

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Nancy L. Lancaster, Managing Editor

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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: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. 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.

Office 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 April 2017 Medicaid Rate Changes**

Effective April 1, 2017, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies, potential adjustments to existing codes, and nursing home rate changes to case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php>

**End of the Special Notices Section**



## 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 February 16, 2017, 12:00 a.m., and March 01, 2017, 11:59 p.m. are included in this, the March 15, 2017, 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 Office 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 Office 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 April 14, 2017. 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 July 13, 2017, the agency may notify the Office 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 Office 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**

**Health; Disease Control and  
Prevention; HIV/AIDS, Tuberculosis  
Control/Refugee Health  
R388-804  
Special Measures for the Control of  
Tuberculosis**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 41334

FILED: 03/01/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to clarify facility and patient responsibilities as expected by public health; update references; and update diagnostic criteria to be consistent with the recommendations from the Center for Disease Control (CDC).

**SUMMARY OF THE RULE OR CHANGE:** The rule change: 1) clarifies the need for an inpatient facility to consult with and obtain approval for discharge of an active tuberculosis (TB) case; and 2) clarifies patient responsibilities in order to comply with public health and potential for involuntary isolation as a result of noncompliance.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-6-4 and Section 26-6-6 and Section 26-6-7 and Section 26-6-8 and Section 26-6-9 and Title 26, Chapter 6b

**MATERIALS INCORPORATED BY REFERENCE:**

- ◆ Updates Clinical Practice Guidelines: Clinical Infectious Diseases (2016) doi, published by Centers for Disease Control and Prevention, 12/08/2016
- ◆ Updates Infectious Diseases Society of America. Official ATS/CDC/IDSA Clinical Practice Guidelines: Treatment of Drug-Susceptible Tuberculosis. Clinical Infectious Diseases (2016) , published by Centers for Disease Control and Prevention, 08/10/2016

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** This amendment has no anticipated costs to the budget as the amendment does not impact changes in program administration or TB screening requirements.
- ◆ **LOCAL GOVERNMENTS:** This amendment has no anticipated cost to local government. Local health departments receive contractual funds from the TB Program to provide assistance and screening.

◆ **SMALL BUSINESSES:** This amendment has no anticipated cost to small businesses as they have no interaction with the TB Program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment has no anticipated cost to business, individuals, local governments, and persons that are not small businesses. Local health departments are contracted to provide TB services to identified individuals. The amendment provides additional clarification that addresses behavior that is already protocol but does not require actions that require monetary outlay.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This amendment does not anticipate any cost to any affected persons since there are no specific expected changes in practice that would require additional facility expenditures. The proposed changes simply clarify what has always been expected of facilities and individuals. Any individual identified by the TB Program as being symptomatic for active TB or having a potential exposure to TB may be required to be tested and all costs will be covered by the TB Program.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed amendment clarifies the need for inpatient facilities to consult with local health departments before discharge of a patient diagnosed with tuberculosis. It also requires such patients to comply with the treatment plan established by the provider and public health or be subject to involuntary isolation pursuant to the Utah Communicable Disease and Control Act. There is no fiscal impact on business because the amendment clarifies requirements already included in protocol.

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

HEALTH  
DISEASE CONTROL AND PREVENTION;  
HIV/AIDS,  
TUBERCULOSIS CONTROL/REFUGEE HEALTH  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Amelia Self by phone at 801-538-6221, by FAX at 801-538-9913, or by Internet E-mail at [aself@utah.gov](mailto:aself@utah.gov) or by mail at PO Box 142105, Salt Lake City, UT 84114-2105

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2017**

**THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2017**



AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R388. Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health.**

**R388-804. Special Measures for the Control of Tuberculosis.**

**R388-804-1. Authority and Purpose.**

(1) This rule establishes standards for the control and prevention of tuberculosis as required by Section 26-6-4, Section 26-6-6, Section 26-6-7, Section 26-6-8, and Section 26-6-9 of the Utah Communicable Disease Control Act and Title 26, Chapter 6b, Communicable Diseases-Treatment, Isolation and Quarantine Procedures.

(2) The purpose of this rule is to focus the efforts of tuberculosis control on disease elimination. The standards outlined in this rule constitute the minimum expectations in the care and treatment of individuals diagnosed with, suspected to have, or exposed to tuberculosis.

**R388-804-2. Definitions.**

(1) The definitions described in Section 26-6b apply to this rule, and in addition:

(a) Tuberculosis. A disease caused by Mycobacterium tuberculosis complex, i.e., Mycobacterium tuberculosis, Mycobacterium bovis, or Mycobacterium africanum.

(b) Acid-fast bacilli (AFB). Denotes bacteria that are not decolorized by acid-alcohol after having been stained with dyes such as basic fuchsin; e.g., the mycobacteria and nocardiae.

(c) Case of tuberculosis. An episode of tuberculosis disease meeting the clinical or laboratory criteria for tuberculosis as defined in the National Notifiable Diseases Surveillance System (NNDSS). The Department incorporates by reference the Tuberculosis 2009 Case Definition, CSTE (Council of State and Territorial Epidemiologists) Position Statement, 09-ID-65.

(d) Tuberculosis infection. The presence of M. tuberculosis in the body but the absence of clinical or radiographic evidence of active disease as documented by a significant tuberculin skin test, or Interferon Gamma Release Assay (IGRA), e.g. Quantiferon or T-SPOT, a negative chest radiograph and the absence of clinical signs and symptoms.

(e) Tuberculosis disease. A state of ~~active~~<sup>infectious or communicable</sup> tuberculosis, pulmonary or extra-pulmonary, as determined by a chest radiograph, the bacteriologic examination of body tissues or secretions, other diagnostic procedures or physician diagnosis.

(f) Directly observed therapy. A method of treatment in which health-care providers or other designated individuals physically observe the individual ingesting anti-tuberculosis medications.

(g) Drug resistant tuberculosis. Tuberculosis bacteria which is resistant to one or more anti-tuberculosis drug.

(h) Multi-drug resistant tuberculosis. Tuberculosis bacteria which is resistant to at least isoniazid and rifampin.

(i) Suspect case. An individual who is suspected to have tuberculosis disease, e.g., a known contact to an active tuberculosis case or a person with signs and symptoms consistent with tuberculosis.

(j) Program. Utah Department of Health: Bureau of Epidemiology; Prevention, Treatment, and Care Program. [~~Bureau of HIV/AIDS, Tuberculosis Control and Refugee Health; Tuberculosis Control/Refugee Health Program.~~]

(k) Department. Utah Department of Health.

**R388-804-3. Required Reporting.**

(1) Tuberculosis is a reportable disease. Individuals shall immediately notify the Department by telephone of all suspect and confirmed cases of pulmonary and extra-pulmonary tuberculosis as required by R386-702-2, R386-702-3.

(2) The report may also be made to the local health department, who shall notify the Department of all suspect and confirmed cases within 72 hours of report.

**R388-804-4. Screening Priorities and Procedures.**

(1) Private ~~providers~~<sup>physicians</sup> and local health departments shall screen individuals considered to be at high risk for tuberculosis disease and infection before screening is conducted in the general population. Priorities shall be established based on those at greatest risk for disease and in consideration of the resources available.

(2) Individuals considered at high risk for tuberculosis include the following:

(a) Close contacts of those with infectious tuberculosis;  
(b) Persons infected with human immunodeficiency virus;

(c) Individuals who inject illicit drugs;  
(d) Inmates of adult and youth correctional facilities;  
(e) Residents of nursing homes, mental institutions, other long term residential facilities and homeless shelters;

(f) Recently arrived foreign-born individuals, within five years, from countries that have a high tuberculosis incidence or prevalence;

(g) Low income or traditionally under-served groups with poor access to health care, e.g., migrant farm workers and homeless persons;

(h) Individuals who are substance abusers and members of traditionally under-served groups;

(i) Individuals with certain medical conditions that may predispose them to tuberculosis infection and disease, e.g., diabetes, cancer, silicosis, and immune-suppressive disorders;

(j) Individuals who have traveled for extended periods of time in countries that have a high tuberculosis incidence or prevalence;

(k) Other groups may be identified by order of the Department, as needed to protect public health.

(3) Employers who are required to follow Occupational Safety and Health Administration guidelines for the prevention of tuberculosis transmission disease shall develop and implement an employee screening program.

(4) Tuberculosis screening shall be completed using either the Mantoux tuberculin skin test method or an FDA approved in-vitro serologic test, e.g. IGRA.

(a) Screening for tuberculosis with chest radiographs or sputum smears to identify individuals with tuberculosis disease is acceptable in places where the risk of transmission is high and the time required to give the skin test makes the method impractical.

(b) If the skin test or serologic test yields results indicating tuberculosis exposure, the individual shall be referred for further medical evaluation.

#### **R388-804-5. Diagnostic Criteria.**

In diagnosing tuberculosis, health care providers shall be expected to adhere to the standards listed in this document.

(1) The Department incorporates by reference the ~~[American Thoracic Society]~~(IDSA/ATS/CDC) diagnostic and classification standards as described in the segment entitled "Clinical Practice Guidelines: Diagnostic Standards and Classification Diagnosis of Tuberculosis in Adults and Children," Clinical Infectious Diseases (2016) doi: 10.1093/cid/ciw694 First published online: December 8, 2016.~~[published in the American Journal of Respiratory and Critical Care Medicine, Vol 161, pp-1376-1395, 2000.]~~

(2) The Department incorporates by reference the CDC diagnostic and classification standards for use of Nucleic Acid Amplification test in the document entitled "Updated Guidelines for the Use of Nucleic Acid Amplification Tests in the Diagnosis of Tuberculosis," MMWR; 58 (01); 7-10, 2010.

(3) The Department incorporates by reference the CDC diagnostic and classification standards for use of Interferon Gamma Release Assays as described in the document entitled, "Updated Guidelines for Using Interferon Gamma Release Assays to Detect Mycobacterium tuberculosis Infection, United States, 2010" MMWR; 59 (no. RR-5); 1-25, 2010.

~~[In diagnosing tuberculosis, health care providers shall be expected to adhere to the standards listed in this document.]~~

#### **R388-804-6. Treatment and Control.**

(1) The Department incorporates by reference the IDSA/ATS/CDC treatment standards as described in the segment entitled "Infectious Diseases Society of America. Official ATS/CDC/IDSA Clinical Practice Guidelines: Treatment of Drug-Susceptible Tuberculosis". Clinical Infectious Diseases (2016) doi: 10.1093/cid/ciw376, August 10, 2016. "Centers for Disease Control and Prevention. Treatment of Tuberculosis, American Thoracic Society, CDC, and Infectious Diseases Society of America." MMWR 2003; 52 (No. RR-11), Centers for Disease Control and Prevention. Controlling Tuberculosis in the United States: Recommendations from the American Thoracic Society; CDC, and the Infectious Diseases Society of America. MMWR 2005; 54 (No. RR-12)" and "Centers for Disease Control and Prevention. Targeted Tuberculin Testing and Treatment of Latent Tuberculosis Infection. MMWR 2000; 49 (No. RR-6)."~~[In treating tuberculosis, health care providers must adhere to the standards listed in this document.]~~

(2) A health-care provider who treats an individual with tuberculosis disease shall use the IDSA/ATS/CDC treatment standards as a reference for the development of a comprehensive treatment and follow-up plan for each individual. The plan shall be developed in cooperation with the individual and approved by the local health department or the Program. Health-care providers shall routinely document an individual's~~[individuals']~~ adherence to prescribed therapy for tuberculosis infection and disease. If isolation is indicated, the plan for isolation shall be approved by the local health department or the Program. Discharge from an inpatient

facility shall not occur without the knowledge of, and in agreement with the local health department and/or the Program.

(3) A health-care provider who treats an individual with suspect or active tuberculosis disease shall provide for directly observed therapy~~[for individuals diagnosed with active tuberculosis disease]~~.

(4) Individuals with infectious tuberculosis disease shall comply with the treatment plan as set forth by the provider and public health, including but not limited to isolation if necessary, wearing a mask approved by the local health department or the Program when outside the isolation area, abiding by a plan of directly observed therapy, providing laboratory samples, and attending all scheduled provider visits.

(5) Any individual who will not comply with public health shall be subject to involuntary isolation as establish in the Utah Communicable Disease Control Act.

#### **R388-804-7. Epidemiologic Investigations.**

(1) The local health department shall conduct a contact investigation immediately upon report of an AFB smear positive suspected or confirmed case of laryngeal, respiratory, or pleural tuberculosis disease.

(2) The contact investigation shall include interviewing, counseling, educating, examining and obtaining comprehensive information about those who have been in contact with individuals who have infectious tuberculosis.

(a) The investigation shall begin within three days of notification of an AFB smear positive suspected or confirmed case and the initial evaluation shall be completed within fourteen days of notification.

(b) Investigations of contacts to persons with active TB disease shall include the evaluation of contacts and the treatment of infected contacts.

(c) The local health department shall submit demographic data to the Department at 30 days and at 120 days after initiation of the contact investigation, and following the completion of prophylactic treatment.

#### **R388-804-8. Payment for Isolation and Quarantine.**

(1) Individuals who are isolated or quarantined at the expense of the Department shall provide the Department with information to determine if any other payment source for the costs associated with isolation or quarantine is available.

#### **R388-804-9. Penalty for Violation.**

(1) Any person who violates any provision of this rule may be assessed a civil money penalty as provided in Section 26-23-6.

#### **KEY: tuberculosis, screening, communicable diseases**

**Date of Enactment or Last Substantive Amendment:** ~~[September 23, 2015]~~2017

**Notice of Continuation:** September 30, 2016

**Authorizing, and Implemented or Interpreted Law:** 26-6-4; 26-6-6; 26-6-7; 26-6-8; 26-6-9; 26-6

**Health, Family Health and  
Preparedness, Emergency Medical  
Services  
R426-5  
Emergency Medical Services Training  
and Certification Standards**

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 41332  
FILED: 03/01/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for this amendment is to add language from Rule R438-12 into Rule R426-5 pertaining to issuing blood draw permits for law enforcement activities.

**SUMMARY OF THE RULE OR CHANGE:** During a five-year review, it was determined that blood draw permits should be moved from Rule R438-12 to Rule R426-5. The blood draw permit language was slightly modified to fit into the context of the rest of Rule R426-5. A point of clarity was added for certified personnel by the EMS Committee.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 1 and Title 26, Chapter 8a

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The state budget will not be impacted due to the blood draw permit language being added to this rule, since it only replaces existing language in Rule R438-12.
- ◆ **LOCAL GOVERNMENTS:** The local government budgets will not be impacted due to the blood draw permit language being added to this rule, since it only replaces existing language in Rule R438-12.
- ◆ **SMALL BUSINESSES:** Small businesses will not have any fiscal impacts due to the blood draw permit language being added to this rule, since it only replaces existing language in Rule R438-12.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Other businesses, individuals, local governments, and persons will not have any fiscal impacts due to the blood draw permit language being added to this rule, since it only replaces existing language in Rule R438-12.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Persons affected will not have any additional compliance costs due to rule amendments since added language simply replaces existing language in Rule R438-12.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This amendment will now include language addressing blood draw permits for certified EMS personnel which was formerly in Rule R438-12. Once this rule amendment is finalized, the lab will repeal Rule R438-12. There is no impact on business because the amendment language will replace requirements already set out in Rule R438-12, which will be repealed.

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 Office 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](mailto:gdansie@utah.gov) or by mail at PO Box 142004, Salt Lake City, UT 84114-2004

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2017

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R426. Health, Family Health and Preparedness, Emergency Medical Services.**

**R426-5. Emergency Medical Services Training and Certification Standards.**

**R426-5-100. Authority and Purpose.**

(1) This rule is established under Title 26, Chapter 8a to provide uniform minimum standards to be met by those providing emergency medical services in the State of Utah; and for the training, certification, and recertification of individuals who provide emergency medical service and for those providing instructions and training to pre-hospital emergency medical care providers.

(2) The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule.

**R426-5-200. Scope of Practice.**

(1) The Department may certify as an EMR, EMT, AEMT, EMT-IA Paramedic, or EMD an individual who meets the initial certification requirements in this rule.

(2) The Committee adopts as the standard for EMR, EMT, AEMT, EMT-IA, or Paramedic training and competency in the state, the following United States Department of Transportation's National Emergency Medical Services Education Standards.

(3) An EMR, EMT, AEMT, or Paramedic may perform the skills as described in the EMS National Education Standards, to their level of certification, as adopted in this section.

(4) Per Utah Code section 41-6a-523 persons authorized to draw blood/immunity from liability and section 53-10-405 DNA specimen analysis -- Saliva sample to be obtained -- Blood sample to be drawn by a professional. Acting at the request of a peace officer a paramedic may draw field blood samples to determine alcohol or drug content and for DNA analysis. Acting at the request of a peace officer an AEMT may draw field blood samples to determine alcohol or drug content and for DNA analysis if they have received certification pursuant to administrative rule R438-12. A person authorized by this section to draw blood samples may not be held criminally or civilly liable if drawn in a medically acceptable manner.

**R426-5-300. Certification.**

(1) The Department may certify an EMR, EMT, EMT-IA, AEMT, Paramedic, or EMD for a four-year period.

(2) An individual who wishes to become certified as a EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD shall:

(a) successfully complete a Department-approved EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD course as described in this rule;

(b) be able to perform the functions listed in the National EMS Education Standards adopted in this rule as verified by personal attestation and successful accomplishment by certified EMS Instructors during the course;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD certification;

(d) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(e) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(f) maintain and submit documentation of having completed a Department approved CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for the level of Healthcare Provider Cardiopulmonary Resuscitation (CPR) and Emergency Cardiac Care (ECC); and

(g) submit TB test results as per R426-5-700.

(3) Age requirements:

(a) EMR may certify at 16 years of age or older; and

(b) EMT, AEMT, EMT-IA and Paramedic may certify at 18 years of age or older.

(4) Within 120 days after the official course end date the applicant shall successfully complete the Department written and practical EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD examinations, or reexaminations, if necessary.

(5) Test development, the Department shall:

(a) develop or approve written and practical tests for each certification;

(b) establish the passing score for certification and recertification written and practical tests;

(c) the Department may administer the tests or delegate the administration of any test to another entity; and

(d) the Department may release only to the individual who took the test and to persons who have a signed release from the individual who took the test:

(i) whether the individual passed or failed a written or practical test; and

(ii) the subject areas where items were missed on a written or practical test.

(6) An individual who fails any part of the EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD certification or recertification written or practical examination may retake the examination twice without further course work.

(7) If the individual fails both re-examinations, they shall take a complete EMR, EMT, AEMT, Paramedic, or EMD training course respective to the certification level sought to be eligible for further examination.

(8) The individual may retake the course as many times as they desire, but may only take the examinations three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual shall pass both the practical and written test administered after completion of the new course.

(9) An individual who wishes to enroll in an AEMT, EMT-IA, or Paramedic course shall have as a minimum a Utah EMT certification. This Certification shall remain current until new certification level is obtained.

(10) The Department may extend the time limits for an individual who demonstrates that the inability to meet the requirements within the 120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

**R426-5-400. Certification at a Lower Level.**

(1) An individual who has taken a Paramedic course, but has not been recommended for certification, may request to become certified at the AEMT levels if:

(a) the paramedic course coordinator submits to the Department a favorable letter of recommendation stating that the individual has successfully obtained the knowledge and skills of the AEMT level as required by this rule; and

(b) the individual successfully completes all requirements for an AEMT.

**R426-5-500. Certification Challenges.**

(1) The Department may certify as an EMT or AEMT; a registered nurse licensed in Utah, a nurse practitioner licensed in Utah, a physician assistant licensed in Utah, or a physician licensed in Utah who:

(a) is able to demonstrate knowledge, proficiency and competency to perform all the functions listed in the National EMS Education Standards as verified by personal attestation and successful demonstration to a currently certified course coordinator and an off-line medical director of all cognitive, affective, and psychomotor skills listed in the National EMS Education Standards;

(b) has a knowledge of:

(i) medical control protocols;

- (ii) state and local protocols; and
- (iii) the role and responsibilities of an EMT or AEMT respectively.
- (c) maintain and submit documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for adult and pediatric healthcare provider CPR and ECC; and
- (d) is 18 years of age or older.
- (e) each level shall be challenged sequentially and individually
- (2) To become certified, the applicant shall:
  - (a) submit three letters of recommendation from health care providers attesting to the applicant's patient care skills and abilities;
  - (b) submit a favorable recommendation from a currently certified course coordinator attesting to competency of all knowledge and skills contained within the National EMS Education Standards;
  - (c) submit the applicable fees and a completed application, including social security number, signature, and, proof of current Utah license as a Registered Nurse, a Physician Assistant, or a Medical Doctor;
  - (d) within 120 days after submitting the challenge application, successfully complete the Department written and practical EMT examinations, or reexaminations, if necessary;
  - (e) the Department may extend the time limit for an individual who demonstrates the inability to meet the requirements within 120 days was due to circumstances beyond the applicant's control;
  - (f) submit to and pass a background screening clearance as per R426-5-2700; and
  - (g) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to submitting the application.

**R426-5-600. Recertification Requirements.**

- (1) The Department may recertify an individual for a four-year period or for a shorter period as modified by the Department to standardize recertification cycles.
- (2) An individual seeking recertification shall:
  - (a) submit the applicable fees and a completed application, including social security number and signature, to the Department;
  - (b) submit to and pass a background screening clearance as per R426-5-2700;
  - (c) maintain and submit documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for the level of Adult and Pediatric Healthcare Provider CPR and ECC. CPR shall be kept current during certification;
  - (d) submit TB test results as per R426-5-700;
  - (e) successfully complete the Department applicable written and practical recertification examinations, or reexaminations if necessary, within one year prior to expiration; and
  - (f) provide documentation of completion of Department-approved CME requirements.
- (3) The EMR, EMT, AEMT, EMT-IA and Paramedic shall complete the required CME hours, as outlined in the

department's Recertification Protocol for EMS Personnel manual and in accordance with the National EMS Education Standards. The hours shall be completed throughout the prior four years.

- (4) As well as requirements in (2)(c) The following course completion documentation is required for the specific certification level and may be included in the CME required hours:
  - (a) EMR 52 hours of CME.
  - (b) EMT 98 hours of CME.
  - (c) AEMT 108 hours of CME.
  - (d) EMT-IA 108 hours of CME.
  - (e) Paramedic 144 hours of CME; and,
  - (f) EMD 48 hours of CME.
- (5) An EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD may complete CME hours through various methodologies, but 30 percent of the CME hours shall be practical hands-on training.
- (6) All CME shall be related to the required skills and knowledge of the EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD's level of certification.
- (7) The CME Instructors need not be certified EMS instructors, but shall be knowledgeable in the subject matter.
- (8) The EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD shall complete and provide documentation of demonstrating the psychomotor skills listed in the current National EMS Education Standards at their level of certification.
- (9) An EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD who is affiliated with an EMS organization should have the organization's designated training officer submit a letter verifying the completion of the recertification requirements. An EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD who is not affiliated with a licensed or designated EMS provider shall submit verification of all recertification requirements directly to the Department.
- (10) An AEMT, EMT-IA or Paramedic shall submit a letter from a certified off-line medical director recommending the individual for recertification and verifying the individual has demonstrated proficiency in the psychomotor skills listed in the current National EMS Education Standards at their level of certification.
- (11) Each EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD is individually responsible to complete and submit all required recertification material to the Department at one time, no later than 30 days and no earlier than one year prior to the individual's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.
- (12) A licensed or designated EMS provider, or a Department approved entity who provides CME may compile and submit recertification materials on behalf of an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD; however, the individual EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD remains responsible for a timely and complete submission.
- (13) The Department may shorten recertification periods. An EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD whose recertification period is shortened shall meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.
- (14) The Department may not lengthen certification periods more than the four-year certification, unless the individual

is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expired. If this happens, the individual shall recertify in accordance with Utah Code 39-1-64.

**R426-5-700. TB Test Requirements.**

(1) All levels of certification and recertification except EMD shall submit a statement from a physician or other health care provider, confirming the applicant's negative results of a Tuberculin Skin Test or equivalent (TB test) examination conducted within the prior year, or complete the following requirements:

(a) if the test is positive, and there is no documented history of prior Latent TB Infection (LTBI) treatment, the applicant shall see his primary care physician for a chest x-ray (CXR) in accordance with current Center for Disease Control and Prevention (CDC) guidelines and further evaluation; and

(b) Results of CXR and medical history shall be submitted to the Department.

(2) If the CXR is negative, the applicant's medical history will be reviewed by the State EMS Medical Director. For individuals at high risk for developing active TB, treatment will be strongly recommended.

(3) If the CXR is positive, the applicant is considered to be suspect Active TB. Should the diagnosis be confirmed:

(a) Completion of treatment or release by an appropriate physician will be required prior to certification; and

(b) each such case will be reviewed by the State EMS Medical Director.

(4) If an applicant who is required to get treatment refuses the treatment, the Department may deny certification.

(5) A TB test should not be performed on a person who has a documented history of either a prior positive TB test or prior treatment for tuberculosis. The applicant shall instead have a CXR in accordance with current CDC guidelines and provide documentation of negative CXR results to the department.

(6) If the applicant has had prior treatment for active TB or LTBI, the applicant shall provide documentation of this treatment prior to certification. Documentation of this treatment will be maintained by the Department, and needs only to be provided once.

(7) Each such case will be reviewed by the State EMS Medical Director.

**R426-5-800. Reciprocity.**

(1) The Department may certify an individual as an EMR, EMT, AEMT, Paramedic, or EMD an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience shall:

(a) Submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days of submitting the application;

(b) submit to and pass a background screening clearance as per R426-5-2700;

(c) maintain and submit documentation of having completed a CPR course within the prior two years that is consistent

with the most current version of the American Heart Association Guidelines for the level of Healthcare Provider CPR and ECC;

(d) submit TB test results as per R426-5-700;

(e) successfully complete the Department written and practical EMR, EMT, AEMT, Paramedic, or EMD examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year. EMDs shall provide documentation of completion of 12 hours of CME within the prior year

(3) The Department may certify as an EMD an individual certified by the National Academy of Emergency Medical Dispatch (NAEMD) or equivalent. An individual seeking reciprocity for certification in Utah based on NAEMD or equivalent certification shall:

(a) Submit documentation of current NAEMD or equivalent certification.

(b) maintain and submit documentation of having completed within the prior two years;

(i) a Department approved CPR course that is consistent with the most current version of the American Heart Association Guidelines for CPR and ECC; and

(ii) a minimum of a two-hour course in critical incident stress management (CISM).

(4) An individual who fails the written or practical EMR, EMT, or AEMT examination three times will be required to complete a Department approved EMR, EMT, or AEMT, course respective to the certification level sought.

(5) A candidate for paramedic reciprocity who fails the written or practical examinations three times can request further consideration of reciprocity after five years if the candidate has worked for an out of state EMS provider and can verify steady employment as a paramedic for at least three of the five years.

**R426-5-900. Lapsed Certification.**

(1) An individual whose EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD certification has expired for less than one year may, within one year after expiration, complete all recertification requirements, pay a late recertification fee, and successfully pass the written certification examination to become certified. The individual's new expiration date will be four years from the previous expiration date.

(2) An individual whose certification has expired for more than one year shall:

(a) submit a letter of recommendation including results of an oral examination, from a certified off-line medical director, verifying proficiency in patient care skills at the certification level;

(b) successfully complete the applicable Department written and practical examinations;

(c) complete all recertification requirements; and

(d) the individual's new expiration date will be four years from the completion of all recertification materials.

(3) An individual whose certification has lapsed, is not authorized to provide care as an EMR, EMT, AEMT, EMT-IA,

Paramedic, or EMD until the individual completes the recertification process.

**R426-5-1000. Transition to 2009 National EMS Education Standards.**

(1) The Department adopts the 2009 National Education Standards as noted in this rule resulting in a need for specific dates for a transition period. These dates shall be as follows:

(a) EMT Basic to EMT January 1, 2012 to January 1, 2016; and

(b) EMT Intermediate to Advanced EMT, October 1, 2011 to September 30, 2013.

(2) Transition for EMT-B to EMT will be accomplished through the Department's written examination as part of the Individual's recertification process during the transition period.

(3) Transition for EMT-I and EMT-IA to AEMT will be accomplished through the Department's written AEMT transition examination during the transition period.

(4) Transition will not change the Individual's recertification date.

(5) During the transition period:

(a) EMT-I and EMT-IA will be deemed equivalent to AEMT certification, in accordance with the respective licensed or designated EMS provider's waivers; and

(b) EMT-B will be deemed equivalent to EMT certification.

(c) EMT-IA may maintain level of certification as long as employed by a licensed EMT-IA provider.

(6) After the deadline of September 31, 2013 of the AEMT transition period:

(a) an EMT-I who has not yet transitioned will be deemed an EMT, and;

(b) an EMT-IA who is not working for a licensed EMT-IA provider shall be deemed an AEMT.

**R426-5-1100. Emergency Medical Care During Clinical Training.**

A student enrolled in a Department-approved training program may, under the direct supervision of the course coordinator, an instructor in the course, or a preceptor for the course, perform activities delineated within the training curriculum that otherwise require certification to perform.

**R426-5-1200. Instructor Requirements.**

(1) The Department may certify as an EMS Instructor an individual who:

(a) meets the initial certification requirements in R426-5-1300; and

(b) is currently certified in Utah as an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD.

(2) The Committee adopts the United States Department of Transportation's "EMS Instructor Training Program as the standard for EMS Instructor training and competency in the state, which is adopted and incorporated by reference.

(3) An EMS instructor may only teach up to the certification level to which the instructor is certified. An EMS instructor who is only certified as an EMD may only teach EMD courses.

(4) An EMS instructor shall comply with the teaching standards and procedures in the EMS Instructor Manual.

(5) An EMS instructor shall maintain the EMS certification for the level the instructor is certified to teach. If an individual's EMS certification lapses, the instructor certification is invalid until EMS certification is renewed.

(6) The Department may waive a particular instructor certification requirement if the applicant can demonstrate the applicant's training and experience requirements are equivalent or greater to what are required in Utah.

**R426-5-1300. Instructor Certification.**

(1) The Department may certify an individual who is an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD as an EMS Instructor for a two-year period.

(2) An individual who wishes to become certified as an EMS Instructor shall:

(a) Submit an application and pay all applicable fees;

(b) submit three letters of recommendation regarding EMS skills and teaching abilities;

(c) submit documentation of 15 hours of teaching experience;

(d) successfully complete all required examinations; and

(e) successfully complete the Department-sponsored initial EMS instructor training course.

(3) An individual who wishes to become certified as an EMS Instructor to teach EMR, EMT, AEMT, or paramedic courses shall also:

(a) Provide documentation of 30 hours of patient care within the prior year.

(4) The Department may waive portions of the initial EMS instructor training courses for previously completed Department-approved instructor programs.

**R426-5-1400. Instructor Recertification.**

(1) An EMS instructor who wishes to recertify as an instructor shall:

(a) maintain current EMS certification; and

(b) attend the required Department-approved recertification training at least once in the two year recertification cycle;

(2) Submit an application and pay all applicable fees.

**R426-5-1500. Instructor Lapsed Certification.**

(1) An EMS instructor whose instructor certification has expired for less than two years may again become certified by completing the recertification requirements.

(2) An EMS instructor whose instructor certification has expired for more than two years shall complete all initial instructor certification requirements and reapply as if there were no prior certification.

**R426-5-1600. Training Officer Certification.**

(1) The Department may certify an individual who is a certified EMS instructor as a training officer for a two-year period.

(2) An individual who wishes to become certified as an EMS Training officer shall:

- (a) Be currently certified as an EMS instructor;
- (b) successfully complete the Department's course for new training officers;
- (c) submit an application and pay all applicable fees; and
- (d) submit biennially a completed and signed "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the then current Training Officer Manual.

(3) A training officer shall maintain EMS instructor certification to retain training officer certification.

(4) An EMS training officer shall abide by the terms of the Training Officer Contract, and comply with the standards and procedures in the Training Officer Manual as incorporated into the respective Training Officer Contract.

**R426-5-1700. Training Officer Recertification.**

(1) A training officer who wishes to recertify as a training officer shall:

- (a) Attend a training officer seminar at least once in the two year recertification cycle;
- (b) maintain current EMS instructor and EMS certification;
- (c) submit an application and pay all applicable fees;
- (d) successfully complete any Department-examination requirements; and
- (e) submit biennially a completed and signed new "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the current training officer manual.

**R426-5-1800. Training Officer Lapsed Certification.**

(1) An individual whose training officer certification has expired for less than two years may again become certified by completing the recertification requirements. The individual's new expiration date will be two years from the old expiration date.

(2) An individual whose training officer certification has expired for more than two year shall complete all initial training officer certification requirements and reapply as if there were no prior certification.

**R426-5-1900. Course Coordinator Certification.**

(1) The Department may certify an individual as an EMS course coordinator for a two-year period.

(2) An individual who wishes to certify as a course coordinator shall:

- (a) Be certified as an EMS instructor;
- (b) be a co-coordinator of record for one Department-approved course with a certified course coordinator;
- (c) submit a written evaluation and recommendation from the course coordinator in the co-coordinated course;
- (d) complete certification requirements within one year of completion of the Department's course for new course coordinators;
- (e) submit an application and pay all applicable fees;
- (f) complete the Department's course for new course coordinators;
- (g) sign and submit annually the "Course Coordinator Contract" to the Department agreeing to abide to the standards and procedures in the then current Course Coordinator Manual; and
- (h) maintain EMS instructor certification.

(3) A Course Coordinator may only coordinate courses up to the certification level to which the course coordinator is certified. A course coordinator, who is only certified as an EMD, may only coordinate EMD courses.

(4) A course coordinator shall abide by the terms of the "Course Coordinator Contract" and comply with the standards and procedures in the Course Coordinator Manual as incorporated into the "Course Coordinator Contract."

(5) A Course Coordinator shall maintain an EMS Instructor certification and the EMS certification for the level that the course coordinator is certified to coordinate. If an individual's EMS certification lapses, the Course Coordinator certification is invalid until EMS certification is renewed.

**R426-5-2000. Course Coordinator Recertification.**

(1) A course coordinator who wishes to recertify as a course coordinator shall:

- (a) Maintain current EMS instructor and EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD certification;
- (b) coordinate or co-coordinate at least one Department-approved course every two years;
- (c) attend a course coordinator seminar at least once in the two year recertification cycle;
- (d) submit an application and pay all applicable fees; and
- (e) sign and submit biannually a Course Coordinator Contract to the Department agreeing to abide by the policies and procedures in the then current Course Coordinator Manual.

**R426-5-2100. Course Coordinator Lapsed Certification.**

(1) An individual whose course coordinator certification has expired for less than two year may again become certified by completing the recertification requirements. The individual's new expiration date will be two years from the recertification date.

(2) An individual whose course coordinator certification has expired for more than two year

must complete all initial course coordinator certification requirements and reapply as if there were no prior certification.

**R426-5-2200. Course Approvals.**

(1) A course coordinator offering EMS training to individuals who wish to become certified as an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD shall obtain Department approval prior to initiating an EMS training course. The Department shall approve a course if:

- (a) The applicant submits the course application and fees no earlier than 90 days and no later than 30 days prior to commencing the course;
- (b) the applicant has sufficient equipment available for the training or if the equipment is available for rental from the Department;
- (c) the Department finds the course meets all the Department rules and contracts governing training;
- (d) the course coordinators and instructors hold current respective course coordinator and EMS instructor certifications; and
- (e) the Department has the capacity to offer the applicable examinations in a timely manner after the conclusion of the course.



**R426-5-2300. Paramedic Training Institutions Standards Compliance.**

(1) A person shall be authorized by the Department to provide training leading to the certification of a paramedic.

(2) To become authorized and maintain authorization to provide paramedic training, a person shall:

(a) Enter into the Department's standard paramedic training contract; and

(b) adhere to the terms of the contract, including the requirement to provide training in compliance with the Course Coordinator Manual and the Utah Paramedic Training Program Accreditation Standards Manual.

**R426-5-2400. Off-line Medical Director Requirements.**

(1) The Department may certify an off-line medical director for a four-year period.

(2) An off-line medical director shall be:

(a) a physician actively engaged in the provision of emergency medical care;

(b) familiar with the Utah EMS Systems Act, Title 26, Chapter 8a, and applicable state rules; and

(c) familiar with medical equipment and medications required.

**R426-5-2500. Off-line Medical Director Certification.**

(1) An individual who wishes to certify as an off-line medical director shall:

(a) have completed an American College of Emergency Physicians or National Association of Emergency Medical Services Physicians medical director training course or the Department's medical director training course within twelve months of becoming a medical director;

(b) submit an application and;

(c) pay all applicable fees.

(2) An individual who wishes to recertify as an off-line medical director shall:

(a) attend the medical directors annual workshop at least once every four years

(b) submit an application; and

(c) pay all applicable fees.

**R426-5-2600. Epinephrine Auto-Injector Use.**

(1) Any qualified entities or qualified adults as defined in 26-41-102 in accordance with 26-41-107 shall receive training approved by the Department.

(a) The training shall include:

(i) recognition of life threatening symptoms of anaphylaxis;

(ii) appropriate administration of an epinephrine auto-injector;

(iii) proper storage of an epinephrine auto-injector;

(iv) disposal of an epinephrine auto-injector; and

(v) an initial and annual refresher course.

(2) The annual refresher course requirement may be waived if:

(a) The qualified entities or qualified adults are currently licensed or certified at the EMR or higher level by the State of Utah, or

(b) The approved trainings are the Red Cross and American Heart Association epinephrine auto-injector modules.

(3) Training in the school setting shall be based on approved Department trainings found on <http://www.choosehealth.utah.gov/prek-12/school-nurses.php> and provided in accordance with 26-41-104.

(4) All epinephrine auto injectors shall be stored and disposed of following the manufacturer's specifications.

**R426-5-2700. Law Enforcement Blood Draws Authorized Individual Qualifications.**

Individuals who are not authorized to draw blood pursuant to Utah Code Title 41-6a-523(1)(b), or individuals who are not certified by the Department such as EMTs, AEMTs, EMT-IAs, or Paramedics pursuant to Utah Code Title 26-8a-302 shall meet one of the following requirements as a prerequisite for authorization to withdraw blood for the purpose of determining its alcoholic or drug content when requested to do so by a peace officer:

(1) training in blood withdrawal procedures obtained as a defined part of a successfully completed college or university course taken for credit, or

(2) training in blood withdrawal procedures obtained as a defined part of a successfully completed training course which prepares individuals to function in routine clinical or emergency medical situations, or

(3) training of no less than three weeks duration in blood withdrawal procedures under the guidance of a licensed physician.

**R426-5-2800. Permits for Blood Draws.**

(1) Pursuant Utah Code Title 41-6a-523(1)(b), the Department may issue permits to withdraw blood for the purpose of determining the alcoholic or drug content therein, when requested by a peace officer, to qualified applicants, as determined by the Department. Individuals described in R426-5-2700 are exempt from permit requirements.

(2) The permit shall be of a size suitable for framing and a wallet-sized permit card shall be issued with the permit. Permits for blood draws are not required for people.

(3) Application to obtain a permit shall be made to the Director, Division of Epidemiology and Laboratory Services on forms provided by the Department.

(4) The permit shall be prominently displayed in the facility where the permit holder is employed. When the permit holder is requested to withdraw blood for the above stated purpose at a location other than the facility indicated above, he must have a valid permit card on his person.

(5) The effective date of a permit shall be the date the application is approved by the Department, which date shall appear on the permit and on the wallet-sized permit card. Permits shall be valid for a three year period on a calendar year basis. The date the permit expires shall appear on the permit and on the wallet-sized permit card. Permits shall be subject to termination or revocation pursuant to R426-5-2900.

(6) Application to renew permits shall be made to the Director, Division of Epidemiology and Laboratory Services before the end of each three year permit period. Such application shall be made on forms provided by the Department. The permit holder

shall either certify that he has been engaged in performing blood withdrawal procedures during the current permit period or submit a certificate signed by a physician attesting to his competence to perform blood withdrawal procedures.

(7) Permit holders must notify the Director, Division of Epidemiology and Laboratory Services within 15 days of a change in name or mailing address. Permits or permit cards that are destroyed or lost may be replaced upon written request from the permit holder.

**R426-5-2900. Cause for Blood Draw Permit Termination or Revocation.**

Violation of this rule is a class B misdemeanor under Utah Code Title 26-23-6 and is cause to cancel any permit issued under this rule.

Permits shall be subject to termination or revocation under any one of the following:

(1) The permit holder has made any misrepresentation of a material fact in his application, or any other communication to the Department or its representatives, which misrepresentation was material to the eligibility of the permit holder;

(2) The permit holder is not qualified under R426-5-2700 to hold a permit;

(3) The permit holder after having received a permit has been convicted of a felony or of a misdemeanor which misdemeanor involves moral turpitude; or

(4) The permit holder does not comply with the display or possession requirements stated in R426-5-2800(3).

**R426-5-3000. Published List of Authorized Individuals Permitted to Draw Blood.**

The Department shall publish annually, a list of individuals authorized to withdraw blood for determination of its alcoholic or drug content, when requested to do so by a peace officer. This list shall include the individual's name, mailing address, and permit number. The list shall be made available to all state and local law enforcement agencies, all local health departments, and any other person or agency requesting the information. The Department may publish amended lists when deemed necessary.

**R426-5-[27]3100. Background Screening Clearance for EMS Certification.**

(1) The Department shall conduct a background screening on each individual who seeks to certify or recertify as an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD. The Department shall approve EMS certification or recertification upon successful completion of a background screening. Background clearance indicates the individual does not pose an unacceptable risk to public health and safety.

(2) The Department may review relevant information obtained from the following sources:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6- 209;

(c) federal criminal background databases available to the state;

(d) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section 62A-4a-1006;

(e) child abuse or neglect findings described in Section 78A-6-323;

(f) the Department of Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1; and

(g) licensing and certification records of individuals licensed or certified by the Division of Occupational and Professional Licensing under Title 58, Occupations and Professions.

(3) If the Department determines an individual is not eligible for certification or recertification based upon the criminal background screening and the individual disagrees with the information provided by the Criminal Investigations and Technical Services Division or court record, the individual may challenge the information as provided in Utah Code Annotated Sections 77-18a.

(4) If the Department determines an individual is not eligible for certification or recertification based upon the non-criminal background screening and the individual disagrees with the information provided, the individual may challenge the information through the appropriate agency.

(5) The individual seeking certification or recertification shall submit the completed application, including fees, prior to submission of finger prints.

(6) Exclusion from certification or recertification.

(a) Criminal Convictions or Pending Charges:

(i) If an individual has been convicted, has pleaded no contest, is subject to a plea in abeyance, or a diversion agreement, for the following offenses within the past 15 years, they shall not be approved for certification or recertification:

(A) any felony or class A under Title 76, Chapter 5 Offenses Against the Person, Utah Criminal Code;

(B) any felony or class A under Title 76, Chapter 9, Offenses Against Public Order and Decency, Utah Criminal Code excluding sections 103 and 108;

(C) any felony or class A or B under the following Utah Criminal Codes:

(I) 76-9-301.8, Bestiality;

(II) 76-9-702.1, Sexual Battery; and

(III) 76-9-702.5, Lewdness Involving Child.

(ii) If an individual has been convicted or has pleaded no contest for the following offenses, 15 years have passed since the last conviction and the offense cannot be expunged they shall be considered for certification or recertification:

(A) any felony or class A under Title 76, Chapter 5 Offenses Against the Person, Utah Criminal Code;

(B) any felony or class A under Title 76, Chapter 9, Offenses Against Public Order and Decency, Utah Criminal Code excluding sections 103 and 108;

(C) any felony or class A or B under the following Utah Criminal Codes:

(I) 76-9-301.8, Bestiality;

(II) 76-9-702.1, Sexual Battery; and

(III) 76-9-702.5, Lewdness Involving Child.

(iii) If an individual has been convicted, has pleaded no contest, is subject to a plea in abeyance, or a diversion agreement, for the following offenses, they shall be considered for certification or recertification:

(A) any felony or class A under Utah Criminal Code not listed in R426-5-[27]3100(6)(a)(i).

(B) any class B or C under Title 76, Chapter 5 Offenses Against the Person, Utah Criminal Code;

(C) any felony, class A under Title 76, Chapter 6, Offenses Against Property, Utah Criminal Code;

(D) any felony or class A under Title 76, Chapter 6a, Pyramid Schemes, Utah Criminal Code;

(E) any felony or class A under Title 76, Chapter 8, Offenses Against the Administration of Government, Utah Criminal Code;

(F) any felony, class A under Title 76, Chapter 10, Offenses Against Public Health, Welfare, Safety and Morals, Utah Criminal Code;

(G) any felony, class A, B or C under the following Utah Criminal Codes:

(I) 76-10-1201 to 1229.5, Pornographic and Harmful Materials and Performances; and

(II) 76-10-1301 to 1314, Prostitution;

(III) any felony or class A under Utah Criminal Code 76-10-2301, Contributing to the Delinquency of a Minor;

(H) any felony or class A or B under Utah Motor Vehicles Traffic Code 41-6a-502 and 517.

(I) any felony or class A or B under Utah Occupations and Professions Utah Controlled Substances Act 58-37.

(J) any felony or class A or B under Alcoholic Beverage Control Act 32B-4-409.

(K) any criminal conviction or pattern of convictions that may represent an unacceptable risk to public health and safety.

(iv) An individual seeking certification who has been convicted or has pleaded no contest, is subject to a plea in abeyance, a diversion agreement, a warrant for arrest, arrested or charged for any of the identified offenses in R426-5-[27]3100(6)(a)(iii), shall be considered for certification.

(v) A certified EMS individual who is subject to a warrant of arrest, arrested or charged for any of the identified offenses in R426-5-[27]3100(6)(a)(iii), and after an investigation and Peer Review Board process as established in R426-5-[29]3300, the Department may issue recertification, or suspend or revoke a certification, or place a certification on probation.

(vi) A certified EMS individual who is subject to a warrant of arrest, arrested or charged for any of the identified offenses in R426-5-[27]3100(6)(a)(i), shall immediately have the individuals EMS certification placed on restriction pending the outcome of a CCEU investigation as per the process established in R426-5-[29]3300.

(b) Juvenile Records.

(i) As required by Utah Code Subsection 26-8a-310(5) (b), juvenile court records shall be reviewed if an individual is:

(A) under the age of 28; or

(B) over the age of 28 and has convictions or pending charges identified in R426-5-[26]3100(6)(a).

(ii) Adjudications by a juvenile court may exclude the individual from certification or recertification if the adjudications

refer to an act that, if committed by an adult, would be a felony or a misdemeanor any of the identified offenses in R426-5-2700(6)(a).

(c) Non-Criminal Records.

(i) The Department may deny certification or recertification based on a supported finding from:

(A) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section 62A-4a-1006;

(B) child abuse or neglect findings described in Section 78A-6-323;

(C) the Department of Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(ii) The Department may deny certification or recertification based on a finding from licensing records of individuals licensed by the Division of Occupational and Professional Licensing under Title 58, Occupations and Professions.

(d) Review of Relevant Information.

(i) Results of background screening review, as listed above in R426-5-[27]3100(6)(a)(ii)-(iii), (b) or (c) may be reviewed to determine under what circumstance, if any, the individual may be granted certification or recertification. The following factors may be considered:

(A) types and number;

(B) passage of time;

(C) surrounding circumstances;

(D) intervening circumstances; and

(E) steps taken to correct or improve.

(ii) The Department shall rely on relevant information identified in R426-5-[27]3100(2) as conclusive evidence and may deny certification or recertification based on that information.

(e) Appeal of Department certification decision.

(i) A certified EMS individual may appeal a Department certification decision as listed in R426-5-[27]3100(6)(d)(i) to the CCEU as per the process established in R426-5-[29]3300.

(7) A certified EMS individual who has been arrested, charged, or convicted shall notify the Department CCEU and all employers or affiliated entities who utilize the EMS individual's certification within 7 business days. The certified EMS individual shall also notify the Department of all entities they work for or are affiliated with.

(8) All licensed or designated EMS providers who are notified or become aware of a certified EMS individual arrest, charge or conviction shall notify the Department CCEU within 7 business days.

#### **R426-5-[28]3200. Review and Investigation by the Complaint, Compliance and Enforcement Unit (CCEU).**

(1) The CCEU shall review all complaints filed against an EMS provider and a certified EMS individual.

(a) Complaints shall be in writing and submitted on an approved CCEU complaint form.

(b) Every complaint shall have the complainants contact information and be signed by the complainant.

(2) Designated or licensed provider complaints will be investigated by the CCEU.

(a) The CCEU may conduct interviews with the provider.

(b) The CCEU will allow the provider an opportunity to respond to the allegations and to provide supporting witnesses and documentation.

(c) Based on the investigation, the CCEU will make recommendations to the Department's Bureau Director.

(d) If the CCEU recommendation is that the provider is to be placed on probation or suspension, the CCEU shall recommend terms and conditions.

(e) The Department may take action against a designated or licensed provider's license or designation based on the investigative findings.

(f) The Department shall notify the provider in writing of the Department's decision within 30 days of completion of the investigation.

(3) Certified EMS individual complaints will be investigated either by the CCEU or by the Primary Affiliated Provider (PAP).

(a) The CCEU shall investigate the following complaints against a certified EMS individual.

(i) If the CCEU determines that:

(A) the certified EMS individual demonstrates a threat to him or herself or to a coworker,

(B) the certified EMS individual demonstrates a threat to the public health,

(C) the certified EMS individual demonstrates a threat to the safety or welfare of the public,

(D) the certified EMS individual potentially violated R426-5-2800(4), or

(E) the CCEU determines the risk cannot be reasonably mitigated.

(ii) The Department may place the certified EMS individual on a restricted certification while an investigation is pending until terms are reached for a provisional certification using the process outlined in R426-5-~~28~~3200(5)(e).

(iii) The CCEU may conduct interviews with all parties necessary. The CCEU will gather information and evidence, which may include requiring the certified EMS individual to submit to a drug or alcohol screening or any other appropriate evaluation.

(iv) The certified EMS individual shall have an opportunity to respond to the allegations and to provide supporting witnesses and documentation.

(v) Once the CCEU has completed its investigation it shall submit the report with all findings and recommendations to the Peer Review Board per R426-5-~~29~~3300 and the Bureau Director for review.

(vi) While waiting for the Peer Review Board process, the Department shall notify the certified EMS individual in writing of the CCEU's recommendation within 30 days of the completion of the investigation.

(b) The Primary Affiliated Provider shall investigate a complaint against the certified EMS individual who the CCEU refers to the PAP.

(i) The PAP investigation shall:

(A) be investigated by the licensed or designated EMS provider's EMS certified medical training officer or designee;

(B) be completed and findings submitted to the CCEU within 30 calendar days from receipt of complaint from the CCEU;

(ii) If the CCEU determines that the PAP actions are insufficient, the CCEU may initiate an investigation of the certified

EMS individual which follows the CCEU and the Peer Review Board process.

(4) The Department shall investigate a certified EMS individual's certification or a provider's license or designation for any of the following:

(a) refusal to submit to a drug test requested by the EMS provider or the Department;

(b) failure to report by an individual or any affiliated provider pursuant to R426-5-~~27~~3100(7)and(8);

(c) non-prescribed use of or addiction to narcotics or drugs;

(d) use of alcoholic beverages or being under the influence of alcoholic beverages at any level while on call or on duty as an EMS personnel or while driving any EMS vehicle;

(e) being under the influence of a prescribed or non-prescribed medication or drug(legal or illegal) while on call or on duty as a certified EMS individual who affects the person's ability to operate or function safely.

(f) failure to comply with the training, licensing, or relicensing requirements for the license or certification;

(g) failure to comply with a contractual agreement as an EMS instructor, a training officer, or a course coordinator. Action taken by the Department on this item shall only be against the individual's ability to perform this particular function and would not affect their base certification;

(h) fraud or deceit in applying for or obtaining a certification;

(i) fraud, deceit, lack of professional competency, patient abuse, or theft in the performance of the duties as a certified EMS individual;

(j) false or misleading information or failure to disclose criminal background information during an investigation or an EMS Personnel Peer Review Board proceeding;

(k) unauthorized use or removal of narcotics, medications, supplies or equipment from a provider, emergency vehicle or health care facility;

(l) performing procedures or skills beyond the level of certification or providers licensure;

(m) violation of laws pertaining to medical practice, drugs, or controlled substances;

(n) mental incompetence as determined by a court of competent jurisdiction;

(o) demonstrated inability and failure to perform adequate patient care;

(p) inability to provide emergency medical services with reasonable skill and safety because of illness, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated;

(q) misrepresentation of an individual's level of certification;

(r) failure of a certified EMS individual to display a clearly identifiable level of medical certification during an EMS response;

(s) unsafe, unnecessary or improper operation of an emergency vehicle that would likely cause concern or create a danger to the general public; or

(t) improper or unnecessary use of emergency equipment.

(5) Background screening referrals may be submitted to the CCEU.

(a) The CCEU shall review any case referred under R426-5-~~27~~3100.

(b) The CCEU may require the certified EMS individual to provide the proper criminal background documentation.

(c) The certified EMS individual shall notify the CCEU of all entities they work for or are affiliated with or that they may become affiliated with in connection to their EMS certification.

(d) Failure to comply with any CCEU requirements may result in disciplinary action against the certified EMS individual's certification.

(e) The CCEU may negotiate with the certified EMS individual and their primary affiliated provider to determine terms and conditions of the EMS individual's provisional certification.

(i) When the Department determines a certified EMS individual's certification will be restricted, the CCEU shall notify both the certified EMS individual and all providers they are affiliated with.

(ii) Within 2 business days of receiving the complaint or referral, the CCEU will attempt to contact and begin negotiations with the primary affiliated provider and the certified EMS individual. All parties will attempt to determine reasonable terms and conditions to the certified EMS individual's certification that would mitigate the concerns alleged in the complaint or referral.

(iii) If terms and conditions are agreed upon between the parties, the certified EMS individual and all affiliated providers shall be notified immediately. This notification will include that the certified EMS individual is under a provisional certification with terms and conditions until the resolution of any criminal charge or the completion of an investigation.

(iv) If the certified EMS individual is not employed or affiliated with a provider or if terms and conditions are not agreed upon, the CCEU will take action necessary to protect the public's best interest.

(v) The CCEU, the certified EMS individual and the provider, if applicable shall sign the terms of the provisional certification and licensure agreement. Non-licensed providers shall be notified of the provisional certification and its terms and conditions.

(vi) Once the provisional certification has been signed, all known EMS providers who the certified EMS individual is affiliated with will be notified immediately by the CCEU.

(vii) If any affiliated EMS provider or the certified EMS individual fail to abide by the terms and conditions of a provisional certification, both may be subject to sanctions by the Department.

(6) Appeal process;

(a) If a provider chooses to appeal an action by the Department, they may appeal to the EMS Committee or pursue a remedy under the Utah Administrative Procedures Act, 63G-4-201.

(i) If the Department action is appealed to the EMS Committee, then the recommendation shall be given to the Department Executive Director for a final decision.

(b) If a certified EMS individual chooses to appeal an action by the Department, they may appeal to the Executive Director, or pursue a remedy under the Utah Administrative Procedures Act, 63G-4-201.

#### **R426-5-~~29~~3300. Peer Review Board.**

The EMS Personnel Peer Review Board is created under section 26-8a-105(4).

(1) Membership of the EMS Personnel Peer Review Board. The EMS Personnel Peer Review Board shall be composed of the following 15 members appointed by the Executive Director of the Department of Health:

(a) One EMS administrative officer representing a licensed provider from a county of the first or second class;

(b) One EMS administrative officer representing a licensed provider from a county of the third through sixth class;

(c) One educational representative from an accredited EMS training program;

(d) One physician certified and practicing as an EMS Medical Director;

(e) One certified EMD;

(f) Two representatives from professional employee groups, one fire based, and one non-fire based;

(g) Two certified quality assurance/medical training officers;

(h) Two non-supervisory certified EMT's;

(i) Two non-supervisory certified AEMT's;

(j) Two non-supervisory certified Paramedics;

(2) EMS Personnel Peer Review Board member terms of office:

(a) Except as provided in subsection (2)(b) members shall be appointed for a six year term beginning no later than October 1, 2015.

(b) The Department shall adjust the length of terms to ensure the terms of members of the board are staggered so approximately one third of the board is appointed every two years.

(c) No member shall serve consecutive full terms.

(d) When a vacancy occurs in the membership of the board for any reason, the Executive Director of the Department shall appoint the replacement for the balance of the unexpired term. If the balance of the term is greater than 50% of the initial term, then the term shall be considered a full term.

(e) The EMS Personnel Peer Review Board shall organize and select one of its members as Chair and one of its members as Vice Chair to serve no more than two years in each position.

(f) If a board member becomes ineligible for the EMS Personnel Peer Review Board membership position through promotion, an increase in level of certification or transfer out of the employment position which qualified them for the appointment, they shall be replaced at the next two year interval.

(g) An equitable mix of urban and rural members is preferred.

(3) EMS Personnel Peer Review Board Meetings.

(a) Regular meetings of the Peer Review Board shall be scheduled quarterly.

(i) Regular meetings shall be noticed and posted to employers and posted in accordance with the Utah Open and Public Meetings Act, Section 52-4-202.

(ii) Failure to attend three or more consecutive meetings by any member may be grounds for removal of that member and replacement in accordance with subsection (2)(d).

(iii) A member may not receive compensation or benefits from the Department for the member's service. The member may receive per diem and travel expensed in accordance with Department rules and policies.

(4) Once a complaint against a certified EMS individual is investigated, the CCEU shall refer the case and provide a report with all findings and recommendations to the EMS Personnel Peer Review Board.

(5) If the EMS Personnel Peer Review Board chooses to recommend any action that deviates from the CCEU recommendation, the board shall provide written justification for that recommendation.

(6) The EMS Personnel Peer Review Board may make recommendations to the Bureau Director, of:

(a) no Department action, or

(b) a letter of notice, or

(c) probation of the certified EMS individual's certification with specific terms and conditions for a period of time, or

(d) suspension of the certified EMS individual's certification for a defined period of time, or

(e) permanent revocation of the certified EMS individual's certification.

(7) If the Department's Bureau Director modifies the recommended action of the EMS Personnel Peer Review Board, the Director shall attach a written letter of dissent noting the reasoning for the decision. The Bureau Director shall then notify the EMS Personnel Peer Review Board of the dissent and action taken.

(8) The certified EMS individual shall be notified by the Department of any action taken within 15 days of the decision by mail.

(9) An action to restrict, place on probation, suspend, or revoke the certified EMS individual's certification shall be done in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

**R426-5-[30]3400. EMS Rules Task Force.**

The EMS Rules Task Force is created under section 26-8a-105(3).

(1) Membership of the EMS Rules Task Force. The EMS Rules Task Force shall be composed of the following members appointed by the Executive Director of the Department of Health:

(a) a representative from the Utah Fire Chiefs' Association;

(b) a representative from the EMS Directors' Association;

(c) a EMS medical director;

(d) a privately owned EMS representative;

(e) a rural EMS medical dispatch representative;

(f) a paramedic licensed provider representative;

(g) an urban EMS medical dispatch representative;

(h) an Emergency Nurses Association representative;

(i) a course coordinator from an accredited EMS training program;

(j) an EMS training officer;

(k) a representative from the State EMS Committee;

(l) a trauma center representative.

(2) EMS Rules Task Force member terms of office:

(a) Except as provided in subsection (2)(b) members shall be appointed for a three year term.

(b) The Department shall adjust the length of terms to ensure the terms of members of the EMS Rules Task Force are staggered so approximately one third of the EMS Rules Task Force is appointed every two years.

(c) Members may serve two consecutive full terms.

(d) When a vacancy occurs in the membership for any reason, the Department shall solicit applications for replacement for the balance of the unexpired term. If the balance of the term is greater than 50% of the initial term, then the term shall be considered a full term.

(e) The EMS Rules Task Force may organize and select one of its members as Chair and one of its members as Vice Chair to serve no more than two years in each position.

(f) If a EMS Rules Task Force member becomes ineligible for the EMS Task Force membership position through promotion, an increase in level of certification or transfer out of the employment position which qualified them for the appointment, they shall be replaced at the next two year interval.

(g) An equitable mix of urban and rural members is preferred.

(3) EMS Rules Task Force Meetings.

(a) Regular meetings of the EMS Rules Task Force shall be scheduled as determined by the membership and the Department.

**KEY: emergency medical services**

**Date of Enactment or Last Substantive Amendment:** [~~May 31, 2016~~]**2017**

**Notice of Continuation:** December 6, 2016

**Authorizing, and Implemented or Interpreted Law:** 26-8a-302, 26-1-30

## Workforce Services, Employment Development

### R986-600

## Workforce Investment Act

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 41336

FILED: 03/01/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for the change is to conform to new federal law.

**SUMMARY OF THE RULE OR CHANGE:** Congress passed the Workforce Innovation and Opportunity Act with an effective date of 07/01/2015. The final regulations became effective 10/18/2016. These proposed changes are made to comply with the new requirements of federal regulation.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 35A-1-104 and Subsection 35A-1-104(4) and Title 35A, Chapter 5

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: This applies to a federally-funded program so there are no costs or savings to the state budget.
- ◆ LOCAL GOVERNMENTS: This applies to a federally-funded program so there are no costs or savings to local governments.
- ◆ SMALL BUSINESSES: There will be no costs to small businesses to comply with these changes because this is a federally-funded program.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will be no costs to persons other than small businesses, businesses, or local government entities to comply with these changes because there are no costs or fees associated with these proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for this change to anyone, including persons affected by this change because this is a federally-funded program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 WORKFORCE SERVICES  
 EMPLOYMENT DEVELOPMENT  
 140 E 300 S  
 SALT LAKE CITY, UT 84111-2333  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ◆ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2017

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2017

AUTHORIZED BY: Jon Pierpont, Executive Director

**R986. Workforce Services, Employment Development.**  
**R986-600. Workforce Innovation and Opportunity**~~[Investment]~~ Act.  
**R986-600-601. Authority for Workforce Innovation and Opportunity**~~[Investment]~~ Act (WIOA[WIA]) and Other Applicable Rules.

(1) The Department provides services to eligible clients under the authority granted in the Workforce Innovation and Opportunity~~[Investment]~~ Act, (WIOA[WIA]), 20 CFR 610 allowing

states to select a one-stop operator through a sole source selection. ~~[29 USC 2801 et seq.]~~ Funding is provided by the federal government through the WIOA[WIA]. Utah is required to file a State Plan to obtain the funding. A copy of the State Plan is available at Department administrative offices and on the Internet. The regulations contained in 20 CFR 603, 20 CFR 651 through 20 CFR 652, 20 CFR 676 through 20 CFR 678 (2016)~~[20 CFR 652, 20 CFR 660 through 20 CFR 671 and 29 CFR 37 (2000)]~~ are also applicable.

(2) The provisions of Rule R986-100 apply to WIOA[WIA] unless expressly noted otherwise in these rules even though R986-100 refers to public assistance and WIOA[WIA] funding does not meet the technical definition of public assistance. The residency requirements of R986-100-106 and the additional penalty under R986-100-118 do not apply.~~— Although a WIA applicant must complete an application as provided in R986-100-111, not all of the information requested in that rule is necessary for WIA applicants.]~~

**R986-600-602. Workforce Innovation and Opportunity**~~[Investment]~~ Act~~-(WIA)]~~.

(1) The goal of WIOA[WIA] is to increase a client's occupational skills, employment, retention and earnings; to decrease welfare dependency; support alignment of education and economic development; increase prosperity of clients, employers and community; and to improve the quality of the workforce and national productivity.

(2) WIOA[WIA] is for clients who need assistance finding employment to achieve self-sufficiency.

(3) Services are available for the following groups: adults, dislocated workers, and youth.

**R986-600-603. Youth Services.**

(1) The goals of WIOA[WIA] youth services are to reconnect out-of-school youth to education and employment, provide options for improving educational and skill competencies; to provide effective connections to employers; to ensure access to mentoring, training opportunities and support services; to provide incentives for achievement; and to provide opportunities for leadership, citizenship and community service.

(2) WIOA[WIA] youth services ~~[are] may be~~ available to; ~~[low income youth who are between the ages of 14 and 21 years old and who have one or more barriers including those which interfere with the ability to complete an educational program or to secure and hold employment.]~~

(a) in School Youth, age 14 through 21, who are low income and who have one or more barriers including those that interfere with the ability to complete an educational program or to secure and hold employment.

(b) out of School Youth, age 16 through 24 and who have one or more barriers including: school dropout, attendance issues, offender, homeless, runaway foster care, aged out of foster care, pregnant or parenting, or disabled, and

(c) out of School Youth, age 16 through 24, who are low income and who have one or more barriers including: Native American, child of incarcerated parent(s), substance abuse issues, victim of domestic violence, or refugee.

~~\_\_\_\_\_ (3) Services to youth include eligibility determination, assessment, employment planning. The Department may provide youth services or the services may be provided under contract as determined by competitive bid.~~

~~\_\_\_\_\_ (4) Youth may be referred to appropriate community resources based on need.~~

~~\_\_\_\_\_ (5) Services include educational achievement services, employment services, supportive services, and follow-up services.]~~

~~\_\_\_\_\_ (3)(6) An incentive may be paid to provide recognition of achievement to eligible youth.~~

#### **R986-600-604. Adults, Youth, and Dislocated Workers.**

The Department offers ~~four~~three levels of service for adults, youth and dislocated workers:

- (1) ~~basic career~~core services;
- (2) ~~individualized career~~intensive services;~~[-and]~~
- (3) ~~training services~~[-]; and

~~\_\_\_\_\_ (4) follow-up services that, if requested, may be provided after receiving individualized or training services for a minimum of 12 months for all youth; or for a maximum of 12 months following the adult's or dislocated worker's first date of unsubsidized employment.~~

#### **R986-600-605. Basic Career ~~[Core]~~ Services.**

~~Basic career~~core services include~~[-];~~:

- (1) registration for services;
- (2) providing the following informational resources:

(a) outreach, intake, and orientation to, and information about, available services, including resource and referral services;

(b) local, regional and national labor market information including job vacancy listings and occupations in demand and the skills necessary to obtain those jobs and occupations~~[-];~~

(c) performance measures with respect to the one-stop delivery system~~[-]; and~~

~~\_\_\_\_\_ (d) performance information and program cost for eligible training providers and programs.~~

(3) job development;

(4) rapid response services;

(5) bonding;

(6) assessment of skill levels, aptitudes, abilities, and supportive service needs;

(7) job search and placement assistance, and where appropriate, career counseling and workshops;

~~\_\_\_\_\_ (8) Referral to and coordination of activities with other programs and services within the one-stop delivery system and other community programs, and~~

~~\_\_\_\_\_ (8) follow-up services which will be provided for a minimum of 12 months after active participation ends for all youth. If requested, follow-up services will also be provided for a minimum of 12 months after the first day of unsubsidized employment to adults and dislocated workers who have been placed in unsubsidized employment and;~~

(9) determining if a client is eligible for, and assistance in, applying for: WIOA~~[WIA]~~ funded programs, unemployment insurance benefits, financial aid assistance available for training and educational programs not funded under WIOA~~[WIA]~~, food stamps (SNAP), other supportive services such as child care, medical services, and transportation.

#### **R986-600-606. Individualized Career ~~[Intensive]~~ Services.**

~~\_\_\_\_\_ (1) Intensive services for adults, dislocated workers and youth consist of:~~

~~\_\_\_\_\_ (a) an assessment as provided in R986-600-620;~~

~~\_\_\_\_\_ (b) development of an employment plan as provided in R986-600-621;~~

~~\_\_\_\_\_ (c) case management, career counseling and career planning;~~

~~\_\_\_\_\_ (d) basic education;~~

~~\_\_\_\_\_ (e) in-depth testing and formal assessment;~~

~~\_\_\_\_\_ (f) supportive services;~~

~~\_\_\_\_\_ (g) unpaid internships;~~

~~\_\_\_\_\_ (h) employment internship opportunities; and~~

~~\_\_\_\_\_ (i) follow-up services.~~

~~\_\_\_\_\_ (2) Additional intensive services available to youth include:~~

~~\_\_\_\_\_ (a) leadership development;~~

~~\_\_\_\_\_ (b) mentoring;~~

~~\_\_\_\_\_ (c) comprehensive guidance and counseling;~~

~~\_\_\_\_\_ (d) alternative school; and~~

~~\_\_\_\_\_ (e) summer youth employment internship opportunities.]~~

~~\_\_\_\_\_ (1) Individualized career services available to clients consist of:~~

~~\_\_\_\_\_ (a) an assessment as provided in R986-600-620;~~

~~\_\_\_\_\_ (b) development of an employment plan as provided in R986-600-621;~~

~~\_\_\_\_\_ (c) case management, career counseling and career planning;~~

~~\_\_\_\_\_ (d) in depth testing and formal assessment;~~

~~\_\_\_\_\_ (e) workforce preparation activities and prevocational services; and~~

~~\_\_\_\_\_ (f) financial literacy services.~~

~~\_\_\_\_\_ (2) The following individualized career services may be available to eligible adults, dislocated workers and youth:~~

~~\_\_\_\_\_ (a) English language acquisition;~~

~~\_\_\_\_\_ (b) out-of-area job search and relocation assistance;~~

~~\_\_\_\_\_ (c) supportive services;~~

~~\_\_\_\_\_ (d) unpaid internships; and~~

~~\_\_\_\_\_ (e) employment internship opportunities.~~

~~\_\_\_\_\_ (3) Additional individualized career services available to youth include:~~

~~\_\_\_\_\_ (a) leadership development;~~

~~\_\_\_\_\_ (b) mentoring;~~

~~\_\_\_\_\_ (c) comprehensive guidance and counseling;~~

~~\_\_\_\_\_ (d) entrepreneurial skills training;~~

~~\_\_\_\_\_ (e) alternative school; and~~

~~\_\_\_\_\_ (f) summer youth employment internship opportunities.~~

#### **R986-600-607. Training Services.**

Training services include basic education, employment related education and work site learning.

#### **R986-600-608. Eligibility Requirements, General Definition.**

(1) Basic career~~[Core]~~ services are available to all clients. There are no eligibility requirements for basic career~~[core]~~ services offered by the Department.

(2) Eligibility requirements for individualized career services~~[intensive and training services must]~~ may be determined



before an adult, youth, or dislocated worker can receive services. ~~There are different eligibility criteria for low-income youth services (ages 14-21), adults (18 and over) and dislocated workers. If a client is eligible for services in more than one category, the Department or youth contract provider will determine the most appropriate program or programs for the client.~~

(3) Eligibility requirements for training and follow-up services must be determined before an adult, youth or dislocated worker can receive services.

(4~~3~~) A client is required to sign and date the training program agreement for the program in which he or she is enrolled.

#### **R986-600-609. Citizenship and Employment Authorization Requirements.**

A client seeking individualized career[intensive] or training services must be a citizen of the United States or be employment eligible in the United States. Employment eligible is defined by the WIOA[WIA] Act, section 188 (a)(5) as citizens and nationals of the US, lawfully admitted permanent resident aliens, refugees, asylees, parolees and other immigrants authorized by the U.S. Attorney General to work in the US.

#### **R986-600-610. Selective Service Registration Requirements.**

Male applicants and recipients who are 18 and older must be in compliance with Selective Service registration requirements to receive individualized career[intensive] or training services.

#### **R986-600-611. Factors Used for Determining Priority.**

(1) ~~In the event WIA Adult funds are limited,~~ [P]priority will be given to recipients of public assistance, ~~and~~ other low income clients and individuals who are basic skills deficient for WIOA Adult individualized career[intensive] and training services. Other criteria may be applied if funding is limited[dictates] as determined by the Governor's State Workforce [Investment]Development Board (SWDB)[SWIB)]~~—or—the Department~~.

(2) In the event WIOA[WIA] Youth funds are limited, priority will be given to clients who have two or more barriers as determined by the SWDB[SWIB].

(3) Veterans and covered persons, as determined by federal law, will receive priority over non-veterans.

#### **R986-600-612. Eligibility for Individualized Career**[Intensive] Services.

(1) Individualized career[Intensive] services are available to adults who ~~meet self-sufficiency requirements. Those services are available to adults who:~~

(a) are unemployed~~[-, receive at least one core service,]~~ and are determined by the Department to be in need of more individualized career[intensive] services to obtain employment; or

(b) are employed~~[-, receive at least one core service,]~~ and are determined by the Department to be in need of more individualized career[intensive] services to obtain employment that leads to self-sufficiency. Self-sufficiency for WIOA[WIA] Adult is defined as 100% of the Lower Living Standard Income Level (LLSIL) for the specified family size.

(2) Individualized career[Intensive] services are available to dislocated workers who are:

(a) unemployed~~[-, received at least one core service,]~~ and are determined by the Department to be in need of more individualized career[intensive] services to obtain employment; or

(b) employed~~[-, received at least one core service,]~~ and are determined by the Department to be in need of more individualized career[intensive] services to obtain employment that leads to self-sufficiency. Self-sufficiency for WIOA[WIA] Dislocated Worker is defined as 80% of the client's layoff wage.

#### **R986-600-613. Income Eligibility.**

(1) Dislocated workers do not need to meet income eligibility requirements.

(2) Applicants for youth and adult programs must meet income eligibility requirements.

(3) A client is deemed to have met the income eligibility requirements for youth services, and adult services, if the client is;

(a) ~~is~~-receiving, has received, or has been determined eligible to receive food stamps (SNAP) at any time during the six months prior to the application date. This does not apply if the client only received expedited food stamps;

(b) ~~is~~-currently receiving financial assistance from the Department or TANF funds from another state;

(c) ~~is~~-homeless;

(d) ~~is~~-currently receiving SSI;~~[-or]~~

(e) ~~is~~-in foster care~~[-];~~ or

(f) basic skills deficient.

(4) If a client is not eligible under paragraphs (1) or (2) above, the client must meet the low income eligibility guidelines in this rule.

(5) Up to 5% of the youth clients served do not need to meet the income eligibility requirements but must have barriers as determined by the Department. A list of current, eligible barriers is available at the Department.

#### **R986-600-614. How to Determine Who Is Included in the Family.**

(1) Family size must be determined to establish income eligibility for adult and youth services. Family size is determined by counting the maximum number of family members in a single[the] residence during the six months prior to the date of application, not including the current month. Family members included in the income determination:

(a) a husband and wife and dependent children~~[-age 21 and under];~~

(b) parent(s) or legal guardian(s) and dependent children~~[-age 21 and under];~~

(c) a husband and wife, if there are no dependent children, and

(d) two people living in a single residence who are not married but have children in common.

(e) dependent is defined as the client's statement that the child is claimable as an IRS dependent.

~~(2) A "family" is generally described as two or more persons related by blood, marriage or decree of court, living in a single residence. "Living in a single residence" includes family members residing elsewhere on a voluntary, temporary basis, such as attending school or visiting relatives. It does not include involuntary temporary residence elsewhere, such as incarceration, or court-ordered placement outside the home.~~

(2[3]) A client can be considered a "family" of one, if the client is living alone or with a family member and has a disability that substantially limits one or more major life activities.

(3[4]) The income of the parent or guardian is not counted for a client who is over the age of 19 and the parents cannot claim him or her as an IRS dependent.[<sup>2</sup>]

~~\_\_\_\_\_ (a) who is between 18 and 21 years of age who states he or she has not been reliant on his or her parent or guardian's income for the six months prior to the date of application not including the current month, or~~

~~\_\_\_\_\_ (b) who is age 22 or older living with his or her parents and applying on his or her own behalf.]~~

**R986-600-615. Assets.**

Assets are not counted when determining eligibility for WIOA[~~WIA~~] services but will be considered in determining whether the client has a need for WIOA[~~WIA~~] funding.

**R986-600-616. Countable Income.**

(1) Countable income is total gross income from all sources with the exceptions listed below under "Excludable Income". If income is not specifically excluded, it is counted. Countable income, for WIOA[~~WIA~~] purposes includes:

(a) gross wages and salaries including severance pay and payment of accrued vacation leave;

(b) net receipts from self-employment, including farming;

(c) pensions and retirement income including railroad and military retirement;

(d) strike benefits from union funds;

(e) workers' compensation benefits;

(f) alimony;

(g) any insurance, annuity, or disability, payments other than SSI or veterans disability,

(h) merit-based scholarships, fellowships, and assistantships;

(i) dividends;

(j) interest;

(k) net rental income;

(l) net royalties, including tribal payments from casino royalties;

(m) periodic receipts from estates or trusts;

(n) net gambling or lottery winnings;

(o) tribal payments;

(p) disaster relief employment wages;

(q) on the job training wages reimbursed by the Department;

(r) Social Security Retirement Benefits and Social Security Disability Income which does not include old-age retirement or SSI; and

(s) all training stipends not listed in R986-600-616(2) as excludable income.

(2) Excludable Income. Income that is not counted in determining eligibility:

(a) cash payments under a Federal, state or local public assistance program, including FEP, FEPTP, GA, RRP payment, or EA,

(b) SSI, Old-Age Retirement Benefits, and Survivor's Benefits paid by the Social Security Administration;

(c) payments received from any governmental entity for adoption assistance,

(d) child support;

(e) unemployment compensation;

(f) capital gains;

(g) veterans disability payments other than retirement;

(h) educational financial assistance including Pell grants, work-study and needs-based scholarship assistance;

(i) foster care payments,

(j) tax refunds,

(k) gifts,

(l) loans,

(m) lump-sum inheritances,

(n) one-time insurance payments or compensation for injury,

(o) earned income credit from the IRS,

(p) military service member income, including military pay, military allowances and stipends and military reserve pay;

(q) reparation payments, including German reparation payments, Radiation Exposure Compensation Act payments, and Black Lung Compensation payments;

(r) guardianship subsidies as paid by a governmental entity;

(s) employment internship opportunity wages reimbursed to the employer by the Department;

(t) stipends received from VISTA, Peace Corps, Foster Grandparents Program, Retired Senior Volunteer Program, Youth Works, Americorps, and Job Corp;

(u) non-cash benefits such as employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, federal noncash benefits programs such as Medicare, Medicaid, food stamps, school lunches and housing assistance; and

(v) other amounts specifically excluded by federal statute.

**R986-600-617. How to Calculate Income.**

(1) To determine if a client meets the income eligibility standards, all income from all sources of all family members during the six months prior to the application date is counted. If necessary, the Department can make a year-to-date estimate based on available records.

(2) The family is income eligible if the annual income meets the higher of:

(a) the poverty line as determined by the U. S. Department of Human Services, or

(b) 70% of the LLSIL as determined by the U. S. Department of Labor and available at the Department of Workforce Services.

**R986-600-618. Dislocated Worker.**

(1) A dislocated worker is a client who meets one of the following criteria:

(a)(i) has been laid off through no fault of his or her own, and

(A) is eligible for or has exhausted unemployment compensation entitlement, or

(B) has been employed for a duration sufficient to demonstrate attachment to the workforce, but is not eligible for

unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under unemployment compensation law, and

(ii) is unlikely to return to the client's previous industry or occupation. 'Unlikely to return' means the client lacks the skills to re-enter the industry or occupation, or declares that he or she will not return to that industry or occupation.

(b) has received a notice of layoff;

(c) Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the client resides or because of natural disasters;

(d) Is a displaced homemaker. A WIOA[WIA] displaced homemaker is a client who has been providing unpaid services to family members in the home and who:

(i) has been dependent on the income of another family member but is no longer supported by that income; and

(ii) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment;

(e) was laid off from military service and

(i) is eligible for or has exhausted unemployment compensation entitlement,

(ii) is unlikely to return to the previous industry or occupation, and

(iii) was discharged from the military service under conditions other than dishonorable; or

(f) is defined by the Department of Veteran Affairs as a covered person who left employment in order to relocate because of an assignment change of the military service member, and

(i) is eligible for or has exhausted unemployment compensation entitlement, or

(ii) has been employed for a duration sufficient to demonstrate attachment to the workforce but is not eligible for unemployment compensation due to insufficient earnings or having performed services not covered for unemployment compensation, and

(iii) is unlikely to return to the client's previous industry or occupations.

(2) The displacement must be no more than 24 months prior to the date of application.

(3) There are no income or asset requirements for dislocated worker eligibility.

(4) If the Department is providing services under a National Reserve Discretionary Grant, additional eligibility requirements must be met.

#### **R986-600-619. Participation Requirements.**

Payment of any and all financial assistance, individualized career[intensive] and/or training services is contingent upon the client participating, to the maximum extent possible, in assessment and evaluation, and the completion of a negotiated employment plan.

#### **R986-600-620. Participation in Obtaining an Assessment.**

(1) When the Department [~~or youth contract provider~~] determines that a client has a need for individualized career[intensive] services, an employment counselor/case worker [~~will~~]may be assigned to assess the needs of the client.

(2) When the Department determines a client has a need for training services an employment counselor will be assigned to assess the needs of the client.

([2]3) The client may be required to participate in testing or completion of other assessment tools and may be referred to another person within the Department, another agency, or to a company or individual under contract with the Department to complete testing, assessment, and evaluation.

#### **R986-600-621. Requirements of an Employment Plan.**

(1) A client is required to sign and make a good faith effort to participate to the maximum extent possible in a negotiated employment plan.

(2) The goal of the employment plan is obtaining employment.

(3) An employment plan consists of activities designed to help a client become employed.

(4) The employment plan may require that the client:

(a) search for employment.

(b) participate in an educational program to obtain a high school diploma or its equivalent, if the client does not have a high school diploma;

(c) obtain education or training necessary to obtain employment;

(d) obtain medical, mental health, or substance abuse treatment;

(e) resolve transportation and child care needs;

(f) resolve any other barriers identified as preventing or limiting the ability of the client to obtain employment, and/or

(g) participate in rehabilitative services as prescribed by the state Office of Rehabilitation.

(5) The client must meet the performance expectations of each activity in the employment plan in order to [~~stay~~]remain eligible for certain individualized career[intensive] or training services.

(6) The client must cooperate with the Department's efforts to monitor and evaluate the client's activities and progress under the employment plan, which may include providing ongoing information and or documentation relative to their progress and providing the Department with a release of information, if necessary to facilitate the Department's monitoring of compliance.

(7) The client agrees, as part of the employment plan, to cooperate with other agencies, or with individuals or companies under contract with the Department, as outlined in the employment plan.

(8) An employment plan may, at the discretion of the Department, be amended to reflect new information or changed circumstances.

#### **R986-600-622. Additional Requirements of an Employment Plan for Youth.**

(1) Employment plans for all youth must reflect intentions to assist with preparing for post-secondary education and/or employment; finding effective connections to the job market and employers, and understanding the links between academic and occupational learning.

(2) The goal of the youth program is to reconnect out-of-school youth to education and employment and assist in-school youth with completing education through:

- (a) placement in employment or postsecondary education;
- (b) attainment of a degree or certificate; and/or
- (c) literacy and numeracy gains for out-of-school youth who are basic skill deficient.

**R986-600-623. Individualized Career[~~Intensive~~] and Training Services as Part of an Employment Plan.**

(1) A client's participation in training services [~~beyond that required to obtain a high school diploma or its equivalent~~] is limited per exposure to the lesser of[~~;~~]:

- (a) 24 months which need not be continuous and which can be waived by a Department supervisor based on individual circumstances, or
- (b) the completion of the education and training goals of the employment plan.

(2) Education and training will only be supported when the client meets appropriateness as provided in R986-600-624.

(3) Additional payments and/or services [~~are~~]may be allowed[~~able~~] under certain circumstances based on individual need provided they are necessary and appropriate to enable the client to participate in activities authorized under WIOA[~~WIA~~].

**R986-600-624. Appropriateness for Training Services.**

(1) To be eligible for training services, the client must[ ~~have~~]:

[~~(a) met the eligibility requirements for intensive services as detailed in this R986-600-12;~~

~~\_\_\_\_\_](a)[b]) have met the funding priority requirements for individualized career[~~intensive~~] services as listed in R986-600-611; and~~

[~~(c) received at least one intensive service as listed in R986-600-606; and~~

~~\_\_\_\_\_](b)[d]) be deemed appropriate for training services by the Department[ ~~as appropriate for training services~~]. To be deemed appropriate, the client must:~~

- (i) have been determined by the Department to be in need of training services,
- (ii) have the skills and qualifications to successfully complete the selected training program,
- (iii) select a program of training that is directly linked to employment opportunities in the area in which they plan to work, and

(iv) be unable to obtain grant assistance from other sources to pay the costs of such training or the other grant assistance is pending. If the client's PELL grant is pending when training services are provided, and later the PELL grant is awarded, the client must reimburse the Department for those training costs.

(2) A client who does not meet the requirements listed in subsection (1) of this section will be denied training services by the Department.

**R986-600-625. Funding.**

(1) When a client is approved for individualized career[~~intensive~~] or training services, the Department will estimate the anticipated cost to the Department associated with those services and reserve that amount for accounting purposes. This amount may be revised and/or rescinded by the Department at any time without prior notice to the client.

(2) The Department issues an electronic benefit transfer card (card) to each eligible individualized career[~~intensive~~] and/or training service client to pay for training, supportive services, and incentives.

(3) The client must prove that all funds received from the Department were spent as intended. Proof may require receipts. If a client is found to have been ineligible for funds, made unauthorized use of Department funds, or cannot prove how those funds were spent, the client will be responsible for repayment of the overpayment.

(4) Amounts remaining on the card after 30[~~120~~] days of inactivity are subject to expungement.

**R986-600-626. The Right to Appeal a Denial of Services.**

If an applicant or a client who is currently receiving services is denied services the client or applicant can request a hearing as provided in Rules R986-100-123 through R986-100-135.

**R986-600-651. Definitions.**

~~\_\_\_\_\_](1) The State Council on Workforce Services is referred to in these rules as the State Workforce Investment Board (SWIB).~~

~~\_\_\_\_\_](2) "Eligible Provider" means an occupational skills training provider eligible to receive funds for training adults and dislocated workers authorized under WIA and approved by the SWIB. Basic education providers that are eligible to receive funds are approved by the Department.]~~

**R986-600-652. [Determining]Initial Eligibility Requirements for Training Providers and Programs.**

~~\_\_\_\_\_](1) Training providers must apply for a specific program/s, and be found eligible, to be included on the Utah Eligible Training Provider List (ETPL).~~

~~\_\_\_\_\_](2) The following training providers can apply to be included in the ETPL:~~

- ~~\_\_\_\_\_](a) post-secondary institutions,~~
- ~~\_\_\_\_\_](b) registered apprenticeship programs,~~
- ~~\_\_\_\_\_](c) other public or private providers of training services,~~
- ~~or~~
- ~~\_\_\_\_\_](d) providers of adult education and literacy activities, including English as a Second Language.~~

~~\_\_\_\_\_](3) Training provider requirements.~~

~~\_\_\_\_\_](a) All training providers seeking initial eligibility must have been in business as a training provider and have provided training to students for at least two years.~~

~~\_\_\_\_\_](b) Training providers, with the exception of government entities and basic education providers, must be registered with the Utah Division of Consumer Protection as a Post-Secondary Proprietary School. The only acceptable reasons for exemption from registration as a post-secondary proprietary school are for those schools governed by an accrediting body which oversees program instruction.~~

~~\_\_\_\_\_](4) Training providers must apply for eligibility for each training program they wish to have included on the ETPL.~~

~~\_\_\_\_\_](5) Training programs are defined as one or more courses or classes, or a structured regimen that leads to:~~

- ~~\_\_\_\_\_](a) an industry recognized post-secondary credential,~~
- ~~\_\_\_\_\_](b) employment,~~
- ~~\_\_\_\_\_](c) high school diploma or GED, or~~

~~(d) a measurable skill gain toward credential or employment.~~

~~(6) Training programs can be delivered in-person, online or in a blended approach.~~

~~(a) Online training is only eligible if it:~~

~~(i) is part of a curriculum where lessons are assigned, completed and returned.~~

~~(ii) requires students to interact with instructors, and~~

~~(iii) requires students to take periodic tests.~~

~~(b) Self-directed online training that is not instructor-led is not eligible.~~

~~(7) Training programs must submit performance data that include data from at least one training class that has completed and/or graduated from the program and the students have been tracked for at least 3 months after completing the program. If a training program has not operated for at least three months after the first class has graduated, the provider must submit letters verifying the need for trained employees from at least three local businesses that hire employees that need the type of training offered.~~

~~(8) Out of state training providers that do not have a training location in Utah may apply to be on the Utah ETPL only if they maintain provider and program eligibility on the ETPL in the state where their main or corporate office is located.~~

~~(9) Utah may enter into reciprocal agreements with other states to utilize the ETPL from those states. The agreement allows Utah clients to select a training program from another state's ETPL.~~

~~(10) The Department will not pay for training costs that are incurred prior to the training program being found eligible.~~

~~(11) when applying and while on the ETPL, training providers must agree to abide by the Training Provider Terms and Conditions Agreement which is provided as part of the application process.~~

~~(1) Training providers are automatically eligible if they complete an application and are either:~~

~~(a) a postsecondary educational institution that:~~

~~(i) is eligible to receive federal funds under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), and~~

~~(ii) provides a program that leads to an associate degree, baccalaureate degree, or certificate; or~~

~~(b) is an entity that provides programs under the "National Apprenticeship Act", 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.~~

~~(2) All other training providers must submit the following information:~~

~~(a) all names under which the provider operates or is known, the mailing address, physical address, federal tax identification number, telephone number, and email address (if available) of the training facility and the number of years the provider has been in business as a school;~~

~~(b) a copy of the provider's student grievance procedure;~~

~~(c) the name of each program for which approval is requested;~~

~~(d) the percentage of all participants who complete each program, if available;~~

~~(e) the percentage of all participants in each program who obtained unsubsidized employment, if available;~~

~~(f) average placement wage of all participants in each program, if available;~~

~~(g) if the purpose of an offered program of study is to prepare students for entry into fields of employment which require licensure by any licensing agency or to prepare students for entry into fields of employment for which it would be impracticable to have reasonable expectations of employment without accreditation and/or certification by any trade and/or industry association and/or accrediting and/or certifying body, the provider must provide to the Department:~~

~~(i) information regarding the type of license, accreditation and/or certification that students completing the program of study must obtain in order to have a reasonable expectation of employment;~~

~~(ii) the name of the agency, trade and/or industry association and/or accrediting and/or certifying body;~~

~~(iii) evidence that the curriculum for the offered program of study has been reviewed by the appropriate entity identified in subparagraph (2)(g)(ii) of this section; and~~

~~(iv) evidence that the instructors teaching students enrolled in the program of study are licensed by the appropriate agency identified in subparagraph (2)(g)(ii) of this section, or have earned the accreditation and/or certification from the appropriate entity from subparagraph (2)(g)(ii) of this section to teach and/or practice in the field for which the students are being prepared;~~

~~(h) program costs including tuition and fees;~~

~~(i) documentation showing the provider has registered with the Utah Division of Consumer Protection, if required by UCA Title 13 Chapter 34. Governmental agencies are exempt and do not need to provide additional documentation but all other providers that are exempt from registration with the Utah Division of Consumer Protection must also submit documentation of exempt status with the Utah Division of Consumer Protection;~~

~~(j) a copy of the provider's refund policy; and~~

~~(k) any other information, documentation or verification requested by the Department.~~

~~(3) Applications from providers covered under subsection 2 of this section must be sent to the Department. The Department recommends approval decisions to the SWIB which takes the final action on each application.~~

~~(4) Providers contracting with individuals to conduct the training will only be approved if the individual conducting the training is under contract as an independent contractor of the provider and being paid by 1099.~~

~~(5) All providers must be in business as a school for a minimum of one year before applying to become a training provider.~~

~~(6) All providers must agree to abide by the terms of the application filed with the Department.~~

~~(7) The Department will notify a provider in writing or by email when a final decision has been made concerning the provider's eligibility.~~

~~(8) A list of eligible providers, including the provider's program performance, if available, and cost information will be published on the Department's Internet site.~~

~~(9) Once a provider has been approved, the Department may establish a review date for that provider and notify the provider by email of the review date. The Department will determine at the time of the review, if the provider is still eligible for approved provider status and notify the provider of that determination. At the~~

time of review, the provider is required to provide any and all information requested by the Department which the Department has determined is necessary to allow the provider to continue to be an approved provider. This may include completing necessary forms, providing documentation and verification, and returning the Department's telephone calls. The requests for information must be completed within the time frame specified by the Department. If the Department determines as a result of the review that the provider is no longer eligible for approved provider status, the provider will be removed from the approved provider list.

(10) Providers must retain participant program records for three years from the date the participant completes the program.

(11) A provider who is not on the Department's approved provider list is not eligible for receipt of WIA funds. A provider will be removed from the eligible provider list if the provider:

(a) does not meet the performance levels established by the Department;

(b) has committed fraud or violated applicable state or federal law;

(c) intentionally supplies inaccurate student or program performance information;

(d) does not provide services in a professional and timely manner, as determined by the Department; or

(e) has lost approval, accreditation, licensing, or certification from any of the following:

(i) Utah Division of Consumer Protection;

(ii) USOE;

(iii) Northwest Association of Accredited Schools; or

(iv) any other required approval, accrediting, licensing, or certification body.

(f) fails to complete the review process.

(12) Some providers who have been removed from the eligible provider list may be eligible to be placed back on the list as follows:

(a) a provider who was removed for failure to meet performance levels may reapply for approval if the provider can prove it can meet performance levels;

(b) there is a lifetime ban for a provider who has committed fraud as a provider;

(c) providers removed for other violations of state or federal law will be suspended:

(i) until the provider can prove it is no longer in violation of the law for minor violations;

(ii) for a period of two years for serious violations;

(iii) for the lifetime of the provider for egregious violations. The seriousness of the violation will be determined by the Department; or

(iv) a provider removed for supplying inaccurate student or program performance information will be suspended for two years.]

**R986-600-653. Applying for Initial Training Provider and Program Eligibility[Distance Learning Providers].**

(1) Training providers must submit the following information for each program for which they are seeking eligibility:

(a) training provider contact information,

(b) training program description and requirements,

(c) connection with in-demand industry sectors and occupations,

(d) license or accreditation, if applicable,

(e) equal opportunity grievance procedure,

(f) aggregate performance data for every graduating class in the last full school year for every student, and

(g) any other information, documentation and/or verification requested by the Department.

(2) The training provider will be notified once an eligibility decision is made. If an application is denied, the notification will include information on the appeals process as described in R986-600-659.

[ (1) Distance learning is training that is made possible due to advances in computer technology. Using an online computer connection, distance learning can establish a setting for students and instructors where lessons are assigned, completed, and returned, and discussions can be held online.

(2) Distance learning can only be approved when it is a part of a curriculum that:

(a) leads to the completion of a training program;

(b) requires students to interact with instructors;

(c) requires students to take periodic tests.]

**R986-600-654. Registered Apprenticeships[Basic Education Training Provider].**

(1) All U.S. Department of Labor (DOL) Registered Apprenticeships located in Utah are eligible to be included on the ETPL. In order to provide funding for classroom training, the registered apprenticeship sponsor must be listed on the ETPL.

(2) Registered apprenticeship program sponsors must request to be included on the list verbally, through email or hard copy.

(3) Registered apprenticeship sponsors must submit information on the sponsor, program and training provider. Registered apprenticeship sponsors are not required to submit performance standards.

(4) Any registered apprenticeship will be removed from the ETPL if it loses its registration voluntarily or involuntarily.

(5) If a registered apprenticeship program sponsor is determined to have provided inaccurate information or to have substantially violated any provision of WIOA, they will be removed from the ETPL.

[ (1) Basic education funds can only be provided to training providers approved by the Department.

(2) This section applies to basic education providers receiving funds from the Department including TANF funds under R986-200.]

**R986-600-655. Informed Client Choice[Types of Basic Education Training Providers and Approval Requirements].**

The ETPL contains information for a client to make an informed choice based on performance data, the connections the training has with in-demand occupations, and cost.

[ (1) Public schools governed by the Utah State Office of Education (USOE) must complete and submit Application "A" to the Department.

~~(2) Individuals offering youth tutoring personally, and not as an employee of another business or school, must be over 18 years of age, submit Application "B" and provide all of the following:~~

~~(a) a current BCI background check results for Utah, from the Utah Department of Public Safety, paid for by the individual. The BCI report cannot contain:~~

~~(i) any matters involving an alleged sexual offense;~~  
~~(ii) any matters involving an alleged felony or class A misdemeanor drug offense; or~~  
~~(iii) any matters involving an alleged offense against the person under Utah State Code Title 76 Chapter 5, Offenses Against the Person.~~

~~(b) a resume with tutoring-related work history or subject matter knowledge, and~~

~~(c) an approved grievance procedure for clients to use in making complaints.~~

~~(3) All other providers must submit Application "C" and:~~

~~(a) have been in business as a school in Utah for at least one year;~~

~~(b) meet all state and local licensing requirements;~~

~~(c) submit a current Utah Business License showing at least one year in business, and~~

~~(d) submit an approved grievance procedure for clients to use in making complaints.~~

~~(e) ESL training providers must also submit documentation of registration as a Postsecondary Proprietary School with the Utah Division of Consumer Protection or show an exemption from such registration, and~~

~~(f) Providers offering high school credit must also provide documentation of accreditation through Utah State Office of Education and Northwest Association of Accredited Schools.~~

~~(4) Training providers submitting Application "B" or "C" must provide the following information for each training program for which the provider is seeking approval:~~

~~(a) program completion rates for all individuals enrolled if available;~~

~~(b) the type of certification students completing the program will obtain if available;~~

~~(c) the percentage rate of certification attained by program graduates, if available; and~~

~~(d) program costs including tuition, fees and refund policy.~~

~~(5) A training provider approved under R986-600-652 can be approved for its basic education curriculum upon submission and approval of the information required in subsection (3) and (4) of this section. However, public schools governed by Title IV of the Higher Education Act of 1965 (20 USCA 1070 et seq.) or the Utah State Office of Education (USOE) approved as providers under R986-600-652 do not need to submit the information required in subsection (3) or (4) of this section.]~~

**R986-600-656. Continued Eligibility Requirements for Training Providers and Programs**~~[The Right to a Hearing and How to Request a Hearing].~~

~~(1) Training programs receive initial eligibility for up to one year. To remain on the ETPL, the training provider must complete an application for continued eligibility and submit it before the expiration of the last month of eligibility.~~

~~(2) Training providers must renew eligibility annually or more often as instructed by the Department.~~

~~(3) If a training provider already on the list adds a new program, it must apply for approval of that program. The renewal date for the new program will be coordinated with the provider's other program or programs so all programs for that provider renew at the same time.~~

~~(4) If any of the information provided in R986-600-653 changes, the provider must notify the Department.~~

~~[ (1) Training providers will be notified in writing, which may be by email of a decision to deny an application for approval as a basic education training provider or a decision to revoke prior approval. The notice will inform the provider of its right to file a written appeal, where the appeal should be sent, and the deadline for filing an appeal.~~

~~(2) If the SWIB made the decision being appealed, the hearing request must be made in writing to the SWIB, which will conduct the hearing at the next regularly scheduled meeting. The SWIB's decision on the provider's eligibility will be final.~~

~~(3) If the Department made the determination to deny eligibility or to remove the provider, the written hearing request must be made to the Department and a hearing will be held in accordance with rule R986-100-124 through R986-100-132. Any appeal of the decision of the ALJ must be made to the SWIB. The SWIB's decision will be final.]~~

**R986-600-657. Applying for Continued Eligibility Training Provider and Program Eligibility**~~[Monitoring for Compliance of Equal Opportunity and Nondiscrimination].~~

~~(1) Training providers must certify that all the information previously provided for each program for which they are seeking continued eligibility is current and correct.~~

~~(2) As part of continued eligibility the provider must submit performance data by program for the last school year for every WIOA student enrolled in the program.~~

~~(3) The Department will also consider the provider's past compliance with the Training Provider Terms and Conditions Agreement when determining continued eligibility.~~

~~(4) Programs that do not meet the minimum standards or provide the required information by the renewal date will be removed from the ETPL. If a provider is unable to complete the renewal requirements, an extension may be granted if the delay is due to exceptional circumstances or circumstances that are beyond the provider's control. The request for an extension must be submitted 30 days before the renewal deadline or as soon as possible.~~

~~(5) Training provider will be notified of the decision on continued eligibility. If an application is denied, the notification will include information on the appeals process as described in R986-600-659~~

~~[ (1) The Department monitors service providers for compliance with the equal opportunity and nondiscrimination requirements of WIA. This includes compliance with all applicable laws, regulations, contract provisions, corrective actions, and remedial actions.~~

~~(2) Each service provider's compliance will be reviewed annually. The review can be either an on-site review or a data review.]~~

**R986-600-658. Training Provider Terms and Conditions, Noncompliance.**

(1) Training providers must agree to comply with the Training Provider Terms and Conditions Agreement. If a training provider does not follow the Terms and Conditions Agreement, the provider and all of its programs will be removed from the ETPL.

(2) If a training provider reports false or inaccurate information during the initial or continued eligibility process or substantially violates a provision of Title I of WIOA or its implementing regulations, including Equal Opportunity (EO) regulations, the training provider and all of its programs will be removed from the ETPL. The Department may also do an onsite visit to ensure compliance with WIOA and EO regulations.

(3) If a provider has been removed from the ETPL the Department will not pay for any additional training costs for any current or future clients until the training provider is eligible to reapply for ETPL initial eligibility.

(4) If a training provider has been removed from the ETPL, they will be notified if they will be eligible to reapply for initial eligibility and when they can submit a new application.

[~~(1) In the event the Department identifies specific instances of noncompliance with federal discrimination laws, the Department will;~~

~~(a) notify the service provider in writing of the finding(s) of noncompliance and the corrective action required to ensure compliance;~~

~~(b) establish a corrective action plan;~~

~~(c) notify the provider of the time lines for the completion of the plan; and~~

~~(d) ensure compliance with the corrective action plan.~~

~~(2) For training providers, the corrective action plan will provide that the training provider agree to stop all prohibited practices in order to remain eligible for WIA funding.]~~

**R986-600-659. ~~[Sanctions for Noncompliance and]~~ Training Provider Right to Appeal.**

~~(1) If a Training Provider or Program is denied eligibility; or the training provider and/or program has been removed from the ETPL due to non-compliance, they have the right to appeal the decision.~~

~~(3) Training providers must provide a written appeal to the Department within 30 days from the decision date.~~

~~(4) The SWDB will review the appeal and make a final decision.~~

~~(5) EO findings are reviewed by the Department executive director for a final decision.~~

~~(6) Training providers will be notified of the final decision.~~

~~[The Department may impose sanctions against a provider for failure to comply with federal nondiscrimination laws or required corrective actions:~~

~~(2) If the Department finds that a provider has not taken the required corrective action in the specified time limits the Department will issue a notice of final action informing the service provider of the Department's intent to;~~

~~(a) discontinue referral of participants to the provider;~~

~~(b) cancel the contract with the provider;~~

~~(c) make other changes deemed necessary to secure compliance, and/or~~

~~(d) refer the matter to another governmental entity.~~

~~(3) The service provider may appeal the decision of the Department by filing an appeal in writing within 30 days of the date of the notice of final action to: The Director, Civil Rights Center, US Department of Labor, 200 Constitution Ave NW, Room N4123, Washington DC, 20210.]~~

**KEY: Workforce Innovation and Opportunity [Investment] Act Date of Enactment or Last Substantive Amendment: [October 7, 2013] 2017**

**Notice of Continuation: September 3, 2015**

**Authorizing, and Implemented or Interpreted Law: 35A-5**

**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 Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

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Administrative Services, Finance

**R25-20**

Indigent Defense Funds Board,  
Procedures for Electronic Meetings

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

DAR FILE NO.: 41327  
FILED: 02/21/2017

**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 mandated by Section 52-4-207. The rule establishes procedures by which the board members may participate in electronic meetings including requirements regarding the posting of the agenda for the meeting, establishment of the anchor location, and methods by which participation can occur.

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 in 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: The need for the rule still exists. Therefore, the rule should be continued.

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

ADMINISTRATIVE SERVICES  
FINANCE  
ROOM 2110 STATE OFFICE BLDG  
450 N STATE ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ John Reidhead by phone at 801-538-1678, by FAX at 801-538-3244, or by Internet E-mail at [jreidhead@utah.gov](mailto:jreidhead@utah.gov)

AUTHORIZED BY: John Reidhead, Director

EFFECTIVE: 02/21/2017

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Health, Administration

**R380-60**

Local Health Department Emergency  
Protocols

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

DAR FILE NO.: 41333  
FILED: 03/01/2017

**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: It is required to standardize response and roles for local health departments in times of disaster under Section 58-1-307.

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.

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 provides key standards and instruction for ensuring a consistent and effective response to a disaster for issues related to public health. Therefore, this rule should be continued.

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

HEALTH  
ADMINISTRATION  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Tamara Hampton by phone at 801-538-6622, by FAX at 801-538-6306, or by Internet E-mail at thampton@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/01/2017

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 implements personal care services for Medicaid clients and reimbursement to personal care providers, through its reference to the Personal Care Utah Medicaid Provider Manual and to the Medicaid State Plan.

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 Office 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

EFFECTIVE: 02/17/2017

**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-38  
Personal Care Services**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41326  
FILED: 02/17/2017

**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 Medicaid policy through administrative rules, which allow the Department to administer the Medicaid program. Additionally, Section 26-1-5 authorizes the Department to adopt rules that provide services and eligibility requirements for Medicaid recipients.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

**Natural Resources, Wildlife Resources  
R657-43  
Landowner Permits**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41330  
FILED: 02/27/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate the management of big game species. This rule provides the standards and procedures for private landowners to obtain landowner permits for taking specific big game species from the landowner's property.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or

opposing Rule R657-43 were received since March 2012, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-43 provides the requirements, procedures, and standards for private landowners to obtain landowner permits for taking buck deer within a general regional hunt boundary where the landowner's property is located, and taking bull elk, buck deer or buck pronghorn within a limited entry unit. This rule provides the opportunity for landowners, whose property provides habitat for deer, elk, or pronghorn to benefit by obtaining landowner permits for use within a general regional hunt area or limited entry area where the landowner's property is located. The provisions adopted in this rule are effective in providing the requirements, procedures, and standards for managing the landowner permit program. Continuation of this rule is necessary for continued success of this program.

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

NATURAL RESOURCES  
WILDLIFE RESOURCES  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 02/27/2017

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**Veterans' and Military Affairs,  
Administration  
R978-1  
Rule Governing Veterans' Affairs**

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

DAR FILE NO.: 41335  
FILED: 03/01/2017

**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 was enacted under Section 71-8-2 which established the Department of Veterans' and Military Affairs. This rule was made pursuant to Title 63G, Chapter 3, of the Utah Administrative Rulemaking Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments relating to this rule have been received since the rule was put in place five years ago.

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 must continue because the Department still exists and still must pursue it's statutory mission.

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

VETERANS' AND MILITARY AFFAIRS  
ADMINISTRATION  
ROOM 202  
550 FOOTHILL BLVD  
SALT LAKE CITY, UT 84113  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ W. Todd Hansen by phone at 801-584-1914, by FAX at 801-584-1916, or by Internet E-mail at wthansen@utah.gov

AUTHORIZED BY: Dennis McFall, Deputy Director

EFFECTIVE: 03/01/2017

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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 Office 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

### Administrative Services

Fleet Operations  
No. 41105 (AMD): R27-1. Definitions  
Published: 01/15/2017  
Effective: 02/21/2017

No. 41106 (AMD): R27-3. Vehicle Use Standards  
Published: 01/15/2017  
Effective: 02/21/2017

No. 41107 (AMD): R27-4. Vehicle Replacement and Expansion of State Fleet  
Published: 01/15/2017  
Effective: 02/21/2017

### Commerce

Occupational and Professional Licensing  
No. 41110 (AMD): R156-16a-304. Continuing Education  
Published: 01/15/2017  
Effective: 02/21/2017

No. 41111 (AMD): R156-67. Utah Medical Practice Act Rule  
Published: 01/15/2017  
Effective: 02/21/2017

No. 41112 (AMD): R156-68-304. Qualified Continuing Professional Education  
Published: 01/15/2017  
Effective: 02/21/2017

### Governor

Economic Development  
No. 40932 (AMD): R357-3. Economic Development Tax Increment Financing Tax Credit  
Published: 11/15/2016  
Effective: 02/22/2017

No. 40961 (NEW): R357-19. Business Resource Centers  
Published: 12/01/2016  
Effective: 02/22/2017

### Human Services

Administration  
No. 41114 (AMD): R495-885. Employee Background Screenings  
Published: 01/15/2017  
Effective: 02/23/2017

### Judicial Performance Evaluation Commission

Administration  
No. 41026 (AMD): R597-3-8. Judicial Written Statements  
Published: 12/15/2016  
Effective: 02/17/2017

No. 41027 (AMD): R597-3-9. Judicial Discipline  
Published: 12/15/2016  
Effective: 02/17/2017

### Natural Resources

Parks and Recreation  
No. 41043 (AMD): R651-411. OHV Use in State Parks  
Published: 12/15/2016  
Effective: 02/16/2017

NOTICES OF RULE EFFECTIVE DATES

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No. 41042 (AMD): R651-614-5. Hunting with Firearms  
Published: 12/15/2016  
Effective: 02/16/2017

No. 41044 (AMD): R651-633. Special Closures or  
Restrictions  
Published: 12/15/2016  
Effective: 02/16/2017

**End of the Notices of Rule Effective Dates Section**

**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, 2017 through March 01, 2017. 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 Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office'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>					
R23-1	Procurement Rules with Numbering Related to the Procurement Code	41266	5YR	02/01/2017	2017-4/57
R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting	40947	AMD	01/20/2017	2016-23/6
R23-19	Facility Use Rules	41267	5YR	02/01/2017	2017-4/57
R23-20	Free Speech Activities	41268	5YR	02/01/2017	2017-4/58
R23-30	State Facility Energy Efficiency Fund	40946	AMD	01/20/2017	2016-23/11
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	41127	EMR	01/06/2017	2017-3/71
R25-14	Payment of Attorney's Fees in Death Penalty Cases	41124	5YR	01/06/2017	2017-3/79
R25-20	Indigent Defense Funds Board, Procedures for Electronic Meetings	41327	5YR	02/21/2017	Not Printed
<u>Fleet Operations</u>					
R27-1	Definitions	41105	AMD	02/21/2017	2017-2/4
R27-3	Vehicle Use Standards	41106	AMD	02/21/2017	2017-2/6
R27-4	Vehicle Replacement and Expansion of State Fleet	41107	AMD	02/21/2017	2017-2/12
<u>Purchasing and General Services</u>					
R33-8-102	Adding Additional Funds to a Contract	41023	AMD	02/02/2017	2016-24/4
R33-16	Protests	40898	AMD	01/20/2017	2016-22/10
<b>AGRICULTURE AND FOOD</b>					
<u>Administration</u>					
R51-2	Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	41120	5YR	01/03/2017	2017-2/45
<u>Animal Industry</u>					
R58-1	Admission, Identification, and Inspection of Livestock, Poultry, and Other Animals	41168	5YR	01/12/2017	2017-3/79
R58-3	Brucellosis Vaccination Requirements	41164	5YR	01/12/2017	2017-3/80
R58-6	Poultry	41165	5YR	01/12/2017	2017-3/80
R58-11	Slaughter of Livestock and Poultry	40951	AMD	01/12/2017	2016-23/16
R58-18	Elk Farming	41162	5YR	01/12/2017	2017-3/81
R58-19	Compliance Procedures	41194	5YR	01/18/2017	2017-4/58
R58-22	Equine Infectious Anemia (EIA)	41163	5YR	01/12/2017	2017-3/81



R58-23	Equine Viral Arteritis (EVA)	41167	5YR	01/12/2017	2017-3/82
<u>Plant Industry</u>					
R68-19	Compliance Procedures	41195	5YR	01/18/2017	2017-4/59
<u>Regulatory Services</u>					
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	40918	AMD	01/26/2017	2016-22/12
R70-201	Compliance Procedures	41160	5YR	01/12/2017	2017-3/82
R70-320	Minimum Standards for Milk for Manufacturing Purposes, Its Production and Processing	41166	5YR	01/12/2017	2017-3/83
R70-350	Ice Cream and Frozen Dairy Food Standards	41159	5YR	01/12/2017	2017-3/83
R70-360	Procedure for Obtaining a License to Test Milk for Payment	41161	5YR	01/12/2017	2017-3/84
R70-550	Utah Inland Shellfish Safety Program	41158	5YR	01/12/2017	2017-3/84
R70-560	Inspection and Regulation of Cottage Food Production Operations	41157	5YR	01/12/2017	2017-3/85
ALCOHOLIC BEVERAGE CONTROL					
<u>Administration</u>					
R81-3-14	Type 5 Package Agencies	40922	AMD	01/03/2017	2016-22/16
R81-4	Retail Licenses	40924	NEW	01/03/2017	2016-22/17
R81-8	Manufacturer Licenses (Distillery, Winery, Brewery)	40923	AMD	01/03/2017	2016-22/19
ATTORNEY GENERAL					
<u>Administration</u>					
R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	40950	AMD	01/20/2017	2016-23/19
COMMERCE					
<u>Consumer Protection</u>					
R152-6	Utah Administrative Procedures Act Rules	40920	AMD	01/09/2017	2016-22/21
<u>Occupational and Professional Licensing</u>					
R156-5a	Podiatric Physician Licensing Act Rule	41047	AMD	02/07/2017	2017-1/11
R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule	41198	5YR	01/19/2017	2017-4/59
R156-16a	Optometry Practice Act Rule	41275	5YR	02/02/2017	2017-5/61
R156-16a-304	Continuing Education	41110	AMD	02/21/2017	2017-2/18
R156-31b-703b	Scope of Nursing Practice Implementation	41113	NSC	01/18/2017	Not Printed
R156-37	Utah Controlled Substances Act Rule	41289	5YR	02/06/2017	2017-5/61
R156-37f-303	Access to Opioid Prescription Information Via an Electronic Data System	41265	NSC	02/23/2017	Not Printed
R156-55d	Burglar Alarm Licensing Rule	41199	5YR	01/19/2017	2017-4/60
R156-56	Building Inspector and Factory Built Housing Licensing Act Rule	41144	5YR	01/10/2017	2017-3/85
R156-64	Deception Detection Examiners Licensing Act Rule	41145	5YR	01/10/2017	2017-3/86
R156-67	Utah Medical Practice Act Rule	41111	AMD	02/21/2017	2017-2/20
R156-68-304	Qualified Continuing Professional Education	41112	AMD	02/21/2017	2017-2/22
R156-76	Professional Geologist Licensing Act Rule	41279	5YR	02/02/2017	2017-5/62
R156-78B	Prelitigation Panel Review Rule	41146	5YR	01/10/2017	2017-3/87
<u>Real Estate</u>					
R162-2f	Real Estate Licensing and Practices Rules	40952	AMD	01/19/2017	2016-23/26
<u>Securities</u>					
R164-101	Securities Fraud Reporting Program Act	41293	5YR	02/07/2017	2017-5/63

RULES INDEX

EDUCATION

Administration

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R277-212	UPPAC Hearing Procedures and Reports	41089	AMD	02/07/2017	2017-1/30
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R277-507	Driver Education Endorsement	41006	AMD	01/10/2017	2016-23/36
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R307-328	Gasoline Transfer and Storage	41221	5YR	01/27/2017	2017-4/66
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(THC)

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**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)  
 CPR = Change in Proposed Rule  
 EMR = 120-Day (Emergency) Rule  
 EXD = Expired Rule  
 EXP = Expedited Rule  
 EXT = Five-Year Review Extension  
 GEX = Governor's Extension  
 LNR = Legislative Nonreauthorization  
 NEW = New Rule (Proposed Rule)  
 NSC = Nonsubstantive Rule Change  
 R&R = Repeal and Reenact (Proposed Rule)  
 REP = Repeal (Proposed Rule)  
 5YR = Five-Year Notice of Review and  
 Statement of Continuation

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<u>adult education</u> Education, Administration	41186	R277-702	5YR	01/17/2017	2017-3/87
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	40947	R23-3	AMD	01/20/2017	2016-23/6	
	41267	R23-19	5YR	02/01/2017	2017-4/57	
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	41317	R277-916	5YR	02/14/2017	2017-5/64	
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	41263	R746-351	5YR	01/31/2017	2017-4/89	
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Health, Disease Control and Prevention, Epidemiology	41038	R386-702	AMD	01/27/2017	2016-24/12	



<u>rabies</u>						
Health, Disease Control and Prevention, Epidemiology	41038	R386-702	AMD	01/27/2017	2016-24/12	
<u>RACT</u>						
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	41181	R313-34	5YR	01/17/2017	2017-3/90	
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	41181	R313-34	5YR	01/17/2017	2017-3/90	
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	41178	R313-21	5YR	01/17/2017	2017-3/88	
	41184	R313-37	5YR	01/17/2017	2017-3/91	
	41185	R313-38	5YR	01/17/2017	2017-3/92	
<u>rally</u>						
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