan Performance Measures.**

**R428-13-1. Legal Authority.**

This rule is promulgated under authority granted by Title 26, Chapter 33a, Utah Code, and in accordance with the Utah Health Care Performance Measurement Plan.

**R428-13-2. Purpose.**

This rule establishes the process for the collection of ~~[performance measurement]~~ HEDIS data from Utah carriers that are needed to promote informed consumer choice in plan selection and measure the quality of care provided to enrollees of Utah carriers.

**R428-13-3. Submission of Performance Measures.**

(1) Each carrier shall compile and submit HEDIS data for the preceding calendar year to the Office ~~[according to this rule]~~ by July 1 of each year.

(2) By January 1 of each year, each carrier shall submit to the Office a plan for creating and providing HEDIS data for the preceding calendar year.

~~[(3) By July 1 of each year, each carrier shall submit to the Office HEDIS data for the preceding calendar year.]~~

~~(3)~~ (4) Each carrier shall contract with an independent audit agency certified by the NCQA to verify the HEDIS data using NCQA HEDIS specifications prior to submitting ~~[#]~~ data to the Office.

(4[5]) Each carrier may employ the rotation strategy for HEDIS measures developed and updated by NCQA.

(5[6]) If a carrier presents "Not Reported (NR)" for required measures, it must document why it did not report the required measure.

~~(7) The auditor shall follow the guidelines and procedures contained in the NCQA HEDIS Specifications.~~

~~(8) Each carrier shall cause its contracted audit agency to submit a copy of the audit agency's report by July 1 of the submission year to the Office.]~~

(6[9]) Each carrier shall cause its contracted audit agency to submit a copy of the audit agency's final report by August 15 of the submission year to the Office. The final report shall incorporate the carrier's comments.

**[R428-13-4. Release of Performance Measures.**

~~(1) The Health Data Committee shall follow the requirements in the NCQA HEDIS Specifications to determine the HEDIS Data Set that the Office may include in reports for public release for public use.~~

~~(2) The Office shall give carriers 35 days to review any report using data received under this Section which identifies it by name. The identified carrier may submit comments and alternative interpretations to the Office.]~~

**R428-13-4[5]. Exemptions.**

(1) Notwithstanding the requirements in Subsection R428-2-11(2), a carrier that cannot comply with the requirements of this rule must request an exemption by January 1 of the relevant submission year.

(2) A carrier may request an exemption from this rule if the carrier did not operate in Utah for the reporting year, if the number of covered lives is too low for HEDIS standards, or for other similarly prohibitive circumstances beyond the carrier's control.

~~(3) The Office may request additional information from the carrier relevant to the exemption request.]~~

**KEY: health, health planning, health policy**

**Date of Enactment or Last Substantive Amendment: [August 5, 2014]2016**

**Notice of Continuation: November 14, 2012**

**Authorizing, and Implemented or Interpreted Law: 26-33a**

Health, Center for Health Data, Health  
Care Statistics  
**R428-15**  
Health Data Authority Health Insurance  
Claims Reporting

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 40179

FILED: 02/01/2016

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment is in response to several reviews of Rule R428-15 that identified inconsistencies in the writing of the rule.

**SUMMARY OF THE RULE OR CHANGE:** This amendment removes Section R428-15-4, "Carrier Registration", as similar reference resides in Rule R428-2; removes Section R428-15-7, "Replacement of Data Files", to reflect current practice; and renumbers sections where needed.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 33a

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This amendment makes changes that improve the consistency and clarity of Rule R428-15. The Utah Department of Health (UDOH) determines enactment of the amended version does create any cost or savings impact to the state budget or UDOH's budget, since the change does not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** This filing does not create any direct cost or savings impact to local governments since they are not directly affected by the rule nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** None--Small businesses are not impacted by this rule change since all potentially impacted businesses have more than 50 employees. As a result, the rule will have no effect on small business budgets for costs or savings.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Proposed rule changes will not create any cost or savings to businesses, individuals, local governments or persons that are not small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for persons affected by these changes to Rule R428-15. Although there are several modifications within this amendment, they do not impact affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact on business because technical changes do not add compliance costs to affected businesses.

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

HEALTH  
CENTER FOR HEALTH DATA,  
HEALTH CARE STATISTICS  
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:**

- ◆ Mike Martin by phone at 801-538-9205, by FAX at 801-538-9916, or by Internet E-mail at mikemartin@utah.gov
- ◆ Stephanie Saperstein by phone at 801-538-6430, or by Internet E-mail at stephaniesaperstein@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R428. Health, Center for Health Data, Health Care Statistics.**

**R428-15. Health Data Authority Health Insurance Claims Reporting.**

**R428-15-1. Legal Authority.**

This rule is promulgated under authority granted in Utah Code Title 26, Chapter 33a and in accordance with the Utah Health Data Plan as adopted in Rule R428-1.

**R428-15-2. Purpose.**

This rule establishes requirements for certain entities that pay for health care to submit data to the Utah Department of Health.

**R428-15-3. Reporting Requirements.**

(1) Each carrier shall submit health care claims data described in the Data Submission Guide for Claims Data for each covered person where Utah is the covered person's primary residence, regardless of where the services are provided.

(2) Each carrier shall submit data for all fields contained in the Data Submission Guide for Claims Data if the data are available to the carrier. Each carrier shall notify the Office or its designee of any data elements that are required to be reported under this rule, but that are not available to the carrier.

(3) Each carrier shall submit the health care claims data on a monthly basis.

(4) Each monthly submission is due no later than the last day of the month following the month in which the carrier adjudicated the claim.

**[R428-15-4. Carrier Registration.**

~~Each carrier required to submit health care claims data shall register by September 1 of each year. Each carrier newly required to submit health care claims data under this rule, either by a change to the rule or because it no longer qualifies for an exemption, shall register with the Office within 30 days of being required to submit.]~~

**R428-15-4[5]. Testing of Files.**

(1) Prior to February 14, 2014, each carrier required to report under this rule shall meet with the Office or its designee to establish a data submission testing plan and time line. Each carrier shall contact the Office to arrange this meeting by January 15, 2014.

(2) Each carrier shall, according to its data submission testing plan, submit to the Office or its designee a test dataset for determining compliance with the standards for data submission and participate in testing. This test dataset must be in the same format as required by the Data Submission Guide for Claims Data as of May 15, 2014.

(3) Carriers that become subject to this rule after January 15, 2014 shall submit to the Office a dataset for determining compliance with the standards for data submission no later than 90 days after the first date of becoming subject to the rule.

**R428-15-5[6]. Rejection of Files.**

The Office or its designee may reject and return any data submission that fails to conform to the submission requirements. A carrier whose submission is rejected shall resubmit the data in the appropriate, corrected format to the Office, or its designee within 10 state business days of notice that the data does not meet the submission requirements.

**[R428-15-7. Replacement of Data Files.**

~~A carrier may replace a complete dataset submission if no more than one year has passed since the end of the month in which the file was submitted. However, the Office may allow a later submission if the carrier can establish exceptional circumstances for the replacement.]~~

**R428-15-6[8]. Limitation of Liability.**

As provided in Section 26-25-1, any data supplier that submits data pursuant to this rule cannot be held liable for having provided the required information to the Department.

**KEY: data, payers, claims, transparency**

**Date of Enactment or Last Substantive Amendment: ~~August 5, 2014~~ 2016**

**Notice of Continuation: October 10, 2014**

**Authorizing, and Implemented or Interpreted Law: 26-33a; 26-25**

**Health, Family Health and  
Preparedness, Child Care Licensing  
R430-50  
Residential Certificate Child Care**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 40160

FILED: 01/28/2016

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed changes are mostly to clarify rules and to facilitate compliance with required training topics and written policies and procedures and emergency and disaster plans.

**SUMMARY OF THE RULE OR CHANGE:** The proposed changes include clarification of some terms, language required to adjust the policies and procedures, and emergency and disaster plan to the new federal Office of Child Care training requirements, and renumbering.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 3

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** No state agencies operate licensed homes. Therefore, the Department does not anticipate any cost or savings as a result of this change.

◆ **LOCAL GOVERNMENTS:** No local governments operate licensed homes. Therefore, the Department does not anticipate any cost or savings as a result of this change.

◆ **SMALL BUSINESSES:** All residential certificate providers are small businesses. However, the proposed changes are mostly documentation of policies and procedures and emergency and disaster plan and training for caregivers, which is provided by Child Care Licensing at no cost. The Department does not anticipate any new costs or savings to child care small business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule will not change any of the requirements for child care programs, except required training for caregivers which is provided by Child Care Licensing at no cost, the Department does not anticipate any new costs or savings to entities or persons that are not small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because this rule will not change any of the requirements for child care programs, the Department does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact to business because any required training for child care programs is provided at no cost.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
CHILD CARE LICENSING  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016**

**THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2016**

**AUTHORIZED BY:** Joseph Miner, MD, Executive Director

**R430. Health, Family Health and Preparedness, Child Care Licensing.**

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

**R430-50-2. Definitions.**

(1) "Body fluid" means blood, urine, feces, vomit, mucus, and saliva.

(2) "Caregiver" means an individual who provides direct care to children.

([2]3) "Certificate holder" means the person holding a Department of Health child care certificate.

([3]4) "Department" means the Utah Department of Health.

([4]5) "Emotional abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

([5]6) "Health care provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

([6]7) "Inaccessible to children" means:

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

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

(c) behind a properly secured child safety gate;

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

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

([7]8) "Infant" means a child aged birth through 11 months of age.

([8]9) "Infectious disease" means an illness that is capable of being spread from one person to another.

([9]10) "Over-the-counter medication" means medication that can be purchased without a written prescription. This includes herbal remedies and vitamin and mineral supplements.

([10]11) "Parent" means the parent or legal guardian of a child in care.

([11]12) "Physical abuse" means causing non-accidental physical harm to a child.

([12]13) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

([13]14) "Provider" means the certificate holder [~~or a substitute~~].

([14]15) "Related children" means children for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

([15]16) "Sanitize" means to reduce the number of germs on a surface to such a level that disease transmission by that surface is unlikely.



~~[[16]~~17) "School age" means children ages five through twelve.

~~[[17]~~18) "Sexual abuse" means abuse as provided in Utah Code, Section 76-5-404.1.

~~[[18]~~19) "Sexually explicit material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

~~[[19]~~20) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, play pen, or bed.

~~[[20]~~21) "Stationary play equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

- (a) a sandbox;
- (b) a stationary circular tricycle;
- (c) a sensory table; or
- (d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

~~[[21]~~22) "Strangulation hazard" means something on a component of playground equipment on which a child's clothes or something around a child's neck could become caught. For example, bolt ends that extend more than two threads beyond the face of the nut, hardware configurations that form a hook or leave a gap or space between components, and open "S" type hooks.

~~[[22]~~23) "Supervision" means the function of observing, overseeing, and guiding a child or group of children.

~~[[23]~~24) "Substitute" means a person who assumes the certificate holder's duties under this rule when the certificate holder is not present. This includes emergency substitutes.

~~[[24]~~25) "Toddler" means a child aged 12 months but less than 24 months.

~~[[25]~~26) "Unrelated children" means children who are not related children.

~~[[26]~~27) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

~~[[27]~~28) "Volunteer" means a person who provides direct care to a child but does not receive direct or indirect compensation for doing so. A volunteer is not included in the provider to child ratio.

**R430-50-7. Personnel.**

- (1) The certificate holder and all substitutes must:
  - (a) be at least 18 years of age; and
  - (b) have knowledge of and comply with all applicable laws and rules.
- (2) The certificate holder may make arrangements for a substitute who is at least 18 years old and who is capable of providing care, supervising children, and handling emergencies in the absence of the certificate holder.

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

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

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

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

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

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

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

(5) Any new non-emergency substitute or volunteer shall receive ~~[orientation]~~ at least 2.5 hours of pre-service training prior to assuming caregiving duties. ~~[Orientation]~~ Pre-service training shall be documented in the individual's file and shall include the following topics:

- ~~[(a) the certificate holder's emergency and disaster plan;~~
- ~~\_\_\_\_\_ (b) the current child care certificate rules found in Sections R430-50-11 through 24;~~
- ~~\_\_\_\_\_ (c) a review of the information in the health assessment for each child in care;~~
- ~~\_\_\_\_\_ (d) procedure for releasing children to authorized individuals only;~~
- ~~\_\_\_\_\_ (e) proper clean up of body fluids;~~
- ~~\_\_\_\_\_ (f) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;~~
- ~~\_\_\_\_\_ (g) obtaining assistance in emergencies; and~~
- ~~\_\_\_\_\_ (h) if the certificate holder accepts infants or toddlers for care, orientation training topics shall also include:~~
  - ~~\_\_\_\_\_ (i) preventing shaken baby syndrome and coping with crying babies; and~~
  - ~~\_\_\_\_\_ (ii) preventing sudden infant death syndrome.]~~
- (a) the Department-approved certificate holder's written policies and procedures;
- (b) the Department-approved certificate holder's emergency and disaster plan;

~~(c) the current child care licensing rules found in Sections R430-50-11 through 24;~~

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

~~(e) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;~~

~~(f) recognizing the signs of homelessness and available assistance~~

~~(g) preventing shaken baby syndrome, abusive head trauma, and coping with crying babies; and~~

~~(h) prevention of sudden infant death syndrome and use of safe sleeping practices.~~

(6) The certificate holder shall complete a minimum of 10 hours of child care training each year, based on the certificate date. A minimum of 5 hours of the required annual training shall be face-to-face instruction.

(a) Documentation of annual training shall be kept on file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.

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

(i) a review of all of the current child care certificate rules found in Sections R430-50-11 through 24;

~~(ii) a review of the Department-approved certificate holder's written policies and procedures and emergency and disaster plan, including any updates;~~

~~(iii) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;~~

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

~~(v) recognizing the signs and symptoms of homelessness and available assistance;~~

~~(vi) positive guidance; ~~and~~~~

~~(e) if the certificate holder accepts infants or toddlers for care, required training topics shall also include:~~

~~(i) preventing shaken baby syndrome and abusive head trauma, and coping with crying babies; and~~

~~(ii) ~~preventing~~ prevention of sudden infant death syndrome and use of safe sleeping practices.~~

#### **R430-50-8. Administration.**

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

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

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

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

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

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

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

(8) ~~[-]~~The provider shall report to the Child Care Licensing Program within the next Department business day any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless that medical service was part of the child's medical treatment plan identified by the parent. The provider shall also submit a written report to Child Care Licensing within five working days of the incident.

(9) The certificate holder shall train and supervise all substitutes to:

(a) ensure their compliance with this rule;

(b) ensure they meet the needs of the children in care as specified in this rule; and

(c) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

(10) The certificate holder shall submit to the Department written policies and procedures for approval on a form provided by Child Care Licensing.

#### **R430-50-10. Emergency Preparedness.**

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

(2) ~~At least one adult at the facility, at all times when children are in care, [The certificate holder and all substitutes who care for children an average of 10 hours per week or more] shall maintain a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification. Equivalent CPR certification must include hands-on testing.~~

~~(3) The certificate holder shall have an emergency and disaster plan which shall include at least the following:~~

~~(a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;~~

~~(b) procedures for responding to fire, earthquake, flood, power failure, and water failure;~~

~~(c) the location of and procedure for emergency shut off of gas, electricity, and water;~~

~~(d) procedures to be followed if a child is missing;~~

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

](3) The certificate holder shall submit to the Department a written emergency and disaster plan for approval on a form provided by Child Care Licensing.

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

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

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

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

#### **R430-50-20. Activities.**

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

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

(3) If off-site activities are offered:

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

(b) the certificate holder shall accompany the children and shall take a copy of each child's emergency contact information.

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

(d) at least one provider present shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification. Equivalent CPR certification must include hands-on testing. And

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

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

**KEY: child care facilities, residential certification**

**Date of Enactment or Last Substantive Amendment: [2015]2016**

**Notice of Continuation: May 29, 2013**

**Authorizing, and Implemented or Interpreted Law: 26-39**

## Health, Family Health and Preparedness, Child Care Licensing **R430-90** Family Licensed Child Care

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40159

FILED: 01/28/2016

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed changes are mostly to clarify rules and to facilitate compliance with required training topics.

**SUMMARY OF THE RULE OR CHANGE:** The proposed changes include clarification of some terms, language required to adjust the policies and procedures, and emergency and disaster plan to the new federal Office of Child Care training requirements, and renumbering.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 3

#### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No state agencies operate licensed homes. Therefore, the Department does not anticipate any cost or savings as a result of this change.

◆ **LOCAL GOVERNMENTS:** No local governments operate licensed homes. Therefore, the Department does not anticipate any cost or savings as a result of this change.

◆ **SMALL BUSINESSES:** All licensed homes are small businesses. However, the proposed changes are mostly documentation of policies and procedures and emergency and disaster plan and training for caregivers, which is provided by Child Care Licensing at no cost. The Department does not anticipate any new costs or savings to child care small business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule will not change any of the requirements for child care programs, except required training for caregivers which is provided by Child Care Licensing at no cost, the Department does not anticipate any new costs or savings to entities or persons that are not small businesses.

#### COMPLIANCE COSTS FOR AFFECTED PERSONS:

Because this rule will not change any of the requirements for child care programs, the Department does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact to business because any required training for child care programs is provided at no cost.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
CHILD CARE LICENSING  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON  
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO  
LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R430. Health, Family Health and Preparedness, Child Care Licensing.**

**R430-90. Licensed Family Child Care.**

**R430-90-2. Definitions.**

(1) "Body fluid" means blood, urine, feces, vomit, mucus, or saliva.

(2) "Caregiver" means [a person in addition to the licensee or substitute, including an assistant caregiver,] an individual who provides direct care to children. [~~a child in care.~~]

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

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

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

(6) "Inaccessible to children" means:

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

(c) behind a properly secured child safety gate;

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

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

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

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

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

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

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

(12) "Physical abuse" means causing non-accidental physical harm to a child.

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

(14) "Provider" means the licensee [~~— a substitute, a caregiver, or an assistant caregiver~~].

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

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

(17) "School age" means children ages five through twelve.

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

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

(20) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, play pen, or bed.

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

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

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

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

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

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

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

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

(27) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

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

**R430-90-7. Personnel.**

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

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

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

(2) All assistant caregivers shall:  
 (a) be at least 16 years of age;  
 (b) work under the immediate supervision of a provider who is at least 18 years of age; and  
 (c) have knowledge of and comply with all applicable laws and rules.

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

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

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

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

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

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

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

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

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

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

(8) Any new caregiver, ~~[volunteer, or non-emergency substitute]~~ and volunteers who count in the caregiver to child ratio, shall receive at least 2.5 hours of pre-service ~~[orientation]~~ training prior to assuming caregiving duties. ~~[Orientation]~~ Pre-service training shall be documented in the individual's file and shall include the following topics:

- (a) specific job responsibilities;
- (b) the Department-approved licensee's written policies and procedures;

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

(d) the current child care licensing rules found in Sections R430-90-11 through 24;

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

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

~~[(g) procedure for releasing children to authorized individuals only;~~

~~—(h) proper clean up of body fluids;]~~

~~[(i)]~~ signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(h) recognizing the signs of homelessness and available assistance;

~~[(j) obtaining assistance in emergencies; and~~

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

(i) preventing shaken baby syndrome and abusive head trauma, and coping with crying babies; and

~~[(ii)]~~ ~~[preventing]~~ prevention of sudden infant death syndrome and use of safe sleeping practices.

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

(a) Documentation of annual training shall be kept in each individual's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.

(b) All caregivers and non-emergency substitutes who begin employment partway through the license year shall complete a proportionate number of training hours based on the number of months worked prior to the relicensure date.

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

(i) a review of all of the current child care licensing rules found in Sections R430-90-11 through 24;

(ii) a review of the Department-approved licensee's written policies and procedures and emergency and disaster plan, including any updates;

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

(iv) principles of child growth and development, including development of the brain; ~~[and]~~

(v) recognizing the signs of homelessness and available assistance;

~~[(v)]~~ positive guidance; ~~[and~~

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

(i) preventing shaken baby syndrome and abusive head trauma, and coping with crying babies; and

(ii) ~~[preventing]~~ prevention of sudden infant death syndrome and use of safe sleeping practices.

**R430-90-8. Administration.**

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

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

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

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

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

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

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

(8) The provider shall report to the Child Care Licensing Program within the next Department business day any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless that medical service was part of the child's medical treatment plan identified by the parent. The provider shall also submit a written report to Child Care Licensing within five working days of the incident.

~~](9) The licensee shall establish, and shall ensure that all providers follow, written policies and procedures for the health and safety of each child in care. The written policies and procedures shall address at least the following areas:~~

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

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

~~\_\_\_\_\_ (c) the licensee's policy and practices regarding sick children, and whether they are allowed to be in care;~~

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

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

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

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

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

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

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

~~\_\_\_\_\_ ](9) The licensee shall establish, and shall ensure that all caregivers follow, written policies and procedures for the health and safety of each child in care. The licensee shall submit to the Department these policies and procedures for approval on a form provided by Child Care Licensing.~~

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

(11) The licensee shall train and supervise all caregivers and substitutes to:

(a) ensure their compliance with this rule;

(b) ensure they meet the needs of the children in care as specified in this rule; and

(c) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

#### **R430-90-9. Records.**

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

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

(b) current animal vaccination records as required in R430-90-22(2)(b);

(c) a six week record of child attendance as required in R430-90-13(3);

(d) a current local health department kitchen inspection;

(e) an initial local fire department clearance for all areas of the home being used for care; ~~and]~~

(f) copy of the current background screening card issued by the Department for all providers, volunteers, and each person age 12 and older who resides in the licensee's home;

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

(a) an admission form containing the following information for each child:

(i) name;

(ii) date of birth;

(iii) the parent's name, address, and phone number, including a daytime phone number;

(iv) the names of people authorized by the parent to pick up the child;

(v) the name, address and phone number of a person to be contacted in the event of an emergency if a provider is unable to contact the parent;

(vi) child health information, as required in R430-90-14(7); and

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

(b) current immunization records or documentation of a legally valid exemption, as specified in R430-90-14(5) and (6);

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

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

(e) a six week record of incident, accident, and injury reports.

(3) The licensee shall maintain on-site for review by the Department during any inspection the following records for the licensee and each non-emergency substitute and caregiver:

(a) ~~orientation]~~pre-service training documentation for all non-emergency substitutes and caregivers as required in R430-90-7(8);

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

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

(4) The licensee shall maintain on-site for review by the Department during any inspection ~~orientation]~~pre-service training documentation for each volunteer as required in R430-90-7(8).

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

**R430-90-10. Emergency Preparedness.**

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

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

(3) The licensee shall maintain first-aid supplies in the home, including at least antiseptic, band-aids, and tweezers.

~~[(4) The licensee shall have a written emergency and disaster plan which shall include at least the following:~~

~~\_\_\_\_\_ (a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;~~

~~\_\_\_\_\_ (b) procedures for responding to fire, earthquake, flood, power failure, and water failure;~~

~~\_\_\_\_\_ (c) the location of and procedure for emergency shut off of gas, electricity, and water;~~

~~\_\_\_\_\_ (d) procedures to be followed if a child is missing;~~

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

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

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

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

[(4) The licensee shall submit to the Department a written emergency preparedness and disaster response plan for approval on a form provided by Child Care Licensing.

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

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

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

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

(9) A provider shall document all fire drills, including:

- (a) the date and time of the drill;
- (b) the number of children participating;
- (c) the total time to complete the evacuation; and
- (d) any problems encountered.

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

(11) A provider shall document all disaster drills, including:

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

(b) the date and time of the drill;

(c) the number of children participating;

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

(e) any problems encountered.

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

**R430-90-20. Activities.**

(1) The licensee shall develop a daily activity plan that offers activities to support each child's healthy physical, social-emotional, and cognitive-language development. The plan shall include a daily opportunity for outdoor play, weather permitting.

(2) The licensee shall ensure that the toys and equipment needed to carry out the activity plan are accessible to children.

(3) If off-site activities are offered:

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

(b) a provider who meets all of the caregiver requirements of this rule shall accompany the children and shall take a copy of each child's admission form as specified in Subsection R430-90-9(2)(a).

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

(d) at least one provider present shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification. Equivalent CPR certification must include hands-on testing. And

(e) a provider shall ensure that there is a way for each provider, volunteer, and child to wash his or her hands as specified in R430-90-16(1) and (2). If there is no source of running water, providers, volunteers, and children may clean their hands with individual disposable wet wipes and hand sanitizer.

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

**KEY: child care facilities, licensed family child care**

**Date of Enactment or Last Substantive Amendment: [2015]2016**

**Notice of Continuation: May 29, 2013**

**Authorizing, and Implemented or Interpreted Law: 26-39**

**Insurance, Administration  
R590-167-11  
Actuarial Certification and Additional  
Filing Requirements**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 40182

FILED: 02/01/2016

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The change is being made to avoid conflicts with Sections 31A-30-106, 31A-30-106.1, and 31A-30-105, as well as "Actuarial Standard of Practice 26".

**SUMMARY OF THE RULE OR CHANGE:** The changes being made to the rule require that a carrier's actuarial certification only applies to grandfathered plans, require only identification of the carrier's classes rather than a description for rate manual filings, and eliminate the index premium rate requirement.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 31A-2-201(3)(a) and Subsection 31A-30-106(1)(k) and Subsection 31A-30-106.1(10)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The changes being made to the rule bring it into alignment with current industry practices.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The changes being made to the rule bring it into alignment with current industry practices.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. The changes being made to the rule bring it into alignment with current industry practices.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to any other persons. The changes being made to the rule bring it into alignment with current industry practices.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no compliance costs for any affected persons. The changes being made bring the rule into alignment with current industry practices.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule change will result in no fiscal impact to any businesses. Insurers are already acting according to the new criteria as a matter of course. The Department is amending the rule so it aligns with current industry practices.

**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:**

- ◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [sgooch@utah.gov](mailto:sgooch@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016**

**THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016**

**AUTHORIZED BY:** Steve Gooch, Information Specialist

**R590. Insurance, Administration.**

**R590-167. Individual, Small Employer, and Group Health Benefit Plan Rule.**

**R590-167-11. Actuarial Certification and Additional Filing Requirements.**

(1) Actuarial Certification.

(a) An actuarial certification shall be filed annually and meet the requirements of Subsections 31A-30-106(4)(b) or 31A-30-106.1(9)(b), or both, as applicable, and the following:

(i) the actuarial certification shall be a written statement that meets the requirements of Title 31A Chapter 30, R590-167, and the applicable standards of practice as promulgated by the Actuarial Standards Board;

(ii) the actuary must state that he or she meets the qualifications of Subsection 31A-30-103(1);

(iii) the actuarial certification shall:

(A) contain the following statement: "I, (name), certify that (name of covered carrier) is in compliance with the provisions of Title 31A Chapter 30, and R590-167, based upon the examination of (name of covered carrier), including review of the appropriate records and of the actuarial assumptions and methods utilized by (name of covered carrier) in establishing premium rates for applicable health benefit plans;"

(B) list and describe each written demonstration used by the actuary to establish compliance with Title 31A Chapter 30 and R590-167; and

(C) include a list of all affiliated insurers, define each class of business which includes the commissioner's approval date if more than one class of business exists, and the SERFF filing number for each applicable rate manual filing.

(b) The actuarial certification shall be filed no later than April 1 of each year.

(c) The actuarial certification required by Subsections 31A-30-106(4)(b) and 31A-30-106.1(13)(b) and this subsection, applies only to an individual or small employer health benefit plan issued prior to March 23, 2010, and has maintained grandfathered status.

(2) Rating Manual.

(a) For every health benefit plan subject to the Act and this rule, the carrier shall file with the commissioner a copy of the applicable rating manual, for both new business and renewal rates, which includes:

(i) signed certification by an actuary that to the best of the actuary's knowledge and judgment the rate filing is in compliance with the applicable laws and rules of the State of Utah;

(ii) a complete and detailed description of how the final premium, including any fees, is calculated from the rating manual;

(iii) all changes and updates, which includes a complete and detailed description of how the final premium, including any fees, is calculated from the rating manual;

(iv) ~~a description~~ an identification of the carrier's classes of business as described in Subsection R590-167-4(1);

(v) all information required by 45 CFR 154.215(b)(1);

(vi) for a rate increase subject to review as required by 45 CFR 154.200(a)(1), all information required by 45 CFR 154.215(b)(2); and



(vii) all information required by the Utah Accident and Health Comprehensive Health Insurance Rate Filing Checklist.

- (b) The rate manual shall be filed:
  - (i) with an initial product filing; or
  - (ii) within 30 days prior to use for an existing health benefit plan.

~~[(3) Index Premium Rates:~~

~~(a) A small employer carrier shall file annually the index premium rate information required by Subsection 31A-29-117(2). The report shall include:~~

~~(i) the small employer index premium rate as of January 1 of the previous year;~~

~~(ii) the small employer index premium rate as of January 1 of the current year; and~~

~~(iii) the average percentage change in the index premium rate as of January 1 of the current and preceding year.~~

~~(b) The information described in Subsection R590-167-11(3)(a) shall be filed no later than February 1 of each year.]~~

**KEY: health insurance**

**Date of Enactment or Last Substantive Amendment: [~~October 16, 2012~~]2016**

**Notice of Continuation: August 20, 2014**

**Authorizing, Implemented, or Interpreted Law: 31A-30-106; 31A-30-106.1**

**Insurance, Administration**  
**R590-220-16**  
**Classification of Documents**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 40155

FILED: 01/28/2016

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The change is being made to clarify language and bring the section into line with similar sections in Rules R590-226, R590-227, and R590-228. (DAR NOTE: The proposed amendment to Rule R590-226 is under DAR No. 40156, the proposed amendment to Rule R590-227 is under DAR No. 40157, and the proposed amendment to Section R590-228-9 is under DAR No. 40158 in this issue, February 15, 2016, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The change makes grammatical and clarifying changes to language in the rule that relates to classifying certain documents as protected during the filing process.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-201.1 and Section 31A-22-1404 and Subsection 31A-2-201(3) and Subsection 31A-2-202(2) and Subsection 31A-2-212(5) and Subsection 31A-22-605(4) and Subsection 31A-22-620(3)(f) and Subsection 31A-30-

106(1) and Subsection 31A-30-106(4) and Subsection 31A-30-106.1(13) and Subsection 31A-30-106.1(14)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to state budget. The change merely makes grammatical and clarifying changes to bring the section into line with similar sections in Title R590. There are no new requirements.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The change merely makes grammatical and clarifying changes to bring the section into line with similar sections in Title R590. There are no new requirements.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. The change merely makes grammatical and clarifying changes to bring the section into line with similar sections in Title R590. There are no new requirements.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to any other persons. The change merely makes grammatical and clarifying changes to bring the section into line with similar sections in Title R590. There are no new requirements.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for any affected persons. The changes are clarifying and grammatical and make no new requirements.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This change will have no fiscal impact on businesses. The department is making this change to clarify the rule and to bring it into line with similar rules in Title R590.

**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:**

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [sgooch@utah.gov](mailto:sgooch@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016**

**THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016**

**AUTHORIZED BY: Steve Gooch, Information Specialist**

**R590. Insurance, Administration.****R590-220. Submission of Accident and Health Insurance Filings.****R590-220-16. Classification of Documents.**

(1) Except as provided in R590-167-12, the commissioner shall maintain as a protected record the records submitted under Sections 31A-30-106 and 31A-30-106.1.

(2) In accordance with Section 63G-2-305, the only information the commissioner may classify as protected is:

(a) information deemed to be a trade secret. Trade secret means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or

(b) commercial information and non-individual financial information obtained from a person if:

(i) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the commissioner to obtain necessary information in the future[-]; and

(ii) the person submitting the information has a greater interest in prohibiting access than the public has in obtaining access.

(3) The person submitting the information under Subsection (2)(a) or (b) and claiming that such is or should be protected shall provide the commissioner with the information in Subsection 63G-2-309(1)(a)(i).

(a) The filer shall request [~~which~~]protected classification for the specific document the filer believes qualifies under Subsections 63G-2-305(1) or (2) when the filing is submitted; and

(b) the request shall include a written statement of reasons supporting the request that the information should be classified as protected.

(4) Once the filing has been received, the commissioner will review the documents the filer has requested to be classified as protected to determine if the request meets the requirements of Subsections 63G-2-305(1) or (2).

(a) If all the information in the document meets the requirements for being classified as protected and the required statement is included, the document will be classified as protected and the information will not be available to the public.

(b) If all the information in the document does not meet the requirements for being classified as protected, the commissioner will notify the filer of the denial, the reasons for the denial, and the filer's right to appeal the denial. The filer has 30 days to appeal the denial as allowed by Section 63G-2-401.

(c)(i) Despite the denial of [~~classifying the information as~~]protected classification, the commissioner shall treat the information as if it had been classified as protected until:

(A) the 30 day time limit for an appeal to the commissioner has expired; or

(B) the filer has exhausted all appeals available under Title 63G, Chapter 2, Part 4 and the document has been found to be a public document.

(ii) During the 30 day time limit to appeal or during the appeal process, the filer may withdraw:

(A) the filing; or

(B) the request for [~~designation as~~]protected classification.

(d) If the filer combines, in a document, information it wishes to be classified as protected with information that is public, the document will be classified as public.

**KEY: health insurance filings**

**Date of Enactment or Last Substantive Amendment:** [~~September 23, 2015~~]2016

**Notice of Continuation:** February 24, 2014

**Authorizing, Implemented, or Interpreted Law:** 31A-2-201; 31A-2-201.1; 31A-2-202; 31A-22-605; 31A-22-620; 31A-30-106

## Insurance, Administration R590-226 Submission of Life Insurance Filings

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 40156  
FILED: 01/28/2016

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for the rule change is to remove an outdated section (R590-226-13) and to clarify language to bring another section (R590-226-11) into line with similar sections in Rules R590-220, R590-227, and R590-228. (DAR NOTE: The proposed amendment to Section R590-22-16 is under DAR No. 40155, the proposed amendment to Rule R590-227 is under DAR No. 40157, and the proposed amendment to Section R590-228-9 is under DAR No. 40158 in this issue, February 15, 2016, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** The change removes Section R590-226-13, "Correspondence and Status Checks", which has been determined to be outdated. It also makes grammatical and clarifying changes to Section R590-226-11, "Classification of Documents", which relates to procedures for classifying certain documents as protected during the filing process.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-2-201.1 and Subsection 31A-2-201(3) and Subsection 31A-2-202(2)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to state budget. The change merely removes an outdated section and makes grammatical and clarifying changes to bring the section into line with similar sections in Title R590. There are no new requirements.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The change merely removes an outdated section and makes grammatical and clarifying changes to bring the section into line with similar sections in Title R590. There are no new requirements.

♦ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. The change merely removes an outdated section and makes grammatical and clarifying changes to bring the section into line with similar sections in Title R590. There are no new requirements.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to any other persons. The change merely removes an outdated section and makes grammatical and clarifying changes to bring the section into line with similar sections in Title R590. There are no new requirements.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for any affected persons. The changes are clarifying and grammatical and make no new requirements.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The change will have no fiscal impact on businesses. The department is making this change to clarify the rule and bring it into line with similar rules in Title R590.

**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:**

♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [sgooch@utah.gov](mailto:sgooch@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016**

**THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016**

**AUTHORIZED BY: Steve Gooch, Information Specialist**

**R590. Insurance, Administration.**

**R590-226. Submission of Life Insurance Filings.**

**R590-226-11. Classification of Documents.**

(1) In accordance with Section 63G-2-305, the only information the commissioner may classify as protected is:

(a) information deemed to be a trade secret. Trade secret means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or

(b) commercial information and non-individual financial information obtained from a person if:

(i) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the commissioner to obtain necessary information in the future[-]; and

(ii) the person submitting the information has a greater interest in prohibiting access than the public has in obtaining access.

(2) The person submitting the information under Subsection (1)(a) or (b) and claiming that such is or should be protected shall provide the commissioner with the information in Subsection 63G-2-309(1)(a)(i).

(a) The filer shall request [~~which~~] protected classification for the specific document the filer believes qualifies under Subsections 63G-2-305(1) or (2) when the filing is submitted; and

(b) the request shall include a written statement of reasons supporting the request that the information should be classified as protected.

(3) Once the filing has been received, the commissioner will review the documents the filer has requested to be classified as protected to determine if the request meets the requirements of Subsections 63G-2-305(1) or (2).

(a) If all the information in the document meets the requirements for being classified as protected and the required statement is included, the document will be classified as protected and the information will not be available to the public.

(b) If all the information in the document does not meet the requirements for being classified as protected, the commissioner will notify the filer of the denial, the reasons for the denial, and the filer's right to appeal the denial. The filer has 30 days to appeal the denial as allowed by Section 63G-2-401.

(c)(i) Despite the denial of [~~classifying the information as~~] protected classification, the commissioner shall treat the information as if it had been classified as protected until:

(A) the 30 day time limit for an appeal to the commissioner has expired; or

(B) the filer has exhausted all appeals available under Title 63G, Chapter 2, Part 4 and the document has been found to be a public document.

(ii) During the 30 day time limit to appeal or during the appeal process, the filer may withdraw:

(A) the filing; or

(B) the request for [~~designation as~~] protected classification.

(d) If the filer combines, in a document, information it wishes to be classified as protected with information that is public, the document will be classified as public.

**R590-226-12. Insurer Annual Reports.**

All licensee annual reports must be properly identified and must be filed separately from other filings. Each annual report must be submitted when requested.

**R590-226-13. [~~Correspondence and Status Checks.~~**

~~(1) Correspondence. When corresponding with the department, provide sufficient information to identify the original filing:~~

~~(a) type of insurance;~~

- ~~\_\_\_\_\_ (b) date of filing;~~  
~~\_\_\_\_\_ (c) form numbers;~~  
~~\_\_\_\_\_ (d) Submission method, SERFF, or email; and~~  
~~\_\_\_\_\_ (e) SERFF tracking number.~~  
~~\_\_\_\_\_ (2) Status Checks.~~  
~~\_\_\_\_\_ (a) A complete filing is usually processed within 45 days of receipt.~~  
~~\_\_\_\_\_ (b) A filer can request the status of its filing 60 days after the date of submission. A response will not be provided to a status request prior to 60 days.~~

**R590-226-14. Responses.**

- (1) Response to a Filing Objection Letter. When responding to a Filing Objection Letter a filer must:
- provide an explanation identifying all changes made;
  - include an underline and strikeout version for each revised document;
  - include a final version of revised documents that incorporates all changes; and
  - for filing submitted in SERFF, attach the documents in Subsections R590-226-13(1)(b) and (c) to appropriate Form Schedule or Rate/Rule Schedule tab.
- (2) Response to an Order to Prohibit Use.
- An Order to Prohibit Use becomes final 15 days after the date of the order.
  - Use of the filing must be discontinued no later than the date specified in the order.
  - To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the order.
  - A new filing is required if the licensee chooses to make the requested changes addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.

**R590-226-1[5]4. Penalties.**

Persons found, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R590-226-1[6]5. Enforcement Date.**

The commissioner will begin enforcing the revised provisions of this rule 15 days from the effective date of this rule.

**R590-226-1[7]6. Severability.**

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

**KEY: life insurance filings**

**Date of Enactment or Last Substantive Amendment:** [~~October 16, 2013~~]**2016**

**Notice of Continuation:** **March 18, 2014**

**Authorizing, Implemented, or Interpreted Law:** **31A-2-201; 31A-2-201.1; 31A-2-202**

**Insurance, Administration**  
**R590-227**  
**Submission of Annuity Filings**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 40157

FILED: 01/28/2016

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for the rule change is to remove an outdated section (R590-227-11) and to clarify language to bring another section (R590-227-10) into line with similar sections in Rules R590-220, R590-226, and R590-228. (DAR NOTE: The proposed amendment to Section R590-22-16 is under DAR No. 40155, the proposed amendment to Rule R590-226 is under DAR No. 40156, and the proposed amendment to Section R590-228-9 is under DAR No. 40158 in this issue, February 15, 2016, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** The change removes Section R590-227-11, "Correspondence and Status Checks", which has been determined to be outdated. It also makes grammatical and clarifying changes to Section R590-227-10, "Classification of Documents", which relates to procedures for classifying certain documents as protected during the filing process.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-2-201.1 and Subsection 31A-2-201(3) and Subsection 31A-2-202(2)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to state budget. The change merely removes an outdated section and makes grammatical and clarifying changes to bring the section into line with similar sections in Title R590. There are no new requirements.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The change merely removes an outdated section and makes grammatical and clarifying changes to bring the section into line with similar sections in Title R590. There are no new requirements.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. The change merely removes an outdated section and makes grammatical and clarifying changes to bring the section into line with similar sections in Title R590. There are no new requirements.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to any other persons. The change merely removes an outdated section and makes grammatical and clarifying changes to bring the section into line with similar sections in Title R590. There are no new requirements.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for any affected persons. The changes are clarifying and grammatical and make no new requirements.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This change will have no fiscal impact on businesses. The department is making this change to clarify the rule and bring it into line with similar rules in Title R590.

**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:**

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [sgooch@utah.gov](mailto:sgooch@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016**

**THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016**

**AUTHORIZED BY: Steve Gooch, Information Specialist**

**R590. Insurance, Administration.**

**R590-227. Submission of Annuity Filings.**

**R590-227-10. Classification of Documents.**

(1) In accordance with Section 63G-2-305, the only information the commissioner may classify as protected is:

(a) information deemed to be a trade secret. Trade secret means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or

(b) commercial information and non-individual financial information obtained from a person if:

(i) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the commissioner to obtain necessary information in the future[-]; and

(ii) the person submitting the information has a greater interest in prohibiting access than the public has in obtaining access.

(2) The person submitting the information under Subsection (1)(a) or (b) and claiming that such is or should be protected shall provide the commissioner with the information in Subsection 63G-2-309(1)(a)(i).

(a) The filer shall request [~~which~~] protected classification for the specific document the filer believes qualifies under Subsections 63G-2-305(1) or (2) when the filing is submitted; and

(b) the request shall include a written statement of reasons supporting the request that the information should be classified as protected.

(3) Once the filing has been received, the commissioner will review the documents the filer has requested to be classified as protected to determine if the request meets the requirements of Subsections 63G-2-305(1) or (2).

(a) If all the information in the document meets the requirements for being classified as protected and the required statement is included, the document will be classified as protected and the information will not be available to the public.

(b) If all the information in the document does not meet the requirements for being classified as protected, the commissioner will notify the filer of the denial, the reasons for the denial, and the filer's right to appeal the denial. The filer has 30 days to appeal the denial as allowed by Section 63G-2-401.

(c)(i) Despite the denial of [~~classifying the information as~~] protected classification, the commissioner shall treat the information as if it had been classified as protected until:

(A) the 30 day time limit for an appeal to the commissioner has expired; or

(B) the filer has exhausted all appeals available under Title 63G, Chapter 2, Part 4 and the document has been found to be a public document.

(ii) During the 30 day time limit to appeal or during the appeal process, the filer may withdraw:

(A) the filing; or

(B) the request for [~~designation as~~] protected classification.

(d) If the filer combines, in a document, information it wishes to be classified as protected with information that is public, the document will be classified as public.

**R590-227-11. [~~Correspondence and Status Checks.~~**

~~(1) Correspondence. When corresponding with the department, provide sufficient information to identify the original filing:~~

~~(a) type of insurance;~~

~~(b) date of filing;~~

~~(c) form numbers; and~~

~~(d) SERFF tracking number~~

~~(2) Status Checks:~~

~~(a) A complete filing is usually processed within 45 days of receipt.~~

~~(b) A filer can request the status of its filing 60 days after the date of submission. A response will not be provided to a status request prior to 60 days.~~

**R590-227-12. [~~Responses.~~**

(1) Response to a Filing Objection Letter. When responding to a Filing Objection Letter a filer must:

(a) provide an explanation identifying all changes made;

(b) include an underline and strikeout version for each revised document;

(c) a final version of revised documents that incorporate all changes; and

(d) for filing submitted in SERFF, attached the documents in Subsections R590-227-11(1)(b)(c) to appropriate Form Schedule or Rate/Rule Schedule tab.

(2) Response to an Order to Prohibit Use.

(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.

(b) Use of the filing must be discontinued no later than the date specified in the Order.

(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.

(d) A new filing is required if the licensee chooses to make the requested changes addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.

**R590-227-1[3]2. Penalties.**

Persons found, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R590-227-1[4]3. Enforcement Date.**

The commissioner will begin enforcing the revised provisions of this rule 15 days from the effective date of this rule.

**R590-227-1[5]4. Severability.**

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

**KEY: annuity insurance filings**

**Date of Enactment or Last Substantive Amendment:** [~~April 9, 2014~~]**2016**

**Notice of Continuation:** March 18, 2014

**Authorizing, Implemented, or Interpreted Law:** 31A-2-201; 31A-2-201.1; 31A-2-202

**Insurance, Administration**  
**R590-228-9**  
**Correspondence and Status Checks**

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 40158

FILED: 01/28/2016

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose for the change is to remove an outdated section governing correspondence and add a new section regarding protected documents.

**SUMMARY OF THE RULE OR CHANGE:** The change removes the current section, "Correspondence and Status Checks", which has been determined to be outdated. In its place, the rule substitutes a new section, "Classification of

Documents". This new section sets forth what information can be classified as protected under Section 63G-2-305 (GRAMA) and delineates the process for requesting protected status for certain documents.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-2-201.1 and Section 31A-22-807 and Subsection 31A-2-201(3) and Subsection 31A-2-202(2)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to state budget. The Insurance Department has processes in place to review requests for protected status. The addition of the new section to this rule merely codifies the procedure.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The rule governs how companies that submit credit life or credit accident and health forms and rate filings can have certain information classified as protected.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. The rule governs how companies that submit credit life or credit accident and health forms and rate filings can have certain information classified as protected.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to any other persons. The rule governs how companies that submit credit life or credit accident and health forms and rate filings can have certain information classified as protected. Companies already file requests for protected status as a matter of course; this rule merely codifies the procedure.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. There are no costs associated with this rule amendment.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The Utah Insurance Department complies and has complied with the law as set forth in Section 63G-2-305. The substitution in this rule merely codifies the department's procedures with respect to classifying records as protected. There will be no fiscal impact because procedures are already in place and in use.

**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:**

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [sgooch@utah.gov](mailto:sgooch@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016

AUTHORIZED BY: Steve Gooch, Information Specialist

**R590. Insurance, Administration.**

**R590-228. Submission of Credit Life and Credit Accident and Health Insurance Form and Rate Filings.**

**R590-228-9. ~~Correspondence and Status Checks.~~**

~~(1) Correspondence. When corresponding with the department, provide sufficient information to identify the original filing:~~

- ~~(a) type of insurance;~~
- ~~(b) date of filing;~~
- ~~(c) form numbers; and~~
- ~~(d) SERFF tracking number.~~

~~(2) Status Checks:~~

~~(a) A complete filing is usually processed within 45 days of receipt.~~

~~(b) A filer can request the status of its filing 60 days after the date of submission. A response will not be provided to a status request prior to 60 days.]~~**Classification of Documents.**

~~(1) In accordance with Section 63G-2-305, the only information the commissioner may classify as protected is:~~

~~(a) information deemed to be a trade secret. Trade secret means information, including a formula, pattern, compilation, program, device, method, technique, or process that:~~

~~(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and~~

~~(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or~~

~~(b) commercial information and non-individual financial information obtained from a person if:~~

~~(i) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the commissioner to obtain necessary information in the future; and~~

~~(ii) the person submitting the information has a greater interest in prohibiting access than the public has in obtaining access.~~

~~(2) The person submitting the information under Subsection (1)(a) or (b) and claiming that such is or should be protected shall provide the commissioner with the information in Subsection 63G-2-309(1)(a)(i).~~

~~(a) The filer shall request protected classification for the specific document the filer believes qualifies under Subsections 63G-2-305(1) or (2) when the filing is submitted; and~~

~~(b) the request shall include a written statement of reasons supporting the request that the information should be classified as protected.~~

~~(3) Once the filing has been received, the commissioner will review the documents the filer has requested to be classified as protected to determine if the request meets the requirements of Subsections 63G-2-305(1) or (2).~~

~~(a) If all the information in the document meets the requirements for being classified as protected and the required statement is included, the document will be classified as protected and the information will not be available to the public.~~

~~(b) If all the information in the document does not meet the requirements for being classified as protected, the commissioner will notify the filer of the denial, the reasons for the denial, and the filer's right to appeal the denial. The filer has 30 days to appeal the denial as allowed by Section 63G-2-401.~~

~~(c)(i) Despite the denial of protected classification, the commissioner shall treat the information as if it had been classified as protected until:~~

~~(A) the 30 day time limit for an appeal to the commissioner has expired; or~~

~~(B) the filer has exhausted all appeals available under Title 63G, Chapter 2, Part 4 and the document has been found to be a public document.~~

~~(ii) During the 30 day time limit to appeal or during the appeal process, the filer may withdraw:~~

~~(A) the filing; or~~

~~(B) the request for protected classification.~~

~~(d) If the filer combines, in a document, information it wishes to be classified as protected with information that is public, the document will be classified as public.~~

**KEY: credit insurance filings**

**Date of Enactment or Last Substantive Amendment: ~~November 19, 2009~~2016**

**Notice of Continuation: March 18, 2014**

**Authorizing, Implemented, or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202**

**Insurance, Title and Escrow  
Commission  
R592-11**

**Title Insurance Producer Annual and  
Controlled Business Reports**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 40183

FILED: 02/01/2016

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for the change is to update the method that title insurance producers must use to submit annual reports.

**SUMMARY OF THE RULE OR CHANGE:** The change removes the email address that was formerly the submission point for annual reports and adds a secure file upload address that shall be used going forward. It also sets forth that annual reports shall be submitted as a PDF and with information in a particular order.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-23a-413 and Subsection 31A-2-404(2)(a) and Subsection 31A-23a-406(1)(g) and Subsection 31A-23a-503(8)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: While the changes require that annual reports be uploaded to a secure server, it is a server the department is already using for a similar function with other divisions. Any ongoing costs will be minor and will be spread across many divisions. The Department of Technology Services owns the server, so any costs incurred by the state will be paid to the state.
- ◆ LOCAL GOVERNMENTS: There are no ongoing costs or savings to local government. The rule change governs how title insurance producers file annual reports with the state.
- ◆ SMALL BUSINESSES: There are no ongoing costs or savings to small businesses. Title insurance producers already file annual reports with the state; this change merely has them file the report in a new location.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no ongoing costs or savings to any other persons. The rule change governs how title insurance producers file annual reports with the state.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The change requires that title insurance producers file their annual reports by using a new method, but there are no associated costs for using said method.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact for businesses to comply with the changes in this rule. The Insurance Department is requiring title insurance producers to securely upload their annual reports because it is a more secure method for all involved parties.

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

INSURANCE  
TITLE AND ESCROW COMMISSION  
ROOM 3110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY, UT 84114-1201  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [sgooch@utah.gov](mailto:sgooch@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016

AUTHORIZED BY: Steve Gooch, Information Specialist

**R592. Insurance, Title and Escrow Commission.**

**R592-11. Title Insurance Producer Annual and Controlled Business Reports.**

**R592-11-1. Authority.**

This rule is promulgated pursuant to:

- (1) Section 31A-2-404(2)(a), which requires the Title and Escrow Commission (Commission) to make rules related to title insurance;
- (2) Section 31A-23a-413, which requires the annual filing of a report containing a verified statement of the financial condition, transactions, and affairs by an agency title insurance producer and an individual title insurance producer who is not an employee of a title insurer or who has not been designated to an agency title insurance producer;
- (3) Subsection 31A-23a-503(8), which requires the annual filing of a controlled business report; and
- (4) Subsection 31A-23a-406(1)(g), which requires the maintenance of a physical address in Utah.

**R592-11-2. Purpose and Scope.**

- (1) The purpose of this rule is to establish the form and filing deadline for the Title Insurance Producer Annual Report and Controlled Business Report required by Section 31A-23a-413 and Subsection 31A-23a-503(8)(a).
- (2) This rule applies to an agency title insurance producer and an individual title insurance producer who is not an employee of a title insurer or who has not been designated to an agency title insurance producer.

**R592-11-3. Title Insurance Producer Annual Report.**

- (1) The following shall file a Title Insurance Producer Annual Report not later than April 30 of each year if they have conducted title insurance business in the State of Utah within the time period described in R592-11-3(4):
  - (a) an agency title insurance producer; and
  - (b) an individual title insurance producer who is not an employee of a title insurer or who has not been designated to an agency title insurance producer.
- (2) A Title Insurance Producer Annual Report shall consist of:
  - (a) a balance sheet and an income and expense statement prepared and presented in conformity with generally accepted accounting principles;
    - (i) title premium, including endorsement income and expenses, shall be reported separately from the escrow income and expenses;
    - (b) the name and address of each financial institution where a title or escrow trust account is maintained;
    - (c) proof of financial protection that complies with Subsection 31A-23a-204(2) shall consist of one or more of the following:
      - (i) a copy of the declarations page of a fidelity bond;
      - (ii) a copy of the declarations page of a professional liability insurance policy; or



(iii) a copy of the commissioner's approval of equivalent financial protection approved by the commissioner;

(d) the name of the individual title insurance producer designated as the "qualifying licensee," as provided in 31A-23a-204; and

(e) the physical address in Utah maintained by the agency title insurance producer or individual title insurance producer, pursuant to 31A-23a-406(1)(g).

(3) Subsection R592-11-3-(2)(c) does not apply to an attorney exempted under 31A-23a-204(8).

(4) The Title Insurance Producer Annual Report period shall be the preceding calendar year.

(5) A Title Insurance Producer Annual Report will be considered protected data if the producer submitting the report requests classification as a protected record in accordance with Sections 63G-2-305 and 63G-2-309.

#### **R592-11-4. Controlled Business Report.**

(1) The following that conduct title insurance business in the State during the time period described in R592-11-4(2)(a) shall file an annual Controlled Business Report not later than April 30 of each year:

(a) an agency title insurance producer; and

(b) an individual title insurance producer who is not an employee of a title insurer or who has not been designated to an agency title insurance producer.

(2)(a) The Controlled Business Report period shall be the preceding calendar year and shall contain the information required in Subsection 31A-23a-503(8)(a); and

(b) contain the name, address, and percentage of ownership of each owner.

(3) A Controlled Business Report is a public record upon filing.

#### **R592-11-5. Electronic Filing of Title Insurance Producer Annual Report and Controlled Business Report.**

(1) The Title Insurance Producer Annual Report and the Controlled Business Report shall be submitted together electronically ~~[via email to market.uid@utah.gov]~~ using the Department of Insurance's secure file upload site located at <https://forms.uid.utah.gov/insurance/fileUploads/>.

(a) Registration may be required.

(2) The Title Insurance Producer Annual Report and the Controlled Business Report shall be submitted not later than April 30 of each year as attachments to the Title Insurance Agency Annual Reports Transmittal Form.

(3) The following report forms, which are available on the department's website, shall be used to submit the Title Insurance Producer Annual Report and the Controlled Business Report:

(a) Title Insurance Producer Annual and Controlled Business Reports Transmittal form; and

(b) Controlled Business Report form.

(4) Actual copies of the forms may be used or may be adapted to a particular word processing system, however, if adapted, the content, size, and font ~~[and format]~~ shall be similar and shall be:

(a) converted to one portable document format or PDF prior to submission; and

(b) submitted in the order listed on the Annual Report Checklist located at <http://insurance.utah.gov/agent/title/agency-reports-information.php>.

#### **R592-11-6. Penalties.**

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

#### **R592-11-7. Enforcement Date.**

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

#### **R592-11-8. Severability.**

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

#### **KEY: title insurance**

**Date of Enactment or Last Substantive Amendment:** ~~[November 2, 2015]~~ **2016**

**Notice of Continuation:** June 15, 2011

**Authorizing, and Implemented or Interpreted Law:** 31A-2-404(2)(a); 31A-23a-406(1)(g); 31A-23a-413; 31A-23a-503(8)

## Natural Resources, Water Rights **R655-10-5A** Hazard Classification -- Criteria

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40169

FILED: 01/29/2016

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The current rule requires clarification and an update to current industry practice.

**SUMMARY OF THE RULE OR CHANGE:** Section R655-10-5A is clarified and updated to current industry practice.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 73, Chapter 5a

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** No cost involved--Clarification of processing does not require a dollar figure.

◆ **LOCAL GOVERNMENTS:** No cost involved--Clarification of processing does not require a dollar figure.

◆ **SMALL BUSINESSES:** No cost involved--Clarification of processing does not require a dollar figure.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No cost involved--Clarification of processing does not require a dollar figure.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No cost involved--Clarification of processing does not require a dollar figure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact--Clarification of processing does not require a dollar figure.

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

NATURAL RESOURCES  
WATER RIGHTS  
ROOM 220  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2016

AUTHORIZED BY: Michael Styler, Executive Director

#### **R655. Natural Resources, Water Rights.**

##### **R655-10. Dam Safety Classifications, Approval Procedures and Independent Reviews.**

##### **R655-10-5A. Hazard Classification -- Criteria.**

The hazard classification analysis should include a determination of the threat to human life and property damage in the event of the failure of a dam. In some cases the classification can be assigned by observance of the downstream development in relationship to the location of the dam. In other cases it will be necessary to prepare inundation maps to determine the downstream consequences of failure. When using maps for hazard classification determination, the inundation boundary, as well as the depth and velocity of flow, will be considered. In preparing the inundation maps, the following criteria relative to the dam should be used.

1. No concurrent flooding conditions exist.
2. The reservoir level is at the [emergency]-spillway crest.
3. The low level outlet is discharging at capacity.
4. The breach times and geometric parameters used to simulate the dam failure should be acceptable to the State Engineer and consistent with accepted practices.

5. The inundation study should be carried downstream to a point that the breach flows are contained within the banks of the natural channel or a downstream reservoir.

**KEY: dam safety, dams, reservoirs**

**Date of Enactment or Last Substantive Amendment: [~~October 24, 2012~~2016]**

**Notice of Continuation: April 14, 2011**

**Authorizing, Implemented, or Interpreted Law: 73-5a**

## Natural Resources, Water Rights **R655-11** Requirements for the Design, Construction and Abandonment of Dams

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40175

FILED: 01/30/2016

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The current rule requires clarification and an update to current industry practice.

**SUMMARY OF THE RULE OR CHANGE:** Section R655-11-4A is updated to current industry practice. Section R655-11-4B is clarified and updated to current industry practice. Section R655-11-5A is clarified and updated to current industry practice. Section R655-11-6A is clarified and updated to current industry practice. Section R655-11-6D is clarified and updated to current industry practice. Section R655-11-7C is clarified and updated to current industry practice.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 73, Chapter 5a

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ THE STATE BUDGET: No cost involved--Clarification of processing does not require a dollar figure.
- ◆ LOCAL GOVERNMENTS: No cost involved--Clarification of processing does not require a dollar figure.
- ◆ SMALL BUSINESSES: No cost involved--Clarification of processing does not require a dollar figure.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No cost involved--Clarification of processing does not require a dollar figure.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No cost involved--Clarification of processing does not require a dollar figure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact--Clarification of processing does not require a dollar figure.

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

NATURAL RESOURCES  
WATER RIGHTS  
ROOM 220  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2016

AUTHORIZED BY: Michael Styler, Executive Director

#### **R655. Natural Resources, Water Rights.**

##### **R655-11. Requirements for the Design, Construction and Abandonment of Dams.**

##### **R655-11-4A. Inflow Design Hydrograph Determination.**

A) In Utah, the IDF for all High and Moderate Hazard Dams will be the more critical SEF. It will be necessary to calculate both the 72 hour general SEF using HMR49~~[f]~~ with USUL as well as the 6 hour local SEF using HMR49~~[f]~~ with USUS. These precipitation values need not exceed values calculated using HMR49 exclusively. Both of these hydrographs must be routed through the reservoir to determine which one represents the most extreme event.

B) Once the critical SEF has been determined, it must be compared to a flood generated by the 100 year, 6 hour (for local storms), or 100 yr, 24 hour (for general storms) precipitation applied on a saturated watershed. If the routed 100 year event, including appropriate allowances for freeboard, is more critical than the SEF it must be used as the minimum IDF. This 100 year flood should also be used as the IDF for all Low Hazard Dams.

##### **R655-11-4B. Freeboard Requirements.**

All high and moderate hazard dams must have a normal freeboard above the crest of the principal spillway capable of 1) routing the IDF, 2) containing the maximum wave action, 3) containing the combined precipitation and wind event detailed in this paragraph and 4) the normal freeboard will be no less than three feet. Wave action will be determined considering site wind-duration and fetch control characteristics. Wave action includes wave height, ~~[and]~~ maximum runup, and [as well as] reservoir setup against the embankment slope. Unless otherwise justified by specific data acceptable to the State Engineer, ~~[an extreme]~~ the maximum wave action will be based on a wind velocity (fastest mile) over land of

100 miles per hour ~~[should be considered]~~. In addition, while routing the 100 year precipitation event through the spillway, sufficient residual freeboard must be available to control wave action from a fetch controlled 50 miles per hour wind. ~~[In no case will the normal freeboard be less than three feet for high and moderate hazard dams.]~~ Low hazard dams must have sufficient freeboard to allow the spillway to route the applicable 100 year flood. The State Engineer may reduce the three feet minimum freeboard requirement for low hazard dams based upon a review of the relative increase in risk associated with this reduction.

##### **R655-11-5A. Geological and Seismic Study.**

A review of the seismic or earthquake history of the region will be performed to establish the relationship of the site to known faults and epicenters. This will be based primarily on review of existing maps and technical literature and should include major earthquakes during historic time, epicenter locations and magnitudes, and the location of any major or regional fault traces. Geologic conditions at or near the dam site that might indicate recent fault or seismic activity should be included. Resulting design earthquakes and associated site ground motion parameters will be selected considering all available evidence including tectonic and seismological history. The ground motion parameters to be selected for the site will consist of those that are needed by the analyses that are appropriately selected for design and may include peak accelerations, velocities, displacements, response spectra, and acceleration time histories. Both the Maximum Credible Earthquake (MCE) and the Operating Basis Earthquake (OBE) will need to be investigated for all projects. The MCE should be evaluated ~~[from the following analyses:]~~ using both deterministic and probabilistic methods.

1. A deterministic analysis from active faults in the region surrounding the dam will be performed to estimate magnitude and ground motion parameters. High and moderate hazard dams will be evaluated using ground motion parameters that are at least equal to mean plus 1 standard deviation predictions (84th percentile). At the discretion of the State Engineer, these values may be reduced to mean (50th percentile) for moderate hazard dams. Low hazard dams will be evaluated using ground motion parameters that are at least equal to mean (50th percentile) predictions. ~~[Magnitude estimates will consider]~~ Evaluation of the impacts on the dam from more than one source, including the potential for multi-segment rupture for segmented faults may be necessary.

2. A probabilistic analysis will be performed. The most recent United States Geological Survey (USGS) Interactive Deaggregation tool found on the USGS website, using a 5,000 year return interval, can be used to identify magnitude and ~~[peak-]~~ ground motion~~[s-]~~ parameters for high and moderate hazard dams. At the discretion of the State Engineer, a 2,500 year return interval can be used for moderate hazard dams. A 1,000 year return interval can be used for low hazard dams. Site specific evaluations may be performed to define ground motions for ~~[this]~~ these events if the methods used and assumptions made are acceptable to the State Engineer. Unless waived by the State Engineer, the minimum earthquake magnitude shall be 6.5. ~~[At the discretion of the State Engineer, the OBE requirement may be waived.]~~

3. The OBE will be determined by probabilistic methods acceptable to the State Engineer and may include the use of the Deaggregation tool on the USGS website with a 200 year return interval. An OBE evaluation is not necessary for a low hazard dam.

4. Regardless of the assigned hazard rating, the seismic design parameters for flood control dams may be reduced at the discretion of the State Engineer, in consideration of unique operating conditions.

**R655-11-6A. Factors of Safety.**

A. All dams should meet the following criteria for factors of safety under normal loading conditions.

TABLE

Condition	Minimum Factor of Safety
End of Construction Case--upstream and downstream slopes	1.3
Steady State Seepage--upstream and downstream slopes (full pool)	1.5
Instantaneous Drawdown--upstream slope	1.2
OR	
Actual Drawdown--upstream slope	1.5

B. All factors of safety should be generated by methodology acceptable to the State Engineer. In undertaking the analysis, the effects of anisotropy should be considered and a ratio of horizontal to vertical permeability of at least nine should be used in the seepage analysis, unless otherwise justified to the satisfaction of the State Engineer. Ratios of up to 100 should be considered if the material types and construction techniques will cause excessive stratification.

C. The strengths used in the stability analysis should be obtained from tests which best model the situation being analyzed.

D. The analysis of the upstream slope stability for actual drawdown should consider drawdown rates which the low level outlets are capable of generating. Actual residual pore pressures should be used.

E. For low hazard dams the State Engineer may waive the requirements of a stability analysis, including a seismic analysis, if it can be demonstrated that conservative slopes and competent materials are used in the dam, and seismic problems (i.e., liquefiable materials, active faults close to the dam) are not present.

~~F. Stability evaluations where residual strengths are used must have a minimum factor of safety of 1.3.~~

**R655-11-6D. Internal Erosion Control.**

A. All dams should have design provisions for controlling internal erosion. In zoned dams all adjacent zones must meet filter criteria with the abutting zones and foundation soils. If filter criteria cannot be met, a transition zone must be provided.

B. All filter and drainage zones in a dam must meet criteria acceptable to the State Engineer.

C. In designing filter zones where dispersive clays or broadly-graded materials exist, special considerations may be imposed by the State Engineer.

D. All ~~internal~~ chimney filter and drainage zones will have a minimum width of three feet per zone ~~[to facilitate construction] unless waived by the State Engineer.~~ Wider zones are encouraged[;]. Chimney drains may be vertical or inclined, but inclined drains may require additional width. [especially+] In active seismic areas filter widths must be at least twice the predicted lateral deformation resulting from an earthquake.

E. Proper filtering and drainage is essential in all dams where cracking from differential settlement, hydraulic fracturing, or

earthquake shaking is possible. Chimney blanket, and toe drains are considered to be standard design measures. Justification must be provided if these features are not included in the design. Other filter and drainage features may also be appropriate.

**R655-11-7C. Outlet Details.**

A. All outlets shall have a trash rack to prevent clogging.

B. All outlets connected directly to a downstream pipeline shall have an emergency bypass valve.

C. All outlets shall have a suitable energy ~~[dissipator]~~ dissipater at the discharge end to prevent erosion of the downstream channel.

D. All outlets will be placed on a concrete cradle or encased in concrete unless specifically exempted by the State Engineer in writing. All conduits made of plastic materials will be fully encased. The sequencing and construction methods for secure placement of the conduit to prevent movement during pressure testing and concrete placement must be included in the design documents.

E. All outlets, with the exception of ungated outlets, shall have an operating gate or a guard gate on the upstream end.

F. All outlets shall have seepage control measures to reduce the potential for piping along the conduit. Common methods may include locating the outlet conduit in bedrock and installing a conduit filter drain to intercept seepage. Where possible, the outlet should penetrate the chimney drain so it acts as the conduit filter drain. Where an individual filter drain is used, it must have sufficient lateral extent to also protect against localized embankment cracking as well as seepage along the conduit. The use of cutoff collars is not an approved method.

G. Outlets encased or cradled in concrete should have battered sides to facilitate compaction against the ~~[encasement]concrete, unless approval is given by the State Engineer to place the conduit in a trench.~~

H. Every attempt should be made to locate the outlet on bedrock or consolidated materials. In the event this is not possible, consideration should be given to articulating the outlet to allow for settlement.

I. Outlet gates and valves can be either mechanically or hydraulically operated. In either case the hydraulic lines or mechanical stems must be adequately protected from debris, wave action, settlement, and ice damage. Buried stems should be encased in an oil-filled pipe supported on pedestals. No catwalks or similar access structures will be allowed on reservoirs where freezing occurs or significant floating debris is present. All outlets which are operated with ~~[electrical]~~ motorized equipment must have back-up ~~[generating-]capability or a manual bypass system capable of being operated in a reasonable amount of time.~~

J. All outlets shall be properly vented. A vent pipe and air manifold around the perimeter of the conduit immediately downstream of the gate will be required unless waived by the State Engineer. The air supply lines should be conservatively sized for the anticipated flows and protected in the same manner as the outlet control lines or stems.

K. All operators and supporting equipment for outlet controls should be properly protected and secured. Particular attention needs to be given to protection from vandals and unauthorized operation. All outlet controls should be clearly marked as to which way the gates and valves operate so that overloading of a closed gate or valve should not occur.

L. Outlet controls should be accessible when the spillways are in use.

**KEY:** dams, earthquakes, floods, reservoirs  
**Date of Enactment or Last Substantive Amendment:** [~~October 24, 2012~~]**2016**  
**Notice of Continuation:** April 14, 2011  
**Authorizing, Implemented, or Interpreted Law:** 73-5a

1594 W NORTH TEMPLE  
 SALT LAKE CITY, UT 84116-3154  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016**

**THIS RULE MAY BECOME EFFECTIVE ON:** 03/24/2016

**AUTHORIZED BY:** Michael Styler, Executive Director

## Natural Resources, Water Rights **R655-12** Requirements for Operational Dams

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 40176  
 FILED: 01/30/2016

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The current rule requires clarification and an update to current industry practice.

**SUMMARY OF THE RULE OR CHANGE:** Section R655-12-4C is clarified and updated to current industry practice. Section R655-12-5 is clarified to current industry practice.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 73, Chapter 5a

**ANTICIPATED COST OR SAVINGS TO:**  
 ♦ **THE STATE BUDGET:** No cost involved--Clarification of processing does not require a dollar figure.  
 ♦ **LOCAL GOVERNMENTS:** No cost involved--Clarification of processing does not require a dollar figure.  
 ♦ **SMALL BUSINESSES:** No cost involved--Clarification of processing does not require a dollar figure.  
 ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No cost involved--Clarification of processing does not require a dollar figure.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No cost involved--Clarification of processing does not require a dollar figure.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** No fiscal impact--Clarification of processing does not require a dollar figure.

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**  
 NATURAL RESOURCES  
 WATER RIGHTS  
 ROOM 220

**R655. Natural Resources, Water Rights.**  
**R655-12. Requirements for Operational Dams.**  
**R655-12-4C. Instrumentation Monitoring and Reporting.**

The following monitoring and reporting requirements are applicable to all instrumented dams under normal, long term operating conditions, unless otherwise approved by the State Engineer. [~~Different monitoring and reporting requirements, for long term operation, can be implemented if deemed appropriate by the State Engineer.~~]Under unusual conditions, the State Engineer may require additional criteria. Instrumentation requirements for new dams should be outlined in the Initial Filling Plan as per R655-12-3A. The type of instrumentation required is presented in R655-11-10.

1. Seepage in the vicinity of any dam shall be monitored, typically including lateral extent, turbidity and flow rate. Collection [~~collected~~]-in a properly designed drainage system [~~with provisions to measure the flow rate~~]-as outlined in R655-11-6E, may be required.
2. All piezometers and drains shall be monitored at least monthly when the reservoir exceeds 50% of the hydraulic height. Where reservoir elevations vary substantially over an irrigation season, [R]readings shall be obtained on a weekly basis when the reservoir exceeds 90% of the hydraulic height. Readings can return to a monthly frequency four weeks after the reservoir level peaks, provided measurements are stable and within anticipated ranges. In all cases, instrumentation should be monitored at the beginning of the reservoir filling season, at the peak reservoir elevation, and at the maximum reservoir drawdown.
3. The elevation of the reservoir shall be recorded at the time of all readings as described in 2. above.
4. All dam instrumentation (including piezometers, drains, reservoir gage, survey monuments, and any other dam instrumentation) shall be monitored immediately following an earthquake where ground motions are felt in the area or the owner is informed of seismic activity in the vicinity. Results of the inspection and instrumentation readings should be immediately sent to the State Engineer.
5. Copies of all instrumentation monitoring data should be forwarded to the State Engineer, on a monthly basis, following collection of the data. It is the responsibility of those obtaining the data to know if readings are within normal historical and/or design operating parameters. Emergency conditions should be assumed if

readings exceed normal historical and/or design operating parameters and immediate notification of the State Engineer is required.

6. All instrumentation shall be documented by plotting locations on a plan view of the dam and by assigning a unique, identifiable name. A table for all instruments which provides base line data shall also be prepared. Piezometer data should include the name, location, monitoring location (e.g., zone 1, zone 2, foundation), top elevation, total depth, and depth of porous interval. Drain data should include the name, location, collection interval, and flow rate monitoring methods. Survey monuments should include the name, location, and vertical and horizontal coordinates. The reservoir storage gage should be marked in at least one foot intervals and an elevation datum provided that is consistent with all other dam instrumentation.

7. The data required for any other dam instrumentation (inclinometers, temperature probes, chemical composition), will depend on the type and purpose of the instrumentation.

#### **R655-12-5. Minimum Standards for Existing Dams.**

The following minimum standards are applicable to existing high hazard dams. In the event compliance with the following standards may not be cost effective, the State Engineer may consider other alternatives such as risk-based assessments, acquisition of habitable structures, acquisition of downstream easements, installation of early warning systems, construction of levees, or other means to diminish the threat to human life. Dams with a hazard rating upgraded to high hazards [~~immediately~~] be subject to [~~the~~] minimum standards for existing dams.

**KEY:** dam safety, dams, reservoirs

**Date of Enactment or Last Substantive Amendment:** [~~September 12, 2011~~]2016

**Notice of Continuation:** April 14, 2011

**Authorizing, Implemented, or Interpreted Law:** 73-5a

## Public Safety, Driver License **R708-16** Pedestrian Vehicle Rule

### **NOTICE OF PROPOSED RULE** (Repeal)

DAR FILE NO.: 40140

FILED: 01/19/2016

#### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Section 41-6a-1011 prohibits licensing and permits for persons with disabilities. This change was made as a result of the passage of H.B. 130 during the 2014 General Session. Therefore, statute changes have made this rule obsolete.

**SUMMARY OF THE RULE OR CHANGE:** With the creation of a Mobility Vehicle Permit, language was inserted into Section 41-6a-1011 which prohibits licensing, registration, permits, and regulation required for persons with disabilities

in the code. Since a pedestrian vehicle must be specifically designed for use by the disabled, the agency is no longer authorized to issue these permits or regulate pedestrian vehicles. This rule is repealed in its entirety.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 41-6a-1011

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** Repealing the rule will neither cost nor save the state budget any money, because the rule has not been effective since the creation of Rule R708-51 in 2015.

♦ **LOCAL GOVERNMENTS:** Repealing the rule will neither cost nor save local government any money, because the rule has not been effective since the creation of Rule R708-51 in 2015.

♦ **SMALL BUSINESSES:** Repealing the rule will neither cost nor save small businesses any money, because the rule has not been effective since the creation of Rule R708-51 in 2015.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Repealing the rule will neither cost nor save persons other than small businesses, businesses, or local government entities any money, because the rule has not been effective since the creation of Rule R708-51 in 2015.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Affected persons will not be charged the \$13 fee that was associated with this rule once it is repealed.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There will be no fiscal impact on businesses by repealing this rule.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov

♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016**

**THIS RULE MAY BECOME EFFECTIVE ON:** 03/23/2016

**AUTHORIZED BY:** Chris Caras, Director

**R708. Public Safety, Driver License.**

**[R708-16. Pedestrian Vehicle Rule:**

**R708-16-1. Authority:**

(1) This rule is authorized by Section 41-6a-1011.

**R708-16-2. Purpose:**

(1) To promote and regulate safety in the use of a pedestrian vehicle, for both the individual using the pedestrian vehicle, and any person or property around, or about, the area being used by a pedestrian vehicle. Specific conditions may be required prior to giving authorization to operate a pedestrian vehicle.

(2) To require a person to apply for authority to operate a pedestrian vehicle for any such vehicle with an excess of .5 brake horsepower capable of developing a speed of more than 8 mph and being used in an area other than a sidewalk or places where pedestrians are allowed.

(3) To review on an individual basis each application for authorization to operate a pedestrian vehicle according to need of the physically disabled person and pursuant to and in accordance with applicable rules adopted by the commissioner for the Department of Public Safety.

**R708-16-3. Application and Requirements for Authorization to Operate a Pedestrian Vehicle:**

(1) Application for authorization to operate a pedestrian vehicle shall be made at any field office of Driver License Division and shall require the following:

(a) Name, age and D.O.B., sex, address, description of disability.

(b) Type of pedestrian vehicle to be used must comply with the requirements specified in Section 41-6a-1011.

(c) Statement of intended use of the pedestrian vehicle. Intended use should not create an undue safety hazard.

(d) A functional ability evaluation and a medical opinion that physical disability would not affect the safe operation of the pedestrian vehicle.

(e) All applicants must sign a waiver accepting all responsibility for being allowed to operate a pedestrian vehicle.

(f) Any physically disabled person, under the age of 18, must have parental or guardian approval and sign a waiver accepting responsibility for being allowed to operate a pedestrian vehicle.

(g) Each individual making application for use of a pedestrian vehicle must demonstrate his/her ability to safely operate the pedestrian vehicle.

(2) Authorization to operate a pedestrian vehicle shall be in the form of a certificate issued by the department.

(3) Operation of pedestrian vehicles must comply with all pedestrian, bicycle, or vehicle traffic laws as applicable to the type of pedestrian vehicle used. This includes lighting requirements if used during hours of darkness.

(4) The department may inspect intended routes and uses of vehicles and apply restrictions on use of pedestrian vehicles as may be necessary for the preservation of public safety.

(5) Authorization to operate a pedestrian vehicle must be reviewed every five years.

**R708-16-4. Special Requirements for Operation of a Pedestrian Vehicle:**

(1) Passengers are prohibited on pedestrian vehicles except that one passenger, as designated by the department and indicated on the pedestrian vehicle authorization document, may be allowed if inclusion of the passenger does not create a negative effect on the safe operation of the pedestrian vehicle, and if the pedestrian vehicle is designed to accommodate a passenger.

(2) Every pedestrian vehicle must display a Standard International "Handicapped" emblem inset on a standard slow moving vehicle designation.

(3) The department may require other markings or equipment as may be determined on an individual basis.

**R708-16-5. Fee:**

(1) The department may charge a \$13 fee to cover administrative costs of issuing a permit to operate a pedestrian vehicle.

(2) All fees collected for permits shall remain in the department as a dedicated credit.

**R708-16-6. Denial, Suspension, and Revocation of Authorization to Operate a Pedestrian Vehicle:**

(1) Authorization to operate a pedestrian vehicle may be denied, suspended or revoked when, in the opinion of the department, it may not be in the best interest of public safety to issue or continue such authorization.

**R708-16-7. Adjudicative Proceedings:**

(1) All adjudicative proceedings including but not limited to the application for and denial, suspension or revocation of authorization to operate a pedestrian vehicle, shall be governed by the adjudicative proceedings set forth in the rule identified as R708-17. The adjudicative proceedings set forth in R708-17 are hereby incorporated into this rule by this reference.

**KEY: traffic regulations**

**Date of Enactment or Last Substantive Amendment: July 8, 2008**

**Notice of Continuation: January 31, 2011**

**Authorizing, and Implemented or Interpreted Law: 41-6a-1011]**

School and Institutional Trust Lands,  
Administration  
**R850-30-400**  
Special Use Leases

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 40185

FILED: 02/01/2016

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Current rule requires all adjusted rental amounts

to be rounded to the nearest number evenly divisible by 10. The agency administers some leases that were acquired from the Bureau of Land Management in exchanges. The agency is required to administer these contracts pursuant to existing contract terms. The proposed rule changes will bring agency rules into harmony with existing contract requirements.

**SUMMARY OF THE RULE OR CHANGE:** The changes to this rule allow the agency the flexibility to look at the contract terms during review procedures and rental adjustments and determine if rounding the payment amount to the nearest number evenly divisible by 10 is allowed. If the contract terms don't provide for rounding, the agency will still be in compliance with the rules.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53C-1-302(1)(a)(ii) and Subsection 53C-4-101(1)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is the potential that the state may lose a small amount of revenue as a result of establishing adjusted rentals at the exact amounts prescribed by their lease terms instead of rounding to the nearest amount divisible by 10. Since reviews are made only every three to five years and the rental rates do not always change, the amount of loss is undetermined but should be minimal.

◆ **LOCAL GOVERNMENTS:** There is the potential that if a local government holds a lease with the agency, they could experience a slight savings in their rental if the adjusted amount is not rounded to the nearest amount divisible by 10.

◆ **SMALL BUSINESSES:** There is the potential that if a small business holds a lease with the agency, they could experience a slight savings in their rental if the adjusted amount is not rounded to the nearest amount divisible by 10.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is the potential that if persons other than small businesses, businesses, or local government entities hold a lease with the agency, they could experience a slight savings in their rental if the adjusted amount is not rounded to the nearest amount divisible by 10.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There should not be any compliance costs for affected persons as the review and rental adjustment processes have not changed. In fact, there is a potential that affected persons may experience a slight savings based on whether or not the amount is rounded.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule will have only minor, if any, impact on business. All leases on trust land must pay annual rental which, until this rule amendment, would have been rounded to the nearest \$10. The annual rental, after a scheduled review based on the change in the CPI, may have been rounded up or down but only by a \$5 maximum. If this rule option is applied, the lease rental will not be rounded at all.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/16/2016

THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2016

AUTHORIZED BY: David Ure, Director

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**R850. School and Institutional Trust Lands, Administration.**

**R850-30. Special Use Leases.**

**R850-30-400. Lease Rates.**

1. Lease rates shall be based on the market value and income producing capability of the subject property and may be determined by:

(a) multiplying the market value of the subject property by the current agency-determined interest rate;

(b) the evaluation and use of comparable lease data; or

(c) using either a fixed rate per acre or a crop-share formula for agricultural leases providing that the rental rate is customary and reasonable.

2. The agency may base lease rentals on a value other than the market value of the subject property, provided that the director determines such is in the best interest of the beneficiaries and provided that the lease contains a clause whereby the agency may terminate the lease prior to the end of the lease term.

3. In addition to lease rental, the agency may require the payment of percentage rents.

4. The agency, pursuant to board policy, may establish a minimum lease rental based on the costs incurred in administering the leases, and a desired minimum rate of return.

5. Lease Review Procedures and Rental Adjustments for Special Use Leases.

(a) Special use leases shall be reviewed by the agency as of the effective date specified in the respective lease and such review may result in an adjustment of base rental.

(b) Adjustments in base rentals may be based upon changes in market value including appreciation of the subject properties, changes in established indices, or other methods which may be appropriate and in the best interest of the trust beneficiaries. The determination of which method to use may be based upon an analysis of the cost effectiveness of performing the review.

(c) When using established indices, the rate of adjustment shall be based on the indices established for the years involved in the review period, unless the rate of adjustment exceeds a maximum adjustment rate, or fails to reach a minimum rate of adjustment as



specified in the respective lease. If no maximum adjustment rate or minimum rate of increase is specified in the lease, then the percent change will increase or decrease according to the above described rate of adjustment.

(d) The index used in the review may be the applicable component of the CPI-U or any other index determined by the agency to be appropriate.

(e) The adjusted rental amount as determined pursuant to this rule shall be rounded to the nearest number evenly divisible by ~~[\$10:]10~~ unless:

(i) the lease contains a fee schedule or other adjustment provisions which require a payment in an amount not evenly divisible by 10;

(ii) the lessee requests otherwise; or

(iii) the lease was acquired from the United States, Department of Interior, Bureau of Land Management, or other governmental agency and contains terms which do not allow rounding.

(f) The director may suspend, defer, or waive the adjustment of base rentals in specific instances, based on a written finding that the suspension, deferral, or waiver is in the best interest of the trust beneficiaries.

**KEY: administrative procedures, leases, trust land management, request for proposals**

**Date of Enactment or Last Substantive Amendment: ~~October 9, 2007~~ **March 23, 2016****

**Notice of Continuation: June 27, 2012**

**Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii); 53C-2-201(1)(a); 53C-4-101(1); 53C-4-202**

### End of the Notices of Proposed Rules Section



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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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 help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Division of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

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## Agriculture and Food, Regulatory Services **R70-410**

### Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes

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

DAR FILE NO.: 40149  
FILED: 01/20/2016

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 4-2-2 authorizes the department to make rules necessary to establish grades and standards for the quality, size, and weight of the sale of eggs. The rule establishes packaging and labeling requirements. Testing for salmonella will be done.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received by the department since the last five-year review of the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to ensure that the consumer knows the quality, size, and weight of the eggs being purchased. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Cary Wise by phone at 801-538-7144, or by Internet E-mail at [cwise@utah.gov](mailto:cwise@utah.gov)
- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at [kmathews@utah.gov](mailto:kmathews@utah.gov)
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at [sericson@utah.gov](mailto:sericson@utah.gov)
- ◆ Travis Waller by phone at 801-538-7150, by FAX at 801-538-7124, or by Internet E-mail at [twaller@utah.gov](mailto:twaller@utah.gov)

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 01/20/2016

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## Commerce, Occupational and Professional Licensing **R156-69**

### Dentist and Dental Hygienist Practice Act Rule

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

DAR FILE NO.: 40150  
FILED: 01/21/2016

**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: Title 58, Chapter 69, provides for the licensure of dentists and dental hygienists. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-69-201(3)(a) provides that the Dentists and Dental Hygienist Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division director. This rule was enacted to clarify the provisions of Title 58, Chapter 69, with respect to dentists and dental hygienists.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in March 2011, it has been amended four times. The Division has received no written comments with respect to this rule since March 2011.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 69, with respect to dentists and dental hygienists. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

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:  
♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarx@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 01/21/2016

Health, Health Care Financing,  
Coverage and Reimbursement Policy  
**R414-320**  
Medicaid Health Insurance Flexibility  
and Accountability Demonstration  
Waiver

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

DAR FILE NO.: 40181  
FILED: 02/01/2016

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the Department to implement the Medicaid program through administrative rules, and Section 26-1-5 grants the Department the authority to adopt, amend, or rescind these rules for the provision of Medicaid services. Additionally, Section 1115 of the Social Security Act allows the Department to implement demonstration waivers to verify cost effectiveness.

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 did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it defines coverage and eligibility for Utah's Premium Partnership for Health Insurance (UPP) program, and because it spells out application requirements, notice requirements, and reimbursement policy.

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

AUTHORIZED BY: Brent Platt, Director

EFFECTIVE: 02/01/2016

EFFECTIVE: 01/25/2016

Human Services, Child and Family Services  
**R512-43**

Adoption Assistance

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

DAR FILE NO.: 40151

FILED: 01/25/2016

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including services that preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule is necessary in order for the Division of Child and Family Services to continue to offer adoption assistance to qualifying families.

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

HUMAN SERVICES  
CHILD AND FAMILY SERVICES  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov  
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov

Human Services, Child and Family Services  
**R512-205**

Child Protective Services, Investigation of Domestic Violence Related Child Abuse

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

DAR FILE NO.: 40152

FILED: 01/25/2016

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including services which preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule is necessary in order for the Division of Child and Family Services to investigate an allegation of Domestic Violence Related Child Abuse.

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

HUMAN SERVICES  
CHILD AND FAMILY SERVICES  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov

♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at [jhjonessrobbins@utah.gov](mailto:jhjonessrobbins@utah.gov)

AUTHORIZED BY: Brent Platt, Director

EFFECTIVE: 01/25/2016

**Insurance, Administration**  
**R590-259**  
**Dependent Coverage to Age 26**

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

DAR FILE NO.: 40154  
 FILED: 01/25/2016

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule is enacted under Subsection 31A-2-201(3), which gives the insurance commissioner authority to make rules. Subsection 31A-2-212(5)(b) gives the commissioner authority to require that insurers in the state shall comply with the provisions of the PPACA, and the administrative rules adopted by the commissioner related to regulating health benefit plans. Subsection 31A-22-605(4) gives the commissioner authority to adopt rules relating to standards for coverage of dependents, among other matters.

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 Insurance Department has received no written comments relating to this rule during 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 rule should remain active as it provides clarification and guidance to assist in compliance with both PPACA and Utah state insurance laws. 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:

♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [sgooch@utah.gov](mailto:sgooch@utah.gov)

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 01/25/2016

**Natural Resources, Water Rights**  
**R655-10**  
**Dam Safety Classifications, Approval Procedures and Independent Reviews**

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

DAR FILE NO.: 40166  
 FILED: 01/29/2016

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The following rule is established under the authority of Title 73, Chapter 5a, which gives the state engineer the authority to regulate dams. The procedures constitute minimum requirements for dams. Additional procedures may be required to comply with any other governing statute, federal law, federal regulation, or local ordinance. The purpose of this rule is to outline the procedures necessary to obtain approval to design, construct, operate, and remove a dam. This rule in no way waives the right of the state engineer to evaluate the merits of different procedures or to require additional information before approval of any project. These rules apply to any dam constructed in the state with the exception of those specifically exempted by Section 73-5a-102. Some dams may have an abbreviated approval process as outlined in Section 73-5a-202.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received in the 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 rule is still required for processing and acceptance by the state engineer. Therefore, this rule should be continued.

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

NATURAL RESOURCES  
WATER RIGHTS  
ROOM 220  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

AUTHORIZED BY: Kent Jones, State Engineer/Director

EFFECTIVE: 01/29/2016

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**Natural Resources, Water Rights**  
**R655-11**  
Requirements for the Design,  
Construction and Abandonment of  
Dams

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

DAR FILE NO.: 40167  
FILED: 01/29/2016

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The following rule is established under the authority of Title 73, Chapter 5a, which gives the state engineer the authority to regulate dams. The procedures constitute minimum design requirements for dams. Additional procedures may be required to comply with any other governing statute, federal law, federal regulation, or local ordinance. This rule applies to any dam constructed in the state with the exception of those specifically exempted by Section 73-5a-102 and those dams not requiring plans as outlined in Section 73-5a-202.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received in the 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 rule is still required for processing and

acceptance by the state engineer. Therefore, this rule should be continued.

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

NATURAL RESOURCES  
WATER RIGHTS  
ROOM 220  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

AUTHORIZED BY: Kent Jones, State Engineer/Director

EFFECTIVE: 01/29/2016

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**Natural Resources, Water Rights**  
**R655-12**  
Requirements for Operational Dams

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

DAR FILE NO.: 40168  
FILED: 01/29/2016

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The following rule is established under the authority of Title 73, Chapter 5a, which gives the state engineer the authority to regulate dams. The procedures constitute minimum operational requirements for dams. Additional procedures may be required to comply with any other governing statute, federal law, federal regulation, or local ordinance. This rule applies to any dam constructed in the state with the exception of those specifically exempted by Section 73-5a-102, and those dams not requiring plans as outlined in Section 73-5a-202.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received in the 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: This rule is still required for processing and

acceptance by the state engineer. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
NATURAL RESOURCES  
WATER RIGHTS  
ROOM 220  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

AUTHORIZED BY: Kent Jones, State Engineer/Director

EFFECTIVE: 01/29/2016

**Public Safety, Driver License  
R708-18**

**Regulatory and Administrative Fees**

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

DAR FILE NO.: 40141  
FILED: 01/19/2016

**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 53-3-105(25) allows for the Division to charge a fee for a record. This rule outlines additional records the Division has that may be purchased.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during the last 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: This rule outlines records that may be purchased from the Division. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov  
♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Chris Caras, Director

EFFECTIVE: 01/19/2016

**Public Safety, Driver License  
R708-19  
Automobile No-Fault Self-Insurance**

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

DAR FILE NO.: 40142  
FILED: 01/19/2016

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 41-12a-201, which authorizes the department to make rules to enforce the provisions of the Financial Responsibility and Motor Vehicle Owners and Operators Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 41-12a-301 defines owner's or operator's security requirements for vehicles operated on highways or quasi-public road or parking areas within the state. Section 41-12a-407 defines self-funded coverage as



proof of owner's or operator's security. Rule R708-19 is required to define approved methods of providing self-funded coverage to the department and the requirements that must be met before providing self-funded coverage. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov  
♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Chris Caras, Director

EFFECTIVE: 01/19/2016

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**Public Safety, Driver License**  
**R708-20**  
**Motor Vehicle Accident Prevention**  
**Course Standards**

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

DAR FILE NO.: 40143  
FILED: 01/19/2016

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-19a-211 allows for automobile insurance premiums for persons 55 years of age or older who successfully complete a motor vehicle accident prevention course to be reduced. The rule is also authorized by Section 31A-19a-211 to allow the Department of Public Safety to establish and clarify standards and procedures for agencies or organizations, who may conduct motor vehicle accident prevention courses as prescribed by this section.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule allows for the Division to offer a standard approval process for all such courses and maintain fairness and consistency with all the sponsors wishing to provide an approved course. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov  
♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Chris Caras, Director

EFFECTIVE: 01/19/2016

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**Public Safety, Driver License**  
**R708-38**  
**Anatomical Gift**

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

DAR FILE NO.: 40144  
FILED: 01/19/2016

**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 53-3-205(15)(a) provides that applicants for a license or identification card should have the opportunity to indicate their wishes relating to organ donation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There is a statutory requirement for the designation of an applicant's wishes regarding organ donation. This rule outlines the process wherein that is accomplished. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
 DRIVER LICENSE  
 CALVIN L RAMPTON COMPLEX  
 4501 S 2700 W 3RD FL  
 SALT LAKE CITY, UT 84119-5595  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov
- ◆ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Chris Caras, Director

EFFECTIVE: 01/19/2016

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule outlines guidelines used by the division for the release of driver records in accordance with DPPA. This rule allows the Division to release records with an address to parties that are authorized by statute and this rule. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
 DRIVER LICENSE  
 CALVIN L RAMPTON COMPLEX  
 4501 S 2700 W 3RD FL  
 SALT LAKE CITY, UT 84119-5595  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov
- ◆ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Chris Caras, Director

EFFECTIVE: 01/19/2016

Public Safety, Driver License  
**R708-42**  
 Driver Address Record

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

DAR FILE NO.: 40145  
 FILED: 01/19/2016

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 53-3-109(7)(f). The purpose of this rule is to define the procedures, requirements, and format for requesting and disclosing a Driver Address Record in accordance with Subsection 53-3-109(1)(c)(ii).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during the last five years.

Public Safety, Driver License  
**R708-43**

Verification of Personal Identifying Information by Depository Institutions

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

DAR FILE NO.: 40146  
 FILED: 01/19/2016

**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 53-3-109(1)(c)(iii) permits the disclosure of personal identifying information to depository institutions, and Subsection 53-3-109(7)(f) authorizes the creation of rule to govern such release.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statute still authorizes the disclosure of the information, and the rule appropriately governs that release. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov  
♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Chris Caras, Director

EFFECTIVE: 01/19/2016

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**Public Safety, Driver License  
R708-44  
Citation Monitoring Service**

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

DAR FILE NO.: 40147  
FILED: 01/19/2016

**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 53-3-109(3) permits the disclosure of personal identifying information to depository institutions, and Subsection 53-3-109(7)(g) authorizes the creation of rule to govern such release.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The disclosure of the information continues to

be authorized by statute and the rule appropriately regulates the release of that information. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov  
♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Chris Caras, Director

EFFECTIVE: 01/19/2016

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**Regents (Board of), University of Utah,  
Administration  
R805-5  
Enforcement of No Smoking Areas at  
University of Utah Hospitals and Clinics**

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

DAR FILE NO.: 40153  
FILED: 01/25/2016

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Sections 26-38-1 et seq., 53B-2-106, 63G-4-102, 76-6-206, and 76-8-701 through 76-8-718. Section 26-38-1 et seq. is the Utah Indoor Clean Air Act. It generally prohibits smoking in any indoor public area. Section 26-38-6 indicates that the Utah Indoor Clean Air Act does not prohibit a state institution of higher education from restricting smoking in outdoor places of public access. Section 63G-4-102 permits agencies of the state to seek enforcement of agency orders in the district courts. Section 53B-2-106 permits the president of an institution of higher education to enact rules for administration and operation of the institution. Section 76-6-206 is the criminal trespass statute and it states that a person engages in criminal trespass if he enters on property knowing that this entry or presence is unlawful. The rule under review allows U

of U to issue a criminal trespass citation. Section 7-8-718 indicates that higher ed institutions may utilize their own police forces to enforce the laws of the state.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule supports the enforcement of no smoking zones in and around University of Utah hospitals and clinics by allowing for administrative tickets to be issued to violators. Enforcement of these no smoke zones is imperative near an acute patient hospital that is frequented by hundreds of thousands of visitors per year, many of whom have health issues themselves, where it is highly desirable that walking areas such as sidewalks and parking garages

and steps be clear of smoke. The ability to impose sanctions, such as tickets, is imperative to successful enforcement. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)  
UNIVERSITY OF UTAH, ADMINISTRATION  
ROOM 309 PARK BLDG  
201 S PRESIDENTS CIR  
SALT LAKE CITY, UT 84112-9009  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Scott Smith by phone at 801-585-7002, by FAX at 801-585-7007, or by Internet E-mail at [scott.smith@legal.utah.edu](mailto:scott.smith@legal.utah.edu)

AUTHORIZED BY: Scott Smith, Associate General Counsel

EFFECTIVE: 01/25/2016

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**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative 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 make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the 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.

Agencies have notified the Division of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal & Reenact  
REP = Repeal

### Health

#### Administration

No. 39879 (AMD): R380-60. Local Health Department  
Emergency Protocols  
Published: 11/15/2015  
Effective: 01/20/2016

#### Child Care Center Licensing Committee

No. 39902 (AMD): R381-60. Hourly Child Care Centers  
Published: 11/15/2015  
Effective: 01/31/2016

No. 39898 (AMD): R381-70. Out of School Time Child Care  
Programs  
Published: 11/15/2015  
Effective: 01/31/2016

No. 39896 (AMD): R381-100. Child Care Centers  
Published: 11/15/2015  
Effective: 01/31/2016

#### Family Health and Preparedness, Child Care Licensing

No. 39897 (AMD): R430-50. Residential Certificate Child  
Care  
Published: 11/15/2015  
Effective: 01/31/2016

No. 39895 (AMD): R430-90. Licensed Family Child Care  
Published: 11/15/2015  
Effective: 01/31/2016

#### Family Health and Preparedness, Licensing

No. 39966 (AMD): R432-270. Assisted Living Facilities  
Published: 12/15/2015  
Effective: 01/28/2016

### Human Services

#### Child and Family Services

No. 39955 (AMD): R512-305. Out-of-Home Services,  
Transition to Adult Living Services  
Published: 12/15/2015  
Effective: 01/21/2016

No. 39956 (AMD): R512-309. Out-of-Home Services, Foster  
Parent Reimbursement of Motor Vehicle Insurance Coverage  
for Youth in Foster Care  
Published: 12/15/2015  
Effective: 01/21/2016

### School and Institutional Trust Lands

#### Administration

No. 39962 (AMD): R850-1. Definition of Terms  
Published: 12/15/2015  
Effective: 01/21/2016

No. 39961 (AMD): R850-11. Procurement  
Published: 12/15/2015  
Effective: 01/21/2016

No. 39960 (AMD): R850-50. Range Management  
Published: 12/15/2015  
Effective: 01/21/2016

### Transportation

#### Motor Carrier

No. 39953 (AMD): R909-19. Safety Regulations for Tow  
Truck Operations - Tow Truck Requirements for Equipment,  
Operation and Certification  
Published: 12/15/2015  
Effective: 01/21/2016



**RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2016 through February 01, 2016. 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 the Division of Administrative Rules (801-538-3764).

A copy of the **RULES INDEX** is available for public inspection at the Division of Administrative Rules (5110 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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**RULES INDEX - BY AGENCY (CODE NUMBER)**

**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>ADMINISTRATIVE SERVICES</b>					
<u>Facilities Construction and Management</u>					
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	40044	NSC	01/15/2016	Not Printed
<u>Finance</u>					
R25-15	Change Date and Set Aside Provisions for Annual Leave II	39943	NEW	01/13/2016	2015-23/6
<b>AGRICULTURE AND FOOD</b>					
<u>Regulatory Services</u>					
R70-410	Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes	40149	5YR	01/20/2016	Not Printed
<b>CAPITOL PRESERVATION BOARD (STATE)</b>					
<u>Administration</u>					
R131-4	Capitol Preservation Board General Procurement Rule	40092	5YR	01/11/2016	2016-3/507
<b>COMMERCE</b>					
<u>Occupational and Professional Licensing</u>					
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**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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<u>administrative law</u> Human Services, Recovery Services	40053	R527-200	5YR	01/05/2016	2016-3/512
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<u>dentists</u>	Commerce, Occupational and Professional Licensing	40150	R156-69	5YR	01/21/2016	Not Printed
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<u>driver address record</u>	Public Safety, Driver License	40145	R708-42	5YR	01/19/2016	Not Printed
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	40015	R460-5	NSC	01/15/2016	Not Printed	
	40016	R460-6	NSC	01/15/2016	Not Printed	
	40017	R460-8	NSC	01/15/2016	Not Printed	
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	39924	R156-60b-102	AMD	01/07/2016	2015-23/12	
	39911	R156-60c	AMD	01/07/2016	2015-23/14	
	40055	R156-60d	5YR	01/05/2016	2016-3/509	
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	39912	R156-78-102	AMD	01/07/2016	2015-23/16	
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Human Services, Administration, Administrative Services, Licensing	39913	R501-14	R&R	01/13/2016	2015-23/24	
Public Safety, Driver License	40141	R708-18	5YR	01/19/2016	Not Printed	
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Public Safety, Driver License	40147	R708-44	5YR	01/19/2016	Not Printed	
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Public Safety, Driver License	40143	R708-20	5YR	01/19/2016	Not Printed	
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	40065	R651-611	5YR	01/07/2016	2016-3/527
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