# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed October 03, 2017, 12:00 a.m. through October 16, 2017, 11:59 p.m.

Number 2017-21
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Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Administrative Services, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at https://rules.utah.gov/. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

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 https://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 https://rules.utah.gov/ for additional information.

Office of Administrative Rules, Salt Lake City 84114



Utah state bulletin.
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# EXECUTIVE DOCUMENTS

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

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

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### Calling the Sixty-Second Legislature Into the Fifth Extraordinary Session, Utah Proclamation No. 2017-5E

P R O C L A M A T I O N

**WHEREAS**, since the close of the 2017 General Session of the 62nd Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

**WHEREAS**, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Senate into Extraordinary Session; and

**NOW, THEREFORE,** I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 62nd Legislature of the State of Utah into the Fifth Extraordinary Session at the Utah State Capitol in Salt Lake City, Utah, on the 18th day of October 2017, at 4:00 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2017 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 13th day of October 2017.

(State Seal)

**Gary R. Herbert**
**Governor**

ATTEST:

**Spencer J. Cox**
**Lieutenant Governor**

2017/05/E

# NOTICES OF
# PROPOSED RULES

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 October 03, 2017, 12:00 a.m., and October 16, 2017, 11:59 p.m. are included in this, the November 01, 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 December 1, 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 March 1, 2018, 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** or a **Change in Proposed Rule**, the **Proposed Rule** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **Proposed Rules**. *Comment may be directed to the contact person identified on the* **Rule Analysis** *for each rule.*

**Proposed Rules** are governed by Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

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

# Commerce, Consumer Protection
# R152-34-8
# Rules Relating to Fair and Ethical Practices Set Forth in Section 13-34-108

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42218
FILED: 10/16/2017

## RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is to limit the application of the three-business-day cooling-off period as it relates to programs lasting 30 consecutive calendar days or fewer.

SUMMARY OF THE RULE OR CHANGE: The amended Section R152-34-8 changes the three-business-day cooling-off period by removing the requirement to have the cooling-off period end three-business-days after the day the student first visits the institution if the program lasts 30 consecutive calendar days or fewer.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 13-2-5(1)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division of Consumer Protection (Division) does not anticipate any cost or benefit to the state budget because the rule will not affect the number of schools paying fees to the Division to register, and the rule does not apply to publicly-funded institutions.
♦ LOCAL GOVERNMENTS: The Division does not anticipate any affect on local governments because the rule does not apply to publically-funded institutions.
♦ SMALL BUSINESSES: Some small schools which hold programs lasting fewer than 30 days will receive a benefit by not having to provide refunds to individuals who paid a down payment or signed an enrollment agreement more than three days prior to attending the school.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: In limited circumstances, some individuals attending school at programs that last fewer than 30 days will not be entitled to refunds when they otherwise would be, resulting in a cost to that person.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no foreseeable compliance costs, because this rule simply lessens the applicability of a previously existing rule, and does not impose new obligations.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Section R152-34-8 amendment changes the three-business-day cooling-off period by removing the requirement of having the cooling-off period end three-business-days after the day the student visits the institution, if the program lasts 30 consecutive calendar days or fewer. The change to the rule has no negative fiscal impact to small businesses, but would have a positive fiscal impact to small businesses which will now be able to retain tuition money for classes of short duration, where the benefit of the class would be realized in a brief period of time.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
CONSUMER PROTECTION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jacob Hart by phone at 801-530-6636, or by Internet E-mail at jfhart@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Daniel O'Bannon, Director

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**R152. Commerce, Consumer Protection.**
**R152-34. Postsecondary Proprietary School Act Rules.**
**R152-34-8. Rules Relating to Fair and Ethical Practices Set Forth in Section 13-34-108.**

(1) An institution, as part of its assessment for enrollment, shall consider the applicant's basic skills, aptitude, and physical qualifications, as these relate to the choice of program and to anticipated employment and shall not admit a student to a program unless there is a reasonable expectation that the student will succeed, as prescribed by R152-34-4(3).

(2) Financial dealings with students shall reflect standards of ethical practice. Tuition paid to an institution, and related student loans, are consumer transactions as defined in Utah Code Title 13, Chapter 11.

(3) The institution shall adopt a fair and equitable refund policy including:

(a) A three-business-day cooling-off period during which time the student may rescind the contract and receive a refund of all money paid[;]. The cooling-off period may not end prior to midnight of the third business day after the latest of the following days:

(i) the day the student signs an enrollment agreement;

(ii) the day the student pays the institution an initial deposit or first payment toward tuition and fees; or

(iii) the day that the student first visits the institution, if the program lasts more than 30 consecutive calendar days.[~~commencing with the day an enrollment agreement with the applicant is signed or an initial deposit or payment toward tuition and fees of the institution is made, until midnight of the third business day following such date or from the date that the student first visits the institution, whichever is later, shall be applicable and during this time the contract may be rescinded by the student and all money paid refunded.~~]

(b) A student enrolled in a correspondence institution may withdraw from enrollment following the cooling-[-]off period, prior to submission by the student of any lesson materials or prior to receipt of course materials, whichever comes first, and effective upon deposit of a written statement of withdrawal for delivery by mail or other means, and the institution shall be entitled to retain no more than $200 in tuition or fees as registration charges or an alternative amount that the institution can demonstrate to have been expended in preparation for that particular student's enrollment.

(c) A clear and unambiguous written statement of the institution's refund policy for students who desire a refund after the three-business-day cooling-off period or after a student enrolled in a correspondence institution has submitted lesson materials or been in receipt of course materials.

(d) There shall be a written enrollment agreement, to be signed by the student and a representative of the institution, that clearly describes the cooling-off period, nonrefundable registration fee, and refund policy and schedule, including the rights of both the student and the institution, with copies provided to each.

(e) There shall be complete written information on repayment obligations to all applicants for financial assistance before an applicant student assumes such responsibilities.

(f) A pay-as-you-learn payment schedule that limits a student's prospective contractual obligation(s),at any one time, to the institution for tuition and fees to four months of training, plus registration or start-up costs not to exceed $200 or an alternative amount that the institution can demonstrate to have spent in undertaking a student's instruction. This restriction applies regardless of whether a contractual obligation is paid to the institution by:

(i) the student directly; or

(ii) a lender or any other entity on behalf of the student.

(g) The payment of a refund within 30 calendar days of a request for a refund if the person requesting the refund is entitled to the refund:

(i) under any provision of:

(A) the Utah Postsecondary Proprietary School Act, Utah Code Title 13, Chapter 34;

(B) the Postsecondary Proprietary School Act Rules, R152-34; or

(C) a contract or other agreement between the institution and the person requesting the refund; or

(ii) because of the institution's failure to fulfill its obligations to the person requesting the refund.

(4) Following the satisfactory completion of his or her training and education, a student is provided with appropriate educational credentials that show the program in which he or she was enrolled, together with a transcript of courses completed and grades or other performance evaluations received.

(5) No institution shall use the designation of 'college' nor 'university' in its title nor in conjunction with its operation unless it actually confers a standard college degree as one of its credentials, unless the use of such designation had previously been approved by the Board of Regents prior to July 1, 2002.

(6) The name of the institution shall not contain any reference that could mislead potential students or the general public as to the type or nature of its educational services, affiliations or structure.

(7) Advertising standards consist of the following:

(a) The institution's chief administrative officer assumes all responsibility for the content of public statements made on behalf of the institution and shall instruct all personnel, including agents, as to this rule and other appropriate laws regarding the ethics of advertisement and recruitment;

(b) Advertising shall be clear, factual, supportable, and shall not include any false or misleading statements with respect to the institution, its personnel, its courses and programs, its services, nor the occupational opportunities for its graduates;

(c) Institutions shall disclose that they are primarily operated for educational purposes if this is not apparent from the legal name. Institutions shall not advertise educational services in conjunction with any other business or establishment, nor in "help wanted" or "employment opportunity" columns of newspapers, magazines or similar forums in such a way as to lead readers to believe that they are applying for employment rather than education and training. Any advertisement in "help wanted" or "employment opportunity" forums shall be for positions open for immediate employment only;

(d) An institution, its employees and agents, shall refrain from other forms of ambiguous or deceptive advertising, such as:

(i) claims as to endorsement by manufacturers or businesses or organizations until and unless written evidence supporting this fact is on file; and

(ii) representations that students completing a course or program may transfer either credits or credentials for acceptance by another institution, state agency, or business, unless written evidence supporting this fact is on file;

(e) An institution shall maintain a file of all promotional information and related materials for a period of three (3) years;

(f) The Division may require an institution to submit its advertising prior to its use; and

(g) An institution cannot advertise that its organization or program is endorsed by the state of Utah other than to state that the school is 'Registered under the Utah Postsecondary Proprietary School Act'.

(h) An institution shall include the following registration and disclaimer statements in its catalog, student information bulletin, and enrollment agreements:

(i) REGISTERED UNDER THE UTAH POSTSECONDARY PROPRIETARY SCHOOL ACT (Title 13, Chapter 34, Utah Code).

(ii) Registration under the Utah Postsecondary Proprietary School Act does not mean that the State of Utah supervises, recommends, nor accredits the institution. It is the student's responsibility to determine whether credits, degrees, or certificates from the institution will transfer to other institutions or meet employers' training requirements. This may be done by calling the prospective school or employer.

(iii) The institution is not accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(8) Recruitment standards include the following:

(a) Recruiting efforts shall be conducted in a professional and ethical manner and free from 'high pressure' techniques; and

(b) An institution shall not use loans, scholarships, discounts, or other such enrollment inducements, where such result in unfair or discriminatory practices.

(9) An agent or sales representative may not be directly or indirectly be portrayed as 'counselor,' 'advisor,' or any other similar title to disguise his or her sales function.

(10) An agent or representative is responsible to have a clear understanding and knowledge of the programs and courses, tuition, enrollment requirements, enrollment agreement, support services, and the general operational procedures thereof.

(11) An institution shall indemnify any student from loss or other injury as a result of any fraud or other form of misrepresentation used by an agent in the recruitment process.

(12) An institution operating in Utah but domiciled outside the state shall designate a Utah resident as its registered agent for purposes of service of legal process.

(13) An institution shall provide a student with all of the student's school records, as described in R152-34-9(2), within five business days after a written or verbal request by a student for the student's school records. The institution may not charge a student more than the actual copying costs for the student's school records.

**KEY: education, postsecondary proprietary schools, registration,[ ~~requirements,~~] consumer protection**
**Date of Enactment or Last Substantive Amendment: [~~November 24, 2014~~]2017**
**Notice of Continuation: May 8, 2017**
**Authorizing, and Implemented or Interpreted Law: 13-2-5(1)**

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# Commerce, Occupational and Professional Licensing
# R156-1
# General Rule of the Division of Occupational and Professional Licensing

## NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 42221
FILED: 10/16/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing is to amend DOPL's (Division of Occupational and Professional Licensing) umbrella rule to: 1) implement provisions of 2017 legislation, to include: a) H.B. 287; b) S.B. 74; c) H.B. 128; d) H.B. 142; and (e) H.B. 154, Telehealth Amendments; 2) make clarifying revisions; and 3) make technical revisions.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-1-102(1), this filing clarifies that a license that has been placed on probation subject to terms and conditions is not "active and in good standing". In Subsection R156-1-308a(1), first, this filing establishes two-year renewal dates for: 1) "hair designer", "hair designer instructor", and "hair designer school license" classifications (H.B. 287); 2) "restricted associate osteopathic physician" license classification (H.B. 396); and 3) "restricted associate physician" license classifications (H.B. 396). Second, this filing changes the September 30 renewal dates for "CPA Firm" licensees and "Certified Public Accountant" licensees to December 31. In Subsection R156-1-308a(2), this filing establishes a three-year renewal cycle date for tier 1 certified medical language interpreters and tier 2 certified medical language interpreters (S.B. 74). In Section R156-1-308d, this filing: 1) establishes the parameters within which the division will grant continuing education credit to a licensee for volunteering as a subject-matter expert in the development of exams; and 2) clarifies that under Section 58-13-3, a health care professional licensee may fulfill up to 15% of the licensee's continuing education requirements by providing volunteer services at a qualified location. In Section R156-1-308f, this filing clarifies that the concept of conditional licensure may include the license of an applicant that is pending the completion of an inspection. In Section R156-1-501, 1) In accordance with H.B. 128 (2017), this filing designates as unprofessional conduct failing as a health care provider to follow the health care claims practices of Subsection 31A-26-301.5(4), in violation of Subsection 58-1-508(2); and 2) in accordance with Subsection 26-59-104(1) enacted by H.B. 154 (2017), this filing designates as unprofessional conduct failing, as a provider offering telehealth services, to comply with any term, condition, or requirement contained in Section 26-60-103 or the new Section R156-1-601. In Section R156-1-502, in accordance with H.B. 128 (2017), this filing establishes the following fine schedule for violating Subsection 58-1-508(2) (failing as a health care provider to follow the health care claims practices of Subsection 31A-26-301.5(4)): first offense is $250, second offense is $500. In Section R156-1-601, in accordance with Section 26-60-103 and Subsection 26-60-104(1) enacted by H.B. 154 (2017), DOPL, in collaboration with the Physicians Licensing Board, proposes these amendments to clarify the standards required from a provider offering telehealth services, as follows: Subsection (1) incorporates certain definitions regarding telehealth from the Telehealth Act (Title 26, Chapter 60), and includes within the definition of "provider" an unlicensed individual who is required to be licensed, or who is exempt from licensure. Subsection (2) clarifies scope of practice, including requiring the provider to establish a provider-patient relationship. Subsection (3) requires the provider to obtain a patient's signed informed consent containing details and disclosures specific to telehealth services and technologies. Subsection (4) clarifies that treatment based solely on an online questionnaire does

not constitute an acceptable standard of care. Subsection (5) clarifies that a provider may only issue prescription drug orders for a telehealth patient in compliance with Title 58, Chapter 82, and only after establishing a provider-patient relationship. Subsection (6) clarifies that a provider offering telehealth services must generate and maintain medical records for the patient in compliance with applicable state and federal laws, rules, and regulations, including HIPAA (Health Insurance Portability and Accountability Act) and HITECH (Health Information Technology for Economic and Clinical Health Act); and must make those medical records accessible to other providers and to the patient in accordance with applicable laws, rules, and regulations.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-1-308 and Subsection 58-1-106(1)(a) and Subsection 58-1-501(2)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Rule R156-1 will have to be reprinted at an approximate cost of $75. The clarification and technical changes will have no cost or savings impact. Any cost or saving impact of new licensure regulation was addressed in the referenced legislation, or will be described in separate rule filings more fully implementing the new regulation, or both.
♦ LOCAL GOVERNMENTS: This filing pertains to DOPL and its licensees and as such does not affect or impact local governments. Local governments neither enforce the listed violations, nor will they be affected by these application process clarifications.
♦ SMALL BUSINESSES: This filing pertains to general provisions of DOPL and its licensees. The clarification and technical changes will have no cost or savings impact. As a result, the Division estimates that they will have no impact on small business. Any cost or saving impact of new licensure regulation was addressed in the referenced legislation, or will be described in separate rule filings more fully implementing the new regulation, or both.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This filing pertains to general provisions of DOPL and its licensees. The clarification and technical changes will have no cost or savings impact, because they only make formatting changes and add clarification to practices already taking place in the industry. Any cost or saving impact of new licensure regulation was addressed in the referenced legislation, or will be described in separate rule filings more fully implementing the new regulation, or both Subsection R156-1-308d(1). Some savings to individual licensees may result from the proposed amendments to this Section, under which the Division clarifies how and when it may grant continuing education credit to a licensee for volunteering as a subject-matter expert in the development of exams. Licensees who choose to volunteer by serving as a subject-matter expert may save on the cost of attendance at one or more continuing education courses. However, the amount of the savings cannot be estimated, as it will vary significantly from licensee to licensee depending on a number of widely ranging factors, such as the number and type of volunteer services provided, any individual ratios for service hours decided upon by the licensing board over the licensee's profession, and the number and type of credit hours required from the licensee to maintain that particular license. In Section R156-1-502, the Division estimates that there will be no cost or savings to other persons from these proposed amendments, over and above the impact from the underlying legislation, because the amendments establish a fine schedule for unprofessional conduct in accordance with H.B. 128 (2017). Costs or savings to other persons were included in the Legislature's consideration of H.B. 128, which determined that enactment of the legislation "could result in 24 licensees annually paying a $500 fine for total costs of $12,000". The fiscal analysis is available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/HB0128.html. This conclusion is supported by the fact that any impact from these amendments cannot and should not be scaled to all other persons, as the fines will not affect the majority of those who meet the new professional standards and will never be fined. In other words, the impact of the fines will never be uniformly felt across the industry. Additionally, per the Division's review a licensee sanctioned for unprofessional conduct is unlikely to be fined again in succeeding years. In short, after conducting a thorough analysis, the Division has determined that these proposed amendments will not result in a measurable fiscal impact to other persons. In Section R156-1-601, the amendments define and clarify the standards required from a provider offering telehealth services under Title 58, in accordance with Section 26-60-103 and Subsection 26-60-104(1) enacted by H.B. 154 (2017). No additional costs or savings are anticipated to other persons from these proposed rules, as they merely clarify how existing health care standards and practices apply to a telehealth setting for Title 58 providers offering telehealth services, and allow the Division to enforce these standards for Title 58 providers, as required by the underlying legislation. Any additional costs or savings to other persons result from H.B. 154, and were included in the Legislature's consideration of this bill. A copy of this analyses is available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/HB0154.html.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This filing pertains to general provisions of DOPL and its licensees. The clarification and technical changes will have no cost or savings impact. Any cost or saving impact of new licensure regulation was addressed in the referenced legislation, or will be described in separate rule filings more fully implementing the new regulation, or both.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to Rule R156-1 are proposed to: 1) carry out the mandate of H.B. 287 (2017), Cosmetology Licensing Act amendments, S.B. 74 (2017), Medical Interpreter Act amendments, H.B. 128 (2017), Health Care Debt Collection amendments, H.B. 142 (2017), Administration of Anesthesia amendments and H.B. 154 (2017), Telehealth amendments;

2) make clarifying revisions; and 3) make technical revisions. The clarifying revisions and the technical revisions have no fiscal or non-fiscal impacts. The Subsection R156-1-308a(1) amendments establish a two-year renewal cycles for licensing five new categories of licensees and changes the "CPA Firm" renewal date from September 30 to December 31. The new categories of licensees will have a renewal cycle similar to other licensees in the same field and there will be no adverse fiscal impact. The three-month change to the renewal cycle of CPA Firms will have a negligible impact, and only in the first year of the change. The Subsection R156-1-308a(2) amendments have no adverse fiscal impact by establishing a three-year license renewal cycle for certain medical language interpreters. The Section R156-1-308d amendments will have no adverse fiscal impact to small businesses by granting continuing education credit to certain licensees providing volunteer service. The Section R156-1-308f amendment clarifies that the concept of conditional licensure may include the license of an applicant that is pending the completion of an inspection, and will have no adverse fiscal impact to small businesses. The Section R156-1-501 amendment clarifies certain conduct as constituting unprofessional conduct, and will have no adverse fiscal impact to small businesses. The Section R156-1-502 amendment provides a two-tier fine schedule for violations of Subsection 58-1-508(2) and will impact only those health care providers that fail to follow certain health care claims practices. This would impact only violators and would not have an adverse fiscal impact on small business health care providers as a whole. The adoption of newly framed rules for providers of telehealth services under Section R156-1-601 will have no fiscal impact beyond the fiscal impact and analysis of the Legislature regarding H.B. 154 (2017) for providers offering telehealth services.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarx@utah.gov
♦ W. Ray Walker by phone at 801-530-6256, by FAX at 801-530-6511, or by Internet E-mail at raywalker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 11/16/2017 11:30 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 464, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Mark Steinagel, Director

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**R156. Commerce, Occupational and Professional Licensing.**
**R156-1. General Rule of the Division of Occupational and Professional Licensing.**
**R156-1-102. Definitions.**

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

(1) "Active and in good standing" means a licensure status which allows the licensee full privileges to engage in the practice of the occupation or profession subject to the scope of the licensee's license classification. A license that has been placed on probation subject to terms and conditions is not active and in good standing.

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

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

(b) dishonest or selfish motive;

(c) pattern of misconduct;

(d) multiple offenses;

(e) obstruction of the disciplinary process by intentionally failing to comply with rules or orders of the Division;

(f) submission of false evidence, false statements or other deceptive practices during the disciplinary process including creating, destroying or altering records after an investigation has begun;

(g) refusal to acknowledge the wrongful nature of the misconduct involved, either to the client or to the Division;

(h) vulnerability of the victim;

(i) lack of good faith to make restitution or to rectify the consequences of the misconduct involved;

(j) illegal conduct, including the use of controlled substances; and

(k) intimidation or threats of withholding clients' records or other detrimental consequences if the client reports or testifies regarding the unprofessional or unlawful conduct.

(3) "Cancel" or "cancellation" means nondisciplinary action by the Division to rescind, repeal, annul, or void a license:

(a) issued to a licensee in error, such as where a license is issued to an applicant:

(i) whose payment of the required application fee is dishonored when presented for payment;

(ii) who has been issued a conditional license pending a criminal background check and the check cannot be completed due to the applicant's failure to resolve an outstanding warrant or to submit acceptable fingerprint cards;

(iii) who has been issued the wrong classification of licensure; or

(iv) due to any other error in issuing a license; or

(b) not issued erroneously, but where subsequently the licensee fails to maintain the ongoing qualifications for licensure, when such failure is not otherwise defined as unprofessional or unlawful conduct.

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

(5) "Conditional licensure" means an interim non-adverse licensure action, in which a license is issued to an applicant for initial, renewal, or reinstatement of licensure on a conditional basis in accordance with Section R156-1-308f, while an investigation, inspection, or audit is pending.

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) replaces a temporary license;

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

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

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

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

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

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

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

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

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

(a) Mitigating circumstances include:

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

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

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

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

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

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

(vii) remorse.

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

(i) forced or compelled restitution;

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

(iii) resignation prior to disciplinary proceedings;

(iv) failure of injured client to complain;

(v) complainant's recommendation as to sanction; and

(vi) in an informal disciplinary proceeding brought pursuant to Subsection 58-1-501(2)(c) or (d) or Subsections R156-1-501(1) through (5):

(A) argument that a prior proceeding was conducted unfairly, contrary to law, or in violation of due process or any other procedural safeguard;

(B) argument that a prior finding or sanction was contrary to the evidence or entered without due consideration of relevant evidence;

(C) argument that a respondent was not adequately represented by counsel in a prior proceeding; and

(D) argument or evidence that former statements of a respondent made in conjunction with a plea or settlement agreement are not, in fact, true.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(31) "Unprofessional conduct" as defined in Title 58 is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-1-[~~502~~]501.

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

(a) Division concerns;

(b) allegations upon which those concerns are based;

(c) potential for administrative or judicial action; and

(d) disposition of Division concerns.

**R156-1-308a. Renewal Dates.**

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

TABLE
RENEWAL DATES

| | | |
|---|---|---|
| Acupuncturist | May 31 | even years |
| Advanced Practice Registered Nurse | January 31 | even years |
| Advanced Practice Registered Nurse-CRNA | January 31 | even years |
| Architect | May 31 | even years |
| Athlete Agent | September 30 | even years |
| Athletic Trainer | May 31 | odd years |
| Audiologist | May 31 | odd years |
| Barber | September 30 | odd years |
| Barber Apprentice | September 30 | odd years |
| Barber School | September 30 | odd years |
| Behavior Analyst and Assistant Behavior Analyst | September 30 | even years |
| Behavior Specialist and Assistant Behavior Specialist | September 30 | even years |
| Building Inspector | November 30 | odd years |
| Burglar Alarm Security | March 31 | odd years |
| C.P.A. Firm | [~~September 30~~]December 31 | even years |
| Certified Court Reporter | May 31 | even years |
| Certified Dietitian | September 30 | even years |
| Certified Medical Language Interpreter | March 31 | odd years |
| Certified Nurse Midwife | January 31 | even years |
| Certified Public Accountant | [~~September 30~~]December 31 | even years |
| Certified Social Worker | September 30 | even years |
| Chiropractic Physician | May 31 | even years |
| Clinical Mental Health Counselor | September 30 | even years |
| Clinical Social Worker | September 30 | even years |
| Construction Trades Instructor | November 30 | odd years |
| Contractor | November 30 | odd years |
| Controlled Substance License | Attached to primary license renewal | |
| Controlled Substance Precursor | May 31 | odd years |
| Controlled Substance Handler | September 30 | odd years |
| Cosmetologist/Barber | September 30 | odd years |
| Cosmetologist/Barber Apprentice | September 30 | odd years |
| Cosmetology/Barber School | September 30 | odd years |
| Deception Detection<br>Deception Detection Examiner,<br>Deception Detection Intern,<br>Deception Detection Administrator | November 30 | even years |
| Dental Hygienist | May 31 | even years |
| Dentist | May 31 | even years |
| Direct-entry Midwife | September 30 | odd years |
| Dispensing Medical Practitioner<br>Advanced Practice Registered Nurse,<br>Optometrist, Osteopathic Physician and Surgeon, Physician and Surgeon,<br>Physician Assistant | September 30 | odd years |
| Dispensing Medical Practitioner<br>Clinic Pharmacy | September 30 | odd years |
| Electrician<br>Apprentice, Journeyman, Master,<br>Residential Journeyman,<br>Residential Master | November 30 | even years |
| Electrologist | September 30 | odd years |
| Electrology School | September 30 | odd years |

| | | |
|---|---|---|
| Elevator Mechanic | November 30 | even years |
| Environmental Health Scientist | May 31 | odd years |
| Esthetician | September 30 | odd years |
| Esthetician Apprentice | September 30 | odd years |
| Esthetics School | September 30 | odd years |
| Factory Built Housing Dealer | September 30 | even years |
| Funeral Service Director | May 31 | even years |
| Funeral Service Establishment | May 31 | even years |
| Genetic Counselor | September 30 | even years |
| Hair Designer | September 30 | odd years |
| Hair Designer Instructor | September 30 | odd years |
| Hair Designer School | September 30 | odd years |
| Health Facility Administrator | May 31 | odd years |
| Hearing Instrument Specialist | September 30 | even years |
| Internet Facilitator | September 30 | odd years |
| Landscape Architect | May 31 | even years |
| Licensed Advanced Substance Use Disorder Counselor | May 31 | odd years |
| Licensed Practical Nurse | January 31 | even years |
| Licensed Substance Use Disorder Counselor | May 31 | odd years |
| Marriage and Family Therapist | September 30 | even years |
| Massage Apprentice | May 31 | odd years |
| Massage Therapist | May 31 | odd years |
| Master Esthetician | September 30 | odd years |
| Master Esthetician Apprentice | September 30 | odd years |
| Medication Aide Certified | March 31 | odd years |
| Music Therapist | March 31 | odd years |
| Nail Technologist | September 30 | odd years |
| Nail Technologist Apprentice | September 30 | odd years |
| Nail Technology School | September 30 | odd years |
| Naturopath/Naturopathic Physician | May 31 | even years |
| Occupational Therapist | May 31 | odd years |
| Occupational Therapy Assistant | May 31 | odd years |
| Optometrist | September 30 | even years |
| Osteopathic Physician and Surgeon, Online Prescriber, Restricted Associate Osteopathic Physician | May 31 | even years |
| Outfitter/Hunting Guide | May 31 | even years |
| Pharmacy Class A-B-C-D-E, Online Contract Pharmacy | September 30 | odd years |
| Pharmacist | September 30 | odd years |
| Pharmacy Technician | September 30 | odd years |
| Physical Therapist | May 31 | odd years |
| Physical Therapist Assistant | May 31 | odd years |
| Physician Assistant | May 31 | even years |
| Physician and Surgeon, Online Prescriber, Restricted Associate Physician | January 31 | even years |
| Plumber Apprentice, Journeyman, Master, Residential Master, Residential Journeyman | November 30 | even years |
| Podiatric Physician | September 30 | even years |
| Pre Need Funeral Arrangement Sales Agent | May 31 | even years |
| Private Probation Provider | May 31 | odd years |
| Professional Engineer | March 31 | odd years |
| Professional Geologist | March 31 | odd years |
| Professional Land Surveyor | March 31 | odd years |
| Professional Structural Engineer | March 31 | odd years |
| Psychologist | September 30 | even years |
| Radiologic Technologist, Radiology Practical Technician Radiologist Assistant | May 31 | odd years |
| Recreational Therapy Therapeutic Recreation Technician, Therapeutic Recreation Specialist, Master Therapeutic Recreation Specialist | May 31 | odd years |
| Registered Nurse | January 31 | odd years |
| Respiratory Care Practitioner | September 30 | even years |
| Security Personnel | November 30 | even years |
| Social Service Worker | September 30 | even years |
| Speech-Language Pathologist | May 31 | odd years |
| State Certified Commercial Interior Designer | March 31 | odd years |
| Veterinarian | September 30 | even years |
| Vocational Rehabilitation Counselor | March 31 | odd years |

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

(a) Associate Clinical Mental Health Counselor licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the Division and the Board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure.

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

(c) Certified Advanced Substance Use Disorder Counselor licenses shall be issued for a period of four years and may be extended if the licensee presents satisfactory evidence to the Division and Board that reasonable progress is being made toward completing the required hours of supervised experience necessary for the next level of licensure.

(d) Certified Advanced Substance Use Disorder Counselor Intern licenses shall be issued for a period of six months or until the examination is passed whichever occurs first.

(e) Certified Medical Language Interpreter Tier 1 and 2 licenses shall be issued for a period of three years and may be renewed. The initial renewal date of March 31, 2017, is established for these license classifications, subject to the provisions of Subsection R156-1-308c(7) to establish the length of the initial license period.

([~~e~~]f) Certified Substance Use Disorder Counselor licenses shall be issued for a period of two years and may be extended if the licensee presents satisfactory evidence to the Division and Board that reasonable progress is being made toward completing the required hours of supervised experience necessary for the next level of licensure.

([~~f~~]g) Certified Social Worker Intern licenses shall be issued for a period of six months or until the examination is passed whichever occurs first.

([~~g~~]h) Certified Substance Use Disorder Counselor Intern licenses shall be issued for a period of six months or until the examination is passed, whichever occurs first.

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

([~~i~~]j) Hearing Instrument Intern licenses shall be issued for a three year term and may be extended if the licensee presents

satisfactory evidence to the Division and the Board that reasonable progress is being made toward passing the qualifying examination, but a circumstance arose beyond the control of the licensee, to prevent the completion of the examination process.

([~~j~~]k) Pharmacy technician trainee licenses shall be issued for a period of two years and may be extended if the licensee presents satisfactory evidence to the Division and the Board that reasonable progress is being made toward completing the requirements necessary for the next level of licensure.

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

([~~l~~]m) Type I Foreign Trained Physician-Educator licenses will be issued initially for a one-year term and thereafter renewed every two years following issuance.

([~~m~~]n) Type II Foreign Trained Physician-Educator licenses will be issued initially for an annual basis and thereafter renewed annually up to four times following issuance if the licensee continues to satisfy the requirements described in Subsection 58-67-302.7(3) and completes the required continuing education requirements established under Section 58-67-303.

**R156-1-308d. Waiver of Continuing Education Requirements - Credit for Volunteer Service[~~Renewal Requirements~~].**

(1)(a) In accordance with Subsection 58-1-203(1)(g), a licensee may request a waiver of any continuing education requirement established under this title or an extension of time to complete any requirement on the basis that the licensee was unable to complete the requirement due to a medical or related condition, humanitarian or ecclesiastical services, extended presence in a geographical area where continuing education is not available, etc.

(b) A request must be submitted no later than the deadline for completing any continuing education requirement.

(c) A licensee submitting a request has the burden of proof and must document the reason for the request to the satisfaction of the Division.

(d) A request shall include the beginning and ending dates during which the licensee was unable to complete the continuing education requirement and a detailed explanation of the reason why. The explanation shall include the extent and duration of the impediment, extent to which the licensee continued to be engaged in practice of his profession, the nature of the medical condition, the location and nature of the humanitarian services, the geographical area where continuing education is not available, etc.

(e) The Division may require that a specified number of continuing education hours, courses, or both, be obtained prior to reentering the practice of the profession or within a specified period of time after reentering the practice of the profession, as recommended by the appropriate board, in order to assure competent practice.

(f) While a licensee may receive a waiver from meeting the minimum continuing education requirements, the licensee shall not be exempted from the requirements of Subsection 58-1-501(2)(i), which requires that the licensee provide services within the competency, abilities and education of the licensee. If a licensee cannot competently provide services, the waiver of meeting the continuing education requirements may be conditioned upon the licensee limiting practice to areas in which the licensee has the required competency, abilities and education.

(2)(a) In accordance with Subsection 58-1-203(1)(g) and 58-55-302.5(2)(e)(i), the Division may grant continuing education credit to a licensee for volunteering as a subject-matter expert in the review and development of licensing exams for the licensee's profession.

(b) Subject to specific limitations established by rule by the Division, in collaboration with a licensing board, or the Construction Services Commission, this volunteer continuing education credit shall:

(i) apply to the license period or periods during which the volunteer service was provided;

(ii) be granted on a 1:1 ratio, meaning that for each hour of attendance, the licensee may receive one hour of credit;

(iii) be deemed "core", "classroom", or "live" credit, regardless of whether the licensee attended meetings in person or electronically; and

(iv) at the licensee's discretion, all or part of the credit hours may be counted towards any law or ethics continuing education requirements.

(c) The licensee shall be responsible for maintaining information with respect to the licensee's volunteer services to demonstrate the services meet the requirements of this subsection.

(3) In accordance with Section 58-13-3, a health care professional licensee may fulfill up to 15% of the licensee's continuing education requirements by providing volunteer services at a qualified location, within the scope of the licensee's license, earning one hour of continuing education credit for every four documented hours of volunteer services.

**R156-1-308f. Denial of Renewal of Licensure - Classification of Proceedings - Conditional Renewal of Licensure During Adjudicative Proceedings - Conditional Initial, Renewal, or Reinstatement Licensure During Audit or Investigation.**

(1) When an initial, renewal or reinstatement applicant under Subsections 58-1-301(2) through (3) or 58-1-308(5) or (6)(b) is selected for audit, [~~or~~]is under investigation, or is pending inspection, the Division may conditionally issue an initial license to an applicant for initial licensure, or renew or reinstate the license of an applicant pending the completion of the audit, [~~or~~]investigation or inspection.

(2) The undetermined completion of a referenced audit, [~~or~~]investigation or inspection, rather than the established expiration date, shall be indicated as the expiration date of a conditionally issued, renewed, or reinstated license.

(3) A conditional issuance, renewal, or reinstatement shall not constitute an adverse licensure action.

(4) Upon completion of the audit, [~~or~~]investigation, or inspection, the Division shall notify the initial license, renewal, or reinstatement applicant whether the applicant's license is unconditionally issued, renewed, reinstated, denied, or partially denied or reinstated.

(5) A notice of unconditional denial or partial denial of licensure to an applicant the Division conditionally licensed, renewed, or reinstated shall include the following:

(a) that the applicant's unconditional initial issuance, renewal, or reinstatement of licensure is denied or partially denied and the basis for such action;

(b) the Division's file or other reference number of the audit or investigation; and

(c) that the denial or partial denial of unconditional initial licensure, renewal, or reinstatement of licensure is subject to review and a description of how and when such review may be requested.

**R156-1-501. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) surrendering licensure to any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession while an investigation or inquiry into allegations of unprofessional or unlawful conduct is in progress or after a charging document has been filed against the applicant or licensee alleging unprofessional or unlawful conduct;

(2) practicing a regulated occupation or profession in, through, or with a limited liability company which has omitted the words "limited company," "limited liability company," or the abbreviation "L.C." or "L.L.C." in the commercial use of the name of the limited liability company;

(3) practicing a regulated occupation or profession in, through, or with a limited partnership which has omitted the words "limited partnership," "limited," or the abbreviation "L.P." or "Ltd." in the commercial use of the name of the limited partnership;

(4) practicing a regulated occupation or profession in, through, or with a professional corporation which has omitted the words "professional corporation" or the abbreviation "P.C." in the commercial use of the name of the professional corporation;

(5) using a DBA (doing business as name) which has not been properly registered with the Division of Corporations and with the Division of Occupational and Professional Licensing;

(6) failing, as a prescribing practitioner, to follow the "Model Policy for the Use of Controlled Substances for the Treatment of Pain", 2004, established by the Federation of State Medical Boards, which is hereby adopted and incorporated by reference;

(7) failing, as a prescribing practitioner, to follow the "Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain", July 2013, adopted by the Federation of State Medical Boards, which is incorporated by reference;[ ~~or~~]

(8) violating any term, condition, or requirement contained in a "diversion agreement", as defined in Subsection 58-1-404(6)(a)[.]

(9) failing, as a health care provider, to follow the health care claims practices of Subsection 31A-26-301.5(4), in violation of Subsection 58-1-508(2); or

(10) failing, as a provider offering telehealth services, to comply with any term, condition, or requirement contained in Section 26-60-103 or Section R!56-1-601.

**R156-1-502. Administrative Penalties.**

(1) In accordance with Subsection 58-1-401(5) and Section 58-1-502, except as otherwise provided by a specific chapter under Title R156, the following fine schedule shall apply to citations issued under the referenced authority:

TABLE

FINE SCHEDULE

FIRST OFFENSE

| Violation | Fine |
|---|---|
| 58-1-501(1)(a) | $ 500.00 |
| 58-1-501(1)(c) | $ 800.00 |
| 58-1-501(2)(o) | $ 0 - $250.00 |
| 58-1-508(2) | $ 250.00 |

SECOND OFFENSE

| | |
|---|---|
| 58-1-501(1)(a) | $1,000.00 |
| 58-1-501(1)(c) | $1,600.00 |
| 58-1-501(2)(o) | $251.00 - $500.00 |
| 58-1-508(2) | $ 500.00 |

THIRD OFFENSE

Double the amount for a second offense with a maximum amount not to exceed the maximum fine allowed under Subsection 58-1-502(2)(j)(iii).

(2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor.

(3) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(4) An investigative supervisor or chief investigator may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(5) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

**R156-1-601. Practice of Telehealth.**

In accordance with Section 26-60-103 and Subsection 26-60-104(1):

(1) Definitions. In addition to the definitions in Title 58 and Title R156, as used in this Section:

(a) "Asynchronous store and forward transfer" means the same as defined in Subsection 26-60-102(1).

(b) "Distant site" means the same as defined in Subsection 26-60-102(2).

(c) "Originating site" means the same as defined in Subsection 26-60-102(3).

(d) "Patient" means the same as defined in Subsection 26-60-102(4).

(e) "Provider" means the same as defined in Subsection 26-60-102(5)(b) (an individual licensed under Title 58 to provide health care), and shall include an individual who:

(i) is required to be licensed under Title 58 if located in Utah; or

(ii) is exempt from licensure pursuant to Title 58.

(f) "Provider-patient relationship" means a relationship in which a provider:

(i) provides a professionally appropriate evaluation and diagnosis of the patient consistent with the provider's applicable standard of care;

(ii) informs the patient that the patient's condition would benefit from treatment through telehealth services, and provides the patient an explanation and comparison of any professionally advisable alternatives to telehealth services;

(iii) acquires written informed consent from the patient as required by the applicable laws, rules, regulations, and standards of care; and

(iv) has an ongoing legal obligation to provide continuing care for the patient as it relates to the condition for which telehealth services were provided, that includes being available and having a facility or alternative means convenient and accessible to the patient for appropriate follow-up care as needed.

(g) "Synchronous interaction" means the same as defined in Subsection 26-60-102(6).

(h) "Telehealth services" means the same as defined in Subsection 26-60-102(7).

(i) "Telemedicine services" means the same as defined in Subsection 26-60-102(8).

(2) Scope of Practice.

(a) In accordance with Subsections 26-60-103(1)(a) and (2), and Subsection R156-1-601(1)(e), an unlicensed provider may offer telehealth services only when:

(i) acting within the scope of the provider's profession under Title 58, including the stated circumstances and limitations of Section 58-1-307; and

(ii) in compliance with all other applicable laws, rules, and regulations regarding the practice of their Title 58 profession.

(b) In accordance with Subsection 26-60-103(1)(a)(ii), the same standards of practice as those applicable in traditional health settings shall include the following:

(i) If a provider offering telehealth services does not have an established provider-patient relationship with the patient, the provider shall establish a provider-patient relationship by synchronous interaction in accordance with the applicable standard of care.

(ii) Nothing in this section shall prohibit electronic communications:

(A) between a provider and a patient with a preexisting provider-patient relationship;

(B) between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;

(C) between a provider and a patient where the provider is taking a call on behalf of another provider in the same community who has a provider-patient relationship with the patient; or

(D) in an emergency, which as used in this section, means a situation in which there is an occurrence that poses an imminent threat of a life-threatening condition or severe bodily harm.

(3) Informed Consent.

(a) A patient's signed informed consent for the use of telehealth services shall be obtained, and it is an element of the provider-patient relationship.

(b) The signed informed consent shall include the following:

(i) identification of the patient and provider;

(ii) identification of the provider's credentials;

(iii) a description of the types of transmission (electronic communication or information technology) permitted using telehealth technologies;

(iv) a statement that the provider has determined the use of telehealth is appropriate to diagnose and treat the patient;

(v) information and details of security measures taken with respect to the use of telehealth technologies, as well as potential risks to privacy notwithstanding the security measures;

(vi) a hold harmless clause for information lost due to technical failures; and

(vii) a reference to or inclusion of a patient consent form governing release of patient-identifiable information to a third party.

(4) Evaluation and Treatment. In accordance with Subsection 26-60-103(1)(b), treatment based solely on an online questionnaire does not constitute an acceptable standard of care, except as provided in Title 58, Chapter 83, the Online Prescribing, Dispensing and Facilitation Licensing Act.

(5) Prescriptions. A provider shall issue prescription drug orders for a telehealth patient:

(a) in compliance with Title 58, Chapter 82, the Electronic Prescribing Act; and

(b) only after establishing a provider-patient relationship with the patient.

(6) Medical Records. In accordance with Subsection 26-60-103(1)(e):

(a) A provider offering telehealth services shall generate and maintain medical records for each telehealth patient in compliance with applicable state and federal laws, rules, and regulations, including:

(i) the Health Insurance Portability and Accountability Act (HIPAA), P.L. 104-191 (1996); and

(ii) the Health Information Technology For Economic and Clinical Health Act (HITECH), P.L. 111-115 (2009).

(b) Medical records shall be accessible to other providers and to the patient in accordance with applicable laws, rules, and regulations.

**KEY: diversion programs, licensing, supervision, evidentiary restrictions**
**Date of Enactment or Last Substantive Amendment: [~~April 11,~~ ]2017**
**Notice of Continuation: December 6, 2016**
**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-308; 58-1-501(2)**

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# Commerce, Occupational and Professional Licensing
# R156-9a
# (Changed to R156-87)
# Uniform Athlete Agents Act Rule

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 42198
FILED: 10/05/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 243, passed during the 2017 General Session, renamed and renumbered the Uniform Athlete Agents Licensing Act; accordingly, the Division is filing these amendments to make conforming changes to the Uniform Athlete Agents Licensing Act Rule, reflecting the new name, new title number, and new chapter number. The proposed amendments also make additional formatting and other changes for clarification.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments to Rule R156-9a accomplish the following: 1) renumber the rule throughout, from Rule R156-9a to Rule R156-87; and 2) update the name of the rule to the "Revised" Uniform Athlete Agents Licensing Act Rule in Sections R156-9a-101, R156-9a-102, R156-9a-103, R156-9a-104, R156-9a-303, and R156-9a-502. Additional proposed amendments to the new Section R156-87-502 clarify that "unprofessional conduct" by an athlete agent includes: 1) failing to comply with the agency contract cancellation requirements of Section 58-87-303; and 2) failing to create records required by Section 58-87-304.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1)(a) and Subsection 58-87-103(1)(b)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
♦ LOCAL GOVERNMENTS: The proposed amendments apply only to registered athlete agents and applicants for licensure in that classification. As a result, the Division estimates that the proposed amendments will have no impact on local governments.
♦ SMALL BUSINESSES: The proposed amendments only make formatting corrections and clarify existing requirements, and they only apply to registered athlete agents and to applicants for licensure in that classification. As a result, the Division estimates that the proposed amendments will have no impact on small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments only make formatting corrections and clarify existing requirements, and they only apply to registered athlete agents and to applicants for licensure in that classification. As a result, the Division estimates that the proposed amendments will have no impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only make formatting corrections and clarify existing requirements, and they only apply to registered athlete agents and to applicants for licensure in that classification. As a result, the Division estimates that the proposed amendments will have no impact on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments to Rule R156-9a accomplish the following: 1) renumber the rule throughout; 2) update the rule to add the word "revised" to the name of the rule; and 3) clarify that "unprofessional conduct" by an athlete agent includes: a) failing to comply with the agency contract cancellation requirements of the applicable statute, and b) failing to create records required by the applicable statute. The first two categories of amendment have no fiscal or non-fiscal impact. The clarifying amendments to the definition of "unprofessional conduct" have no fiscal or non-fiscal impact, as the statute already requires the actions to be taken as addressed in the amended rules. The rule amendments merely define violations of the statute as constituting "unprofessional conduct".

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Robyn Barkdull by phone at 801-530-6727, by FAX at 801-530-6511, or by Internet E-mail at rbarkdull@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Mark Steinagel, Director

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**R156. Commerce, Occupational and Professional Licensing.**
**R156-[~~9a~~]87. Revised Uniform Athlete Agents Act Rule.**
**R156-[~~9a~~]87-101. Title.**

This rule shall be known as the "Revised Uniform Athlete Agents Act Rule".

**R156-[~~9a~~]87-102. Definitions.**

(1) "Unprofessional conduct" as defined in Title 58, Chapter 1[~~ and Title 15, Chapter 9~~], is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-[~~9a~~]87-502.

**R156-[~~9a~~]87-103. Authority.**

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title [~~15~~]58, Chapter [~~9~~]87.

**R156-[~~9a~~]87-104. Organization - Relationship to Rule R156-1.**

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

**R156-[~~9a~~]87-303. Renewal Cycle - Procedure.**

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title [~~15~~]58, Chapter [~~9~~]87 is established by rule in Section R156-1-308a.

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

**R156-[~~9a~~]87-502. Unprofessional Conduct.**

"Unprofessional conduct" by an athlete agent includes:

(1) failing to comply with the agency contract requirements of Section 58-87-301;

([~~1~~]2) failing [~~as an athlete agent~~ ]to notify an educational institution as required by Section 58-87-302[~~in accordance with the requirements of Section 15-9-111~~];

(3) failing to comply with the agency contract cancellation requirements of Section 58-87-303;

([~~2~~]4) failing to create, or to retain for a period of five years, [~~any~~ ]records required by Section 58-87-304[~~containing the names, addresses, direct costs and agency contracts of each individual represented by the athlete agent~~]; and

([~~3~~]5) failing to allow Division investigative staff access to [~~any~~ ]records in accordance with Section [~~15-9-113~~]58-87-304[~~; and~~

~~(4) failing as an athlete agent to comply with the requirements of Section 15-9-110~~].

**KEY: licensing, athlete agent**
**Date of Enactment or Last Substantive Amendment: [~~July 17, 2001~~]2017**
**Notice of Continuation: January 7, 2016**
**Authorizing, and Implemented or Interpreted Law: [~~15-9~~]58-87-103(1)(b); 58-1-106(1)(a)**

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# Commerce, Occupational and Professional Licensing

# R156-17b

## Pharmacy Practice Act Rule

### NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 42225
FILED: 10/16/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Multiple bills passed by the Legislature during the 2017 General Session amended the Pharmacy Practice Act, and required the Division of Occupational and Professional Licensing (Division) to make rules to implement the changes in consultation with the Utah State Board of Pharmacy. The Division is filing these proposed new rules to accomplish this mandate. S.B. 246 (2017) created a requirement that certain Utah-licensed nonresident pharmacies have to submit an inspection as a prerequisite for licensure and renewal, created an exclusion from certain labeling requirements under certain conditions, and permits certain pharmacists to administer some long-acting injectable drugs intramuscularly under certain conditions. H.B. 61 (2017) requires the Division to draft rules in relationship to the new law that allows a hospital pharmacy to dispense a limited supply of a prescription drug to a discharged patient, under certain circumstances, when the patient's regular retail pharmacy is not available. H.B. 146 (2017) requires that the partial filling of a Schedule II controlled substance prescription for certain patients must be made in accordance with federal law and rules made by the Division. Two additional amendments are also included in the proposed rule filing: 1) updating the reference in Subsection R156-17b-102(61) to the most current version of United States Pharmacopeia-National Formulary; and 2) modifying Section R156-17b-303b to allow the Division, in collaboration with the Pharmacy Board, the discretion to credit up to 500 hours of substantially related experience towards pharmacy internship standards.

SUMMARY OF THE RULE OR CHANGE: Subsection R156-17b-102(8) is added to define "clinic" as used in Subsection 58-17b-625(3)(b). Subsection R156-17b-102(11) is added to define "community pharmacy" as used in Subsection 58-17b-625(3)(b). Subsection R156-17b-102(33) is added to define "long-term care facility" as used in Section 58-17b-610.7. Subsection R156-17b-102 (61) is modified to update the reference to the United States Pharmacopeia-National Formulary. Section R156-17b-303 is modified to allow the Division, in collaboration with the Pharmacy Board, the discretion to credit up to 500 hours of substantially related experience towards pharmacy internship standards required for licensure as a pharmacist. Section R156-17b-610.6 is added to establish the guidelines for a hospital pharmacy to dispense to an individual, who is no longer a patient, on the day that the individual is discharged from the hospital setting. Section R156-17b-610.7 is added to establish that a pharmacy that partially fills a schedule II controlled substance shall specify by prescription number for each partial fill the date, quantity supplied, and quantity remaining of the prescription partially filled. In Section R156-17b-620, the proposed amendments to this section clarify a PIC (pharmacist-in-charge) or pharmacist designee's responsibilities regarding user access to an automated pharmacy system and its medications. Section R156-17b-621a is added to establish the training requirements for a pharmacist's administration of long-acting injectables intramuscularly.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-17b-101 and Section 58-37-1 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a) and Subsection 58-17b-601(1)

MATERIALS INCORPORATED BY REFERENCE:

♦ Updates United States Pharmacopeia-National Formulary (USP 40-NF 35) and First Supplement, dated August 1, 2017 and Second Supplement, dated December 1, 2017, published by United States Pharmacoepeia, 2017

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The Division will incur a minimal cost of approximately $75 to reprint the rule once the filing is made effective. The Division also incurs a yearly cost of $908 to maintain the subscription to the updated United States Pharmacopeia-National Formulary which are incorporated by reference in the rule. Because the primary focus of these proposed rule changes, as they affect the Division, is to implement S.B. 246 (2017), H.B. 61 (2017) and H.B. 146 (2017), the additional costs or savings to the Division were included in the Legislature's consideration of these bills. A copy of these fiscal analyses are available from the Utah State Legislature's website at
https://le.utah.gov/~2017/bills/static/SB0246.html,
https://le.utah.gov/~2017/bills/static/HB0061.html, and
https://le.utah.gov/~2017/bills/static/ HB0146.html.

♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local governments created by the proposed rule changes, because the proposed amendments apply only to licensees under Title 58, Chapter 17b, and to owners, managers, and users of pharmacies and hospitals. Local governments will also not be indirectly impacted because none of the amendments create a situation requiring services from any local government. As a result, the Division estimates that there will be no fiscal impact on local governments.

♦ SMALL BUSINESSES: There are no anticipated costs or savings created by the proposed rule changes related to small businesses beyond those created by the underlying legislation. The primary focus of the proposed rule changes is to implement S.B. 246 (2017), H.B. 61 (2017), and H.B. 146 (2017), and the costs or savings to small business were included in the Legislature's consideration of the bills. A copy of these analyses are available from the Utah State Legislature's website at
https://le.utah.gov/~2017/bills/static/SB0246.html,
https://le.utah.gov/~2017/bills/static/HB0061.html, and
https://le.utah.gov/~2017/bills/static/ HB0146.html

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Some savings to individual applicants for licensure as a pharmacist may result from the proposed amendments to Section R156-17b-303b, which allow the Division, in collaboration with the Pharmacy Board, to credit up to 500 hours of substantially related experience towards an individual's pharmacy internship standards. It is estimated that this simplification of the licensure application process could shorten the time period for some individuals to obtain a license and begin practicing. However, the exact amount of time savings and resultant cost savings is impossible to measure because it will vary significantly from individual to individual depending on circumstances. No additional costs or savings are anticipated to other persons from the remaining proposed rule changes, which are only updates or clarification of existing practice, or which implement S.B. 246 (2017), H.B. 61 (2017), and H.B. 146 (2017). Any additional costs or savings to other persons result from the underlying legislation, and were included in the Legislature's consideration of the bills. A copy of these analyses are available from the Utah State Legislature's website at
https://le.utah.gov/~2017/bills/static/SB0246.html,
https://le.utah.gov/~2017/bills/static/HB0061.html, and
https://le.utah.gov/~2017/bills/static/HB0146.html.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs created by the proposed rule changes for affected persons, beyond those created by the underlying legislation, which were included in the Legislature's consideration of the bills. Copies of the analyses for S.B. 246 (2017), H.B. 61 (2017) and H.B. 146 (2017) are available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/SB0246.html,
https://le.utah.gov/~2017/bills/static/HB0061.html, and
https://le.utah.gov/~2017/bills/static/HB0146.html.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Three bills passed by the Legislature during the 2017 General Session amended the Pharmacy Practice Act and require amendment of the Pharmacy Practice Act Rule. S.B. 246 (2017) permits certain pharmacies to administer some long-acting injectable drugs intramuscularly under certain conditions and requires training to those administering the injectable drugs. H.B. 61 (2017) requires the Division to draft rules to allow a hospital pharmacy to dispense a limited supply of a prescription drug to a discharged patient under circumstances when the patient's regular retail pharmacy is not available, and H.B. 146 (2017) requires that the partial filling of a Schedule II controlled substance prescription for certain patients must be made in accordance with federal law and rules made by the Division. In addition, Subsection R156-17b-102(61) is amended to update the reference in the rule to the current version of the United States Pharmacopeia-National Formulary and Section R156-17b-303 is amended to allow the Division, in collaboration with the Pharmacy Board, the discretion to credit up to 500 hours of substantially related experience towards pharmacy internship standards. Beyond the fiscal analysis included in the Legislature's consideration of the three referenced bills, there is no additional fiscal impact to businesses. Further, there is no fiscal impact with regard to the two described rule changes that were not mandated by the legislative action.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316

or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jennifer Zaelit by phone at 801-530-7632, or by Internet E-mail at jzaelit@utah.gov
♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarx@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Mark Steinagel, Director

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**R156. Commerce, Occupational and Professional Licensing.**
**R156-17b. Pharmacy Practice Act Rule.**
**R156-17b-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 17b, as used in Title 58, Chapters 1 and 17b or this rule:

(1) "Accredited by ASHP" means a program that:

(a) was accredited by the ASHP on the day the applicant for licensure completed the program; or

(b) was in ASHP candidate status on the day the applicant for licensure completed the program.

(2) "ACPE" means the American Council on Pharmaceutical Education or Accreditation Council for Pharmacy Education.

(3) "Analytical laboratory":

(a) means a facility in possession of prescription drugs for the purpose of analysis; and

(b) does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are pre-diluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in-vitro diagnostic use.

(4) "ASHP" means the American Society of Health System Pharmacists.

(5) "Authorized distributor of record" means a pharmaceutical wholesaler with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drugs. An ongoing relationship is deemed to exist between such pharmaceutical wholesaler and a manufacturer, as defined in Section 1504 of the Internal Revenue Code, when the pharmaceutical wholesaler has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship, and the pharmaceutical wholesaler is listed on the manufacturer's current list of authorized distributors of record.

(6) "Authorized personnel" means any person who is a part of the pharmacy staff who participates in the operational processes of the pharmacy and contributes to the natural flow of pharmaceutical care.

(7) "Chain pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of the prescription drugs to a group of chain pharmacies that have the same common ownership and control.

(8) "Clinic" as used in Subsection 58-17b-625(3)(b) means a class B pharmacy, or a facility which provides out-patient health care services whose primary practice includes the therapeutic use of drugs related to a specific patient for the purpose of:

(a) curing or preventing the patient's disease;

(b) eliminating or reducing the patient's disease;

(c) arresting or slowing a disease process.

([~~8~~]9) "Co-licensed partner" means a person that has the right to engage in the manufacturing or marketing of a co-licensed product.

([~~9~~]10) "Co-licensed product" means a device or prescription drug for which two or more persons have the right to engage in the manufacturing, marketing, or both consistent with FDA's implementation of the Prescription Drug Marketing Act as applicable.

(11) "Community pharmacy" as used in Subsection 58-17b-625(3)(b) means a class A pharmacy as defined in Subsection 58-17b-102(10).

([~~10~~]12) "Cooperative pharmacy warehouse" means a physical location for drugs that acts as a central warehouse and is owned, operated or affiliated with a group purchasing organization (GPO) or pharmacy buying cooperative and distributes those drugs exclusively to its members.

([~~11~~]13) "Counterfeit prescription drug" has the meaning given that term in 21 USC 321(g)(2), including any amendments thereto.

([~~12~~]14) "Counterfeiting" means engaging in activities that create a counterfeit prescription drug.

([~~13~~]15) "Dispense", as defined in Subsection 58-17b-102(22), does not include transferring medications for a patient from a legally dispensed prescription for that particular patient into a daily or weekly drug container to facilitate the patient taking the correct medication.

([~~14~~]16) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, or other similar or related article, including any component part or accessory, which is required under Federal law to bear the label, "Caution: Federal or State law requires dispensing by or on the order of a physician."

([~~15~~]17) "DMP" means a dispensing medical practitioner licensed under Section 58-17b, Part 8.

([~~16~~]18) "DMP designee" means an individual, acting under the direction of a DMP, who:

(a)(i) holds an active health care professional license under one of the following chapters:

(A) Chapter 67, Utah Medical Practice Act;

(B) Chapter 68, Utah Osteopathic Medical Practice Act;

(C) Chapter 70a, Physician Assistant Act;

(D) Chapter 31b, Nurse Practice Act;

(E) Chapter 16a, Utah Optometry Practice Act;

(F) Chapter 44a, Nurse Midwife Practice Act; or

(G) Chapter 17b, Pharmacy Practice Act; or

(ii) is a medical assistant as defined in Subsection 58-67-102 (9);

(b) meets requirements established in Subsection 58-17b-803 (4)(c); and

(c) can document successful completion of a formal or on-the-job dispensing training program that meets standards established in Section R156-17b-622.

([~~17~~]19) "DMPIC" means a dispensing medical practitioner licensed under Section 58-17b, Part 8 who is designated by a dispensing medical practitioner clinic pharmacy to be responsible for activities of the pharmacy.

([~~18~~]20) "Drop shipment" means the sale of a prescription drug to a pharmaceutical wholesaler by the manufacturer of the drug; by the manufacturer's co-licensed product partner, third party logistics provider, or exclusive distributor; or by an authorized distributor of record that purchased the product directly from the manufacturer or from one of these entities; whereby:

(a) the pharmaceutical wholesale distributor takes title to but not physical possession of such prescription drug;

(b) the pharmaceutical wholesale distributor invoices the pharmacy, pharmacy warehouse, or other person authorized by law to dispense to administer such drug; and

(c) the pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer such drug receives delivery of the prescription drug directly from the manufacturer; from the co-licensed product partner, third party logistics provider, or exclusive distributor; or from an authorized distributor of record that purchases the product directly from the manufacturer or from one of these entities.

([~~19~~]21) "Drug therapy management" means the review of a drug therapy regimen of a patient by one or more pharmacists for the purpose of evaluating and rendering advice to one or more practitioners regarding adjustment of the regimen.

([~~20~~]22) "Drugs", as used in this rule, means drugs or devices.

([~~21~~]23) "Durable medical equipment" or "DME" means equipment that:

(a) can withstand repeated use;

(b) is primarily and customarily used to serve a medical purpose;

(c) generally is not useful to a person in the absence of an illness or injury;

(d) is suitable for use in a health care facility or in the home; and

(e) may include devices and medical supplies.

([~~22~~]24) "Entities under common administrative control" means an entity holds the power, actual as well as legal to influence the management, direction, or functioning of a business or organization.

([~~23~~]25) "Entities under common ownership" means entity assets are held indivisibly rather than in the names of individual members.

([~~24~~]26) "ExCPT", as used in this rule, means the Exam for the Certification of Pharmacy Technicians.

([~~25~~]27) "FDA" means the United States Food and Drug Administration and any successor agency.

([~~26~~]28) "FDA-approved" means the federal Food, Drug, and Cosmetic Act, 21 U.S.C.A. Section 301 et seq. and regulations promulgated thereunder permit the subject drug or device to be lawfully manufactured, marketed, distributed, and sold.

([~~27~~]29) "High-risk, medium-risk, and low-risk drugs" refers to the risk to a patient's health from compounding sterile preparations, as referred to in USP-NF Chapter 797, for details of determining risk level.

([~~28~~]30) "Hospice facility pharmacy" means a pharmacy that supplies drugs to patients in a licensed healthcare facility for terminal patients.

([~~29~~]31) "Hospital clinic pharmacy" means a pharmacy that is located in an outpatient treatment area where a pharmacist or pharmacy intern is compounding, admixing, or dispensing prescription drugs, and where:

(a) prescription drugs or devices are under the control of the pharmacist, or the facility for administration to patients of that facility;

(b) prescription drugs or devices are dispensed by the pharmacist or pharmacy intern; or

(c) prescription drugs are administered in accordance with the order of a practitioner by an employee or agent of the facility.

([~~30~~]32) "Legend drug" or "prescription drug" means any drug or device that has been determined to be unsafe for self-medication or any drug or device that bears or is required to bear the legend:

(a) "Caution: federal law prohibits dispensing without prescription";

(b) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian"; or

(c) "Rx only".

(33) "Long-term care facility" as used in Section 58-17b-610.7 means the same as the term is defined in Section 58-31b-102.

([~~31~~]34) "Maintenance medications" means medications the patient takes on an ongoing basis.

([~~32~~]35) "Manufacturer's exclusive distributor" means an entity that contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the drug's sale or disposition. Such manufacturer's exclusive distributor shall be licensed as a pharmaceutical wholesaler under this chapter and be an "authorized distributor of record" to be considered part of the "normal distribution channel".

([~~33~~]36) "Medical supplies" means items for medical use that are suitable for use in a health care facility or in the home and that are disposable or semi-disposable and are non-reusable.

([~~34~~]37) "MPJE" means the Multistate Jurisprudence Examination.

([~~35~~]38) "NABP" means the National Association of Boards of Pharmacy.

([~~36~~]39) "NAPLEX" means North American Pharmacy Licensing Examination.

([~~37~~]40) "Non drug or device handling central prescription processing pharmacy" means a central prescription processing pharmacy that does not engage in compounding, packaging, labeling, dispensing, or administering of drugs or devices.

([~~38~~]41) "Normal distribution channel" means a chain of custody for a prescription drug that goes directly, by drop shipment as defined in Subsection (19), or via intracompany transfer from a manufacturer; or from the manufacturer's co-licensed partner, third-party logistics provider, or the exclusive distributor to:

(a) a pharmacy or other designated persons authorized under this chapter to dispense or administer prescription drugs to a patient;

(b) a chain pharmacy warehouse that performs intracompany sales or transfers of such drugs to a group of pharmacies under common ownership and control;

(c) a cooperative pharmacy warehouse to a pharmacy that is a member of the pharmacy buying cooperative or GPO to a patient;

(d) an authorized distributor of record, and then to either a pharmacy or other designated persons authorized under this chapter to dispense or administer such drug for use by a patient;

(e) an authorized distributor of record, and then to a chain pharmacy warehouse that performs intracompany sales or transfers of such drugs to a group of pharmacies under common ownership and control; or

(f) an authorized distributor of record to another authorized distributor of record to a licensed pharmaceutical facility or a licensed healthcare practitioner authorized under this chapter to dispense or administer such drug for use by a patient.

([~~39~~]42) "Other health care facilities" means any entity as defined in Utah Code Subsection 26-21-2(13)(a) or Utah Administrative Code R432-1-3(55).

([~~40~~]43) "Parenteral" means a method of drug delivery injected into body tissues but not via the gastrointestinal tract.

([~~41~~]44) "Patient's agent" means a:

(a) relative, friend or other authorized designee of the patient involved in the patient's care; or

(b) if requested by the patient or the individual under Subsection (40)(a), one of the following facilities:

(i) an office of a licensed prescribing practitioner in Utah;

(ii) a long-term care facility where the patient resides; or

(iii) a hospital, office, clinic or other medical facility that provides health care services.

([~~42~~]45) "Pedigree" means a document or electronic file containing information that records each distribution of any given prescription drug.

([~~43~~]46) "PIC", as used in this rule, means the pharmacist-in-charge.

([~~44~~]47) "Prepackaged" or "Prepackaging" means the act of transferring a drug, manually or by use of an automated pharmacy system, from a manufacturer's or distributor's original container to another container in advance of receiving a prescription drug order or for a patient's immediate need for dispensing by a pharmacy or practitioner authorized to dispense in the establishment where the prepackaging occurred.

([~~45~~]48) "Prescription files" means all hard-copy and electronic prescriptions that includes pharmacist notes or technician notes, clarifications or information written or attached that is pertinent to the prescription.

([~~46~~]49) "PTCB" means the Pharmacy Technician Certification Board.

([~~47~~]50) "Qualified continuing education", as used in this rule, means continuing education that meets the standards set forth in Section R156-17b-309.

([~~48~~]51) "Refill" means to fill again.

([~~49~~]52) "Repackage" means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug, excluding that completed by the pharmacist or DMP responsible for dispensing the product to a patient.

([~~50~~]53) "Research facility" means a facility where research takes place that has policies and procedures describing such research.

([~~51~~]54) "Reverse distributor" means a person or company that retrieves unusable or outdated drugs from a pharmacy for the purpose of removing those drugs from stock and destroying them.

([~~52~~]55) "Sterile products preparation facility" means any facility, or portion of the facility, that compounds sterile products using aseptic technique.

([~~53~~]56) "Supervisor" means a licensed pharmacist or DMP in good standing with the Division.

([~~54~~]57) "Third party logistics provider" means anyone who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other similar services on behalf of a manufacturer, but does not take title to the prescription drug or have any authoritative control over the prescription drug's sale.

([~~55~~]58) "Unauthorized personnel" means any person who is not participating in the operational processes of the pharmacy who in some way would interrupt the natural flow of pharmaceutical care.

([~~56~~]59) "Unit dose" means the ordered amount of a drug in a dosage form prepared for a one-time administration to an individual and indicates the name, strength, lot number and beyond use date for the drug.

([~~57~~]60) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 17b, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-17b-502.

([~~58~~]61) "USP-NF" means the United States Pharmacopeia-National Formulary (USP [~~39~~]40-NF [~~34~~]35), [~~2016 edition, which is official from May 1, 2016 through Supplement 2, dated December 1, 2016~~]either First Supplement, dated August 1, 2017, or Second Supplement, dated December 1, 2017, which is hereby adopted and incorporated by reference.

([~~59~~]62) "Wholesaler" means a wholesale distributor who supplies or distributes drugs or medical devices that are restricted by federal law to sales based on the order of a physician to a person other than the consumer or patient.

([~~60~~]63) "Wholesale distribution" means the distribution of drugs to persons other than consumers or patients, but does not include:

(a) intracompany sales or transfers;

(b) the sale, purchase, distribution, trade, or other transfer of a prescription drug for emergency medical reasons, as defined under 21 CFR 203.3(m), including any amendments thereto;

(c) the sale, purchase, or trade of a drug pursuant to a prescription;

(d) the distribution of drug samples;

(e) the return or transfer of prescription drugs to the original manufacturer, original wholesale distributor, reverse distributor, or a third party returns processor;

(f) the sale, purchase, distribution, trade, or transfer of a prescription drug from one authorized distributor of record to one additional authorized distributor of record during a time period for which there is documentation from the manufacturer that the manufacturer is able to supply a prescription drug and the supplying

authorized distributor of record states in writing that the prescription drug being supplied had until that time been exclusively in the normal distribution channel;

(g) the sale, purchase or exchange of blood or blood components for transfusions;

(h) the sale, transfer, merger or consolidation of all or part of the business of a pharmacy;

(i) delivery of a prescription drug by a common carrier; or

(j) other transactions excluded from the definition of "wholesale distribution" under 21 CFR 203.3 (cc), including any amendments thereto.

**R156-17b-303b. Licensure - Pharmacist - Pharmacy Internship Standards.**

[~~(1)~~ ]In accordance with Subsection 58-17b-303(1)(g), the following standards are established [~~as one of the following~~ ]for the pharmacy internship required for licensure as a pharmacist:

([~~a~~]1) For graduates of all U.S. pharmacy schools:

([~~i~~]a) At least 1,740 hours of practice supervised by a pharmacy preceptor shall be obtained in Utah or another state or territory of the United States, or a combination of both according to the Accreditation Council for Pharmacy Education (ACPE), Accreditation Standards and Guidelines for the Professional Program in Pharmacy Leading to the Doctor of Pharmacy Degree Guidelines Version 2.0 Effective February 14, 2011, which is hereby incorporated by reference.

([~~ii~~]b) Introductory pharmacy practice experiences (IPPE) shall account for not less than 300 hours over the first three professional years.

([~~iii~~]c) A minimum of 150 hours shall be balanced between community pharmacy and institutional health system settings.

([~~iv~~]d) Advanced pharmacy practice experiences (APPE) shall include at least 1,440 hours (i.e., 36 weeks) during the last academic year and after all IPPE requirements are completed.

([~~v~~]e) Required experiences shall:

([~~A~~]i) include primary, acute, chronic, and preventive care among patients of all ages; and

([~~B~~]ii) develop pharmacist-delivered patient care competencies in the community pharmacy, hospital or health-system pharmacy, ambulatory care, inpatient/acute care, and general medicine settings.

([~~vi~~]f) Internship hours completed in another state or territory of the United States shall be accepted based on the approval of the hours by the pharmacy board in the jurisdiction where the hours were obtained.

([~~vii~~]g) Evidence of completed internship hours shall be documented to the Division by the pharmacy intern at the time application is made for a Utah pharmacist license.

([~~viii~~]h) Pharmacy interns participating in internships may be credited no more than 50 hours per week of internship experience.

(i[~~x~~]) No credit will be awarded for didactic experience.

([~~x~~]j) If a pharmacy intern is suspended or dismissed from an approved College of Pharmacy, the intern shall notify the Division within 15 days of the suspension or dismissal.

([~~xi~~]k) If a pharmacy intern ceases to meet all requirements for intern licensure, the pharmacy intern shall surrender the pharmacy intern license to the Division within 60 days unless an extension is requested and granted by the Division in collaboration with the Board.

([~~b~~]2) For graduates of all foreign pharmacy schools, at least 1,440 hours of supervised pharmacy practice in the United States.

(3) Up to 500 hours towards the requirements of Subsections (1)(a) or (2) may be granted, at the discretion of the Division in collaboration with the Board, for other experience substantially related to the practice of pharmacy.

**R156-17b-610.6. Hospital Pharmacy Dispensing Prescription Drugs to Patients at Discharge to Meet a Patient's Immediate Needs.**

In accordance with Section 58-17b-610.6, the guidelines for a hospital pharmacy to dispense to an individual who is no longer a patient, on the day discharged from the hospital setting, are established in this section.

(1) The prescription drug shall be dispensed:

(a) during regular inpatient hospital pharmacy hours, by a pharmacist; or

(b) outside of regular inpatient hospital pharmacy hours, by the prescribing practitioner using an appropriately labeled pre-packaged drug.

(2) Labeling for a prescription under Section 58-17b-610.6 shall at a minimum include:

(a) prescribing practitioner's name, facility name, and telephone number;

(b) patient's name;

(c) name and strength of medication;

(d) date given;

(e) instructions for use; and

(f) beyond use date.

(3) Applicable data of controlled substances dispensed shall be reported to the Utah Controlled Substance Database.

**R156-17b-610.7. Partial Filling of a Schedule II Controlled Substance Prescription.**

In accordance with Section 58-17b-610.7, a pharmacy that partially fills a prescription for a Schedule II controlled substance shall specify by prescription number for each partial fill the:

(a) date;

(b) quantity supplied; and

(c) quantity remaining of the prescription partially filled.

**R156-17b-620. Operating Standards - Automated Pharmacy System.**

In accordance with Section 58-17b-621, automated pharmacy systems can be utilized in licensed pharmacies, remote locations under the jurisdiction of the Division and licensed health care facilities where legally permissible and shall comply with the following provisions:

(1) Documentation as to type of equipment, serial numbers, content, policies and procedures and location shall be maintained on site in the pharmacy for review upon request of the Division. Such documentation shall include:

(a) name and address of the pharmacy or licensed health care facility where the automated pharmacy system is being used;

(b) manufacturer's name and model;

(c) description of how the device is used;

(d) quality assurance procedures to determine continued appropriate use of the automated device; and

(e) policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access and malfunction.

(2) Automated pharmacy systems should be used only in settings where there is an established program of pharmaceutical care that ensures that before dispensing, or removal from an automated storage and distribution device, a pharmacist reviews all prescription or medication orders unless a licensed independent practitioner controls the ordering, preparation and administration of the medication; or in urgent situations when the resulting delay would harm the patient including situations in which the patient experiences a sudden change in clinical status.

(3) All policies and procedures must be maintained in the pharmacy responsible for the system and, if the system is not located within the facility where the pharmacy is located, at the location where the system is being used.

(4) Automated pharmacy systems shall have:

(a) adequate security systems and procedures to:

(i) prevent unauthorized access;

(ii) comply with federal and state regulations; and

(iii) prevent the illegal use or disclosure of protected health information;

(b) written policies and procedures in place prior to installation to ensure safety, accuracy, security, training of personnel, and patient confidentiality and to define access and limits to access to equipment and medications.

(5) Records and electronic data kept by automated pharmacy systems shall meet the following requirements:

(a) all events involving the contents of the automated pharmacy system must be recorded electronically;

(b) records must be maintained by the pharmacy for a period of five years and must be readily available to the Division. Such records shall include:

(i) identity of system accessed;

(ii) identify of the individual accessing the system;

(iii) type of transaction;

(iv) name, strength, dosage form and quantity of the drug accessed;

(v) name of the patient for whom the drug was ordered; and

(vi) such additional information as the PIC may deem necessary.

(6) Access to and limits on access to the automated pharmacy system must be defined by policy and procedures and must comply with state and federal regulations.

(7) The PIC or pharmacist designee shall have the [~~sole~~] responsibility to ensure that:

(a) user access to the system is assigned, discontinued or changed according to employment status and credentials[~~access to the system~~];

(b) [~~ensure that~~]access to the medications comply with state and federal regulations; and

(c) [~~ensure that~~]the automated pharmacy system is filled and stocked accurately and in accordance with established written policies and procedures.

(8) The filling and stocking of all medications in the automated pharmacy system shall be accomplished by qualified licensed healthcare personnel under the supervision of a licensed pharmacist.

(9) A record of medications filled and stocked into an automated pharmacy system shall be maintained for a period of five years and shall include the identification of the persons filling, stocking and checking for accuracy.

(10) All containers of medications stored in the automated pharmacy system shall be packaged and labeled in accordance with federal and state laws and regulations.

(11) All aspects of handling controlled substances shall meet the requirements of all state and federal laws and regulations.

(12) The automated pharmacy system shall provide a mechanism for securing and accounting for medications removed from and subsequently returned to the automated pharmacy system, all in accordance with existing state and federal law. Written policies and procedures shall address situations in which medications removed from the system remain unused and must be secured and accounted for.

(13) The automated pharmacy system shall provide a mechanism for securing and accounting for wasted medications or discarded medications in accordance with existing state and federal law. Written policies and procedures shall address situations in which medications removed from the system are wasted or discarded and must be secured.

**R156-17b-621a. Operating Standards - Pharmacist Administration of a Long-acting Injectable Drug Therapy - Training.**

In accordance with Subsections 58-17b-502(9) and 58-17b-625(2):

(1) Training for a pharmacist to administer long-acting injectables intramuscularly shall include successful completion of:

(a) current Basic Life Support (BLS) certification; and

(b) a training program for administering long-acting injectables intramuscularly that is provided by an ACPE accredited provider.

(2) An individual who engages in the administration of long-acting injectables intramuscularly shall:

(a) maintain documentation that the required training was obtained prior to any administration; and

(b) for each renewal cycle after the initial training, successfully complete a minimum of two hours of continuing education related to long-acting injectables.

**KEY: pharmacists, licensing, pharmacies**
**Date of Enactment or Last Substantive Amendment: [~~December 22, 2016~~]2017**
**Notice of Continuation: January 5, 2015**
**Authorizing, and Implemented or Interpreted Law: 58-17b-101; 58-17b-601(1); 58-37-1; 58-1-106(1)(a); 58-1-202(1)(a)**

# Commerce, Occupational and Professional Licensing
# R156-24b
## Physical Therapy Practice Act Rule

## NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 42197
FILED: 10/05/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R156-24b-302b is amended to renumber certain citations to conform to statutory changes made by S.B. 248 passed in the 2017 General Session. Technical and conforming changes are also made to update the temporary licensure procedures in Section R156-24b-305, and the Trigger Point Dry Needling course completion timeline in Section R156-24b-505.

SUMMARY OF THE RULE OR CHANGE: In Section R156-24b-302b, the proposed amendments renumber certain citations to conform to statutory changes. In Subsection R156-24b-305(1)(a), the proposed amendment updates the application procedures for temporary licensure to reflect the current process of submitting a "Request for Authorization to Test". In Section R156-24b-505, the proposed amendment provides that the approved Trigger Point Dry Needling course and supervised treatment sessions must be completed no later than three calendar years from the start of the course.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the Division from any of the proposed amendments, over and above those already described in the Fiscal Note to S.B. 248 (2017). The Division will incur minimal costs of approximately $75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
♦ LOCAL GOVERNMENTS: There is not anticipated cost or savings to local governments from any of the proposed amendments. The changes will only affect physical therapists and physical therapist assistants applying for licensure in Utah. Local governments neither enforce nor are affected by the time frames and application process.
♦ SMALL BUSINESSES: The proposed amendments to Sections R156-24b-302b, R156-24b-305, and R156-24b-505 will have no fiscal impact on small businesses because the updated provisions clarify existing practices.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments to Sections R156-24b-302b, R156-24b-305, and R156-24b-505 will have no fiscal impact on other persons because the updated provisions clarify existing practices.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments to Sections R156-24b-302b, R156-24b-305, and R156-24b-505 will have no compliance costs to affected person because the updated provisions clarify existing practices.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments to Rule R156-24b accomplish the following: 1) renumber certain citations to conform to statutory changes; 2) update the application procedure for temporary licensure to reflect the current process of submitting a "Request for Authorization to Test"; and 3) provide a generous three calendar year period to complete the approved Trigger Point Dry Needling course and related supervised treatment sessions. The first two categories of amendment have no fiscal or non-fiscal impact. Providing for a three calendar year completion date for the Trigger Point Dry Needling course and related supervised treatment sessions has an indeterminately negligible fiscal impact and has no non-fiscal impact.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jeff Busjahn by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at jbusjahn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 11/16/2017 10:30 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 464 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Mark Steinagel, Director

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**R156. Commerce, Occupational and Professional Licensing.**
**R156-24b. Physical Therapy Practice Act Rule.**
**R156-24b-302b. Qualifications for Licensure - Examination Requirements.**

(1) In accordance with Subsections 58-24b-302(1)([e]d), (2)([e]d) and (3)([e]d), each applicant for licensure as a physical therapist or physical therapist assistant shall pass the FSBPT's National Physical Therapy Examination with a passing score as established by the FSBPT, after submitting proof of graduation from a professional physical therapist education program that is accredited by a recognized accreditation agency. A passing score on

the FSBPT's National Physical Therapy Examination shall be verified through a score transfer from the FSBPT.

(2) An applicant for licensure as a physical therapist who fails the FSBPT National Physical Therapy Examination-Physical Therapist is eligible to sit for the FSBPT National Physical Therapy Examination-Physical Therapist Assistant after submitting an application for licensure as a Physical Therapist Assistant.

**R156-24b-305. Temporary Licensure.**

(1) In accordance with Subsection 58-1-303(1), the Division may issue a temporary physical therapist or temporary physical therapist assistant license to a person who meets all qualifications for licensure as a physical therapist or physical therapist assistant except for the passing of the required examination, if the applicant:

(a) submits a [~~complete application for licensure~~]"Request for Authorization to Test" as a physical therapist or physical therapist assistant, and is authorized to sit for [~~except the passing of~~ ]the NPTE examination;

(b) is a graduate of a CAPTE accredited physical therapy school within three months immediately preceding application for licensure;

(c) is under the direct, on-site supervision of a physical therapist with an active, non-temporary license if employed as a physical therapist; and

(d) has registered to take the required licensure examination.

(2) A temporary physical therapist or temporary physical therapist assistant license issued under Subsection (1) expires the earlier of:

(a) six months from the date of issuance;

(b) the date upon which the Division receives notice from the examination agency that the individual has failed the examination twice; or

(c) the date upon which the Division issues the individual full licensure.

(3) A temporary physical therapist or temporary physical therapist assistant license issued in accordance with this section cannot be renewed or extended.

**R156-24b-505. Trigger Point Dry Needling - Education and Experience Required - Registration.**

(1) A trigger point dry needling course approved by one of the following organizations meets the standards of Section 58-24b-505 if it includes the hours and treatment sessions specified in Section 58-24b-505:

(a) American Physical Therapy Association (APTA) or any of its sections or local chapters; or

(b) Federation of State Boards of Physical Therapy (FSBPT).

(2) In accordance with Subsection 58-24b-505(1)(e) and (2)(b), the approved course and supervised patient treatment sessions shall be completed no later than three calendar years from the start of the course.

**KEY: licensing, physical therapy, physical therapist, physical therapist assistant**
**Date of Enactment or Last Substantive Amendment: [~~June 8,~~ ] 2017**
**Notice of Continuation: October 6, 2016**
**Authorizing, and Implemented or Interpreted Law: 58-24b-101; 58-1-106(1)(a); 58-1-202(1)(a)**

# Commerce, Occupational and Professional Licensing
# R156-31b
## Nurse Practice Act Rule

### NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42219
FILED: 10/16/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing updates the Nurse Practice Act Rule's fine schedule in accordance with H.B. 142, passed during the 2017 General Session, which added to the definition of unprofessional conduct the failure to meet certain requirements regarding administration of sedation or anesthesia intravenously in an outpatient setting. This filing also makes changes deemed necessary by the Division of Occupational and Professional Licensing (Division) and the Board of Nursing to clarify certain licensure requirements and practice standards.

SUMMARY OF THE RULE OR CHANGE: The Section R156-31-102 proposed amendments: 1) clarify that verification of completion of a pre-licensing program for licensure requires official transcripts showing degree and date of completion; and 2) update a citation in Subsection R156-31-102(12)(c) regarding delegating tasks to an unlicensed person. The Section R156-31b-301c proposed amendments clarify Advanced Practice Registered Nurse (APRN) licensure requirements regarding certification bodies/agencies and examination requirements. Section R156-31b-301d proposed amendments clarify the licensure requirements for applicants whose education was completed through a foreign program not meeting the requirements of Section 58-31b-601, including the required English proficiency tests. The Section R156-31b-301e proposed amendments include certified nurse midwives in the existing requirement for nurses to pass licensure or certification examinations within five years of completing school. The Section R156-31b-402 proposed amendments carry out the mandate of H.B. 142 (2017), establishing fine schedules for violations in administering sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency department, as follows: 1) failing to obtain the required written consent from the patient, in violation of Subsection 58-31b-502.5(1) (first offense $500 to $5,000, second offense $1,500 to $10,000, ongoing offense $2,000/day but not less than the second offense); 2) failing to report an adverse event under Section 26-1-40, in violation of Subsection 58-31b-502.5(2) (first

offense $500 to $5,000, second offense $1,500 to $10,000, ongoing offense $2,000/day but not less than the second offense); and 3) failing to have access to an advanced cardiac life support crash cart with equipment regularly maintained according to AHA guidelines, in violation of Subsection 58-31b-502.5(3) (first offense $5,000, second offense $10,000, ongoing offense $2,000/day but not less than the second offense). In Section R156-31b-701a, proposed amendments clarify the delegation of tasks by a Registered Nurse (RN) in a school setting, with respect to administering the first dose of a medication. This will give a school nurse more latitude for administering first doses. Section R156-31b-703b proposed amendments clarify that APRNs have the ability to practice as a RN within the state of Utah, and that APRNs wishing to practice as an RN in a Compact state must reinstate and obtain a Utah RN Compact license.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31b-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur a minimal cost of approximately $75 to reprint the rule once the filing is made effective. Because the primary focus of these proposed rule changes, as they affect the Division, is to implement H.B. 142 (2017), the additional costs or savings to the Division were included in the Legislature's consideration of this bill. A copy of the fiscal analysis is available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/HB0142.html.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local governments from any of the proposed amendments. Local governments neither enforce the listed violations, nor will they be affected by these application process clarifications.
♦ SMALL BUSINESSES: In Section R156-31b-402, the Division estimates that there will be no cost or savings to small businesses from these proposed amendments, which only conform the rule to statutory changes by establishing fine schedules for the unprofessional conduct as defined by H.B. 142 (2017). Costs or savings to businesses were included in the Legislature's consideration of H.B. 142 (2017), which determined that enactment of the legislation "likely would not result in direct, measurable expenditures by Utah residents or businesses". The fiscal analysis is available from the Utah State Legislature website at https://le.utah.gov/~2017/bills/static/HB0142.html. This conclusion is supported by the fact that any impact from these amendments cannot and should not be scaled to all small businesses, as the fines never will affect the majority of small businesses who meet the new professional standards and will never be fined. In other words, the impact of the fines will never be uniformly felt across the industry. Additionally, per the Division's review a licensee sanctioned for unprofessional conduct is unlikely to be fined again in succeeding years. In short, after conducting a thorough analysis, the Division has determined that these proposed amendments will not result in a measurable fiscal impact to small business. All of the other proposed amendments only make formatting changes and add clarification to practices already taking place in the industry. As a result, the Division estimates that they will have no impact on small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Division estimates that there will be no cost or savings to other persons from these proposed amendments, which only conform the rule to statutory changes by establishing fine schedules for unprofessional conduct defined by H.B. 142 (2017). Costs or savings to other persons were included in the Legislature's consideration of H.B. 142 (2017), which determined that enactment of the legislation "likely would not result in direct, measurable expenditures by Utah residents or businesses". The fiscal analysis is available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/HB0142.html. Further, any impact from these fines will never be uniformly felt across the industry, and a licensee sanctioned for unprofessional conduct is unlikely to be fined again in succeeding years. In short, after conducting a thorough analysis, the Division has determined that these proposed amendments will not result in a measurable fiscal impact to other persons. All of the other proposed amendments only make formatting changes and add clarification to practices already taking place in the industry. As a result, the Division estimates that they will have no impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs to affected persons from any of these substantive proposed changes, as set forth in the Legislature's consideration of H.B. 142 (2017). A copy of the fiscal analysis is available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/HB0142.html.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments to Rule R156-31b carry out the mandate of H.B. 142 (2017), establishing fine schedules for violations in administering sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency room department. There will be no cost or savings to businesses from these proposed amendments, which conform the rule to statutory changes adopted by H.B. 142 (2017). The Legislature's analysis of this matter determined that enactment of the legislation "likely would not result in direct, measurable expenditures by Utah residents or businesses". The proposed rule amendments also make changes deemed necessary by the Division and Board of Nursing to clarify certain licensure requirements and practice standards. No fiscal impact on any business is anticipated with regard to these additional changes to the rule.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL
LICENSING

HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jeff Busjahn by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at jbusjahn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Mark Steinagel, Director

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**R156. Commerce, Occupational and Professional Licensing.**
**R156-31b. Nurse Practice Act Rule.**
**R156-31b-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 31b, as defined or used in this rule:

(1) "Accreditation" means formal recognition and approval of a nurse education program by an accrediting body for nursing education that is approved by the United States Department of Education.

(2) "Administering" means the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person.

(3) "APRN" means advanced practice registered nurse.

(4) "APRN-CRNA" means advanced practice registered nurse with registered nurse anesthetist certification.

(5) "Approved continuing education" means:

(a) continuing education that has been approved by a nationally or internationally recognized approver of professional continuing education for health-related industries;

(b) nursing education courses offered by an approved education program as defined in Subsection R156-31b-102(7);

(c) health-related coursework taken from an educational institution accredited by a regional or national institutional accrediting body recognized by the U.S. Department of Education;

(d) continuing education approved by any state board of nursing; or

(e) training or educational presentations offered by the Division.

(6) "Approved education program" means any nursing education program that meets the standards established in Section 58-31b-601 or Section R156-31b-602.

(7) "Approved re-entry program" means:

(a) a program designed to evaluate nursing competencies for nurses;

(b) approved by a state board of nursing; or

(c) offered by an accredited nursing education program; and

(d) includes a minimum of 150 hours of supervised clinical learning.

(8) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.

(9) "Completed a PN, RN, or APRN pre-licensing program" means graduation from the pre-licensing program, verified by official transcripts showing degree and date of program completion.

([~~9~~]10) "Comprehensive nursing assessment" means:

(a) conducting extensive initial and ongoing data collection:

(i) for individuals, families, groups or communities; and

(ii) addressing anticipated changes in patient conditions as well as emergent changes in patient health status;

(b) recognizing alterations to previous patient conditions;

(c) synthesizing the biological, psychological, spiritual, and social aspects of the patient's condition;

(d) evaluating the impact of nursing care; and

(e) using data generated from the assessments conducted pursuant to this Subsection (a) through (d) to:

(i) make independent decisions regarding patient health care needs;

(ii) plan nursing interventions;

(iii) evaluate any possible need for different interventions; and

(iv) evaluate any possible need to communicate and consult with other health team members.

([~~10~~]11) "Contact hour" in the context of continuing education means 60 minutes, which may include a 10-minute break.

([~~11~~]12) "Delegate" means:

(a) to transfer to another nurse the authority to perform a selected nursing task in a selected situation;

(b) in the course of practice of an APRN who specializes in psychiatric mental health nursing, to transfer to any individual licensed as a mental health therapist selected psychiatric APRN supervisory clinical experiences within generally-accepted industry standards; or

(c) to transfer to an unlicensed person the authority to perform a task that, according to generally-accepted industry standards or law, does not require a nursing assessment as defined in Sections R156-31b-102([~~8~~]10) and (14).

([~~12~~]13) "Delegatee" means one or more persons assigned by a delegator to act on the delegator's behalf.

([~~13~~]14) "Delegator" means a person who assigns to another the authority to perform a task on behalf of the person.

([~~14~~]15)(a) "Disruptive behavior" means conduct, whether verbal or physical, that:

(i) is demeaning, outrageous, or malicious;

(ii) occurs during the process of delivering patient care; and

(iii) places a patient at risk.

(b) "Disruptive behavior" does not include criticism that is offered in good faith with the aim of improving patient care.

([~~15~~]16) "Focused nursing assessment" means an appraisal of a patient's status and situation at hand, including:

(a) verification and evaluation of orders; and

(b) assessment of:

(i) the patient's nursing care needs;

(ii) the complexity and frequency of the required nursing care;

(iii) the stability of the patient; and

(iv) the availability and accessibility of resources, including appropriate equipment, adequate supplies, and other appropriate health care personnel to meet the patient's nursing care needs.

([~~16~~]17) "Foreign nurse education program" means any program that originates or occurs outside of the United States.

([~~17~~]18) "Individualized healthcare plan" or "IHP" means a written document that outlines the provision of student healthcare services intended to achieve specific student outcomes.

([~~18~~]19) "Licensure by equivalency" applies only to the licensed practical nurse and may be warranted if the person seeking licensure:

(a)(i) has, within the two-year period preceding the date of application, successfully completed course work in a registered nurse education program that meets the criteria established in Sections 58-31b-601 and R156-31b-602; and

(ii) has been unsuccessful on the NCLEX-RN at least one time; or

(b)(i) is currently enrolled in an accredited registered nurse education program; and

(ii) has completed course work that is certified by the education program provider as being equivalent to the course work of an ACEN-accredited practical nursing program, as verified by the nursing education program director or administrator.

([~~19~~]20) "LPN" means licensed practical nurse.

([~~20~~]21) "MAC" means medication aide certified.

([~~21~~]22) "Medication" means any prescription or nonprescription drug as defined in Subsections 58-17b-102(24), (37) or (61) of the Pharmacy Practice Act.

([~~22~~]23) "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.

([~~23~~]24) "Non-approved education program" means any nurse prelicensing course of study that does not meet the criteria of Section 58-31b-601, including a foreign nurse education program.

([~~24~~]25) "Nurse" means:

(a) an individual licensed under Title 58, Chapter 31b as:

(i) a licensed practical nurse;

(ii) a registered nurse;

(iii) an advanced practice registered nurse; or

(iv) an advanced practice registered nurse-certified registered nurse anesthetist; or

(b) a certified nurse midwife licensed under Title 58, Chapter 44a.

([~~25~~]26) "Other specified health care professionals," as used in Subsection 58-31b-102(15), means an individual, in addition to a registered nurse or a licensed physician, who is permitted to direct the tasks of a licensed practical nurse, and includes:

(a) an advanced practice registered nurse;

(b) a certified nurse midwife;

(c) a chiropractic physician;

(d) a dentist;

(e) an osteopathic physician;

(f) a physician assistant;

(g) a podiatric physician;

(h) an optometrist;

(i) a naturopathic physician; or

(j) a mental health therapist as defined in Subsection 58-60-102(5).

([~~26~~]27) "Patient" means one or more individuals:

(a) who receive medical and/or nursing care; and

(b) to whom a licensee owes a duty of care.

([~~27~~]28) "Patient surrogate" means an individual who has legal authority to act on behalf of a patient when the patient is unable to act or make decisions unaided, including:

(a) a parent;

(b) a foster parent;

(c) a legal guardian; or

(d) a person legally designated as the patient's attorney-in-fact.

([~~28~~]29) "PN" means an unlicensed practical nurse.

([~~29~~]30) "Psychiatric mental health nursing specialty" means an expertise in psychiatric mental health, whether as a clinical nurse specialist or nurse practitioner licensed as an APRN.

([~~30~~]31) "Practica" means working in the nursing field as a student; not exclusive to patient care activities.

([~~31~~]32) "Practitioner" means a person authorized by law to prescribe treatment, medication, or medical devices.

([~~32~~]33) "RN" means a registered nurse.

([~~33~~]34) "School" means any private or public institution of primary or secondary education, including a charter school, pre-school, kindergarten, or special education program.

([~~34~~]35) "Supervision" is as defined in Subsection R156-1-102a(4).

([~~35~~]36) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b is further defined in Section R156-31b-502.

**R156-31b-301c. APRN License -- Education, Examination, and Experience Requirements.**

(1) An applicant for licensure[~~who is not currently and validly licensed~~] as an APRN [~~in any state or country~~ ]shall:

(a) demonstrate that the applicant holds a current, active RN license in good standing;

(b) demonstrate that the applicant has successfully completed an APRN prelicensing education program that meets the requirements of Subsection 58-31b-601(1) and Subsection 58-31b-302(4)(e);

(c) pass a national certification examination [~~consistent with the applicant's educational specialty;~~]for nurse practitioner, clinical nurse specialist, certified nurse midwife, or registered nurse anesthetist, pursuant to Section R156-31b-301e, and administered by a certification body approved by[~~one of the following credentialing bodies~~]:

(i) the National Commission for Certifying Agencies; or

(ii) the Accreditation Board for Specialty Nursing Certification;[~~the American Nurses Credentialing Center Certification;~~

~~(ii) the Pediatric Nursing Certification Board;~~

~~(iii) the American Association of Nurse Practitioners;~~

~~(iv) the National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties;~~

~~(v) the American Midwifery Certification Board, Inc.; or~~

~~(vi) the National Board of Certification and Recertification for Nurse Anesthetists;~~]

(d) if the applicant specializes in psychiatric mental health nursing, demonstrate that the requirements outlined in this Subsection (2) are met; and

(e) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(2) Requirements for APRN Specializing in Psychiatric Mental Health Nursing:

(a) In accordance with Subsection 58-31b-302(4)(g), the supervised clinical practice in mental health therapy and psychiatric and mental health nursing shall consist of a minimum of 4,000 hours of psychiatric mental health nursing education and clinical practice, including mental health therapy, as follows.

(i) 1,000 hours shall be credited for completion of clinical experience in an approved education program in psychiatric mental health nursing.

(ii) The remaining 3,000 hours shall:

(A) be completed after passing the applicable national certification examination and within five years of graduation from an accredited master's or doctoral level educational program;

(B) include a minimum of 1,000 hours of mental health therapy practice; and

(C) include at least 2,000 clinical practice hours that are completed under the supervision of:

(I) an APRN specializing in psychiatric mental health nursing; or

(II) a licensed mental health therapist as delegated by the supervising APRN.

(b) An applicant who obtains all or part of the clinical practice hours outside of Utah may receive credit for that experience by demonstrating that the training completed is equivalent in all respects to the training required under this Subsection (2)(a).

(c)(i) An approved supervisor shall verify practice as a licensee engaged in the practice of mental health therapy for not less than 4,000 hours in a period of not less than two years.

(ii) Duties and responsibilities of a supervisor include:

(A) being independent from control by the supervisee such that the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(B) supervising not more than three supervisees unless otherwise approved by the Division in collaboration with the Board; and

(C) submitting appropriate documentation to the Division with respect to all work completed by the supervisee, including the supervisor's evaluation of the supervisee's competence to practice.

(3) An applicant who holds a current APRN license issued by another state or country shall:

(a) demonstrate that the license issued by the other state or country is current, active, and in good standing as of the date of application;

(b) demonstrate that the APRN prelicensing education completed by the applicant:

(i) if completed on or after January 1, 1987:

(A) is equivalent to APRN prelicensing education approved in Utah as of the date of the applicant's graduation; or

(B) constitutes a bachelor degree in nursing; and

(ii) if a foreign education program, meets all requirements outlined in Section R156-31b-301d;

(c) if the applicant specializes in psychiatric mental health nursing, demonstrate that the applicant has successfully engaged in active practice in psychiatric mental health nursing for not less than 4,000 hours in the three-year period immediately preceding the date of application; and

(d) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(4) An applicant who has been licensed previously in Utah, but whose license has expired, lapsed, or been on inactive status, shall:

(a) demonstrate current certification in the individual's specialty area; and

(b) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(5) An applicant who has been licensed previously in another state or country, but whose license has expired or lapsed, shall:

(a) comply with this Subsection (3)(b);

(b) demonstrate that the applicant is currently certified in the individual's specialty area; and

(c) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

**R156-31b-301d. Foreign Education Programs.**

If an applicant's [~~An applicant whose~~ ]prelicensing education was completed through a foreign program that does not meet the requirements of Section 58-31b-601, the applicant shall demonstrate:

(1)(a) within the year preceding the date of the application, the applicant successfully completed all three components of the CGFNS Certification Program and the credentials evaluation service professional report; and

(b) within five years preceding the date of the application, the applicant met at least one of the following practice requirements:

(i) completed the nursing education program;

(ii) worked as a nurse;

(iii) completed an approved re-entry program; or

(iv) obtained an advanced (baccalaureate, master's or doctorate) nursing degree from an accredited nurse education program; or[~~that all three components of the CGFNS certification process and the credentials evaluation service professional report have been completed so as to demonstrate that the courses completed are substantially equivalent to coursework of approved education programs as of the date of the applicant's graduation;~~

~~(b) that at least one of the following practice requirements has been met within the five-year period preceding the date of application:~~

~~(i) the applicant has practiced as a licensed nurse for a minimum of 960 hours in a state or territory of the United States;~~

~~(ii) the applicant has completed a Board-approved refresher course;~~

~~(iii) the applicant has obtained an advanced (master's or doctorate) nursing degree; or~~

~~(iv) the applicant has qualified for and obtained a license upgrade (LPN to RN or RN to APRN); and~~

~~(c) that the applicant has achieved a passing score on an approved English proficiency test prior to the date of application; or~~]

(2)(a) [~~that~~]during the five years preceding the date of the application, the applicant practiced as a licensed nurse for 6,000 hours in another state or territory of the United States[~~during the five-year period immediately preceding the date of application~~]; and

(b) [~~that~~]prior to the date of the application, the applicant [~~has~~ ]achieved a passing score on an [~~approved~~ ]English proficiency test satisfying current CGFNS requirements[~~prior to the date of application~~].

**R156-31b-301e. Examination Requirements.**

(1)(a) An applicant for licensure as an LPN, RN, Certified Nurse Midwife, or APRN shall pass the applicable licensure or certification examination within five years of the applicant's date of graduation from the [~~nurse~~]approved education program, except as provided in Subsection (1)(b).

(b) An individual specializing in psychiatric mental health nursing shall complete the applicable certification examination prior to beginning the 3,000 hours of required psychiatric clinical and mental health therapy practice.

(c) An individual who does not pass the applicable licensure or certification examination pursuant to this Subsection (1)(a) or (b) as applicable shall complete another approved nursing education program before again attempting to pass the licensure or certification examination.

(2) An applicant for certification as an MAC shall pass the NCSBN Medication Aide Certification Examination (MACE) within one year of completing the approved training program.

(3) The examinations required under these rules are national examinations and cannot be challenged before the Division.

**R156-31b-402. Administrative Penalties.**

In accordance with Sections 58-1-501, 58-31b-501, 58-31b-502, 58-31b-502.5, 58-31b-801, [~~and R156-31b-502 and~~ ]Subsection 58-31b-102(1), and Section R156-31b-502, and unless otherwise ordered by the presiding officer, the following fine schedule shall apply to a nurse or MAC.

(1) Initial and second offenses.

(a) Using a protected title, name, or initials, if the user is not properly licensed under this chapter, in violation of Subsection 58-31b-501(1):

initial offense: $500 - $4,000

second offense: $4,000 - $8,000

(b) Using any name, title, or initials that would cause a reasonable person to believe the user is licensed or certified under this chapter if the user is not properly licensed or certified under this chapter, in violation of Subsection 58-31b-501(2):

initial offense: $500 - $4,000

second offense: $4,000 - $8,000

(c) Conducting a nursing education program in the state for the purpose of qualifying individuals to meet requirements for licensure under this chapter without the program having been approved under Section 58-31b-601 or Subsection R156-31b-602, in violation of Subsection 58-31b-501(3):

initial offense: $2,000 - $7,500

second offense: $7,500 - $9,500

(d) Practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in the practice of nursing, if the person is not licensed to do so or exempted from licensure under Utah Code 58-31b et seq. or restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive license, or in violation of restrictions that have been placed on a license, in violation of Subsection 58-1-501(1)(a):

initial offense: $500 - $5,000

second offense: $5,000 - $10,000

(e) Impersonating another licensee, or practicing an occupation or profession under a false or assumed name, in violation of Subsection 58-1-501(1)(b):

initial offense: $500 - $5,000

second offense: $5,000 - $10,000

(f) Knowingly employing a person to practice or engage in or attempt to practice or engage in the practice of nursing if the employee is not licensed to do so, in violation of Subsection 58-1-501(1)(c):

initial offense: $500 - $5,000

second offense: $5,000 - $10,000

(g) Knowingly permitting the person's authority to engage in the practice of nursing to be used by another person, in violation of Subsection 58-1-501(1)(d):

initial offense: $500 - $5,000

second offense: $5,000 - $10,000

(h) Obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the Division or Board through the use of fraud, forgery, intentional deception, misrepresentation, misstatement, or omission, in violation of Subsection 58-1-501(1)(e):

initial offense: $500 - $5,000

second offense: $5,000 - $10,000

(i) Issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state without prescriptive authority conferred by a license, or by an exception to licensure; or with prescriptive authority conferred by an exception or a multistate practice privilege, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions and to identify contraindications to the proposed treatment, in violation of Subsection 58-1-501(1)(f)(i):

initial offense: $500 - $5,000

second offense: $5,000 - $10,000

(j) Violating or aiding or abetting any other person to violate any statute, rule, or order regulating the practice of nursing, in violation of Subsection 58-1-501(2)(a):

initial offense: $500 - $5,000

second offense: $5,000 - $10,000

(k) Violating, or aiding or abetting any other person to violate any generally accepted professional or ethical standard applicable to the practice of nursing, in violation of Subsection 58-1-501(2)(b):

initial offense: $500 - $5,000

second offense: $5,000 - $10,000

(l) Engaging in conduct that results in conviction or a plea of nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the practice of nursing, bears a reasonable relationship to the licensee's or applicant's ability to safely or competently practice the profession, in violation of Subsection 58-1-501(2)(c):

initial offense: $500 - $5,000

second offense: $5,000 - $10,000

(m) Engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the profession of nursing if the conduct would, in the state of Utah, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401, in violation of Subsection 58-1-501(2)(d):

initial offense: $500 - $5,000

second offense: $5,000 - $10,000

(n) Engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in practice of the nursing profession, in violation of Subsection 58-1-501(2)(e):

initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(o) Practicing or attempting to practice the profession of nursing despite being physically or mentally unfit to do so, in violation of Subsection 58-1-501(2)(f):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(p) Practicing or attempting to practice the profession of nursing through gross incompetence, gross negligence, or a pattern of incompetency or negligence, in violation of Subsection 58-1-501(2)(g):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(q) Practicing or attempting to practice the profession of nursing by any form of action or communication which is false, misleading, deceptive, or fraudulent, in violation of Subsection 58-1-501(2)(h):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(r) Practicing or attempting to practice the profession of nursing beyond the individual's scope of competency, abilities, or education, in violation of Subsection 58-1-501(2)(i):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(s) Practicing or attempting to practice the profession of nursing beyond the scope of licensure, in violation of Subsection 58-1-501(2)(j):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(t) Verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice in the profession of nursing or otherwise facilitated by the licensee's license, in violation of Subsection 58-1-501(2)(k):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(u) Acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or under these rules, in violation of Subsection 58-1-502(2)(l):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(v) Issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or with prescriptive authority conferred by an exception issued under this title, or a multistate practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment, in violation of Subsection 58-1-501(2)(m):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(w) Failing to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position, in violation of Subsection 58-31b-502(1):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(x) Failing to provide nursing service in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, gender, or nature of the patient's health problem, in violation of Subsection 58-31b-502(2):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(y) Engaging in sexual relations with a patient, in violation of Subsection 58-31b-502(3):
initial offense: $4,000 - $8,000
second offense: $8,000 - $10,000

(z) Exploiting or using information about a patient or exploiting the professional relationship by use of knowledge of the patient obtained while practicing the occupation or profession, in violation of Subsection 58-31b-502(4):
initial offense: $2,000 - $5,000
second offense: $5,000 - $10,000

(aa) Unlawfully obtaining, possessing, or using any prescription drug or illicit drug, in violation of Subsection 58-31b-502(5):
initial offense: $1,000 - $5,000
second offense: $5,000 - $10,000

(bb) Unauthorized taking or personal use of nursing supplies from an employer, in violation of Subsection 58-31b-502(6):
initial offense: $1,000 - $5,000
second offense: $5,000 - $10,000

(cc) Unauthorized taking or personal use of a patient's personal property, in violation of Subsection 58-31b-502(7):
initial offense: $1,000 - $5,000
second offense: $5,000 - $10,000

(dd) Knowingly entering into any medical record any false or misleading information or altering a medical record in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any circumstance related to the patient and the medical or nursing care provided, in violation of Subsection 58-31b-502(8):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(ee) Unlawful or inappropriate delegation of nursing care, in violation of Subsection 58-31b-502(9):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(ff) Failing to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse, in violation of Subsection 58-31b-502(10):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(gg) Employing or aiding and abetting the employment of unqualified or unlicensed person to practice as a nurse or MAC, in violation of Subsection 58-31b-502(11):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(hh) Failing to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report, in violation of Subsection 58-31b-502(12):

initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(ii) Breaching a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, in violation of Subsection 58-31b-502(13):
initial offense: $1,000 - $5,000
second offense: $5,000 - $10,000

(jj) Failing to pay a penalty imposed by the Division, in violation of Subsection 58-31b-502(14): double the original penalty amount up to $20,000

(kk) Prescribing a schedule II-III controlled substance without a consulting physician or outside of a consultation and referral plan, in violation of Subsection 58-31b-502(15):
initial offense: $1,000 - $5,000
second offense: $5,000 - $10,000

(ll) Failing to confine practice within the limits of competency, in violation of Section 58-31b-801:
initial offense: $1,000 - $5,000
second offense: $5,000 - $10,000

(mm) Engaging in any other conduct which constitutes unprofessional or unlawful conduct, in violation of Subsection 58-1-501(1) or (2):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(nn) Engaging in a sexual relationship with a patient surrogate concurrent with the professional relationship, in violation of Subsection R156-31b-502(1)(e):
initial offense: $1,000 - $5,000
second offense: $5,000 - $10,000

(oo) Failing to destroy a license that has expired due to the issuance and receipt of an increased scope of practice license, in violation of Subsection R156-31b-502(1)(a):
initial offense: $500 - $4,000
second offense: $4,000 - $8,000

(pp) Knowingly accepting or retaining a license that has been issued pursuant to a mistake or on the basis of erroneous information, in violation of Subsection R156-31b-502(1)(b):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(qq) Engaging in practice in a disruptive manner, in violation of Subsection R156-31b-502(1)(f):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(rr) Violating the term of an order governing a license, in violation of Subsection 58-1-501(2)(o):
initial offense: $250 - $4,000
second offense: $4,000 - $8,000

(ss) Administering sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency department, without first obtaining the required consent from the patient in writing, in violation of Subsection 58-31b-502.5(1):
first offense: $500 - $5,000
second offense: $1,500-$10,000
ongoing offense(s): $2,000 per day but not less than the second offense

(tt) failing to report any adverse event under Section 26-1-40, with respect to the administering of sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency department, in violation of Subsection 58-31b-502.5(2):
first offense: $500 - $5,000
second offense: $1,500 - $10,000
ongoing offense(s): $2,000 per day but not less than the second offense

(uu) during a procedure for which sedation or anesthesia will be administered intravenously to a patient in an outpatient setting that is not an emergency department, failing to have access to an advanced cardiac life support crash cart with equipment that is regularly maintained according to guidelines established by the American Heart Association, in violation of Subsection 58-31b-502.5(3):
first offense: $5,000
second offense: $10,000
ongoing offense(s): $2,000 per day but not less than the second offense

(2) Subsequent offenses. Sanctions for an offense subsequent to the second offense, shall be $10,000 or $2,000 per day.

**R156-31b-701a. Delegation of Tasks in a School Setting.**

In addition to the delegation rule found in Section R156-31b-701, the delegation of tasks in a school setting is further defined, clarified, or established as follows:

(1) Before a registered nurse may delegate a task that is required to be performed within a school setting, the registered nurse shall:

(a) develop, in conjunction with the applicable student, parent(s) or parent surrogate(s), educator(s), and healthcare provider(s) an IHP; and

(b) ensure that the IHP is available to school personnel.

(2) Any task being delegated by a registered nurse shall be identified within the patient's current IHP.

(3)(a) A registered nurse shall personally train any unlicensed person who will be delegated the task of administering medications that are routine for the student.

(b) The training required under this Subsection (3)(a) shall be performed at least annually.

(c) A registered nurse may not delegate to an unlicensed person the administration of any medication:

(i) with known, frequent side effects that can be life threatening;

(ii) that requires the student's vital signs or oxygen saturation to be monitored before, during or after administration of the drug;

(iii) that is being administered as a first dose in a school setting:

(A) of a new medication; or

(B) after a dosage change; or

(iv) that requires nursing assessment or judgment prior to or immediately after administration.

(d) In addition to delegating other tasks pursuant to this rule, a registered nurse may delegate to an unlicensed person who has been properly trained regarding a diabetic student's IHP:

(i) the administration of a scheduled dose of insulin; and

(ii) the administration of glucagon in an emergency situation, as prescribed by the practitioner's order or specified in the IHP.

**R156-31b-703b. Scope of Nursing Practice Implementation.**

(1) LPN. An LPN shall be expected to:

(a) conduct a focused nursing assessment;

(b) plan for and implement nursing care within limits of competency;

(c) conduct patient surveillance and monitoring;

(d) assist in identifying patient needs;

(e) assist in evaluating nursing care;

(f) participate in nursing management by:

(i) assigning appropriate nursing activities to other LPNs;

(ii) delegating care for stable patients to unlicensed assistive personnel in accordance with these rules and applicable statutes;

(iii) observing nursing measures and providing feedback to nursing managers; and

(iv) observing and communicating outcomes of delegated and assigned tasks; and

(g) serve as faculty in area(s) of competence.

(2) RN. An RN shall be expected to:

(a) interpret patient data, whether obtained through a focused nursing assessment or otherwise, to:

(i) complete a comprehensive nursing assessment; and

(ii) determine whether, and according to what timeframe, another medical professional, a patient's family member, or any other person should be apprised of a patient's nursing needs;

(b) detect faulty or missing patient information;

(c) apply nursing knowledge effectively in the synthesis of the biological, psychological, spiritual, and social aspects of the patient's condition;

(d) utilize broad and complete analyses to plan strategies of nursing care and nursing interventions that are integrated within each patient's overall health care plan or IHP;

(e) demonstrate appropriate decision making, critical thinking, and clinical judgment to make independent nursing decisions and to identify health care needs;

(f) correctly identify changes in each patient's health status;

(g) comprehend clinical implications of patient signs, symptoms, and changes as part of ongoing or emergent situations;

(h) critically evaluate the impact of nursing care, the patient's response to therapy, and the need for alternative interventions;

(i) intervene on behalf of a patient when problems are identified so as to revise a care plan as needed;

(j) appropriately advocate for patients by:

(i) respecting patients' rights, concerns, decisions, and dignity;

(ii) identifying patient needs;

(iii) attending to patient concerns or requests; and

(iv) promoting a safe and therapeutic environment by:

(A) providing appropriate monitoring and surveillance of the care environment;

(B) identifying unsafe care situations; and

(C) correcting problems or referring problems to appropriate management level when needed;

(k) communicate with other health team members regarding patient choices, concerns, and special needs, including:

(i) patient status and progress;

(ii) patient response or lack of response to therapies; and

(iii) significant changes in patient condition;

(l) demonstrate the ability to responsibly organize, manage, and supervise the practice of nursing by:

(i) delegating tasks in accordance with these rules and applicable statutes; and

(ii) matching patient needs with personnel qualifications, available resources, and appropriate supervision;

(m) teach and counsel patient families regarding an applicable health care regimen, including general information about health and medical conditions, specific procedures, wellness, and prevention;

(n) if acting as a chief administrative nurse:

(i) ensure that organizational policies, procedures, and standards of nursing practice are developed, kept current, and implemented to promote safe and effective nursing care;

(ii)(A) assess the knowledge, skills, and abilities of nursing staff and assistive personnel; and

(B) ensure all personnel are assigned to nursing positions appropriate to their determined competence and licensure/certification/registration level; and

(iii) ensure that thorough and accurate documentation of personnel records, staff development, quality assurance, and other aspects of the nursing organization are maintained;

(o) if employed by a department of health:

(i) implement standing orders and protocols; and

(ii) complete and provide to a patient prescriptions that have been prepared and signed by a physician in accordance with the provisions of Section 58-17b-620;

(p) serve as faculty in area(s) of competence; and

(q) perform any task within the scope of practice of an LPN.

(3) APRN.

(a) An APRN who chooses to change or expand from a primary focus of practice shall, at the request of the Division, document competency within that expanded practice based on education, experience, and certification. The burden to demonstrate competency rests upon the licensee.

(b) An individual licensed as an APRN may practice within the scope of practice of an RN and an LPN in Utah.

(c) An APRN who wishes to practice as an RN in a Compact state must reinstate, qualify for, and obtain an RN Compact license in Utah.

**KEY: licensing, nurses**
**Date of Enactment or Last Substantive Amendment: [~~December 22, 2016~~]2017**
**Notice of Continuation: March 18, 2013**
**Authorizing, and Implemented or Interpreted Law: 58-31b-101; 58-1-106(1)(a); 58-1-202(1)(a)**

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# Commerce, Occupational and Professional Licensing
# R156-37
## Utah Controlled Substances Act Rule

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 42229
FILED: 10/16/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 175, passed during the 2017 General Session, modified the continuing education requirements for controlled substance licensees, to require Screening, Brief Intervention and Referral to Treatment (SBIRT) training as a condition of renewal for the licensing period beginning after 01/01/2024. This filing is made to clarify the Division of Occupational and Professional Licensing's (Division) requirements regarding SBIRT training, as mandated by H.B. 175 (2017). Nonsubstantive formatting changes are also made to certain sections of the rule for better comprehension.

SUMMARY OF THE RULE OR CHANGE: A new Subsection R156-37-102(5) is added to define "SBIRT training" in reference to the definition of "SBIRT" in Section 58-37-6.5, the "Screening, Brief Intervention, and Referral to Treatment approach used by the federal Substance Abuse and Mental Health Services Administration." This proposed amendment is made because Subsection 58-37-6.5(1)(e), enacted by H.B. 175 (2017), allows the Division to either promulgate a definition of "SBIRT" by rule, or to use the federal Substance Abuse and Mental Health Services Administration (SAMHSA) definition. By incorporating the federal SAMHSA definition, the Division is choosing it for the SBIRT training requirements. Section R156-37-402 is amended to refer to the new SBIRT training requirements enacted in Subsection 58-67-6.5(2)(b), and provides that the approved SBIRT training satisfies the Division's continuing education requirements for license renewal and shall be posted on the Division's website at http://dopl.utah.gov/. Sections R156-37-502, R156-37-601, and R156-37-602 are amended to make nonsubstantive formatting changes for better comprehension.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1)(a) and Subsection 58-37-6(1)(a) and Subsection 58-37f-301(1)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The Division will incur a cost of approximately $75 to print and distribute the rule once the proposed amendments are made effective, and estimates that there will be no other measurable cost or savings to the state. This rule will be implemented by adding course information to the Division's existing "approved courses" web page, and verification as to whether or not licensees are taking the required courses will be accomplished by continuing education audits, which is the current practice.

♦ LOCAL GOVERNMENTS: The proposed amendments apply only to persons required to be licensed as a controlled substance prescriber in Utah. Local governments are not involved in continuing education for prescribers, therefore, the Division estimates there will be no cost or savings impact on local governments.

♦ SMALL BUSINESSES: The Division estimates that the proposed amendments to Section R156-37-402 will have no fiscal impact to small businesses even if they are owned, operated by, or employ controlled substance licensees. The SBIRT training that will be allowed by this rule for licensees is currently available through the Substance Abuse and Mental Health Services Administration (SAMHSA) for little or no cost; further, in accordance with Section 58-37-6.5 the SBIRT training fulfills existing continuing education hour requirements, so it will not increase the total number of state-required continuing education hours. This analysis is supported by the fiscal note to H.B. 175 (2017), which estimated that enactment of this legislation likely will not result in direct, measurable expenditures by Utah businesses. The fiscal note is available on the Utah Legislature's website at: https://le.utah.gov/~2017/bills/static/HB0175.html.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Division estimates that the proposed amendments to Section R156-37-402 will have no fiscal impact to large businesses or individual controlled substance licensees. The SBIRT training that will be allowed by this rule for licensees is currently available through the Substance Abuse and Mental Health Services Administration (SAMHSA) for little or no cost; further, in accordance with Section 58-37-6.5, the SBIRT training fulfills existing continuing education hour requirements, so it will not increase the total number of state-required continuing education hours. This analysis is supported by the fiscal note to H.B. 175 (2017), which estimated that enactment of this legislation likely will not result in direct, measurable expenditures by Utah residents or businesses. The fiscal note is available on the Utah Legislature's website at:
https://le.utah.gov/~2017/bills/static/HB0175.html.
The proposed changes to R156-37-402 may also provide an indirect health benefit and associated fiscal savings to those who receive medical treatment after 01/01/2024, from licensees trained in SBIRT. SBIRT training educates licensees in methods to screen patients for substance use disorders and to provide resources for patient treatment. However, this fiscal benefit cannot be quantified because the relevant data as to the number of patients in 2024 and thereafter who will benefit from training is unavailable, and the cost of acquiring any relevant data is prohibitively expensive.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division estimates that there will be no compliance costs to affected persons from these proposed amendments. The SBIRT training that will be allowed by this rule is currently available through the Substance Abuse and Mental Health Services Administration (SAMHSA) for little or no cost; further, in accordance with Section 58-37-6.5 the SBIRT training fulfills existing continuing education hour requirements, so it will not increase the total number of state-required continuing education hours. This analysis is supported by the fiscal note to H.B. 175 (2017), which estimated that enactment of this legislation likely will not result in direct, measurable expenditures by Utah residents or businesses. The fiscal note is available on the Utah Legislature's website at:
https://le.utah.gov/~2017/bills/static/HB0175.html.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule filing implements H.B. 175 passed in the 2017 General Session, which established SBIRT training as a continuing education requirement that licensees must obtain after 2024 as a condition for license renewal. The proposed rule also makes some nonsubstantive formatting changes. No additional fiscal impact to businesses is anticipated beyond those considered in passing H.B. 175 (2017).

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarx@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Mark Steinagel, Director

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**R156. Commerce, Occupational and Professional Licensing.**
**R156-37. Utah Controlled Substances Act Rule.**
**R156-37-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 37, as used in Title 58, Chapters 1 and 37, or this rule:

(1) "DEA" means the Drug Enforcement Administration of the United States Department of Justice.

(2) "NABP" means the National Association of Boards of Pharmacy.

(3) "Principl[e] place of business or professional practice", as used in Subsection 58-37-6(2)(e), means any location where controlled substances are received or stored.

(4) "Schedule II controlled stimulant" means any material, compound, mixture or preparation listed in Subsection 58-37-4(2)(b)(iii).

(5) "SBIRT training" means training in the Screening, Brief Intervention, and Referral to Treatment approach used by the federal Substance Abuse and Mental Health Services Administration, as defined in Subsection 58-37-6.5(1)(3).

([~~5~~]6) "Unprofessional conduct", as defined in Title 58 is further defined in accordance with Subsections 58-1-203(1)(e) and 58-37-6(1)(a), in Section R156-37-502.

**R156-37-402. Continuing Professional Education for Controlled Substance Prescribers.**

In accordance with Section 58-37-6.5, qualified continuing professional education requirements for controlled substance prescribers are further established as follows:

(1) Continuing education under this section shall:

(a) be prepared and presented by individuals who are qualified by education, training, and experience to provide the controlled substance prescriber continuing education; and

(b) have a method of verification of attendance and a post-[-]course knowledge assessment or examination.

(2) In accordance with Subsections 58-37-6.5(2)(b), 58-37-6.5[-](5), 58-37-6.5(7), and 58-37-6.5(8), the controlled substance prescribing classes and SBIRT training that satisfy the division's continuing education requirements for license renewal, and that are delivered by an accredited or approved continuing education provider recognized by the division as offering appropriate continuing education, shall be posted on the division's website at http://dopl.utah.gov/.

(3) Credit for continuing education shall be recognized as follows:

(a) Unlimited hours shall be recognized for continuing education completed in blocks of time of not less than 50 minutes;

(b) Continuing education hours for licensees who have not been licensed for the entire two-year period shall be prorated from the date of licensure;

(c) In accordance with Subsection 58-37f-304(3), the required 1/2 hour of continuing education for the online tutorial and test relating to the controlled substance database shall be waived by the division for a controlled substance prescriber renewing a license, if the prescriber attests on the license renewal form that:

(i) in the past license period, the prescriber accessed the controlled substance database; and

(ii) upon the prescriber's information and belief, the prescriber's use of the database reduced the prescribing, dispensing, and use of opioids in an unprofessional or unlawful manner, or in quantities or frequencies inconsistent with generally recognized standards of dosage for an opioid.

(4) A licensee shall maintain competent records of completed qualified continuing professional education for a period of four years after close of the two-year period to which the records pertain. The division may review controlled substance database usage by the prescriber or proxy to audit an attestation provided under Subsection R156-37-402(3)(c).

**R156-37-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) a licensee with authority to prescribe or administer controlled substances:

(a) prescribing or administering to [~~himself~~]oneself any Schedule II or III controlled substance that is not lawfully prescribed by another licensed practitioner having authority to prescribe the drug;

(b) prescribing or administering a controlled substance for a condition [~~he~~]that the prescriber is not licensed or competent to treat;

(2) violating any federal or state law relating to controlled substances;

(3) failing to deliver to the Division all controlled substance license certificates issued by the Division to the Division upon an action that revokes, suspends or limits the license;

(4) failing to maintain controls over controlled substances that would be considered by a prudent practitioner to be effective against diversion, theft, or shortage of controlled substances;

(5) being unable to account for shortages of any controlled substance inventory for which the licensee has responsibility;

(6) knowingly prescribing, selling, giving away, or administering, directly or indirectly, or offering to prescribe, sell, furnish, give away, or administer any controlled substance to a drug dependent person, as defined in Subsection 58-37-2(1)(s), except for legitimate medical purposes as permitted by law;

(7) refusing to make available for inspection controlled substance stock, inventory, and records as required under this rule or other law regulating controlled substances and controlled substance records;

(8) failing to submit controlled substance prescription information to the database manager after being notified in writing to do so; or

(9) failing to obtain a DEA registration within the time frame established in Section R156-37-305.

**R156-37-601. Access to Records, Facilities, and Inventory.**

Applicants for licensure and all licensees shall make available for inspection to any person authorized to conduct an administrative inspection pursuant to this rule; Title 58, Chapter 37, the Utah Controlled Substances Act;[~~this rule~~] or federal law[~~, to the extent they exist,~~] during regular business hours and at other reasonable times in the event of an emergency, their:

(1) controlled substance stock or inventory[~~;~~];

(2) records required under the Utah Controlled Substances Act, [~~and~~ ]this rule, or [~~under the~~ ]Federal controlled substance laws[~~;~~]; and

(3) facilities related to activities involving controlled substances.

**R156-37-602. Records.**

(1) Records of purchase, distribution, dispensing, prescribing, and administration of controlled substances shall be kept according to state and federal law. Prescribing practitioners shall keep accurate records reflecting the examination, evaluation and treatment of all patients. Patient medical records shall accurately reflect the prescription or administration of controlled substances in the treatment of the patient, the purpose for which the controlled substance is utilized, and information upon which the diagnosis is based. Practitioners shall keep records apart from patient records of each controlled substance purchased, and with respect to each controlled substance, its disposition, whether by administration or any other means, date of disposition, to whom given, and the quantity given.

(2) Any licensee who experiences any shortage or theft of controlled substances shall immediately:

(a) file the appropriate forms with the Drug Enforcement Administration, with a copy to the Division directed to the attention of the Investigation Bureau; and

(b) [~~. He shall also~~ ]report the incident to the local law enforcement agency.

(3) All records required by federal and state laws or rules must be maintained by the licensee for a period of five years. If a licensee should sell or transfer ownership of [~~his files~~]records in any way, those [~~files~~]records shall be maintained separately from other records of the new owner.

(4) Prescription records may be maintained electronically so long as:

(a) the original of each prescription, including telephone prescriptions, is maintained in a physical file and contains all of the information required by federal and state law; and

(b) an automated data processing system is used for the storage and immediate retrieval of refill information for prescription orders for controlled substances in Schedule III and IV, in accordance with federal guidelines.

(5) All records relating to Schedule II controlled substances received, purchased, administered, or dispensed by the practitioner shall be maintained separately from all other records of the pharmacy or practice.

(6) All records relating to Schedules III, IV, and V controlled substances received, purchased, administered, or dispensed by the practitioner shall be maintained separately from all other records of the pharmacy or practice.

**KEY: controlled substances, licensing**
**Date of Enactment or Last Substantive Amendment: [~~December 22, 2016~~]2017**
**Notice of Continuation: February 6, 2017**
**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-37-6(1)(a); 58-37f-301(1)**

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# Commerce, Occupational and Professional Licensing

# R156-37f

# Controlled Substance Database Act Rule

## NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 42220
FILED: 10/16/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These proposed amendments are recommended by the Division of Occupational and Professional Licensing (Division) in collaboration with the Utah State Board of Pharmacy, to update and clarify the standards, timing, and data required to be reported to the Controlled Substance Database, in accordance with the requirements of the American Society for Automation in Pharmacy (ASAP) Format, the capability or functionality of Database collection instruments, and the intent of the Controlled Substance

Database Act. The primary changes include: 1) specifying certain data fields that must be completed, and deleting references to obsolete or unclear data requirements; 2) establishing standards and required data fields for daily zero reporting (in addition to the available reporting waiver); 3) clarifying that the submitted data is to be based on the date that the prescription drug leaves the pharmacy; and 4) conforming the requirements for Database access to the intent of the statute, by requiring each registered user to apply for an online account and user name, and prohibiting sharing of passwords and personal identification numbers (PINs).

SUMMARY OF THE RULE OR CHANGE: Formatting changes are made throughout these sections for clarification. In Section R156-37f-102, the proposed amendments add the following definitions: 1) new Subsections (6) and (12) define the terms "null report" and "zero report", respectively, meaning a report containing the data fields required by Subsection R156-37f-203(5), indicating that no controlled substance required to be reported has been dispensed since the previous submission of data; 2) new Subsection (8) defines the terms "point of sale date", "POS date", and "Date Sold" as the date that the prescription drug leaves the pharmacy (and not the date that the prescription was filled, if the dates differ). This definition also clarifies that ASAP Version 4.2 uses the "DSP17" field to identify the point of sale date. In Subsections R156-37f-203(1) and (2), the proposed amendments make formatting changes for clarity, by renumbering previous subsections (3) and (4) to subsections (1) and (2), respectively, in order to conform the provisions of this rule more closely with the provisions of the Controlled Substance Database Act. These proposed amendments also change the working title of the CSD "Manager" to CSD "Administrator", and, together with the definitions established in Section R156-37f-102, clarify that the data submitted to the Database shall be from the date the drug leaves the pharmacy. In Subsection R156-37f-203(3) and (4), the proposed amendments update and clarify what data must be submitted to the Database, by deleting references to obsolete or unclear data requirements, and specifying the ASAP Version 4.2 data fields that must be completed to capture data in accordance with the intent of the Controlled Substance Database Act and the capability or functionality of Database collection instruments. In Subsection R156-37f-203(5), the proposed amendments require "zero reporting" to the Database if no controlled substance required to be reported has been dispensed since the previous submission of data, and specify the data fields that must be completed to submit a zero report in accordance with ASAP Version 4.2. In Subsection R156-37f-203(6), minor formatting changes are made to this subsection for clarification. In Subsection R156-37f-301(2), the proposed amendments further conform the requirements for Database access to the Controlled Substance Database Act, by 1) requiring each registered user to apply for an online account and user name only under the specific Controlled Substance Database Act provision under which he or she qualifies; and 2) prohibiting a registered user from permitting another person to have knowledge of or use his or her assigned password or PIN.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1)(a) and Subsection 58-37f-301(1)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: No fiscal impact is anticipated to the state budget from any of the formatting changes. The proposed amendments are being made to further clarify and to codify best practices with respect to Section 58-37f-203 regarding the submission, collection, and maintenance of the data contained in the Database, and to further clarify and to codify best practices with respect to Section 58-37f-301 regarding access to the Database.
♦ LOCAL GOVERNMENTS: No fiscal impact is anticipated to any local government from any of the formatting changes, because the proposed amendments do not apply to local governments, and they only further clarify and codify best practices with respect to Section 58-37f-203 regarding the submission, collection, and maintenance of the date contained in the Database, and further clarify and codify best practices with respect to Section 58-37f-301 regarding access to the Database.
♦ SMALL BUSINESSES: No additional fiscal impact is anticipated to any small businesses from any of the formatting changes. The proposed amendments are being made only to further clarify and to codify best practices with respect to Section 58-37f-203 regarding the submission, collection, and maintenance of the date contained in the Database, and further clarify and codify best practices with respect to Section 58-37f-301 regarding access to the Database.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No additional fiscal impact is anticipated to other persons from any of the formatting changes. The proposed amendments are being made only to further clarify and to codify best practices with respect to Section 58-37f-203 regarding the submission, collection, and maintenance of the date contained in the Database, and further clarify and codify best practices with respect to Section 58-37f-301 regarding access to the Database.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division estimates that the proposed amendments will not impose any compliance costs on persons affected by this rule, because the proposed amendments are only being made to further clarify and to codify best practices with respect to Section 58-37f-203 regarding the submission, collection, and maintenance of the data contained in the Database, and to further clarify and to codify best practices with respect to Section 58-37f-301 regarding access to the Database.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule changes recommended by the Division and the Utah State Board of Pharmacy update and clarify the standards, timing, and data required to be reported to the Controlled Substance Database in accordance with the requirements of the American Society for Automation in Pharmacy (ASAP) Format. The proposed amendments are being made only to further clarify and to codify best practices with respect to Section 58-37f-203 regarding the submission, collection, and maintenance of the data contained in the Database, and to further clarify and to codify best practices with respect to Section 58-37a-301 regarding access to the Database. No fiscal impact is anticipated by reason of these rule changes.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ David Furlong by phone at 801-530-6608, by FAX at 801-530-6511, or by Internet E-mail at dfurlong@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 11/16/2017 11:30 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 464, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Mark Steinagel, Director

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**R156. Commerce, Occupational and Professional Licensing.**
**R156-37f. Controlled Substance Database Act Rule.**
**R156-37f-102. Definitions.**

In addition to the definitions in Sections 58-17b-102, 58-37-2 and 58-37f-102, as used in this chapter:

(1) "ASAP" means the American Society for Automation in Pharmacy system.

(2) "DEA" means Drug Enforcement Administration.

(3) "NABP" means the National Association of Boards of Pharmacy.

(4) "NCPDP" means National Council for Prescription Drug Programs.

(5) "NDC" means National Drug Code.

(6) "Null report" means the same as zero report.

([~~6~~]7) "ORI" means Originating Agency Identifier Number.

(8) "Point of sale date", "POS date", or "Date Sold" means the date the prescription drug left the pharmacy (not the date the prescription drug was filled, if the dates differ). ASAP Version 4.2 uses the "DSP17" field to identify the point of sale date.

([~~7~~]9) "Positive identification" means:

(a) one of the following photo identifications issued by a foreign or domestic government:

(i) driver's license;

(ii) non-driver identification card;

(iii) passport;

(iv) military identification; or

(v) concealed weapons permit; or

(b) if the individual does not have government-issued identification, alternative evidence of the individual's identity as deemed appropriate by the pharmacist, as long as the pharmacist documents in a prescription record a description of how the individual was positively identified.

([~~8~~]10) "Research facility" means a facility in which research takes place that has policies and procedures describing such research.

([~~9~~]11) "Rx" means a prescription.

(12) "Zero report" means a report containing the data fields required by Subsection R156-37f-203(5), indicating that no controlled substance required to be reported has been dispensed since the previous submission of data.

**R156-37f-203. Submission, Collection, and Maintenance of Data.**

(1) In accordance with Subsection 58-37f-203(1), each pharmacy or pharmacy group shall submit the data required in this section on a daily basis, either in real time or daily batch file reporting. The submitted data shall be from the point of sale date.

(a) If the data is submitted by a single pharmacy entity, the data shall be submitted in chronological order according to the date each prescription was filled.

(b) If the data is submitted by a pharmacy group, the data shall be sorted by individual pharmacy within the group, and the data of each individual pharmacy within the group shall be submitted in chronological order according to the date each prescription was filled.

(2) In accordance with Subsections 58-37f-203(2), (3), and (6), the data required by this section shall be submitted to the Database through one of the following methods:

(a) electronic data sent via a secured internet transfer method, including sFTP site transfer;

(b) secure web base service; or

(c) any other electronic method approved by the Database administrator prior to submission.

([~~1~~]3) [~~The~~]In accordance with Subsections 58-37f-203(2), (3), and (6), the format used [~~as a guide~~ ]for submission to the Database shall be [~~in accordance with v~~]Version 4.2 of the American Society for Automation in Pharmacy (ASAP) [~~Telecommunications~~ ]Format for Controlled Substances[~~, published by the American Society for Automation in Pharmacy~~]. The Division may approve alternative formats substantially similar to this standard.[~~This standard is further classified by the Database as follows:~~

~~(a) Mandatory Data. The following Database data fields are mandatory:~~
~~(i) pharmacy NABP or NCPDP number;~~
~~(ii) identification number of person picking up filled prescription;~~
~~(iii) patient birth date;~~
~~(iv) patient gender code;~~
~~(v) date filled;~~
~~(vi) Rx number;~~
~~(vii) new-refill code;~~
~~(viii) metric quantity;~~
~~(ix) days supply;~~
~~(x) NDC number;~~
~~(xi) prescriber identification number;~~
~~(xii) date Rx written;~~
~~(xiii) number refills authorized;~~
~~(xiv) patient last name;~~
~~(xv) patient first name;~~
~~(xvi) patient address;~~
~~(xvii) five-digit zip code; and~~
~~(xviii) date sold (point of sale).~~
~~(b) Preferred Data. The following Database data fields are strongly suggested:~~
~~(i) compound code;~~
~~(ii) DEA suffix;~~
~~(iii) Rx origin code;~~
~~(iv) customer location;~~
~~(v) alternate prescriber number;~~
~~(vi) state in which the prescription is filled;~~
~~(vii) method of payment; and~~
~~(viii) dispensing pharmacist state license number.~~
~~(c) Optional Data. All other data fields in the ASAP 4.2 Format not included in Subsections (a) and (b) are optional.~~
~~(2) Upon request, the Division will consider approving alternative formats, or adjustments to the ASAP Format, as might be necessary due to the capability or functionality of Database collection instruments. A proposed alternative format shall contain all mandatory data elements.~~]

(4) In accordance with Subsection 58-37f-203(6), the pharmacist identified in Subsections 58-37f-203(2) and (3) shall provide the following data fields to the Division:
(a) version of ASAP used to send transaction (ASAP 4.2 code = TH01);
(b) transaction control number (TH02);
(c) date transaction created (TH05);
(d) time transaction created (TH06);
(e) file type (production or test) (TH07);
(f) segment terminator character (TH09);
(g) information source identification number (IS01);
(h) information source entity name (IS02);
(i) identifier assigned to reporting pharmacy assigned by NCPDP/NABP (PHA02);
(j) DEA registration number of dispensing pharmacy (PHA03);
(k) patient last name (PAT07);
(l) patient first name (PAT08);
(m) patient address (PAT12);
(n) patient city of residence (PAT14);
(o) patient zip code (PAT 16);
(p) patient date of birth (PAT18);
(q) dispensing status - new, revised, or void (DSP01);
(r) prescription number (DSP02);
(s) date prescription written by prescriber (DSP03);
(t) number of refills authorized by prescriber (DSP04);
(u) date prescription dispensed at dispensing pharmacy (DSP05);
(v) if current dispensed prescription is a refill, number of the refill (DSP06);
(w) product identification qualifier (DSP07);
(x) NDC 11-digit drug identification number (DSP08);
(y) quantity of drug dispensed in metric units (DSP09);
(z) days supply dispensed (DSP10)
(aa) date drug left the pharmacy (DSP17);
(bb) DEA registration number of prescribing practitioner (PRE02);
(cc) state that issued identification of individual picking up dispensed drug (AIR03);
(dd) type of identification used by individual picking up dispensed drug (AIR04);
(ee) identification number of individual picking up dispensed drug (AIR05);
(ff) last name of individual picking up dispensed drug (AIR07);
(gg) first name of individual picking up dispensed drug (AIR08);
(hh) dispensing pharmacist last name (AIR09);
(ii) dispensing pharmacist first name (AIR10);
(jj) number of detail segments included for the pharmacy (TP01);
(kk) transaction control number (TT01); and
(ll) total number of segments included in the transaction (TT02).

(5) In accordance with Subsection 58-37f-203(6), if no controlled substance required to be reported has been dispensed since the previous submission of data, then the reporting pharmacist in charge shall submit a zero report to the Division, which shall include the following data fields:
(a) version of ASAP used to send transaction (TH01);
(b) transaction control number (TH02);
(c) transaction type (value 1: send/request transaction) (TH03);
(d) date transaction created (TH05);
(e) time transaction created (TH06);
(f) file type (production or test) (TH07);
(g) information source identification number (IS01);
(h) information source entity name (IS02);
(i) free form message (IS03);
(j) National Provider Identifier (PHA01);
(k) patient last name = "Report" (PAT07);
(l) patient first name = "Zero" (PAT08);
(m) date prescription dispensed at dispensing pharmacy (DSP05);
(n) number of detail segments included for the pharmacy (TP01);
(o) transaction control number (TT01); and
(p) total number of segments included in the transaction (TT02).

[~~(3) In accordance with Subsection 58-37f-203(1)(a), the data required in Subsection (1) shall be submitted to the Database through one of the following methods:~~

~~(a) electronic data sent via a secured internet transfer method, including sFTP site transfer;~~

~~(b) secure web base service; or~~

~~(c) any other electronic method approved by the Database manager prior to submission.~~

~~(4) In accordance with Subsection 58-37f-203(1)(a):~~

~~(a) Effective January 1, 2016, each pharmacy or pharmacy group shall submit data collected on a daily basis either in real time or daily batch file reporting. The submitted data shall be from the point of sale (POS) date.~~

~~(i) If the data is submitted by a single pharmacy entity, the data shall be submitted in chronological order according to the date each prescription was filled.~~

~~(ii) If the data is submitted by a pharmacy group, the data is required to be sorted by individual pharmacy within the group, and the data of each individual pharmacy within the group is required to be submitted in chronological order according to the date each prescription was filled.~~]

([~~b~~]6)[~~(i) A~~] In accordance with Subsection 58-37f-203(2), a Class A, B, or D pharmacy or pharmacy group that has a controlled substance license but is not dispensing controlled substances and does not anticipate doing so in the immediate future may request a waiver or submit a certification of such, in a form preapproved by the Division, in lieu of daily null reporting[~~.~~]:

([~~ii~~]a) The waiver or certification must be resubmitted at the end of each calendar year.

([~~iii~~]b) If a pharmacy or pharmacy group that has submitted a waiver or certification under this Subsection [~~(4)(b)~~ ] dispenses a controlled substance:

([~~A~~]i) the waiver or certification shall immediately and automatically terminate;

([~~B~~]ii) the pharmacy or pharmacy group shall provide written notice of the waiver or certification termination to the Division within seven days of dispensing the controlled substance; and

([~~C~~]iii) the Database reporting requirements shall [~~be applicable~~]apply to the pharmacy or pharmacy group immediately upon the dispensing of the controlled substance.

**R156-37f-301. Access to Database Information.**

In accordance with Subsections 58-37f-301(1)(a) and (b):

(1) The Division Director may designate those individuals employed by the Division who may have access to the information in the Database (Database staff).

(2)(a) An applicant to become a registered user of the Database shall apply for an online account and user name only under the specific subparagraph in Subsection 58-37f-301(2) under which he or she qualifies.

(b) A registered user shall not permit another person to have knowledge of or use the registered user's assigned password or PIN.

([~~2~~]3)(a) A request for information from the Database may be made:

(i) directly to the Database by electronic submission, if the requester is registered to use the Database; or

(ii) by oral or written submission to the Database staff, if the requester is not registered to use the Database.

(b) An oral request may be submitted by telephone or in person.

(c) A written request may be submitted by facsimile, email, regular mail, or in person except as otherwise provided herein.

(d) The Division may in its discretion require a requestor to verify the requestor's identity.

([~~3~~]4) The following Database information may be disseminated to a verified requestor who is permitted to obtain the information:

(a) dispensing/reporting pharmacy ID number/name;

(b) subject's birth date;

(c) date prescription was filled;

(d) prescription (Rx) number;

(e) metric quantity;

(f) days supply;

(g) NDC code/drug name;

(h) prescriber ID/name;

(i) date prescription was written;

(j) subject's last name;

(k) subject's first name; and

(l) subject's street address;

([~~4~~]5)(a) Federal, state and local law enforcement authorities and state and local prosecutors requesting information from the Database under Subsection 58-37f-301(2)(k) must provide a valid search warrant authorized by the courts, which may be provided using one of the following methods:

(i) in person;

(ii) by email to csd@utah.gov;

(iii) facsimile; or

(iv) U.S. Mail.

(b) Information in the search warrant should be limited to subject's name and birth date.

(c) Information provided as a result of the search warrant shall be in accordance with Subsection (3).

([~~5~~]6) In accordance with Subsection 58-37f-301(2)(n), a probation or parole officer employed by the Department of Corrections or a political subdivision may have access to the database without a search warrant, for supervision of a specific probationer or parolee under the officer's direct supervision, if the following conditions have been met:

(a) a security agreement signed by the officer is submitted to the division for access, which contains:

(i) the agency's name;

(ii) the agency's complete address, including city and zip code;

(iii) the agency's ORI number;

(iv) a copy of the officer's driver's license;

(v) the officer's full name;

(vi) the officer's contact phone number;

(vii) the officer's email address; and

(b) the online database account includes the officer's:

(i) full name;

(ii) email address;

(iii) complete home address, including city and zip code;

(iv) work title;

(v) contact phone number;

(vi) complete work address including city and zip code;

(vii) work phone number; and

(viii) driver's license number.

([~~6~~]7)(a) In accordance with Subsection 58-37f-302(q), an individual may receive an accounting of persons or entities that have requested or received Database information about the individual.

(b) An individual may request the information in person or in writing by the following means:

(i) email;

(ii) facsimile; or

(iii) U.S. Mail.

(c) The request for information shall include the following:

(i) individuals' full name, including all aliases;

(ii) birth date;

(iii) home address;

(iv) government issued identification; and

(v) date-range.

(d) The results may be disseminated in accordance with Subsection ([~~17~~]18).

(e) The information provided in the report may include the following:

(i) the role of the person that accessed the information;

(ii) the date and a description of the information that was accessed;

(iii) the name of the person or entity that requested the information; and

(iv) the name of the practitioner on behalf of whom the request for information was made, if applicable.

([~~7~~]8) An individual whose records are contained within the Database may obtain his or her own information and records by:

(a) personally appearing before the Database staff with government-issued picture identification confirming the requester's identity; or

(b) submitting a signed and notarized request that includes the requester's:

(i) full name;

(ii) complete home address;

(iii) date of birth; and

(iv) driver license or state identification card number.

([~~8~~]9) A requester holding power of attorney for an individual whose records are contained within the Database may obtain the individual's information and records by:

(a) personally appearing before the Database staff with government-issued picture identification confirming the requester's identity; and

(b) providing:

(i) an original, properly executed power of attorney designation; and

(ii) a signed and notarized request, executed by the individual whose information is contained within the Database, and including the individual's:

(A) full name;

(B) complete home address;

(C) date of birth; and

(D) driver license or state identification card number verifying the individual's identity.

([~~9~~]10) A requestor who is the legal guardian of a minor or incapacitated individual whose records are contained within the Database may obtain the individual information and records by:

(a) personally appearing before the Database staff with government-issued picture identification confirming the requester's identity;

(b) submitting the minor or incapacitated individual's:

(i) full name;

(ii) complete home address;

(iii) date of birth; and

(iv) if applicable, state identification card number verifying the individual's identity; and

(c) submitting legal proof that the requestor is the guardian of the individual who is the subject of the request for information from the Database.

([~~10~~]11) A requestor who has a release-of-records from an individual whose records are contained within the Database may obtain the individual's information and records by:

(a) submitting a request in writing;

(b) submitting an original, signed and notarized release-of-records in a format acceptable to the Database staff, identifying the purpose of the release; and

(c) submitting the individual's:

(i) full name;

(ii) complete home address;

(iii) telephone number;

(iv) date of birth; and

(v) driver license or state identification card number verifying the identity of the person who is the subject of the request.

([~~11~~]12) An employee of a licensed practitioner who is authorized to prescribe controlled substances may obtain Database information to the extent permissible under Subsection 58-37f-301(2)(i)if, prior to making the request:

(a) the licensed practitioner has provided to the Division a written designation that includes the designating practitioner's DEA number and the designated employee's:

(i) full name;

(ii) complete home address;

(iii) e-mail address;

(iv) date of birth;

(v) driver license number or state identification card number; and

(vi) the written designation is manually signed by the licensed practitioner and designated employee.

(b) the designated employee has registered for an account for access to the Database and provided a unique user identification;

(c) the designated employee has passed a Database background check of available criminal court and Database records; and

(d) the Database has issued the designated employee a user personal identification number (PIN) and activated the employee's Database account.

([~~12~~]13) An employee of a business that employs a licensed practitioner who is authorized to prescribe controlled substances may obtain Database information to the extent permissible under Subsection 58-37f-301(2)(i) if, prior to making the request:

(a) the licensed practitioner and employing business have provided to the Division a written designation that includes:

(i) the designating practitioner's DEA number;
(ii) the name of the employing business; and
(iii) the designated employee's:
(A) full name;
(B) complete home address;
(C) e-mail address;
(D) date of birth; and
(E) driver license number or state identification card number;

(b) the designated employee has registered for an account for access to the Database and provided a unique user identification and password;

(c) the designated employee has passed a Database background check of available criminal court and Database records; and

(d) the Database has issued the designated employee a user personal identification number (PIN) and activated the employee's Database account.

([~~13~~]14) An individual who is employed in the emergency room of a hospital that employs a licensed practitioner who is authorized to prescribe controlled substances may obtain Database information to the extent permissible under Subsection 58-37f-301(2)(d) if, prior to making the request:

(a) the practitioner and the hospital operating the emergency room have provided to the Division a written designation that includes:
(i) the designating practitioner's DEA number;
(ii) the name of the hospital;
(iii) the names of all emergency room practitioners employed at the hospital; and
(iv) the designated employee's:
(A) full name;
(B) complete home address;
(C) e-mail address;
(C) date of birth; and
(D) driver license number or state identification card number;

(b) the designated employee has registered for an account for access to the Database and provided a unique user identification and password;

(c) the designated employee has passed a Database background check of available criminal court and Database records; and

(d) the Database has issued the designated employee a user personal identification number (PIN) and activated the employee's Database account.

([~~14~~]15) In accordance with Subsection 58-37f-301(5), an individual's requests to the division regarding third-party notice when a controlled substance prescription is dispensed to that individual, shall be made as follows:

(a) A request to provide notice to a third party shall be made in writing dated and signed by the requesting individual, and shall include the following information:
(i) the requesting individual's:
(A) birth date;
(B) complete home address including city and zip code;
(C) email address; and
(D) contact phone number; and
(ii) the designated third party's:
(A) complete home address, including city and zip code;
(B) email address; and
(C) contact phone number.

(b) A request to discontinue providing notice to a designated third party shall be made by a writing dated and signed by the requesting individual, after which the division shall:
(i) provide notice to the requesting individual that the discontinuation notice was received; and
(ii) provide notice to the designated third party that the notification has been rescinded.

(c) A requesting individual may only have one active designated third party.

([~~15~~]16) A licensed pharmacy technician or pharmacy intern employed by a pharmacy may obtain Database information to the extent permissible under Subsection 58-37f-301(2)(l) if, prior to making the request:

(a) the pharmacist-in-charge (PIC) has provided to the Division a written designation authorizing access to the pharmacy technician or pharmacy intern on behalf of a licensed pharmacist employed by the pharmacy;

(b) the written designation includes the pharmacy technician's or pharmacy intern's:
(i) full name;
(ii) professional license number assigned by the Division;
(iii) email address;
(iv) contact phone number;
(v) pharmacy name and location;
(vi) pharmacy DEA number;
(vii) pharmacy phone number;

(c) the written designation includes the pharmacist-in-charge's (PIC's):
(i) full name;
(ii) professional license number assigned by the Division;
(iii) email address;
(iv) contact phone number;

(d) the written designation includes the assigned pharmacist's:
(i) full name;
(ii) professional license number assigned by the Division;
(iii) email address;
(iv) contact phone number; and

(e) the written designation includes the following signatures:
(i) pharmacy technician or pharmacy intern;
(ii) pharmacist-in-charge (PIC); and
(iii) assigned pharmacist if different than the PIC.

([~~16~~]17) The Utah Department of Health may access Database information for purposes of scientific study regarding public health. To access information, the scientific investigator shall:

(a) demonstrate to the satisfaction of the Division that the research is part of an approved project of the Utah Department of Health;

(b) provide a description of the research to be conducted, including:
(i) a research protocol for the project; and
(ii) a description of the data needed from the Database to conduct that research;

(c) provide assurances and a plan that demonstrates all Database information will be maintained securely, with access being strictly restricted to the requesting scientific investigator;

(d) provide for electronic data to be stored on a secure database computer system with access being strictly restricted to the requesting scientific investigator; and

(e) pay all relevant expenses for data transfer and manipulation.

([~~17~~]18) Database information that may be disseminated under Section 58-37f-301 may be disseminated by the Database staff either:

(a) verbally;

(b) by facsimile;

(c) by email;

(d) by U.S. mail; or

(e) by electronic access, where adequate technology is in place to ensure that a record will not be compromised, intercepted, or misdirected.

**KEY: controlled substance database, licensing**
**Date of Enactment or Last Substantive Amendment: [~~December 22, 2016~~]2017**
**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-37f-301(1)**

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# Commerce, Occupational and Professional Licensing
# R156-63a
# Security Personnel Licensing Act Contract Security Rule

## NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 42222
FILED: 10/16/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing makes conforming changes to the rule as required by H.B. 425, passed during the 2017 General Session, which defined certain terms and modified qualifying agent requirements. This filing also implements changes deemed necessary or desirable after review of the rule by the Division of Occupational and Professional Licensing (Division) and the Security Services Licensing Board, in particular to address Security Services Licensing Board and Utah Peace Officers Association concerns regarding on-duty firearm discharges. Specifically, this filing: 1) further defines and clarifies certain terms and operating standards; 2) specifies the credentials required for the Security Education Advisory Committee's member-trainer position; 3) clarifies the training program requirements for armed and unarmed private security officers; 4) addresses the Security Services Licensing Board and Utah Peace Officers Association concerns regarding on-duty firearm discharges by detailing reporting procedures for an on-duty firearm discharge; and 5) makes formatting changes throughout for clarity, and corrects minor typographical errors.

SUMMARY OF THE RULE OR CHANGE: In Section R156-63a-102, the definitions of "approved basic education and training program", "approved basic firearms training program", and "instructor" are clarified, and the term "trainer" is defined to have the same meaning as "instructor". The definitions of "corporate officer" and "qualifying agent" are further defined and clarified in accordance with the Security Personnel Licensing Act, as amended by H.B. 425 (2017), to ensure consistency and proper enforcement of the rule. Formatting changes are also made throughout for clarification. In Section R156-63a-201, the proposed amendments specify the credentials required for the person who fills the Education Advisory Committee's member-trainer position. The member who is a trainer must be, in order of preference: 1) a member of the Utah Peace Officers Association; 2) a qualifying agent of a licensed security company that is in good standing with the Division; or 3) a member of a security association that is in good standing with the Utah Division of Corporations. Formatting changes are also made throughout for clarification. In Section R156-63a-302a, the proposed amendments update the terms used to refer to the persons from whom a fingerprint card is required, and make formatting changes for clarification. In Section R156-63a-302b, the proposed amendments update the terms used to refer to training programs, and make formatting changes for clarification. In Section R156-63a-302c, the proposed amendments update the references to the Utah Contract Security Company Qualifying Agent Examination and to the approved basic education and training program. In Section R156-63a-302e, the proposed amendments make formatting changes for clarification. In Section R156-63a-302f, the proposed amendments make formatting changes for clarification, and update the terms used to refer to those who participate in ownership or operation of a contract security company, such as a "corporate officer", in accordance with the Security Personnel Licensing Act as amended by H.B. 425 (2017). In Section R156-63a-302g, the proposed amendments make formatting changes for clarification. In Section R156-63a-601, the proposed amendments make formatting changes for clarification. In Section R156-63a-602, the proposed amendments: 1) clarify the materials needed for a training program to be reviewed and approved by the Division; 2) put the responsibility for reporting qualified instructors on the individual or entity using the instructor; and 3) make formatting changes throughout for clarification. In Section R156-63a-603, the proposed amendments make formatting changes for clarification. In Section R156-63a-604, the proposed amendments make formatting changes for clarification. In Section R156-63a-607, the proposed amendments update the terms used to refer to those persons who should not participate in ownership or operation of a contract security company, in conformance with the requirements of the Security Personnel Licensing Act. Formatting changes are made for clarification. In Section R156-63a-611, the proposed amendments add "hazardous

chemical release" to the list of topics required in a contract security company's operational procedures manual. In Section R156-63a-613, these proposed amendments make formatting changes for clarification. In addition, the proposed new Subsection R156-63a-613(2) was considered and recommended by the Security Services Licensing Board and security associations, to implement the following reporting procedures for an on-duty discharge of a firearm by a licensed armed private security officer: 1) the licensee is required to report the discharge within 24 hours to the licensee's employer (or if none, to the Division); 2) an employer is required to give the Division written notice of the discharge within 72 hours of being notified or becoming aware of a firearm discharge; and 3) the qualifying agent over the licensee, is required to appear before the Security Services Licensing Board. Formatting changes are also made throughout for clarification.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-63-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The Division will incur a minimal cost of approximately $75 to print and distribute the rule once the proposed amendments are made effective. The proposed amendments to Section R156-63a-602, which clarify materials needed for training program approval by the Division, and put the responsibility for reporting qualified instructors on those using the instructor, will likely result in some savings to the Division due to the streamlining of the approval process. The current rule requires the Division to verify that each applicant has a current trainer with an outside source. This requires approximately 5 minutes per review, and there are approximately 1,800 such applicants in each reporting period. This results in approximately 150 staff hours to process requested approvals. At an average staff rate of $24 per hour, based on an estimated $15 per hour office specialist I wage and the cost of employment taxes and benefits, these changes are expected to result in an ongoing savings to the Division of $4,050 each year.

♦ LOCAL GOVERNMENTS: Review of the amendments to this rule confirms that none of these changes will result in any additional cost or savings to local governments. The proposed amendments apply only to: the Security Education Committee and its members; to owners, operators, and users of security personnel training programs; and to licensed Contract Security Officers and applicants for licensure in that classification. Nor will local governments be indirectly impacted because none of the amendments create a situation requiring services from local governments. As a result, the Division estimates that there will be no fiscal impact on local governments.

♦ SMALL BUSINESSES: In Section R156-63a-201, these proposed amendments apply only to the Security Education Committee and its members. As a result, the Division estimates that they will have no impact on small businesses. In Section R156-63a-602, these proposed amendments may minimally impact small businesses that either own, operate, or use security personnel training programs. The clarifications regarding the materials needed for program review and approval by the Division may cause small businesses seeking such approval to incur some cost corresponding to the time required to gather and organize the required materials. With an estimated time expenditure of 2 hours at a rate of $100 per hour, a small business may incur a one-time impact of $200 if they choose to have their own training program approved for use. It is estimated that there are 30 small businesses in the security industry that could be impacted by this change. However, any such cost will likely be offset by the streamlining of the approval process for these businesses. Outlining the required material for a program review will eliminate the need for the small business to return repeatedly before the review committee due to missing information. Further, many small businesses use a third-party program that has already received approval and will not be subject to a program review, negating this cost. The changes that put the responsibility for reporting qualified instructors on the individual or entity using the instructor may save businesses/associations that own a training program some costs corresponding to the time that they will now no longer need to spend making these reports; however, there will be a proportionate and offsetting increase in time and cost to the small businesses using the training programs. Accordingly, although these changes will result in better reporting to the Division regarding program instructors, no material change in costs or savings is expected for small businesses in the aggregate. In sum, after conducting a thorough analysis, the Division has determined that none of these amendments will result in a measurable fiscal impact to small businesses. In Section R156-63a-611, the proposed amendment adding "hazardous chemical release" as a required topic to a contract security company's operational procedures manual could potentially minimally impact small businesses due to the need to research this topic and update their materials. However, the Division expects that most if not all small businesses already cover this topic in their training and/or operational procedures manual, due to ongoing continuing education and the education of new employees. Accordingly, this change is primarily a codification of existing industry practice. Further, this topic can so easily be added to manuals that the consensus from those in the industry is that the cost will be insignificant. Accordingly, the Division has determined that this amendment will not result in a measurable fiscal impact to small businesses. In Section R156-63a-613, these proposed amendments may impact small business security companies that employee a licensee involved in an on-duty discharge of a firearm. There may be some loss of income proportionate to the time required to make the required reports and the time required for the mandatory appearances by the qualifying agent before the Security Services Licensing Board. A historical review by the Division and discussions with businesses in the industry indicates that this type of incident could potentially occur 3 times per year across the industry as a whole. An incident may result in an estimated total one-time cost of $120 to a business that employs a licensee involved in an on-duty discharge of a firearm. Cost determined based upon an

average estimated $20 per hour wage for the qualifying agent, with a 5-hour time commitment for each for Board meeting attendance, and a 1-hour time commitment for each spent in making reports. In the aggregate across the industry, the total ongoing cost is expected to be $360 per year. However, the impact of such costs cannot and should not be scaled to all small business security companies, as these costs will never affect the overwhelming majority of small businesses whose employees will never be subject to these measures. Stated another way, the nature of the incident addressed in this amended rule is such that the impact of the corresponding costs will never be uniformly felt across the industry. Furthermore, based on the Division's historical review, a business with an employee involved in an on-duty discharge of a firearm is extremely unlikely to experience such an incident in succeeding years. In short, after conducting a thorough analysis, the Division has determined that the scope of these proposed amendments is so narrow that they will not affect the vast majority of small businesses, and will not result in a measurable fiscal impact to small business. All of the other proposed amendments only make formatting changes and add clarification to practices that should already be taking place in the industry. As a result, the Division estimates that they will have no impact on small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: In Section R156-63a-201, these proposed amendments apply only to the Security Education Committee and its members. As a result, the Division estimates that they will have no impact on other persons. In Section R156-63a-602, these proposed amendments may minimally impact large businesses and any individuals that either own, operate, or use security personnel training programs. First, similar to the impact on small businesses, the clarifications regarding the materials needed for program review and approval by the Division may cause a large business or an individual seeking such approval to incur some cost corresponding to the time required to gather and organize the required materials, but this cost is expected to be offset by the streamlining of the approval process. Accordingly, the overall fiscal impact is expected to be negligible. Second, also similar to the impact on small business, the changes that put the responsibility for reporting qualified instructors on the individual or entity using the instructor will save other persons who are owners of a training program some costs proportionate to the time that they would have spent making these reports, while a corresponding increase in time required for reporting may cause some small increase in costs for other persons who are training program users. Again, although these changes are expected to result in better reporting to the Division regarding program instructors, in the aggregate no material change in costs or savings is expected for other persons in the aggregate. In sum, after conducting a thorough analysis, the Division has determined that the scope of these proposed amendments is so narrow that they will not affect the vast majority of small businesses, and will not result in a measurable fiscal impact to small businesses. In Section R156-63a-611, the proposed amendment adding "hazardous chemical release" as a required topic to a contract security company's operational procedures manual may minimally impact a large contract security business due to the need to research this topic and update their materials. However, the Division expects that most if not all such businesses, due to ongoing continuing education and the education of new employees, already cover this topic in their training and/or operational procedures manual. Accordingly, this change is primarily a codification of existing industry practice. Further, this topic can so easily be added to manuals that the consensus from those in the industry is that the cost will be insignificant. Accordingly, the Division has determined that this amendment will not result in a measurable fiscal impact to these other persons. In Section R156-63a-613, first, these proposed amendments may impact large businesses that employ a licensee involved in an on-duty discharge of a firearm. There may be some loss of income proportionate to the time required to be spent in making the required reports and the time required for the mandatory appearance by the qualifying agent before the Security Services Licensing Board. Again, a historical review by the Division and discussions with businesses in the industry indicates that this type of incident could potentially occur 3 times per year in the industry as a whole, resulting in an estimated ongoing cost across the industry of $360 per year. However, again, the impact of such costs cannot and should not be scaled to all large business security companies. The nature of the incident is such that the impact of the corresponding costs will never be uniformly felt across the industry; furthermore, based on the Division's historical review a business with an employee involved in an on-duty discharge of a firearm is extremely unlikely to experience such an incident in succeeding years. Therefore, after conducting a thorough analysis the Division has determined that the scope of these proposed amendments is so narrow that they will not affect the vast majority of large businesses, and will not result in a measurable fiscal impact to these other persons. Second, as described above, a qualifying agent over a licensee involved in an on-duty firearm discharge may also be subject to a potential loss of income corresponding to the time spent assisting with reports and appearing before the Security Services Licensing Board. However, those in the industry anticipate that a qualifying agent will almost certainly be compensated at regular rates for the qualifying agent's time in such a matter; accordingly, no fiscal impact is anticipated to qualifying agents from these amendments. All of the other proposed amendments only make formatting changes and add clarification to practices that should already be taking place in the industry. As a result, the Division estimates that they will have no impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In Section R156-63a-602, the changes to this section may minimally impact an individual that owns, operates, or uses security personnel training programs. The clarifications regarding the materials needed for program review and approval by the Division may cause an individual seeking such approval to incur some cost corresponding to the time required to gather and organize the required materials,

though this cost will likely be offset by the streamlining of the approval process. With an estimated time expenditure of 2 hours at a rate of $100 per hour, an individual may incur a one-time impact of $200 if they choose to have their own training program approved for use. But any such cost will likely be offset by the streamlining of the approval process for these businesses. Outlining the required material for a program review will eliminate the need for the individual having to return repeatedly before the review committee due to missing information. Further, many individuals use a third-party program that has already received approval and will not be subject to a program review, negating this cost. The changes that put the responsibility for reporting qualified instructors on the individual using the instructor may cause some small increase in costs for an individual user, corresponding to the time required to make such reports. The Division is not able to determine any exact amount of cost due to varying circumstances. In Section R156-63a-613, as described above, the changes to this section may impact a qualifying agent over a licensee involved in an on-duty firearm discharge, potentially causing a loss of income of approximately $120 per incident. This corresponds to the estimated time required to be spent by the qualifying agent in making the required report and appearing before the Security Services Licensing Board, at an average wage of $20 per hour, with an average Board meeting length of 5 hours and an hour spent in reporting. But this loss would only occur if the qualifying agent is not paid for his or her time. An individual qualifying agent over a licensee involved in an on-duty firearm discharge is unlikely to be impacted by a loss of income for time spent, because a qualifying agent will almost certainly be paid for his or her time. However, the exact amount of time spent and resultant cost to these affected persons is impossible to measure because it will vary significantly from individual to individual, as well as from incident to incident. The remaining proposed amendments apply only to the Security Education Committee and its members, or make formatting changes and clarify practices that should already be taking place in the industry. As a result, the Division estimates that they will have no impact on individual persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In accordance with changes made by H.B. 425 (2017), which defined certain terms, modified qualifying agent requirements, and made changes deemed necessary or desirable by the Division and the Security Services Licensing Board regarding on-duty firearm discharges, amendments are proposed for Rule R156-63a. Specifically, these rule amendments: 1) further refine and clarify certain terms and operating standards; 2) specify the credentials required for the Security Education Advisory Committee's member-trainer position; 3) clarify the training program requirements for armed and unarmed private security officers; 4) address the Security Services Licensing Board and Utah Peace Officers Association concerns regarding on-duty firearm discharge by detailing reporting procedures for an on-duty firearm discharge, and 5) make formatting changes throughout for clarity and correct minor typographical errors. No non-fiscal impacts are anticipated. Only the changes related to reporting procedures for an on-duty firearm discharge are expected to have a fiscal impact to small businesses. The other changes have little or no fiscal impact. In the case of changes addressed in item 2) above, such changes only affect members of the Security Education Advisory Committee, and do not affect small businesses as a whole. In the case of changes in item 3) above, it is estimated that approximately 30 small businesses will have a one-time impact of $200. Further, many small businesses impacted by this rule change already choose to have their training program conducted by a third-party provider and will not experience a fiscal impact. A historical review by the Division indicates that on-duty discharges of a firearm by small business security services businesses occurs three times per year across the industry as a whole. The impact of such costs would not be scaled to all small business security services companies, as these costs will never affect the overwhelming majority of small businesses whose employees will not be subject to these measures.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jana Johansen by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at janajohansen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 11/16/2017 11:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 464, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Mark Steinagel, Director

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**R156. Commerce, Occupational and Professional Licensing.**
**R156-63a. Security Personnel Licensing Act Contract Security Rule.**
**R156-63a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 63, as used in Title 58, Chapters 1 and 63 or this rule:

(1) "Approved basic education and training program[~~s~~]" means a basic education and training program that:

(a) meets the standards and is approved by the Division as set forth in Section[s] R156-63a-602; and

(b) has the content required by Section R156-63a-603[ that is approved by the Division].

(2) "Approved basic firearms [education and ]training program" means a[basic] firearms education and training program that:

(a) meets the standards and is approved by the Division as set forth in Section R156-63a-602; and

(b) has the content required by Section R156-63a-604[ that is approved by the Division].

(3) "Authorized emergency vehicle" is as defined in Subsection 41-6a-102(3).

(4) "Contract security company" includes a peace officer who engages in providing security or guard services when acting in a capacity other than as an employee of the law enforcement agency by whom [he]the peace officer is employed.

(5) "Contract security company" does not include a company which hires as employees, individuals to provide security or guard services for the purpose of protecting tangible personal property, real property, or the life and well-[-]being of personnel employed by, or animals owned by or under the responsibility of that company, as long as the security or guard services provided by the company do not benefit any person other than the employing company.

(6) "Compensated", as used in Subsection 58-63-302(1)(c)(viii)(A), means remuneration in the form of W-2 wages unless the qualifying agent is an owner of a contract security or armored car company, in which case "compensated" means the owner's profit distributions or dividends.

(7) "Conviction" means criminal conduct where the filing of a criminal charge has resulted in:

(a) a finding of guilt based on evidence presented to a judge or jury;

(b) a guilty plea;

(c) a plea of nolo contendere;

(d) a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation;

(e) a pending diversion agreement; or

(f) a conviction which has been reduced pursuant to Section 76-3-402.

(8) "Corporate officer" as defined in Subsection 58-63-102(9), includes an individual who is on file with the Division of Corporations and Commercial Code as a limited liability company's company officer or "governing person" as defined in Subsection 48-3a-102(7), or as a limited partnership's "general partner" as defined in Subsection 48-2e-102(8).

([8]9) "Employee" means an individual providing services in the security guard industry for compensation, when the amount of compensation is based directly upon the security guard services provided and upon which the employer is required under law to withhold federal and state taxes, and for whom the employer is required under law to provide worker's compensation insurance coverage and pay unemployment insurance.

(10) "Instructor" means a person who directly facilitates learning through means of live in-class lecture, group participation, practical exercise, or other means, who has fulfilled the instructor experience and training requirements set forth in Section R156-63a-602.

[(9) "Officer" as used in Subsections 58-63-201(1)(a) and R156-63a-302a(1)(b) means a manager, director, or administrator of a contract security company.]

([10]11) "Qualified continuing education" means continuing education that meets the standards set forth in Subsection R156-63a-304.

([11]12) "Qualifying agent" means a natural person who meets all of the requirements set forth in Subsection 58-63-302(1)(c)[an individual who is an officer, director, partner, proprietor or manager of a contract security company who exercises material authority in the conduct of the contract security company's business by making substantive technical and administrative decisions relating to the work performed for which a license is required under this chapter and who is not involved in any other employment or activity which conflicts with his duties and responsibilities to ensure the licensee's performance of work regulated under this chapter does not jeopardize the public health, safety, and welfare].

([12]13) "Soft uniform" means a business suit or a polo-type shirt with appropriate slacks. The coat or shirt has an embroidered badge or contract security company logo that clips on to or is placed over the front pocket.

([13]14) "Supervised on-the-job training" means training of an armed or unarmed private security officer under the supervision of a licensed private security officer who has been assigned to train and develop the on-the-job trainee.

([14]15) "Supervision" means general supervision as defined in Subsection R156-1-102a(4)(c).

(16) "Trainer" has the same meaning as "instructor".

([15]17) "Unprofessional conduct," as defined in Title 58, Chapters 1 and 63, is further defined, in accordance with Subsection 58-1-203(1)([e]e), in Section R156-63a-502.

**R156-63a-201. Advisory Peer Committee created - Membership - Duties.**

(1) There is created in accordance with Subsection 58-1-203(1)(f), the Education Advisory Committee to the Security Services Licensing Board, consisting of:

(a) one member who is a[n] corporate officer, director, manager or trainer of a contract security company;

(b) one member who is a[n] corporate officer, director, manager or trainer of an armored car company;

(c) one member who is an armored car security officer or a contract security officer;

(d) one member representing the general public; and

(e) one member who is a trainer, and who is also, in order of preference:[ associated with the Utah Peace Officers Association.]

(i) a member of the Utah Peace Officers Association;

(ii) a qualifying agent of a licensed security company that is in good standing with the Division; or

(iii) a member of a security association that is in good standing wit the Utah Division of Corporations.

(2) The Education Advisory Committee shall be appointed and serve in accordance with Section R156-1-205. The duties and responsibilities of the Education Advisory Committee shall include assisting the Division in collaboration with the Board in their duties, functions, and responsibilities regarding the acceptability of educational programs, requesting approvals from the Division, and periodically reviewing all approved basic

education and training programs and approved basic firearms training programs regarding current curriculum requirements.

(3) The Education Advisory Committee shall consider, when advising the Board of the acceptability of an education[~~al~~] and training program[~~, the following~~]:

(a) whether [~~the educational program meets the~~]in keeping with Subsections R15663a-102(1) and (2), or Subsections R156-63b-102(1) and (2), a proposed basic education and training program meets:

(i) the operating standards of Sections R156-63a-602 or R156-63b-602; and

(ii) the content requirements of Sections R156-63a-603 [~~and~~]or R156-63b-603; and

(b) whether [~~the educational program meets the~~ ]a proposed basic firearms training program meets:

(i) the operating standards of Sections R156-63a-602 or R156-63b-602; and

(ii) the content requirements of Sections R156-63a-604 [~~and~~]or R156-63b-604.

**R156-63a-302a. Qualifications for Licensure - Application Requirements.**

(1) An application for licensure as a contract security company shall be accompanied by:

(a) [~~a certification of criminal record history for the applicant's qualifying agent issued by the Bureau of Criminal Identification, Utah Department of Public Safety, in accordance with the provisions of Subsection 53-10-108(1)(f)(ii);~~

~~(b) ~~]two fingerprint cards for each of the applicant's:

(i) qualifying agent;[~~, and all of the applicant's~~ ]

(ii) corporate officers[~~;~~];

(iii) directors[~~;~~];

(iv) equity holders or shareholders owning more than 5% of the equity or outstanding shares; [~~stock,~~]

(v) partners[~~;~~];

(vi) proprietors[~~;~~]; and

(vii) responsible management personnel; and

([~~e~~]b) a fee established in accordance with Section 63J-1-504 equal to the cost of conducting a check of records of the Federal Bureau of Investigation, and the Bureau of Criminal Identification, Utah Department of Public Safety, for each of the persons required to provide a fingerprint card under Subsection (1)(a) above[~~applicant's qualifying agent, officers, directors, shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel~~].

(2) An application for licensure as an armed or unarmed private security officer shall be accompanied by:

(a) [~~a certification of criminal record history for the applicant issued by the Bureau of Criminal Identification, Utah Department of Public Safety, in accordance with the provisions of Subsection 53-10-108(1)(f)(ii);~~

~~(b) ~~]two fingerprint cards for the applicant; and

([~~e~~]b) a fee established in accordance with Section 63J-1-504 equal to the cost of conducting a check of records for the applicant with[~~of~~]:

(i) the Federal Bureau of Investigation[~~ for the applicant~~]; and

(ii) the Bureau of Criminal Identification of the Utah Department of Public Safety.

(3) Applications for change in licensure classification from unarmed to armed private security officer shall only require the following additional documentation:

(a) [~~the required~~]successful completion of an approved basic firearms training program[~~pursuant to Section 58-63-604~~]; and

(b) an additional criminal history background check pursuant to Section 58-63-302 and Subsection[~~s~~] R156-63a-302a(2).

**R156-63a-302b. Qualifications for Licensure - Basic Education and Training Requirements.**

(1) In accordance with Subsections 58-1-203(1)(b), 58-63-302(2)(g), and 58-63-302(2)(h), an [~~and 58-1-301(3), the basic education and training requirements for licensure in Section 58-63-302 are defined, clarified, or established herein.~~

~~(1) An ~~]applicant for licensure as an armed private security officer shall successfully complete:

(a) an approved basic education and training program, as defined in Subsection R156-63a-102(1); and

(b) an approved basic firearms training program, as defined in Subsection R156-63a-102(2)[~~a firearms training program approved by the Division, the content of which is set forth in Sections R156-63a-603 and R156-63a-604~~].

(2) [~~An~~]In accordance with Subsections 58-1-203(1)(b) and 58-63-302(3)(f), an applicant for licensure as an unarmed private security officer shall successfully complete an approved basic education and training program, as defined in Subsection R156-63a-102(1) [~~approved by the Division, the content of which is set forth in Section R156-63a-603~~].

**R156-63a-302c. Qualifications for Licensure - Examination Requirements.**

In accordance with Subsections 58-1-203(1)(b) and 58-1-301(3), the examination requirements for licensure in Section 58-63-302 are defined, clarified, or established herein.

(1) The qualifying agent for an applicant who is a contract security company shall obtain a passing score of at least 75% on the Utah Contract Security [~~Personnel~~]Company Qualifying Agent[~~'s~~] Examination.

(2) An applicant for licensure as an armed private security officer or an unarmed private security officer shall obtain a score of at least 80% on the approved basic education and training program's final examination[~~approved by the Division and administered by each provider of basic education and training~~].

**R156-63a-302e. Qualifications for Licensure - Age Requirement for Armed Private Security Officer.**

In accordance with Subsections 76-10-509(1) and 76-10-509.4, an[~~An~~] armed private security officer must be 18 years of age or older at the time of submitting an application for licensure[~~ in accordance with Subsections 76-10-509(1) and 76-10-509.4~~].

**R156-63a-302f. Qualifications for Licensure - Good Moral Character - Disqualifying Convictions.**

(1) In accordance with Subsections 58-63-302(1)(h), (2)(c), and (3)(c), in addition to those criminal convictions prohibiting licensure[~~ as set forth in Subsections 58-63-302(1)(h), (2)(c) and (3)(c)~~], the following [~~is a list of~~] criminal convictions [~~that ~~]may

disqualify an applicant or licensee[~~a person~~] from obtaining or holding an unarmed private security officer license, an armed private security officer license, or a contract security company license:

(a) crimes against a person as defined in Title 76, Chapter 5, Part 1;

(b) theft, including retail theft, as defined in Title 76;

(c) larceny;

(d) sex offenses as defined in Title 76, Chapter 5, Part 4;

(e) any offense involving a controlled [~~dangerous~~ ] substance[~~s~~] as defined in Subsection 58-37-2(1)(f);

(f) fraud;

(g) extortion;

(h) treason;

(i) forgery;

(j) arson;

(k) kidnapping;

(l) perjury;

(m) conspiracy to commit any of the offenses listed herein;

(n) hijacking;

(o) burglary;

(p) escape from jail, prison, or custody;

(q) false or bogus checks;

(r) terrorist activities;

(s) desertion;

(t) pornography;

(u) two or more convictions for driving under the influence of alcohol within the last three years; and

(v) any attempt to commit any of the above offenses.

(2) An applicant [~~for~~]may not obtain initial licensure or license renewal as an armed private security officer or as a contract security company providing armed private security services, and the license of an armed private security officer or of a contract security company providing armed private security services shall be automatically revoked, if the applicant or licensee is in violation of any provision set forth in[~~may not be licensed if the applicant is in violation of~~]:

(a) [~~any provision set forth in~~ ]18 U.S.C. Chapter 44, 922(g)1-9, concerning restrictions on firearms and ammunition transportation by certain persons; or

(b) Utah Code S[~~ubs~~]ection 76-10-503[~~(1)~~], concerning restrictions on possession, purchase, transfer, or ownership of dangerous weapons by certain persons[~~; or~~

~~(c) Utah Code Subsections 58-63-302(1)(a), (2)(c), or (3)(c)~~].

(3)[~~(a)~~] In accordance with Subsection 58-63-302(1), if[~~Where~~] the applicant or licensee is a contract security company, the background of the following individuals shall be considered:

([~~i~~]a) corporate officer[~~s~~];

([~~ii~~]b) director[~~s~~];[~~ and~~]

([~~iii~~]c) any shareholder[~~s~~] owning[~~with~~] 5% or more of the outstanding stock of the company as described in Subsection 58-63-302(1)(d)(ii);

(d) partner;

(e) proprietor;

(f) qualifying agent; and

(g) management personnel employed within Utah or having direct responsibility for managing operations of the company within Utah.

([~~b~~]4) Criminal history and statutory violations that do not automatically disqualify an applicant under statute or rule shall be considered on a case-by-case basis [~~as defined~~ ]in accordance with Section R156-1-302.[

~~(4) An armed private security license shall be automatically revoked if the licensee is in violation of:~~

~~(a) any provision set forth in 18 U.S.C. Chapter 44, 922(g)1-9;~~

~~(b) Utah Code Subsection 76-10-503(1); or~~

~~(c) Utah Code Subsections 58-63-302(1)(a), (2)(c), or (3)(c).~~]

**R156-63a-302g. Qualifications for Licensure - Immediate Issuance of an Interim Permit.**

In accordance with S[~~ubs~~]ection 58-63-310, upon receipt of a complete application for licensure as an unarmed private security officer or as an armed private security officer, the Division may immediately issue an interim permit to the applicant, if the applicant[~~meets the following criteria~~]:

(1)(a) [~~the applicant~~ ]submits with the applicant's application an official criminal history report from the Bureau of Criminal Identification, Utah Department of Public Safety, showing "No Criminal Record Found";

(b) [~~the applicant~~ ]has not answered "yes" to any question on the qualifying questionnaire section of the application; and

(c) [~~the applicant~~ ]has not had a license to practice an occupation or profession denied, revoked, suspended, restricted, or placed on probation.

(2) If an applicant's application is denied, an interim permit issued under this section shall automatically expire.

**R156-63a-601. Operating Standards - Firearms.**

(1) An armed private security officer shall carry only that firearm with which the officer[~~he~~] has passed an approved basic [~~a~~] firearms training program[~~qualification course as defined in Section R156-63a-604~~].

(2) Shotguns and rifles[~~,~~] owned and issued by the contract security company, may be used in situations where they would constitute an appropriate defense for the armed private security officer, if[~~ and where~~] the officer has successfully completed an [~~appropriate qualification course~~]approved basic firearms training program in their use.

(3) An armed private security officer shall not carry a firearm except when acting on official duty as an employee of a contract security company, unless the licensee is otherwise qualified under the laws of the state to carry a firearm.

**R156-63a-602. Division Approval and Operating Standards - [~~Approved Basic Education and~~ ]Training Programs for Armed and Unarmed Private Security Officers.**

[~~To be designated by the Division as an approved basic education and training program for armed private security officers and unarmed private security officers, the applicant for program approval shall meet the following standards:~~

~~(1) The applicant shall pay a fee for the approval of the education program.~~

~~(2) The training method is documented in a written education and training manual which includes training performance objectives and a four hour instructor training program.~~

~~(3) The program curriculum for armed private security officers includes content as established in Sections R156-63a-603 and R156-63a-604.~~

~~(4) The program for unarmed private security officers includes content as established in Section R156-63a-603.~~

~~(5) An instructor is a person who directly facilitates learning through means of live in-class lecture, group participation, practical exercise, or other means. All instructors providing the basic classroom instruction shall:~~](1) To obtain Division approval of any training program for armed private security officers and unarmed private security officers, the program owner shall submit to the Division:

(a) an application in a form prescribed by the Division;

(b) a fee for the approval of the program; and

(c) a written education and training manual which includes:

(i) a course syllabus with an hourly breakdown of the course outline and training schedule;

(ii) a course curriculum;

(iii) a four-hour instructor training program;

(iv) testing tools; and

(v) if an online curriculum or multi-media learning tools are used, a copy of the original medium.

(2) If any individual or entity uses an approved basic education and training program that the user does not own, the user shall submit to and maintain with the Division a current copy of the user's written contract with the program owner, which identifies the duration allowed for use. The user shall promptly update this information in writing with the Division as necessary.

(3) A course curriculum for armed private security officers shall include the content established in Sections R156-63a-603 and R156-63a-604.

(4) A course curriculum for unarmed private security officers shall include the content established in Section R156-63a-603.

(5) All instructors teaching an approved basic education and training program shall:

(a) have at least three years of supervisory experience reasonably related to providing contract security services; and

(b) have completed a four-[~~-~~]hour instructor training program which shall include the following[~~criteria~~]:

(i) motivation and the learning process;

(ii) teacher preparation and teaching methods;

(iii) classroom management;

(iv) testing; and

(v) instructional evaluation.

(6) All instructors [~~providing~~]teaching an approved basic firearms training program shall have the following qualifications:

(a) current Peace Officers Standards and Training firearms instructor[~~s~~] certification; or

(b) current certification as a firearms instructor by:

(i) the National Rifle Association[~~,~~];

(ii) a Utah law enforcement agency[~~,~~];

(iii) a Federal law enforcement agency[~~,~~];

(iv) a branch of the United States military[~~,~~]; or

(v) other qualification or certification found by the Division, in collaboration with the Board, to be equivalent.

(7) When an instructor for a Division-approved training program begins providing instruction, the user of the Division-approved training program shall report the instructor's name to the Division, on a form supplied by the Division.

(8) When an instructor for a Division-approved training program ceases to instruct for that program, or no longer meets instructor requirements, the user of the Division-approved training program shall report that information and the instructor's name to the Division, on a form supplied by the Division.

([~~7~~]9) All approved [~~basic education and~~ ]training programs shall maintain training records on each individual trained, including the dates of attendance at training, a copy of the instruction given, and the location of the training. These records shall be maintained in the program's files [~~of the education and training program~~ ]for at least three years.

([~~8~~]10) If an approved training program[~~In the event an approved~~] provider of basic education and training ceases to engage in business, the provider shall establish a method approved by the Division by which the records of the education and training shall continue to be available for a period of at least three years after the education and training is provided.

([~~9~~]11) Instructors[~~,~~] who teach[~~present~~] continuing education programs[~~hours~~] and are licensed armed or unarmed private security officers, shall receive continuing education credit for actual preparation time for up to two times the number of hours to which participants [~~would be~~]are entitled. For example, for learning activities in which participants receive four continuing education hours, instructors may receive up to eight continuing education hours (four hours for preparation plus four hours for presentation).

**R156-63a-603. [~~Operating Standards -~~ ]Content of Approved Basic Education and Training Program for Armed and Unarmed Private Security Officers.**

[~~(1) An~~]In accordance with Subsections 58-63-302(2)(g) and 58-63-302(3)(f), an approved basic education and training program for armed and unarmed private security officers shall have at least 24 hours of classroom or online instruction, including:

([~~a~~]1) 16 hours of basic [~~classroom -~~]instruction, to include[~~ in which there is a direct student-teacher relationship that includes all of the following~~]:

([~~i~~]a) the nature and role of private security, including a private security officer's:

([~~A~~]i) [~~the~~]scope and limits of [~~a private security officer's~~] authority;

([~~B~~]ii) [~~the scope of authority of a private security officer;~~

~~(C) the~~ ]civil liability[~~ of a private security officer~~]; and

([~~D~~]iii) [~~the private security officer's~~ ]role in today's society;

([~~ii~~]b) state laws and rules applicable to private security;

([~~iii~~]c) the legal responsibilities of private security, including:

([~~A~~]i) constitutional law;

([~~B~~]ii) search and seizure; and

([~~C~~]iii) other such topics;

([~~iv~~]d) situational response evaluations, including:

([~~A~~]i) protecting and securing crime or accident scenes;

([~~B~~]ii) notifying [~~of~~ ]internal and external agencies; and

([~~C~~]iii) controlling information;

([~~v~~]e) security ethics;

([~~vi~~]f) the use of force, emphasizing the de-escalation of force and alternatives to using force;

([~~vii~~]g) documentation and report writing, including:

([~~A~~]i) preparing witness statements;

([~~B~~]ii) performing log maintenance;

([~~C~~]iii) exercising control of information;

([~~D~~]iv) taking field notes;

([~~E~~]v) organizing information into a report; and

([~~F~~]v) performing basic writing;

([~~viii~~]h) patrol techniques, including:

([~~A~~]i) mobile patrol [~~verses~~]versus fixed post;

([~~B~~]ii) accident prevention;

([~~C~~]iii) responding to calls and alarms;

([~~D~~]iv) security [~~breeches~~]breaches; and

([~~E~~]v) monitoring potential safety hazards;

(i[~~x~~]) police and community relations, including fundamental duties and personal appearance of security officers;

([~~x~~]j) sexual harassment in the work[-]place; and

([~~b~~]2) eight hours of elective course[~~—~~]work [~~as—~~] determined by the instructor, which [~~that~~ ]may include:

([~~i~~]a) current certification in:

(i) cardiopulmonary resuscitation (CPR)[~~,~~];

(ii) automated external defibrillator (AED)[~~,~~];

(iii) first aid[~~,~~]; or

(iv) any other recognized basic life-[-]saving certification;

([~~ii~~]b) introduction to executive protection;

([~~iii~~]c) basic self-defense;

([~~iv~~]d) driving techniques for the security professional;

([~~v~~]e) escort techniques;

([~~vi~~]f) crowd control;

([~~vii~~]g) access control and the use of electronic detection devices;

([~~viii~~]h) introduction to security's [~~rose~~]role with closed-circuit television systems;

(i[~~x~~]) use of defensive items and objects;

([~~x~~]j) management of aggressive behavior, use of force, de-escalation techniques;

([~~xi~~]k) homeland security involving bomb threats and anti-terrorism;

([~~xii~~]l) Americans with Disabilities Act (ADA) compliance; and

([~~xiii~~]m) prior training as evidenced by third-party documentation, which may be accepted at the trainer's discretion to count towards the eight hours of elective training; and

([e]3) a final examination that:

([~~i~~]a) competently examines the student on the subjects included in the 16 hours of basic [~~classroom~~ ]instruction[~~ in the approved program of education and training~~]; and

([~~ii~~]b) mandates a minimum pass score of 80%.

**R156-63a-604. [~~Operating Standards -~~ ]Content of Approved Basic Firearms Training Program for Armed Private Security Officers.**

In accordance with Subsection 58-63-302(2)(h), an[~~An~~] approved basic firearms training program for armed private security officers shall have the following components:

(1) at least six hours of classroom firearms instruction to include the following:

(a) the firearm and its ammunition;

(b) [~~the~~ ]care and cleaning of the [~~weapon~~]firearm;

(c) the prohibition against alterations of the firearm's firing mechanism;

(d) firearm inspection review procedures;

(e) firearm safety on duty;

(f) firearm safety at home;

(g) firearm safety on the range;

(h) legal and ethical restraints on firearms use;

(i) explanation and discussion of target environment;

(j) stop failure drills;

(k) explanation and discussion of stance, draw stroke, cover and concealment, and other firearm fundamentals;

(l) armed patrol techniques;

(m) use of deadly force under Utah law and the provisions of Title 76, Chapter 2, Part 4, and a discussion of 18 USC 44 Section 922; and

(n) [~~the~~ ]instruction that an armed private security officer[~~s~~] shall not fire [~~their~~]the officer's weapon unless there is an [~~eminent~~]imminent threat to life, and at no time shall the weapon be drawn as a threat or means to force compliance with any verbal directive not involving [~~eminent~~]imminent threat to life;

(2) a final examination that demonstrates the competency of the participant on the subjects included in the six hours of classroom firearms instruction, with a passing score requirement of 80%; and

(3) at least six hours of firearms range instruction to include the following:

(a) basic firearms fundamentals and marksmanship;

(b) demonstration and explanation of the difference between sight picture, sight alignment, and trigger control; and

(c) a recognized practical pistol course on which the applicant achieves a minimum score of 80% using regular and low light conditions.

**R156-63a-607. Operating Standards - Notification and Prohibition of Criminal Status of Contract Security Company Corporate Officer, [~~Qualifying Agent, -~~]Director, Partner, Proprietor, Qualifying Agent, Private Security Officer, [~~or -~~] Manager, or Shareholder[~~ of Contract Security Companies~~].**

(1) In accordance with Subsections 58-63-302(1)(h), 58-63-302(2)(d) and (d), 58-63-302(3)(c), and Section R156-63a-302f, this section applies to any contract security company:

(a) corporate[~~This subsection applies to any~~] officer;[~~ qualifying agent,~~]

(b) director[~~,~~];

(c) partner[~~,~~];

(d) proprietor[~~,~~];

(e) qualifying agent;

(f) private security officer[~~, or any~~];

(g) management personnel employed within Utah having direct responsibility for managing operations of a contract security company within Utah; and

(h) shareholder owning 5% or more as described in Subsection 58-63-302(1)(d)(ii).

(2) A person identified in [~~this~~ ]Subsection (1) [~~may~~]shall not participate at any level or capacity in the management, operations, sales, [~~ownership,~~ ]or employment of a contract security company, and shall not own any part of a contract security company (except less than 5% under Subsection 58-63-302(1)(d)(ii), if the person fails to meet a licensing requirement set forth in:

(a) Subsections 58-63-302(1)(h), or 58-63-302(2)(c) or (3)(c), for conviction of a felony, or of a misdemeanor involving moral turpitude, or a of a crime that when considered with the duties and responsibilities of the license by the Division and the Board indicates that the best interests of the public are not served by granting the license; or

(b) Subsections 58-63-302(1)(h)(iii) or 58-63-302(2)(d), for conviction of violating any provision set forth in:

(i) 18 U.S.C. Chapter 44, 922(g)1-9, concerning restrictions on firearms and ammunition transportation by certain persons; or

(ii) Subsection 76-10-503, concerning restrictions on possession, purchase, transfer, or ownership of dangerous weapons by certain persons.

[~~(a) has been convicted of:~~

~~(i) a felony;~~

~~(ii) a misdemeanor crime of moral turpitude; or~~

~~(iii) a crime that the Division and Board consider to constitute a risk to the public when considered with the functions and duties of an unarmed or armed private security officer; or~~

~~(b) has violated:~~

~~(i) any provision set forth in 18 U.S.C. Chapter 44, 922(g)1-9;~~

~~(ii) Utah Code Subsection 76-10-503(1); or~~

~~(iii) Utah Code Subsections 58-63-302(1)(a), (2)(c), or (3)(c).~~]

(3) A contract security company shall:

(a) within [~~10~~]ten calendar days of occurrence, report to the Division in writing any event [~~contemplated in Subsection (2)~~ ] that occurs in regard to a person identified in Subsection (1), respecting:

(i) any conviction listed under this Subsection (2) or Subsection R156-63b-302f(2) as a disqualifying criminal conviction; and

(ii) any conviction listed under Subsection R156-63b-302f(1) as a potentially disqualifying criminal conviction; and

(b) take appropriate steps to ensure that company ownership and operations comply with this S[~~ubs~~]ection[~~-(2)~~].

**R156-63a-611. Operating Standards - Operational Procedures Manual.**

(1) Each contract security company shall develop and maintain an operational procedures manual which includes the following topics:

(a) detaining or arresting;

(b) restraining, detaining, and search and seizure;

(c) felony and misdemeanor definitions;

(d) observing and reporting;

(e) ingress and egress control;

(f) natural disaster preparation;

(g) alarm systems, locks, and keys;

(h) radio and telephone communications;

(i) crowd control;

(j) public relations;

(k) personal appearance and demeanor;

(l) bomb threats;

(m) fire prevention;

(n) mental illness;

(o) supervision;

(p) criminal justice system;

(q) code of ethics for private security officers;[~~ and~~]

(r) sexual harassment in the workplace; and

(s) hazardous chemical release.

(2) The operations and procedures manual shall be immediately available to the Division upon request.

**R156-63a-613. Operating Standards - [~~Standards of Conduct~~]Notification of Criminal Arrest, Charge, Indictment, or Conviction - Notification of On-Duty Firearm Discharge.**

(1) [~~Licensee employed by a contract security company.~~]In accordance with Subsection 58-63-302(2):

(a) [~~Pursuant to Title 58, Chapter 63, a~~]A licensed armed or unarmed private security officer shall notify the licensee's employing contract security company, or if none, shall notify the Division, within 72 hours of being arrested, charged, indicted, or convicted for:

(i) [~~arrested, charged, or indicted for~~ ]any criminal offense above the level of a Class C misdemeanor;[~~ or~~]

(ii) [~~found in violation of~~]any offense set forth in:

(A) [~~any provision set forth in~~ ]18 U.S.C. Chapter 44, 922(g)1-9, concerning restrictions on firearms and ammunition transportation by certain persons;

(B) [~~Utah Code~~ ]S[~~ubs~~]ection 76-10-503[~~(1)~~], concerning restrictions on possession, purchase, transfer, or ownership of dangerous weapons by certain persons;[~~ or~~]

(C) [~~Utah Code~~ ]Subsections 58-63-302[~~(1)(a),~~ ](2)(c), or (3)(c), concerning a felony, a misdemeanor involving moral turpitude, or a crime that when considered with the duties and responsibilities of a private security officer by the Division and the Board indicates that the best interests of the public are not served by granting the license; or

(D) Subsection R156-63b-302g(1), concerning certain potentially disqualifying criminal offenses;[~~-~~]

(b) [~~Within 72 hours after receiving notification pursuant to this Subsection (1)(a), the employing~~]A contract security company shall notify the Division within 72 hours of receiving notification, or becoming aware, of any[~~the~~] arrest, charge, indictment, or conviction of any of its licensed employees under this Subsection (1)[~~violation~~].

(c) [~~The written n~~]Notification [~~required~~ ]under this Subsection (1)(b) shall be in writing, and include:

(i) the employee's name;

(ii) the name of the court or arresting agency, if applicable;

(iii) the court or agency case number or similar case identifier;

(iv) the date of the arrest, charge, indictment, or [~~violation~~]conviction; and

(v) the nature of the criminal offense or violation.

(2) [~~Licensee not employed by a contract security company.~~

~~(a) Pursuant to Title 58, Chapter 63, a licensed armed or unarmed private security officer who is not employed by a contract security company shall directly notify the Division in writing within 72 hours of being:~~

~~(i) arrested, charged or indicted for any crime above the level of a Class C misdemeanor;or~~

~~(ii) found to be in violation of:~~

~~(A) any provision set forth in 18 U.S.C. Chapter 44, 922(g)1-9;~~

~~(B) Utah Code Subsection 76-10-503(1); or~~

~~(C) Utah Code Subsections 58-63-302(1)(a), (2)(c), or (3)(c).~~

~~(b) The written notification required under this Subsection (2)(a) shall meet the requirements of Subsection (1)(c).~~]In accordance with Subsections 58-63-302(2) and 58-1-202(1)(d), the following notice and appearance standards shall apply to an on-duty discharge of a firearm by an armed private security officer:

(a) Within 24 hours of the on-duty discharge, the armed private security officer shall notify the officer's employing contract security company, or if none, then the armed private security officer shall notify the Division.

(b) Within 72 hours of receiving notification, or becoming aware, of an on-duty firearm discharge by its employee, the employing contract security company shall notify the Division.

(c) Notification under this Subsection (2) shall be in writing, and include:

(i) the employee's name;

(ii) the date of the firearm discharge;

(iii) the nature of the firearm discharge; and

(iv) the physical location of the firearm discharge.

(d) The Security Services Licensing Board shall require a mandatory appearance before the Board by the qualifying agent over that officer, to review the company policy and procedure for dealing with an on-duty discharge.

**KEY: licensing, security guards, private security officers**
**Date of Enactment or Last Substantive Amendment: [~~July 23, 2015~~]2017**
**Notice of Continuation: September 9, 2013**
**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-63-101**

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# Commerce, Occupational and Professional Licensing
# R156-63b
## Security Personnel Licensing Act Armored Car Rule

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42223
FILED: 10/16/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing makes conforming changes to the rule as required by H.B. 425, passed during the 2017 General Session, which defined certain terms and modified qualifying agent requirements. This filing also implements changes deemed necessary or desirable after a review of the rule by the Division of Occupational and Professional Licensing (Division) and the Security Services Licensing Board, in particular, to address Security Services Licensing Board and Utah Peace Officers Association concerns regarding on-duty firearm discharges. Specifically, this filing: 1) further defines and clarifies certain terms and operating standards; 2) specifies the credentials required for the Security Education Advisory Committee's member-trainer position; 3) clarifies the training program requirements for armored car security officers; 4) addresses the Security Services Licensing Board and Utah Peace Officers Association concerns regarding on-duty firearm discharges by detailing reporting procedures for an on-duty firearm discharge; and 5) makes formatting changes throughout for clarity, and corrects minor typographical errors.

SUMMARY OF THE RULE OR CHANGE: In Section R156-63b-102, the definitions of "approved basic education and training program", "approved basic firearms training program", and "instructor" are clarified, and the term "trainer" is defined to have the same meaning as "instructor". The definitions of "corporate officer" and "qualifying agent" are further defined and clarified in accordance with the Security Personnel Licensing Act as amended by H.B. 425 (2017), to ensure consistency and proper enforcement of the rule. Formatting changes are also made throughout for clarification. In Section R156-63b-302a, the proposed amendments update the terms used to refer to the persons from whom a fingerprint card is required, and make formatting changes for clarification. In Section R156-63b-302b, the proposed amendments update the terms used to refer to training programs, and make formatting changes for clarification. In Section R156-63b-302c, the proposed amendments update the terms used to refer to approved basic firearms training programs. In Section R156-63b-302d, the proposed amendments update the references to examinations. In Section R156-63b-302f, the proposed amendments make conforming changes in accordance with Subsection 75-10-509(1) and Section 76-10-509.4, to provide that an armored car security officer must be 18 years of age or older at the time of submitting an application for licensure. In Section R156-63b-302g, the proposed amendments make formatting changes for clarification, and update the terms used to refer to those who participate in ownership or

operation of an armored car company, such as a "corporate officer", in accordance with the Security Personnel Licensing Act as amended by H.B. 425 (2017). In Section R156-63b-302h, the proposed amendments make formatting changes for clarification. In Section R156-63b-601, the proposed amendments make formatting changes for clarification. In Section R156-63b-602, the proposed amendments: 1) clarify the materials needed for a training program to be reviewed and approved by the Division; 2) put the responsibility for reporting qualified instructors on the individual or entity using the instructor; and 3) make formatting changes throughout for clarification. In Section R156-63b-603, the proposed amendments make formatting changes for clarification. In Section R156-63b-604, the proposed amendments make formatting changes for clarification. In Section R156-63b-607, the proposed amendments update the terms used to refer to those persons who shall not participate in ownership or operation of an armored car company, in conformance with the requirements of the Security Personnel Licensing Act as amended by H.B. 425 (2017). Formatting changes are also made for clarification. In Section R156-63b-610, the proposed amendments add "hazardous chemical release" to the list of topics required in an armored car company's operational procedures manual. In Section R156-63b-612, these proposed amendments make formatting changes for clarification. In addition, the proposed new Subsection R156-63b-612(2) was considered and recommended by the Security Services Licensing Board and security associations, to implement the following reporting procedures for an on-duty discharge of a firearm by a licensed armored car security officer: 1) the licensee is required to report the discharge within 24 hours to the licensee's employer (or if none, to the Division); 2) an employer is required to give the Division written notice of the discharge within 72 hours of being notified or becoming aware of a firearm discharge; and 3) the qualifying agent over the licensee, is required to appear before the Security Services Licensing Board. Formatting changes are also made throughout for clarification of existing notification requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-63-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The Division will incur a minimal cost of approximately $75 to print and distribute the rule once the proposed amendments are made effective. The proposed amendments to Section R156-63b-602, which clarify materials needed for training program approval by the Division, and put the responsibility for reporting qualified instructors on those using the instructor, will likely result in some savings to the Division due to the streamlining of the approval process. The current rule requires the Division, to verify with an outside source, that each applicant has a current trainer. This requires approximately 5 minutes per review, and there are approximately 1,800 such applicants requiring review in each reporting period. This results in approximately 150 staff hours to process requested approvals. At an average staff rate of $24 per hour, based on an estimated $15 per hour Office Specialist I wage and the cost of employment taxes and benefits, these changes are expected to result in an ongoing savings to the Division of $4,050 each year.

♦ LOCAL GOVERNMENTS: Review of the amendments to this rule confirms that none of these changes will result in any additional cost or savings to local governments. The proposed amendments apply only to the Security Education Committee and its members; to owners, operators, and users of security personnel training programs; and to licensed Armored Car Security Officers and applicants for licensure in that classification. Nor will local governments be indirectly impacted because none of the amendments create a situation requiring services from any local governments. As a result, the Division estimates that there will be no fiscal impact on local government.

♦ SMALL BUSINESSES: In Section R156-63b-602, these proposed amendments may minimally impact small businesses that either own, operate, or use security personnel training programs. The clarifications regarding the materials needed for program review and approval by the Division may cause small businesses seeking such approval to incur some cost corresponding to the time required to gather and organize the required materials. With an estimated time expenditure of 2 hours at a rate of $100 per hour, a small business may incur a one-time impact of $200 if it chooses to have its own training program approved for use. It is estimated that there are three small businesses in the armored car security industry that could be impacted by this change. However, any such cost will likely be offset by the streamlining of the approval process for these businesses. Outlining of the required material for a program review will eliminate the need for the small business to return repeatedly before the review committee due to missing information. Further, many small businesses use a third-party program that has already received approval and will not be subject to a program review, which will negate this cost for those businesses. The changes that put the responsibility for reporting qualified instructors on the individual or entity using the instructor may save businesses/associations that own a training program some costs corresponding to the time that they will now no longer need to spend making these reports; however, there will be a proportionate and offsetting increase in time and cost to the small businesses using the training programs. Accordingly, although these changes will result in better reporting to the Division regarding program instructors, no material change in costs or savings is expected for small businesses in the aggregate. In sum, after conducting a thorough analysis, the Division has determined that none of these amendments will result in a measurable fiscal impact to small businesses. In Section R156-63b-610, the proposed amendment adding "hazardous chemical release" as a required topic to a contract security company's operational procedures manual could potentially minimally impact small businesses due to the need to research this topic and update their materials. However, the Division expects that most if not all small businesses already cover this topic in their training and/or operational procedures manual, due to ongoing

continuing education and the education of new employees. Accordingly, this change is primarily a codification of existing industry practice. Further, this topic can so easily be added to manuals that the consensus from those in the industry is that the cost will be insignificant. Accordingly, the Division has determined that this amendment will not result in a measurable fiscal impact to small businesses. In Section R156-63b-612, these proposed amendments may impact small business armored car companies that employ a licensee involved in an on-duty discharge of a firearm. There may be some loss of income proportionate to the time required to make the required reports and the time required for the mandatory appearances by the qualifying agent before the Security Services Licensing Board. A historical review by the Division and discussions with businesses in the industry indicates that this type of incident could potentially occur three times per year across the industry as a whole. An incident may result in an estimated total one-time cost of $120 to a business that employs a licensee involved in an on-duty discharge of a firearm. Cost determined based upon an average estimated $20 per hour wage for the qualifying agent, with a 5-hour time commitment for each for Board meeting attendance, and a 1-hour time commitment for each spent in making reports. In the aggregate across the industry, the total ongoing cost is expected to be $360 per year. However, the impact of such costs cannot and should not be scaled to all small business armored car companies, as these costs will never affect the overwhelming majority of small businesses whose employees will never be subject to these measures. Stated another way, the nature of the incident addressed in this amended rule is such that the impact of the corresponding costs will never be uniformly felt across the industry. Furthermore, based on the Division's historical review, a business with an employee involved in an on-duty discharge of a firearm is extremely unlikely to experience such an incident in succeeding years. In short, after conducting a thorough analysis, the Division has determined that the scope of these proposed amendments is so narrow that they will not affect the vast majority of small businesses, and will not result in a measurable fiscal impact to small businesses. All of the other proposed amendments only make formatting changes and add clarification to practices that should already be taking place in the industry. As a result, the Division estimates that they will have no impact on small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: In Section R156-63b-602, these proposed amendments may minimally impact large businesses and any individuals that either own, operate, or use security personnel training programs. First, similar to the impact on small businesses, the clarifications regarding the materials needed for program review and approval by the Division may cause a large business or an individual seeking such approval to incur some cost corresponding to the time required to gather and organize the required materials, but this cost is expected to be offset by the streamlining of the approval process. Accordingly, the overall fiscal impact is expected to be negligible. Second, also similar to the impact on small business, the changes that put the responsibility for reporting qualified instructors on the individual or entity using the instructor will save other persons who are owners of a training program some costs proportionate to the time that they would have spent making these reports, while a corresponding increase in time required for reporting may cause some small increase in costs for other persons who are training program users. Again, although these changes are expected to result in better reporting to the Division regarding program instructors, in the aggregate no material change in costs or savings is expected for other persons in the aggregate. In sum, after conducting a thorough analysis, the Division has determined that the scope of these proposed amendments is so narrow that they will not affect the vast majority of other persons, and will not result in a measurable fiscal impact to other persons. In Section R156-63b-610, the proposed amendment adding "hazardous chemical release" as a required topic to a contract security company's operational procedures manual may minimally impact a large contract security business due to the need to research this topic and update its materials. However, the Division expects that most if not all such businesses, due to ongoing continuing education and the education of new employees, already covers this topic in their training and/or operational procedures manual. Accordingly, this change is primarily a codification of existing industry practice. Further, this topic can so easily be added to manuals that the consensus from those in the industry is that the cost will be insignificant. Accordingly, the Division has determined that this amendment will not result in a measurable fiscal impact to these other persons. In Section R156-63b-612, first, these proposed amendments may impact large businesses that employ a licensee involved in an on-duty discharge of a firearm. There may be some loss of income proportionate to the time required to be spent in making the required reports and the time required for the mandatory appearance by the qualifying agent before the Security Services Licensing Board. Again, a historical review by the Division and discussions with businesses in the industry indicates that this type of incident could potentially occur 3 times per year in the industry as a whole, resulting in an estimated ongoing cost across the industry of $360 per year. However, again, the impact of such costs cannot and should not be scaled to all large business armored car companies. The nature of the incident is such that the impact of the corresponding costs will never be uniformly felt across the industry; furthermore, based on the Division's historical review a business with an employee involved in an on-duty discharge of a firearm is extremely unlikely to experience such an incident in succeeding years. Therefore, after conducting a thorough analysis the Division has determined that the scope of these proposed amendments is so narrow that they will not affect the vast majority of large businesses, and will not result in a measurable fiscal impact to these other persons. Second, as described above, a qualifying agent over a licensee involved in an on-duty firearm discharge may also be subject to a potential loss of income corresponding to the time spent assisting with reports and appearing before the Security Services Licensing Board. However, those in the industry

anticipate that a qualifying agent will almost certainly be compensated at regular rates for the qualifying agent's time in such a matter; accordingly, no fiscal impact is anticipated to qualifying agents from these amendments. All of the other proposed amendments only make formatting changes and add clarification to practices that should already be taking place in the industry. As a result, the Division estimates that they will have no impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In Section R156-63b-602, the changes to this section may minimally impact an individual that owns, operates, or uses security personnel training programs. The clarifications regarding the materials needed for program review and approval by the Division may cause an individual seeking such approval to incur some cost corresponding to the time required to gather and organize the required materials, though this cost will likely be offset by the streamlining of the approval process. With an estimated time expenditure of 2 hours at a rate of $100 per hour, an individual may incur a one-time impact of $200 if he or she chooses to have his or her own training program approved for use. However, any such cost will likely be offset by the streamlining of the approval process. Outlining the required material for a program review will eliminate the need for the individual having to return repeatedly before the review committee due to missing information. Further, many individuals use a third-party program that has already received approval and will not be subject to a program review, which will negate this cost. The changes that put the responsibility for reporting qualified instructors on the individual using the instructor may cause some small increase in costs for an individual user, corresponding to the time required to make such reports. The Division is not able to determine any exact amount of cost due to varying circumstances. In Section R156-63b-612, as described above, the changes to this section may impact a qualifying agent over a licensee involved in an on-duty firearm discharge but is unlikely to be impacted by a loss of income for time spent, because a qualifying agent will almost certainly be paid for his or her time. However, the exact amount of time spent and resultant cost to these affected persons is impossible to measure because it will vary significantly from individual to individual, as well as from incident to incident. The remaining proposed amendments apply only to the Security Education Committee and its members, or make formatting changes and clarify practices that should already be taking place in the industry. As a result, the Division estimates that they will have no impact on individual persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In accordance with changes made by H.B. 425 (2017), which defined certain terms, modified qualifying agent requirements, and made changes deemed necessary or desirable by the Division and the Security Services Licensing Board regarding on-duty firearm discharges, amendments are proposed for Rule R156-63b. Specifically, these rule amendments: 1) further refine and clarify certain terms and operating standards, 2) specify the credentials required for the Security Education Advisory Committee's member-trainer position, 3) clarify the training program requirements for armored car security officers, 4) address the Security Services Licensing Board and Utah Peace Officer Association concerns regarding on-duty firearm discharge by detailing reporting procedures for an on-duty firearm discharge, and 5) make formatting changes throughout for clarity and correct minor typographical errors. No non-fiscal impacts are anticipated. Only the changes related to reporting procedures for an on-duty firearm discharge are expected to have a fiscal impact to small businesses. The other changes have little or no fiscal impact. In the case of changes addressed in item 2) above, such changes only affect members of the Security Education Advisory Committee, and do not affect small businesses as a whole. In the case of changes addressed in item 3) above, it is estimated that small businesses will have a one-time impact of $200, if they choose to have their own training program approved for use. Further, many small businesses impacted by this rule change already choose to have their training program conducted by a third-party provider and will not experience a fiscal impact. A historical review by the Division indicates that on-duty discharges of a firearm occur three or fewer times per year across the industry as a whole. The impact of such costs would not be scaled to all small business armored car companies as these costs will never affect the overwhelming majority of small businesses whose employees will not be subject to these measures.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 11/16/2017 11:00 AM, 160 East 300 South, Conference Room 464, Salt Lake City, Utah

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.**
**R156-63b. Security Personnel Licensing Act Armored Car Rule.**
**R156-63b-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 63, as used in Title 58, Chapters 1 and 63 or this rule:

(1) "Approved basic education and training program" means a basic education and training program that:

(a) meets the standards and is approved by the Division as set forth in Section[~~s~~] R156-63b-602; and

(b) has the content required by Section R156-63b-603[~~ that is approved by the Division~~].

(2) "Approved basic firearms [~~education and~~ ]training program" means a [~~basic~~ ]firearms education and training program that:

(a) meets the standards and is approved by the Division as set forth in Section R156-63b-602; and

(b) has the content required by Section R156-63b-604[~~ that is approved by the Division~~].

(3) "Armored car company" includes a peace officer who engages in providing security or guard services when acting in a capacity other than as an employee of the law enforcement agency by whom [~~he~~]the peace officer is employed.

(4) "Armored car company" does not include a company which hires as employees, individuals to provide security or guard services for the purpose of protecting tangible property, currency, valuables, jewelry, SNAP benefits as defined in Section 35A-1-102, or other high value items that require secured delivery from one place to another and are owned by or under the responsibility of that company, as long as the security or guard services provided by the company do not benefit any person other than the employing company.

(5) "Authorized emergency vehicle" is as defined in Subsection 41-6a-102(3).

(6) "Compensated", as used in Subsection 58-63-302(1)(c)(viii)(A), means remuneration in the form of W-2 wages unless the qualifying agent is an owner of a contract security or armored car company, in which case "compensated" [~~experience~~ ]means the owner's profit distributions or dividends.

(7) "Conviction" means criminal conduct where the filing of a criminal charge has resulted in:

(a) a finding of guilt based on evidence presented to a judge or jury;

(b) a guilty plea;

(c) a plea of nolo contendere;

(d) a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation;

(e) a pending diversion agreement; or

(f) a conviction which has been reduced pursuant to Section 76-3-402.

(8) "Corporate officer" as defined in Subsection 58-63-102(9), includes an individual who is on file with the Division of Corporations and Commercial Code as a limited liability company's company officer or "governing person" as defined in Subsection 48-3a-102(7), or as a limited partnership's "general partner" as defined in Subsection 48-23-102(8).

([~~8~~]9) "Employee" means an individual providing services in the armored car industry for compensation when the amount of compensation is based directly upon the armored car services provided, and upon which the employer is required under law to withhold federal and state taxes, and for whom the employer is required under law to provide worker's compensation insurance coverage and pay unemployment insurance.

(10) "Instructor" means a person who directly facilitates learning through means of live in-class lecture, group participation, practical exercise, or other means, who has fulfilled the instructor experience and training requirements set forth in Section R156-63b-602.[~~(9) "Officer" as used in Subsection 58-63-201(1)(a) means a manager, director, or administrator of an armored car company.~~]

([~~10~~]11) "Qualified continuing education" means continuing education that meets the standards set forth in Subsection R156-63b-304.

([~~11~~]12) "Qualifying agent" means a natural person who meets all of the requirements set forth in Subsection 58-63-302(1)(c)[~~an individual who is an officer, director, partner, proprietor or manager of an armored car company who exercises material authority in the conduct of the armored car company's business by making substantive technical and administrative decisions relating to the work performed for which a license is required under this chapter and who is not involved in any other employment or activity which conflicts with his duties and responsibilities to ensure the licensee's performance of work regulated under this chapter does not jeopardize the public health, safety, and welfare~~].

([~~12~~]13) "Soft uniform" means a business suit or a polo-type shirt with appropriate slacks. The coat or shirt has an embroidered badge or armored car company logo that clips onto or is placed over the front pocket.

([~~13~~]14) "Supervised on-the-job training" means training of an armored car security officer under the supervision of a licensed armored car security officer who has been assigned to train and develop the on-the-job trainee.

([~~14~~]15) "Supervision" means general supervision as defined in [~~Section~~]Subsection R156-1-102a(4)(c).

(16) "Trainer" has the same meaning as "instructor".

([~~15~~]17) "Unprofessional conduct," as defined in Title 58, Chapters 1 and 63, is further defined, in accordance with Subsection 58-1-203(1)([e]e), in Section R156-63b-502.

**R156-63b-302a. Qualifications for Licensure - Application Requirements.**

(1) An application for licensure as an armored car company shall be accompanied by:

(a) two fingerprint cards for each of the applicant's:

(i) qualifying agent[~~,~~];

(ii) corporate [~~and all of the applicant's~~ ]officers[~~,~~];

(iii) directors[~~,~~];

(iv) equity holders or shareholders owning more than 5% of the equity or outstanding shares;

(v) [~~stock,~~ ]partners[~~,~~];

(vi) proprietors[~~,~~]; and

(vii) [~~and~~ ]responsible management personnel; and

(b) a fee established in accordance with Section 63J-1-504 equal to the cost of conducting a check of records of the Federal Bureau of Investigation, and the Bureau of Criminal Identification, Utah Department of Public Safety, for each of the persons required to provide a fingerprint card under Subsection (1)(a) above[~~applicant's qualifying agent, officers, directors,~~

~~shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel~~].

(2) An application for licensure as an armored car security officer shall be accompanied by:

(a) two fingerprint cards for the applicant; and

(b) a fee established in accordance with Section 63J-1-504 equal to the cost of conducting a check of records for the applicant with[~~of~~]:

(i) the Federal Bureau of Investigation[~~ for the applicant~~]; and

(ii) the Bureau of Criminal Identification of the Utah Department of Public Safety.

**R156-63b-302b. Qualifications for Licensure - Basic Education and Training Requirements.**

In accordance with Subsections 58-1-203(1)(b) and [~~58-1-301(3)~~]58-63-302(4)(g), [~~the basic education and training requirements for licensure in Section 58-63-302 are defined, clarified, or established herein. An~~]an applicant for licensure as an armored car security officer shall successfully complete an approved basic education and training program [~~and a firearms training program approved by the Division, the content of which is set forth in Section R156-63b-603~~]as defined in Subsection R156-63b-102(1).

**R156-63b-302c. Qualifications for Licensure - Firearm Training Requirements.**

In accordance with Subsections 58-1-203(1)(b) and 58-63-302(4)(h), an[~~58-1-301(3), the firearm training requirements for licensure in Subsection 58-63-302(4)(g) are defined, clarified, or established herein. An~~] applicant for licensure as an armored car security officer shall successfully complete an approved basic firearms training program [~~approved by the Division, the content of which is set forth in Section R156-63b-604~~]as defined in Subsection R156-63b-102(2).

**R156-63b-302d. Qualifications for Licensure - Examination Requirements.**

In accordance with Subsections 58-1-203(1)(b) and 58-1-301(3), the examination requirements for licensure in Section 58-63-302 are defined, clarified, or established herein.

(1) The qualifying agent for an applicant who is an armored car company shall obtain a passing score of at least 75% on the Utah [~~Security Personnel~~ ]Armored Car Company Qualifying Agent[~~'s~~] Examination.

(2) An applicant for licensure as an armored car security officer shall obtain a score of at least 80% on the approved basic education and training program's final examination[~~ approved by the Division and administered by the provider of basic education and training~~].

**R156-63b-302f. Qualifications for Licensure - Age Requirement for Armored Car Security Officer.**

In accordance with Subsections 76-10-509(1) and 76-10-509.4, an[~~An~~] armored car security officer must be [~~21~~]18 years of age or older at the time of submitting an application for licensure.

**R156-63b-302g. Qualifications for Licensure - Good Moral Character - Disqualifying Convictions.**

(1) In accordance with Subsections 58-63-302(1)(h) and (4)(c), in addition to those criminal convictions prohibiting licensure [~~as set forth in Subsections 58-63-302(1)(h) and (4)(c)~~], the following [~~is a list of~~ ]criminal convictions [~~that~~ ]may disqualify an applicant or licensee [~~person~~] from obtaining or holding an armored car security officer license, or an armored car company license:

(a) crimes against a person as defined in Title 76, Chapter 5, Part 1;

(b) theft, including retail theft, as defined in Title 76;

(c) larceny;

(d) sex offenses as defined in Title 76, Part 4;

(e) any offense involving a controlled [~~dangerous~~ ]substance[~~s~~] as defined in Subsection 58-37-2(1)(f);

(f) fraud;

(g) extortion;

(h) treason;

(i) forgery;

(j) arson;

(k) kidnapping;

(l) perjury;

(m) conspiracy to commit any of the offenses listed herein;

(n) hijacking;

(o) burglary;

(p) escape from jail, prison, or custody;

(q) false or bogus checks;

(r) terrorist activities;

(s) desertion;

(t) pornography;

(u) two or more convictions for driving under the influence of alcohol within the last three years; and

(v) any attempt to commit any of the above offenses.

(2) An applicant may not obtain[~~for~~] initial licensure or license renewal as an armored car security officer or as an armored car company, and the license of an armored car security officer or of an armored car company shall be automatically revoked,[~~may not be licensed~~] if the applicant or licensee is in violation of any provision set forth in:

(a) [~~any provision set forth in~~ ]18 U.S.C. Chapter 44, 922(g)1-9, concerning restrictions on firearms and ammunition transportation by certain persons; or[~~;~~]

(b) Utah Code S[~~ubs~~]ection 76-10-503[~~(1)~~], concerning restrictions on possession, purchase, transfer, or ownership of dangerous weapons by certain persons[~~; or~~

~~(c) Utah Code Subsections 58-63-302(1)(a), (2)(c), or (3)(c)~~].

(3) [~~(a) Where~~]In accordance with Subsection 58-63-302(1), if the applicant or licensee is an armored car company, the background of the following individuals shall be considered:

([~~i~~]a) corporate officer[~~s~~];

([~~ii~~]b) director[~~s~~];[~~ and~~]

([~~iii~~]c) any shareholder[~~s with~~] owning 5% or more of the outstanding stock of the company as described in Subsection 58-63-302(1)(d)(ii);[~~.~~]

(d) partner;
(e) proprietor;
(f) qualifying agent; and
(g) management personnel employed within Utah or having direct responsibility for managing operations of the company within Utah.

([~~b~~]4) Criminal history and statutory violations that do not automatically disqualify an applicant under statute or rule shall be considered on a case-by-case basis [~~as defined~~ ]in accordance with Section R156-1-302.[

~~(4) An armored car security officer license shall by automatically revoked if the licensee is in violation of:~~

~~(a) any provision set forth in 18 U.S.C. chapter 44, 922(g)1-9;~~

~~(b) Utah Code Subsection 76-10-503(1); or~~

~~(c) Utah Code Subsections 58-63-302(1)(a), (2)(c), or (3)(c).~~]

**R156-63b-302h. Qualifications for Licensure - Immediate Issuance of an Interim Permit.**

In accordance with Section 58-63-310, upon receipt of a[~~n~~] complete application for licensure as an armored car[~~e~~] security officer, the Division may immediately issue an interim permit to the applicant, if the applicant[~~meets the following criteria~~]:

(1)(a) [~~the applicant~~ ]submits with [~~his~~]the application an official criminal history report from the Bureau of Criminal Identification, Utah Department of Public Safety, showing "No Criminal Record Found";

(b) [~~the applicant~~ ]has not answered "yes" to any question on the qualifying questionnaire section of the application; and

(c) [~~the applicant~~ ]has not had a license to practice an occupation or profession denied, revoked, suspended, restricted, or placed on probation.

(2) If an applicant's application is denied, an interim permit issued under this section shall automatically expire.

**R156-63b-601. Operating Standards - Firearms.**

(1) An armored car security officer shall carry only that firearm with which [~~he~~]the officer has passed an approved basic firearm[~~s~~] [~~qualification course as defined in Section R156-63b-604~~] training program.

(2) Shotguns and rifles[~~,~~] owned and issued by the armored car company, may be used in situations where they would constitute an appropriate defense for the armored car security officer, if [~~and where~~ ]the officer has successfully completed a[~~n~~] firearms training program specific to shotgun or rifle[~~appropriate qualification course in their~~] use.

(3) An armored car security officer shall not carry a firearm except when acting on official duty as an employee of an armored car company, unless the licensee is otherwise qualified under the laws of the state to carry a firearm.

**R156-63b-602. Division Approval and Operating Standards - [~~Approved Basic Education and~~ ]Training Program for Armored Car Security Officers.**

[~~To be designated by the Division as an approved basic education and training program for armored car officers, the following standards shall be met.~~

~~(1) The applicant for program approval shall pay a fee for the approval of the education program.~~

~~(2) There shall be a written education and training manual which includes performance objectives.~~

~~(3) The program for armored car security officers shall provide content as established in Sections R156-63b-603 and R156-63b-604.~~

~~(4) An instructor is a person who directly facilitates learning through means of live in-class lecture, group participation, practical exercise, or other means. All instructors providing the basic classroom instruction shall have at least three years of training and experience reasonably related to providing of security guard services.~~](1) To obtain Division approval of a training program for armored car security officers, the program owner shall submit to the Division:

(a) an application in a form prescribed by the Division;
(b) a fee for the approval of the program; and
(c) a written education and training manual which includes:
(i) a course syllabus with an hourly breakdown of the course outline and training schedule;
(ii) a course curriculum;
(iii) a four-hour instructor training program;
(iv) testing tools; and
(v) if an online curriculum or multi-media learning tools are used, a copy of the original medium.

(2) If any individual or entity uses a Division-approved training program that the user does not own, the user shall submit to and maintain with the Division a current copy of the user's written contract with the program owner, which identifies the duration allowed for use. The user shall promptly update this information in writing with the Division as necessary.

(3) A course curriculum shall include the following content:
(a) for a basic education and training program, the content established in Section R156-63b-603; and
(b) for a basic firearms training program, the content established in Section R156-63b-604.

(4) All instructors teaching an approved basic education and training program shall:
(a) have at least three years of supervisory experience reasonably related to providing armored car security services; and
(b) have completed a four-hour instructor training program which shall include the following:
(i) motivation and the learning process;
(ii) teacher preparation and teaching methods;
(iii) classroom management;
(iv) testing; and
(v) instructional evaluation.

(5) All instructors [~~providing~~]teaching an approved basic firearms training program shall have the following qualifications:

(a) current Peace Officers Standards and Training firearms instructor[~~s~~] certification; or

(b) current certification as a firearms instructor by:
(i) the National Rifle Association[~~,~~];
(ii) a Utah law enforcement agency[~~,~~];
(iii) a Federal law enforcement agency[~~,~~];
(iv) a branch of the United States military[~~,~~]; or

(v) [~~or~~ ]other qualification or certification [~~found by the director~~]determined by the Division, in collaboration with the Board, to be equivalent.

(6) When an instructor for a Division-approved training program begins providing instruction, the user of the Division-approved training program shall report the instructor's name to the Division, on a form supplied by the Division.

(7) When an instructor for a Division-approved training program ceases to instruct for that program, or no longer meets instructor requirements, the user of the Division-approved training program shall report that information and the instructor's name to the Division, on a form supplied by the Division.

([~~6~~]8) All approved [~~basic education and~~ ]training programs shall maintain training records on each individual trained, including the dates of attendance at training, a copy of the instruction given, and the location of the training. These records shall be maintained in the program's files [~~of the education and training program~~ ]for at least three years.

([~~7~~]9) [~~In the event~~]If an approved training program provider [~~of basic education and training~~ ]ceases to engage in business, the provider shall establish a method approved by the Division by which the records of the education and training shall continue to be available for a period of at least three years after the education and training is provided.

([~~8~~]10) Instructors[~~,~~] who [~~present~~]teach continuing education programs[~~hours~~] and are licensed armored car security officers, shall receive continuing education credit for actual preparation time for up to two times the number of hours to which participants [~~would be~~]are entitled. For example, for learning activities in which participants receive four continuing education hours, instructors may receive up to eight continuing education hours (four hours for preparation plus four hours for presentation).

**R156-63b-603. [~~Operating Standards - ~~]Content of Approved Basic Education and Training Program[~~ for Armored Car Security Officers~~].**

In accordance with Subsection 58-63-302(4)(g), an[~~An~~] approved basic education and training program for armored car security officers shall have at least 24 hours of instruction, including:

(1) 16 hours of basic [~~classroom~~ ]instruction, to [~~in which there is a direct student-teacher relationship that~~ ]include[~~s all of the following~~]:

(a) the nature and role of private security, including an armored car security officer's:

(i) [~~the limits of,~~ ]scope and limits of authority;

(ii) [~~and the~~ ]civil liability;

(iii) [~~of an armored car security officer and the armored car security officer's~~ ]role in today's society;

(b) state laws and rules applicable to armored car security;

(c) legal responsibilities of armored car security, including:

(i) constitutional law[~~,~~];

(ii) search and seizure; and

(iii) other such topics;

(d) ethics;

(e) use of force, emphasizing the de-escalation of force and alternatives to using force;

(f) police and community relations, including fundamental duties and the personal appearance of an armored car officer;

(g) sexual harassment in the workplace[~~work place~~];

(h) driving policies and procedures, driver training and vehicle orientation;

(i) emergency situation response, including:

(i) terminal security[~~,~~];

(ii) traffic accidents[~~,~~];

(iii) robbery situations[~~,~~];

(iv) homeland security;

(v) [~~and~~ ]reducing risk potential through street procedures and tactics[~~,~~];

(vi) securing robbery scenes[~~,~~]; and

(vii) dealing with the media; and

(j) armored operations, including:

(i) proper paperwork[~~,~~];

(ii) street control procedures[~~,~~];

(iii) vehicle transfers[~~,~~];

(iv) vault procedures[~~,~~]; and

(v) other proper branch procedures.

(2) Eight hours of elective course[~~-~~]work [~~as~~ ]determined by the instructor, which [~~that~~ ]may include:

(a) current certification in:

(i) cardiopulmonary resuscitation (CPR)[~~,~~];

(ii) automated external defibrillator (AED)[~~,~~];

(iii) first aid[~~,~~]; or

(iv) any other recognized basic life-[~~-~~]saving certification;

(b) introduction to executive protection;

(c) basic self-defense;

(d) escort techniques;

(e) access control and the use of electronic detection devices;

(f) use of defensive items and objects;

(g) management of aggressive behavior, use of force, de-escalation techniques;

(h) homeland security involving bomb threats and anti-terrorism;

(i) Americans with Disabilities Act (ADA) compliance; and

(j) prior training, as evidenced by third-party documentation, which may be accepted at the trainer's discretion to count towards the eight hours of elective training.

(3) A final examination that:

(a) competently examines the student on the subjects included in the 16 hours of basic classroom instruction[~~ in the approved program of education and training~~]; and

(b) mandates a minimum pass score of 80%.

**R156-63b-604. [~~Operating Standards - ~~]Content of Approved Basic Firearms Training Program[~~ for Armored Car Security Officers~~].**

In accordance with Subsection 58-63-302(4)(h), an[~~An~~] approved basic firearms training program for armored car security officers shall have the following components:

(1) at least six hours of classroom firearms instruction, to include the following:

(a) the firearm and its ammunition;

(b) [~~the~~ ]care and cleaning of the firearm[~~weapon~~];

(c) the prohibition against alterations of the firearm's firing mechanism;

(d) firearm inspection review procedures;

(e) firearm safety on duty;

(f) firearm safety at home;

(g) firearm safety on the range;

(h) legal and ethical restraints on firearms use;

(i) explanation and discussion of target environment;

(j) stop failure drills;

(k) explanation and discussion of stance, draw stroke, cover and concealment, and other firearm fundamentals;

(l) armed patrol techniques;

(m) use of deadly force under Utah law and the provisions of Title 76, Chapter 2, Part 4, and a discussion of 18 USC 44 Section 922; and

(n) [~~the~~ ]instruction that an armored car security officer[~~s~~] shall not fire [~~their~~]the officer's weapon unless there is an [~~eminent~~]imminent threat to life, and at no time shall the weapon be drawn as a threat or means to force compliance with any verbal directive not involving [~~eminent~~]imminent threat to life;

(2) a final examination that demonstrates the competency of the participant on the subjects included in the six hours of classroom firearms instruction, with a passing score requirement of 80%; and

(3) at least six hours of firearms range instruction to include the following:

(a) basic firearms fundamentals and marksmanship;

(b) demonstration and explanation of the difference between sight picture, sight alignment, and trigger control; and

(c) a recognized practical pistol course on which the applicant achieves a minimum score of 80% using regular and low light conditions.

**R156-63b-607. Operating Standards - Notification and Prohibition of Criminal Status of Armored Car Company Corporate Officer, [~~Qualifying Agent, ~~]Director, Partner, Proprietor, Qualifying Agent, Armored Car Security Officer, [~~or~~ ]Manager, or Shareholder[~~ of Armored Car Companies~~].**

(1) In accordance with Subsections 58-63-302(1)(h) and (i), 58-63-302(4)(c) and (d), and Section R156-63b-302g, this section[~~This subsection~~] applies to any armored car company:

(a) corporate officer[~~, qualifying agent,~~];

(b) director[~~,~~];

(c) partner[~~,~~];

(d) proprietor[~~,~~];

(e) qualifying agent;

(f) armored car security officer[~~, or any ~~];

(g) management personnel employed within Utah or having direct responsibility for managing operations of the armored car company within Utah; and

(h) shareholder owning 5% or more as described in Subsection 58-63-302(1)(d)(ii).

(2) A person identified in [~~this ~~]Subsection (1) [~~may~~]shall not participate at any level or capacity in the management, operations, sales, [~~ownership, ~~]or employment of an armored car [~~security ~~]company, and shall not own any part of an armored car company (except less than 5% as described in Subsection 58-63-302(1)(d)(ii)), if the person fails to meet a licensing requirement set forth in:

(a) Subsections 58-63-302(1)(h) or 58-63-302(4)(c), for conviction of a felony, or of a misdemeanor involving moral turpitude, or of a crime that when considered with the duties and responsibilities of the license by the Division and the Board indicates that the best interests of the public are not served by granting the license; or

(b) Subsections 58-63-302(1)(h)(iii) or 58-63-302(4)(d), for conviction of violating any provision set forth in:

(i) 18 U.S.C. Chapter 44, 922(g)1-9, concerning restrictions on firearms and ammunition transportation by certain persons; or

(ii) Subsection 76-10-503, concerning restrictions on possession, purchase, transfer, or ownership of dangerous weapons by certain persons.

[~~(a) has been convicted of:~~

~~(i) a felony;~~

~~(ii) a misdemeanor crime of moral turpitude; or~~

~~(iii) a crime that the Division and Board consider to constitute a risk to the public when considered with the duties and functions of an armored car security company officer; or~~

~~(b) has violated:~~

~~(i) any provision set forth in 18 U.S.C. Chapter 44, 922(g)1-9;~~

~~(ii) Utah Code Subsection 76-10-503(1); or~~

~~(iii) Utah Code Subsections 58-63-302(1)(a), (2)(c), or (3)(c).~~]

(3) An armored car [~~security ~~]company shall:

(a) within [~~10~~]ten calendar days of occurrence, report to the Division in writing any event [~~contemplated in Subsection (2) ~~] that occurs in regard to a person identified in Subsection (1), respecting:

(i) any conviction listed under this Subsection (2) or Subsection R156-63b-302g(2) as a disqualifying criminal conviction; and

(ii) any conviction listed under Subsection R156-63b-302g(1) as a potentially disqualifying criminal conviction; and

(b) take appropriate steps to ensure that company ownership and operations comply with this S[~~ubs~~]ection[~~ (2)~~].

**R156-63b-610. Operating Standards - Operational Procedures Manual.**

(1) Each armored car company shall develop and maintain an operational procedures manual which includes the following topics:

(a) detaining or arresting;

(b) restraining, detaining, and search and seizure;

(c) felony and misdemeanor definitions;

([~~b~~]d) observing and reporting;

([e]e) ingress and egress control;

(f) natural disaster preparation;

([~~d~~]g) alarm systems, locks, and keys;

([e]h) radio and telephone communications;

(i) crowd control;

([~~f~~]j) public relations;

([g]k) personal appearance and demeanor;

([~~h~~]l) bomb threats;

([~~i~~]m) fire prevention;

([~~j~~]n) mental illness;

([~~k~~]o) supervision;

([~~l~~]p) criminal justice system;[
~~(m) accident scene control;~~]
([~~n~~]q) code of ethics for armored car security officers; [~~and~~]
([~~o~~]r) sexual harassment in the workplace; and
(s) hazardous chemical release.
(2) The operations and procedures manual shall be immediately available to the Division upon request.

**R156-63b-612. Operating Standards - Notification of Criminal [~~Offense~~]Arrest, Charge, Indictment, or Conviction - Notification of On-Duty Firearm Discharge.**

(1) [~~Licensee employed by an armored car company.~~]In accordance with Subsection 58-63-302(4):

(a) [~~Pursuant to Title 58, Chapter 63, a~~]A licensed armored car[~~e~~] security officer shall notify the licensee's employing [~~contract security~~]armored car company, or if none, shall notify the Division, within 72 hours of being arrested, charged, indicted, or convicted for:

(i) [~~arrested, charged, or indicted for~~ ]any criminal offense above the level of a Class C misdemeanor;[~~ or~~]

(ii) [~~found in violation of~~]any offense set forth in:

(A) [~~any provision set forth in~~ ]18 U.S.C. Chapter 44, 922(g)1-9, concerning restrictions on firearms and ammunition transportation by certain persons;

(B) [~~Utah Code Subs~~]Section 76-10-503[~~(1)~~], concerning restrictions on possession, purchase, transfer, or ownership of dangerous weapons by certain persons;[~~ or~~]

(C) [~~Utah Code~~ ]Subsections 58-63-302[~~(1)(a), (2)(c), or (3)(c)~~](4)(c), concerning a felony, a misdemeanor involving moral turpitude, or a crime that when considered with the duties and responsibilities of an armored car security officer by the Division and the Board indicates that the best interests of the public are not served by granting the license; or

(D) Subsection R156-63b-302g(1), concerning certain potentially disqualifying criminal offenses.

(b) [~~Within 72 hours after receiving notification pursuant to this Subsection (1)(a), the employing~~]An armored car company shall notify the Division within 72 hours of receiving notification, or becoming aware, of [~~the~~]any arrest, charge, indictment, or conviction of any of its licensed employees under this Subsection (1)[~~violation~~].

(c) [~~The written n~~]Notification [~~required~~ ]under this Subsection (1)(b) shall be in writing, and include:

(i) the employee's name;

(ii) the name of the court or arresting agency, if applicable;

(iii) the court or agency case number or similar case identifier;

(iv) the date of the arrest, charge, indictment, or [~~violation~~]conviction; and

(v) the nature of the criminal offense or violation.

[~~(2) Licensee not employed by an armored car company.~~

~~(a) Pursuant to Title 58, Chapter 63, a licensed armored car security officer who is not employed by a contract security company shall directly notify the Division in writing within 72 hours of being:~~

~~(i) arrested, charged or indicted for any crime above the level of a Class C misdemeanor; or~~

~~(ii) found to be in violation of:~~

~~(A) any provision set forth in 18 U.S.C. Chapter 44, 922(g)1-9;~~

~~(B) Utah Code Subsection 76-10-503(1); or~~

~~(C) Utah Code Subsections 58-63-302(1)(a), (2)(c), or (3)(c).~~

~~(b) The written notification required under this Subsection (2)(a) shall meet the requirements of Subsection (1)(c).~~]

(2) In accordance with Subsection 58-63-302(4) and 58-1-202(1)(d), the following notice and appearance standards shall apply to an on-duty discharge of a firearm by an armored car security officer:

(a) Within 24 hours of the on-duty discharge, the armored car security officer shall notify the officer's employing armored car company, or if none, then the armored car security officer shall notify the Division.

(b) Within 72 hours of receiving notification, or becoming aware, of an on-duty firearm discharge by its employee, the employing armored car company shall notify the Division.

(c) Notification under this Subsection (2) shall be in writing, and include:

(i) the employee's name;

(ii) the date of the firearm discharge;

(iii) the nature of the firearm discharge; and

(iv) the physical location of the firearm discharge.

(d) The Security Services Licensing Board shall require a mandatory appearance before the Board by the qualifying agent over that officer, to review the company policy and procedure for dealing with an on-duty discharge.

**KEY: licensing, security guards, armored car security officers, armored car company**
**Date of Enactment or Last Substantive Amendment: [~~July 23, 2015~~]2017**
**Notice of Continuation: September 9, 2013**
**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-63-101**

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# Commerce, Occupational and Professional Licensing
# R156-67-503
# Administrative Penalties

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42199
FILED: 10/05/2017

## RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing updates the Utah Medical Practice Act Rule's fine schedule in accordance with H.B. 142, passed during the 2017 General Session, which added to the definition of unprofessional conduct the failure to meet certain requirements regarding administration of sedation or anesthesia intravenously in an outpatient setting.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments to Section R156-67-503 carry out the mandate of H.B. 142 (2017), establishing fine schedules for violations in administering sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency department, as follows: 1) failing to obtain the required written consent from the patient, in violation of Subsection 58-67-502.5(1) (first offense $500 - $5,000, second offense $1,500 - $10,000, ongoing offense $2,000/day but not less than the second offense); 2) failing to report an adverse event under Section 26-1-40, in violation of Subsection 58-67-502.5(2) (first offense $500 - $5,000, second offense $1,500 - $10,000, ongoing offense $2,000/day but not less than the second offense); and 3) failing to have access to an advanced cardiac life support crash cart with equipment regularly maintained according to AHA guidelines, in violation of Subsection 58-67-502.5(3) (first offense $5,000, second offense $10,000, ongoing offense $2,000/day but not less than the second offense).

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to reprint the rule once the filing is made effective. The primary focus of these proposed rule changes, as they affect the Division, is to implement H.B. 142 (2017), the additional costs or savings to the Division were included in the Legislature's consideration of this bill. A copy of the fiscal analysis for H.B. 142 is available from the Utah State Legislature website at https://le.utah.gov/~2017/bills/static/HB0142.html.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local governments from any of the proposed amendments. Local governments neither enforce nor will be affected by the listed violations.
♦ SMALL BUSINESSES: The Division estimates that there will be no cost or savings to small businesses from these proposed amendments, which conform the rule to statutory changes by establishing fine schedules for the unprofessional conduct defined by H.B. 142 (2017). Costs or savings to businesses were included in the Legislature's consideration of H.B. 142 (2017), which determined that enactment of the legislation "likely would not result in direct, measurable expenditures by Utah residents or businesses". The fiscal analysis is available on the Utah State Legislature website at https://le.utah.gov/~2017/bills/static/HB0142.html. This conclusion is supported by the fact that any impact from these amendments cannot and should not be scaled to all small businesses, as the fines never will affect the majority of small businesses who meet the new professional standards and will never be fined. In other words, the impact of the fines will never be uniformly felt across the industry. Additionally, per the Division's review a licensee sanctioned for unprofessional conduct is unlikely to be fined again in succeeding years. In short, after conducting a thorough analysis, the Division has determined that these proposed amendments will not result in a measurable fiscal impact to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Division estimates that there will be no cost or savings to other persons from these proposed amendments, which conform the rule to statutory changes by establishing fine schedules for the unprofessional conduct defined by H.B. 142 (2017). Costs or savings to other persons were included in the Legislature's consideration of H.B. 142 (2017), which determined that enactment of the legislation "likely would not result in direct, measurable expenditures by Utah residents or businesses". The fiscal analysis is available on the Utah State Legislature website at https://le.utah.gov/~2017/bills/static/HB0142.html.
Further, any impact from these fines will never be uniformly felt across the industry, and a licensee sanctioned for unprofessional conduct is unlikely to be fined again in succeeding years. In short, after conducting a thorough analysis, the Division has determined that these proposed amendments will not result in a measurable fiscal impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs to affected persons from any of these proposed changes, in keeping with the Legislature's consideration of H.B. 142 (2017). A copy of the fiscal analysis is available on the Utah State Legislature website at https://le.utah.gov/~2017/bills/static/HB0142.html.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In accordance with changes made by H.B. 142 (2017), Subsection R156-67-503(1) is to be amended to establish fine schedules for violations in administering sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency department. Costs or savings to businesses were included in the Legislature's consideration of H.B. 142, which determined that enactment of the legislation "likely would not result in direct, measurable expenditures by Utah residents or businesses". Similarly, the rule amendment will have no fiscal impact scaled to all small businesses, as the fines would only be imposed against the few violator businesses. No non-fiscal impact is anticipated by reason of the rule change.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarx@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.**
**R156-67. Utah Medical Practice Act Rule.**
**R156-67-503. Administrative Penalties.**

(1) In accordance with Subsection 58-67-503, unless otherwise ordered by the presiding officer, the following fine and citation schedule shall apply:

(a) buying, selling, aiding or abetting or fraudulently obtaining, any medical diploma, license, certificate, or registration in violation of Subsection 58-67-501(1):

First Offense: $1,000-$5,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

(b) substantially interfering with a licensee's lawful and competent practice of medicine in violation of Subsections 58-67-501(1)(c)(i) or (ii):

First Offense: $1,000-$5,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

(c) entering into a contract that limits the licensee's ability to advise the licensee's patients fully about treatment options or other issues that affect the health care of the licensee's patients in violation of Subsection 58-67-501(1)(d):

First Offense: $1,000-$5,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

(d) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule, or making a material misrepresentation regarding the qualifications for licensure in violation of Section 58-67-502:

First Offense: $1,000-$5,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

(e) administering sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency department, without first obtaining the required consent from the patient in writing, in violation of Subsection 58-67-402.5(1):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

(f) failing to report any adverse event under Section 26-1-40, with respect to the administering of sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency department, in violation of Subsection 58-67-502.5(2):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

(g) during a procedure for which sedation or anesthesia will be administered intravenously to a patient in an outpatient setting that is not an emergency department, failing to have access to an advanced cardiac life support crash cart with equipment that is regularly maintained according to guidelines established by the American Heart Association, in violation of Subsection 58-67-502.5(3):

First Offense: $5,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([e]h) prescribing for oneself any Schedule II or III controlled substance in violation of Subsection R156-67-502(1):

First Offense: $5,000-$10,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([f]i) knowingly prescribing, selling, giving away or administering, directly or indirectly, or offering to prescribe, sell, furnish, give away or administer any scheduled controlled substance as defined in Title 58, Chapter 37 to a drug dependent person, as defined in Subsection 58-37-2(1)(s) unless permitted by law and when it is prescribed, dispensed or administered according to a proper medical diagnosis and for a condition indicating the use of that controlled substance is appropriate in violation of Subsection R156-67-502(2):

First Offense:$5,000-$10,000

Second Offense:$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([g]j) knowingly engaging in billing practices which are abusive and represent charges which are grossly excessive for services rendered in violation of Subsection R156-67-502(3):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([h]k) directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered or supervised; however, nothing in this section shall preclude the legal relationships within lawful professional partnerships, corporations or associations or the relationship between an approved supervising physician and physician assistants or advanced practice nurses supervised by them in violation of Subsection R156-67-502(4):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([i]l) knowingly failing to transfer a copy of pertinent and necessary medical records or a summary thereof to another physician when requested to do so by the subject patient or by his legally designated representative in violation of Subsection R156-67-502(5):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~j~~]m) failing to furnish to the board information requested by the board which is known by a licensee with respect to the quality and adequacy of medical care rendered to patients by physicians licensed under the Medical Practice Act in violation of Subsection R156-67-502(6):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~k~~]n) failing as an operating surgeon to perform adequate pre-operative and primary post-operative care of the surgical condition for a patient in accordance with the standards and ethics of the profession or to arrange for competent primary post-operative care of the surgical condition by a licensed physician and surgeon who is equally qualified to provide that care in violation of Subsection R156-67-502(7):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~l~~]o) billing a global fee for a procedure without providing the requisite care in violation of Subsection R156-67-502(8):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~m~~]p) supervising the providing of breast screening by diagnostic mammography services or interpreting the results of breast screening by diagnostic mammography to or for the benefit of any patient without having current certification or current eligibility for certification by the American Board of Radiology in violation of Subsection R156-67-502(9):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~n~~]q) failing of a licensee without just cause to repay as agreed any loan or other repayment obligation legally incurred by the licensee to fund the licensee's education or training as a medical doctor in violation of Subsection R156-67-502(10):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~o~~]r) failing of a licensee without just cause to comply with the terms of any written agreement in which the licensee's education or training as a medical doctor is funded in consideration for the licensee's agreement to practice in a certain locality or type of locality or to comply with other conditions of practice following licensure in violation of Subsection R156-67-502(11):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~p~~]s) failing to keep the division informed of a current address and telephone number in violation of Subsection R156-67-502(13):

First Offense: $100-$500

Second Offense: $500-$3,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~q~~]t) engaging in alternate medical practice except as provided in Section R156-67-603 in violation of Subsection R156-67-502(14):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~r~~]u) violation of any provision of the American Medical Association (AMA) "Code of Medical Ethics", 2008-2009 edition, in violation of Subsection R156-67-502(15):

First Offense: $100-$5,000

Second Offense: $500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~s~~]v) failing to maintain medical records according to applicable laws, regulations, rules and code of ethics in violation of Section R156-67-602:

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~t~~]w) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any occupation or profession requiring licensure under this title in violation of Subsection 58-1-501(1):

First Offense: $5,000-$10,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~u~~]x) violating, or aiding or abetting any other person to violate, any statute, rule, or order regulating an occupation or profession under this title in violation of Subsection 58-1-501(2)(a):

First Offense: $500-$5,000

Second Offense: $1,500-10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~v~~]y) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title in violation of Subsection 58-1-501(2)(b):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~w~~]z) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license was issued or is to be issued, bears a reasonable relationship to the licensee's or

applicant's ability to safely or competently practice the occupation or profession in violation of Subsection 58-1-501(2)(c):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~x~~]aa) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401 in violation of Subsection 58-1-501(2)(d):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~y~~]bb) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the occupation or profession in violation of Subsection 58-1-501(2)(e):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~z~~]cc) practicing or attempting to practice an occupation or profession regulated under this title despite being physically or mentally unfit to do so in violation of Subsection 58-1-501(2)(f):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~aa~~]dd) practicing or attempting to practice an occupation or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence in violation of Subsection 58-1-501(2)(g):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~bb~~]ee) practicing or attempting to practice an occupation or profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent in violation of Subsection 58-1-501(2)(h):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~cc~~]ff) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's competency, abilities, or education in violation of Subsection 58-1-501(2)(i):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~dd~~]gg) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's license in violation of Subsection 58-1-501(2)(j):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~ee~~]hh) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license in violation of Subsection 58-1-501(2)(k):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~ff~~]ii) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule in violation of Subsection 58-1-501(2)(l):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~gg~~]jj) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device in violation of Subsection 58-1-501(2)(m):

First Offense: $5,000-$10,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~hh~~]kk) violating a provision of Section 58-1-501.5 in violation of Subsection 58-1-501(2)(n):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~ii~~]ll) surrendering licensure to any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession while an investigation or inquiry into allegations of unprofessional or unlawful conduct is in progress or after a charging document has been filed against the applicant or licensee alleging unprofessional or unlawful conduct in violation of Subsection R156-1-501(1):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~jj~~]mm) practicing a regulated occupation or profession in, through, or with a limited liability company which has omitted the words "limited company," "limited liability company," or the abbreviation "L.C." or "L.L.C." in the commercial use of the name of the limited liability company in violation of Subsection R156-1-501(2):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~kk~~]nn) practicing a regulated occupation or profession in, through, or with a limited partnership which has omitted the

words "limited partnership," "limited," or the abbreviation "L.P." or "Ltd" in the commercial use of the name of the limited partnership in violation of Subsection R156-1-501(3):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~ll~~]oo) practicing a regulated occupation or profession in, through, or with a professional corporation which has omitted the words "professional corporation" or the abbreviation "P.C." in the commercial use of the name of the professional corporation in violation of Subsection R156-1-501(4):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~mm~~]pp) using a DBA (doing business as name) which has not been properly registered with the Division of Corporations and with the Division of Occupational and Professional Licensing in violation of Subsection R156-1-501(5):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~nn~~]qq) failing, as a prescribing practitioner, to follow the "Model Policy for the Use of Controlled Substances for the Treatment of Pain", May 2004, established by the Federation of State Medical Boards in violation of Subsection R156-1-501(6):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~oo~~]rr) prescribing or administering to oneself any Schedule II or III controlled substance which is not lawfully prescribed by another licensed practitioner having authority to prescribe the drug in violation of Subsection R156-37-502(1)(a):

First Offense: $5000-$10,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~pp~~]ss) prescribing or administering a controlled substance for a condition he/she is not licensed or competent to treat in violation of Subsection R156-37-502(1)(b):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~qq~~]tt) violating any federal or state law relating to controlled substances in violation of Subsection R156-37-502(2):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~rr~~]uu) failing to deliver to the Division all controlled substance license certificates issued by the Division to the Division upon an action which revokes, suspends or limits the license in violation of Subsection R156-37-502(3):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~ss~~]vv) failing to maintain controls over controlled substances which would be considered by a prudent practitioner to be effective against diversion, theft, or shortage of controlled substances in violation of Subsection R156-37-502(4):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~tt~~]ww) being unable to account for shortages of controlled substances any controlled substance inventory for which the licensee has responsibility in violation of Subsection R156-37-502(5):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~uu~~]xx) knowingly prescribing, selling, giving away, or administering, directly or indirectly, or offering to prescribe, sell, furnish, give away, or administer any controlled substance to a drug dependent person, as defined in Subsection 58-37-2(1)(s), except for legitimate medical purposes as permitted by law in violation of Subsection R156-37-502(6):

First Offense: $5,000-$10,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~vv~~]yy) refusing to make available for inspection controlled substance stock, inventory, and records as required under this rule or other law regulating controlled substances and controlled substance records in violation of Subsection R156-37-502(7):

First Offense: $5,000-$10,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~ww~~]zz) violating any other provision of Section 58-37-8 "Prohibited Acts" not listed herein:

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

(2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor.

(3) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(4) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(5) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

**KEY: physicians, licensing**
**Date of Enactment or Last Substantive Amendment: [~~February 21,~~]2017**

**Notice of Continuation: February 8, 2016**
**Authorizing, and Implemented or Interpreted Law: 58-67-101; 58-1-106(1); 58-1-202(1)**

# Commerce, Occupational and Professional Licensing
# R156-68-503
# Administrative Penalties

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42224
FILED: 10/16/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing updates the Utah Osteopathic Medical Practice Act Rule's fine schedule in accordance with H.B. 142, passed during the 2017 General Session, which added to the definition of unprofessional conduct the failure to meet certain requirements regarding administration of sedation or anesthesia intravenously in an outpatient setting.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments to Section R156-68-503 carry out the mandate of H.B. 142 (2017), establishing fine schedules for violations in administering sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency department, as follows: 1) failing to obtain the required written consent from the patient, in violation of Subsection 58-68-502.5(1) (first offense $500 to $5,000, second offense $1,500 to $10,000, ongoing offense $2,000/day but not less than the second offense); 2) failing to report an adverse event under Section 26-1-40, in violation of Subsection 58-68-502.5(2) (first offense $500 to $5,000, second offense $1,500-$10,000, ongoing offense $2,000/day but not less than the second offense); and 3) failing to have access to an advanced cardiac life support crash cart with equipment regularly maintained according to AHA guidelines, in violation of Subsection 58-68-502.5(3) (first offense $5,000, second offense $10,000, ongoing offense $2,000/day but not less than the second offense).

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division of Occupational and Professional Licensing (Division) will incur minimal costs of approximately $75 to reprint the rule once the filing is made effective. Because the primary focus of these proposed rule changes as they affect the Division is to implement H.B. 142 (2017), the additional costs or savings to the Division were included in the Legislature's consideration of this bill. A copy of the fiscal analysis for H.B. 142 is available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/HB0142.html
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local governments from any of the proposed amendments. Local governments neither enforce nor will be affected by the listed violations.
♦ SMALL BUSINESSES: The Division estimates that there will be no cost or savings to small businesses from these proposed amendments, which conform the rule to statutory changes by establishing fine schedules for the unprofessional conduct defined by H.B. 142 (2017). Costs or savings to business were included in the Legislature's consideration of H.B. 142 (2017), which determined that enactment of the legislation "likely would not result in direct, measurable expenditures by Utah residents or businesses". The fiscal analysis is available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/HB0142.html. This conclusion is supported by the fact that any impact from these amendments cannot and should not be scaled to all small businesses, as the fines never will affect the majority of small businesses who meet the new professional standards and will never be fined. In other words, the impact of the fines will never be uniformly felt across the industry. Additionally, per the Division's review a licensee sanctioned for unprofessional conduct is unlikely to be fined again in succeeding years. In short, after conducting a thorough analysis, the Division has determined that these proposed amendments will not result in a measurable fiscal impact to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Division estimates that there will be no cost or savings to other persons from these proposed amendments, which conform the rule to statutory changes by establishing fine schedules for the unprofessional conduct defined by H.B. 142 (2017). Costs or savings to other persons were included in the Legislature's consideration of H.B. 142 (2017), which determined that enactment of the legislation "likely would not result in direct, measurable expenditures by Utah residents or businesses". The fiscal analysis is available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/HB0142.html. Further, any impact from these fines will never be uniformly felt across the industry, and a licensee sanctioned for unprofessional conduct is unlikely to be fined again in succeeding years. In short, after conducting a thorough analysis, the Division has determined that these proposed amendments will not result in a measurable fiscal impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs to affected persons from any of these proposed changes, in keeping with the Legislature's consideration of H.B. 142 (2017). A copy of the fiscal analysis is available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/HB0142.html.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments to Subsection R156-68-503(1) carry out the mandate of H.B. 142 (2017), establishing fine schedules for violations in administering sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency room department. There will be no cost or savings to businesses from these proposed amendments, which conform the rule to statutory changes by establishing fine schedules for the unprofessional conduct defined by H.B. 142 (2017). The Legislature's analysis of this matter determined that enactment of the legislation "likely would not result in direct, measurable expenditures by Utah residents or businesses."

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarx@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Mark Steinagel, Director

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**R156. Commerce, Occupational and Professional Licensing.**
**R156-68. Utah Osteopathic Medical Practice Act Rule.**
**R156-68-503. Administrative Penalties.**

(1) In accordance with Subsection 58-68-503, unless otherwise ordered by the presiding officer, the following fine and citation schedule shall apply:

(a) buying, selling, aiding or abetting or fraudulently obtaining, any medical diploma, license, certificate, or registration in violation of Subsection 58-68-501(1):

First Offense: $1,000-$5,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

(b) substantially interfering with a licensee's lawful and competent practice of medicine in violation of Subsections 58-68-501(1)(c)(i) or (ii):

First Offense: $1,000-$5,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

(c) entering into a contract that limits the licensee's ability to advise the licensee's patients fully about treatment options or other issues that affect the health care of the licensee's patients in violation of Subsection 58-68-501(1)(d):

First Offense: $1,000-$5,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

(d) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule, or making a material misrepresentation regarding the qualifications for licensure in violation of Section 58-68-502:

First Offense: $1,000-$5,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

(e) administering sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency department, without first obtaining the required consent from the patient in writing, in violation of Subsection 58-68-502.5(1):

First Offense: $500-$5,000

Second Offense: $1,500 - $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense.

(f) failing to report any adverse event under Section 26-1-40, with respect to the administering of sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency department, in violation of Subsection 58-68-502.5(2):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense.

(g) during a procedure for which sedation or anesthesia will be administered intravenously to a patient in an outpatient setting that is not an emergency department, failing to have access to an advanced cardiac life support crash cart with equipment that is regularly maintained according to guidelines established by the American Heart Association, in violation of Subsection 58-68-502.5(3):

First Offense: $5,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([e]h) prescribing for oneself any Schedule II or III controlled substance in violation of Subsection R156-68-502(1):

First Offense: $5,000-$10,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([f]i) knowingly prescribing, selling, giving away or administering, directly or indirectly, or offering to prescribe, sell, furnish, give away or administer any scheduled controlled substance as defined in Title 58, Chapter 37 to a drug dependent person, as defined in Subsection 58-37-2(1)(s) unless permitted by law and when it is prescribed, dispensed or administered according to a proper medical diagnosis and for a condition indicating the use of

that controlled substance is appropriate in violation of Subsection R156-68-502(2):

First Offense:$5,000-$10,000

Second Offense:$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~g~~]i) knowingly engaging in billing practices which are abusive and represent charges which are grossly excessive for services rendered in violation of Subsection R156-68-502(3):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~h~~]k) directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered or supervised; however, nothing in this section shall preclude the legal relationships within lawful professional partnerships, corporations or associations or the relationship between an approved supervising physician and physician assistants or advanced practice nurses supervised by them in violation of Subsection R156-68-502(4):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~i~~]l) knowingly failing to transfer a copy of pertinent and necessary medical records or a summary thereof to another physician when requested to do so by the subject patient or by his legally designated representative in violation of Subsection R156-68-502(5):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~j~~]m) failing to furnish to the board information requested by the board which is known by a licensee with respect to the quality and adequacy of medical care rendered to patients by physicians licensed under the Utah Osteopathic Medical Practice Act in violation of Subsection R156-68-502(6):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~k~~]n) failing as an operating surgeon to perform adequate pre-operative and primary post-operative care of the surgical condition for a patient in accordance with the standards and ethics of the profession or to arrange for competent primary post-operative care of the surgical condition by a licensed osteopathic physician and surgeon who is equally qualified to provide that care in violation of Subsection R156-68-502(7):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~l~~]o) billing a global fee for a procedure without providing the requisite care in violation of Subsection R156-68-502(8):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~m~~]p) supervising the providing of breast screening by diagnostic mammography services or interpreting the results of breast screening by diagnostic mammography to or for the benefit of any patient without having current certification or current eligibility for certification by the American Board of Radiology in violation of Subsection R156-68-502(9):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~n~~]q) failing of a licensee without just cause to repay as agreed any loan or other repayment obligation legally incurred by the licensee to fund the licensee's education or training as a medical doctor in violation of Subsection R156-68-502(10):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~o~~]r) failing of a licensee without just cause to comply with the terms of any written agreement in which the licensee's education or training as a medical doctor is funded in consideration for the licensee's agreement to practice in a certain locality or type of locality or to comply with other conditions of practice following licensure in violation of Subsection R156-68-502(11):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~p~~]s) failing to keep the division informed of a current address and telephone number in violation of Subsection 58-1-501(2)(a) and Section 58-1-301.7:

First Offense: $100-$500

Second Offense: $500-$3,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~q~~]t) engaging in alternate medical practice except as provided in Section R156-68-603 in violation of Subsection R156-68-502(13):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~r~~]u) violation of any provision of the American Medical Association (AMA) "Code of Medical Ethics", 2008-2009 edition, in violation of Subsection R156-68-502(14):

First Offense: $100-$5,000

Second Offense: $500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~s~~]v) failing to maintain medical records according to applicable laws, regulations, rules and code of ethics in violation of Section R156-68-602:

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~t~~]w) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any occupation or profession requiring licensure under this title in violation of Subsection 58-1-501(1):

First Offense: $5,000-$10,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~u~~]x) violating, or aiding or abetting any other person to violate, any statute, rule, or order regulating an occupation or profession under this title in violation of Subsection 58-1-501(2)(a):

First Offense: $500-$5,000

Second Offense: $1,500-10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~v~~]y) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title in violation of Subsection 58-1-501(2)(b):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([w]z) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license was issued or is to be issued, bears a reasonable relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession in violation of Subsection 58-1-501(2)(c):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~x~~]aa) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401 in violation of Subsection 58-1-501(2)(d):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~y~~]bb) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the occupation or profession in violation of Subsection 58-1-501(2)(e):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~z~~]cc) practicing or attempting to practice an occupation or profession regulated under this title despite being physically or mentally unfit to do so in violation of Subsection 58-1-501(2)(f):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~aa~~]dd) practicing or attempting to practice an occupation or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence in violation of Subsection 58-1-501(2)(g):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~bb~~]ee) practicing or attempting to practice an occupation or profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent in violation of Subsection 58-1-501(2)(h):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~cc~~]ff) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's competency, abilities, or education in violation of Subsection 58-1-501(2)(i):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~dd~~]gg) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's license in violation of Subsection 58-1-501(2)(j):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~ee~~]hh) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license in violation of Subsection 58-1-501(2)(k):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~ff~~]ii) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule in violation of Subsection 58-1-501(2)(l):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~gg~~]jj) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device in violation of Subsection 58-1-501(2)(m):

First Offense: $5,000-$10,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~hh~~]kk) violating a provision of Section 58-1-501.5 in violation of Subsection 58-1-501(2)(n):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~ii~~]ll) surrendering licensure to any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession while an investigation or inquiry into allegations of unprofessional or unlawful conduct is in progress or after a charging document has been filed against the applicant or licensee alleging unprofessional or unlawful conduct in violation of Subsection R156-1-501(1):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~jj~~]mm) practicing a regulated occupation or profession in, through, or with a limited liability company which has omitted the words "limited company," "limited liability company," or the abbreviation "L.C." or "L.L.C." in the commercial use of the name of the limited liability company in violation of Subsection R156-1-501(2):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~kk~~]nn) practicing a regulated occupation or profession in, through, or with a limited partnership which has omitted the words "limited partnership," "limited," or the abbreviation "L.P." or "Ltd" in the commercial use of the name of the limited partnership in violation of Subsection R156-1-501(3):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~ll~~]oo) practicing a regulated occupation or profession in, through, or with a professional corporation which has omitted the words "professional corporation" or the abbreviation "P.C." in the commercial use of the name of the professional corporation in violation of Subsection R156-1-501(4):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~mm~~]pp) using a DBA (doing business as name) which has not been properly registered with the Division of Corporations and with the Division of Occupational and Professional Licensing in violation of Subsection R156-1-501(5):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~nn~~]qq) failing, as a prescribing practitioner, to follow the "Model Policy for the Use of Controlled Substances for the Treatment of Pain", May 2004, established by the Federation of State Medical Boards in violation of Subsection R156-1-501(6):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~oo~~]rr) prescribing or administering to oneself any Schedule II or III controlled substance which is not lawfully prescribed by another licensed practitioner having authority to prescribe the drug in violation of Subsection R156-37-502(1)(a):

First Offense: $5000-$10,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~pp~~]ss) prescribing or administering a controlled substance for a condition he/she is not licensed or competent to treat in violation of Subsection R156-37-502(1)(b):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~qq~~]tt) violating any federal or state law relating to controlled substances in violation of Subsection R156-37-502(2):

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~rr~~]uu) failing to deliver to the Division all controlled substance license certificates issued by the Division to the Division upon an action which revokes, suspends or limits the license in violation of Subsection R156-37-502(3):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~ss~~]vv) failing to maintain controls over controlled substances which would be considered by a prudent practitioner to be effective against diversion, theft, or shortage of controlled substances in violation of Subsection R156-37-502(4):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~tt~~]ww) being unable to account for shortages of controlled substances any controlled substance inventory for which the licensee has responsibility in violation of Subsection R156-37-502(5):

First Offense: $1,000-$5,000

Second Offense: $5,000-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~uu~~]xx) knowingly prescribing, selling, giving away, or administering, directly or indirectly, or offering to prescribe, sell, furnish, give away, or administer any controlled substance to a drug dependent person, as defined in Subsection 58-37-2(1)(s), except for legitimate medical purposes as permitted by law in violation of Subsection R156-37-502(6):

First Offense: $5,000-$10,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~vv~~]yy) refusing to make available for inspection controlled substance stock, inventory, and records as required under this rule or other law regulating controlled substances and controlled substance records in violation of Subsection R156-37-502(7):

First Offense: $5,000-$10,000

Second Offense: $10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

([~~ww~~]zz) violating any other provision of Section 58-37-8 "Prohibited Acts" not listed herein:

First Offense: $500-$5,000

Second Offense: $1,500-$10,000

Ongoing Offense(s): $2,000 per day but not less than the second offense

(2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor.

(3) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(4) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(5) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

**KEY: osteopaths, licensing, osteopathic physician**
**Date of Enactment or Last Substantive Amendment: [~~February 21,~~] 2017**
**Notice of Continuation: February 7, 2013**
**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-68-101**

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# Commerce, Occupational and Professional Licensing
# R156-80a
## Medical Language Interpreter Act Rule

### NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42228
FILED: 10/16/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing makes changes in accordance with S.B. 74, passed during the 2017 General Session, which amended the Medical Language Interpreter Practice Act as follows: 1) expanded the exams and languages that the Division of Occupational and Professional Licensing (Division) may accept for licensing a certified medical interpreter; 2) established two tiers of certification for those who choose to obtain state certification; and 3) established a three-year renewal cycle for certification.

SUMMARY OF THE RULE OR CHANGE: In Section R156-80a-303, these proposed amendments clarify and further define the requirements for the tier 1 and tier 2 certifications, as follows: first, these amendments clarify that the written and oral exams for tier 1 and tier 2 certification must be administered or recognized by one of the two national certification organizations, as defined in Subsection 58-80a-102(4). These are either the National Board of Certification for Medical Interpreters (NBCMI), or the Certification Commission for Healthcare Interpreters (CCHI). Second, in accordance with the requirements of S.B. 74 (2017), these amendments require an applicant to apply for a tier 1 certification if the language for which they will provide medical interpreting is Arabic, Cantonese, Korean, Russian, Mandarin, Spanish, or Vietnamese. The reason for this clarification is that oral and written examinations which satisfy the requirements of Subsection 58-80a-303(1)(b), are currently available from one or both of the two national certification organizations for these seven common languages. Third, these amendments carry out the mandate of Subsection 58-80a-303(2) as enacted by S.B. 74 (2017), by requiring an applicant for tier 2 certification to: 1) attest that the language for which they are seeking certification does not have an oral examination available under Subsection 58-80a-303(1)(b); and 2) agree that if an oral examination does become available, the applicant must pass that exam and apply for tier 1 certification within six months of the exam's availability or by the end of that licensing period, whichever is later. In Section R156-80a-304, as mandated by S.B. 74 (2017), this amendment establishes a three-year licensing/renewal period for certification.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-80a-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The cost of the rule amendments was included in the Legislative Fiscal Analysis for S.B. 74 (2017). The fiscal impact to the Division was estimated in the fiscal note as a net loss of $400 in year-end transfers to the General Fund from the Commerce Service Fund. The loss is based on changing the medical language interpreter certificates from a two-year renewal to a three-year renewal. A copy of the fiscal analysis is available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/SB0074.html.
♦ LOCAL GOVERNMENTS: In Section R156-80a-303, these proposed amendments merely clarify or further define the requirements enacted by S.B. 74 (2017); accordingly, the Division estimates that they will not result in any fiscal impact to local governments over and above the impact from the underlying legislation. As a result of the expansion and standards mandated by S.B. 74 (2017) and implemented by

these proposed amendments, there may be some indirect savings to local governments employing medical language interpreters, or providing services to individuals benefitting from medical language interpreter services, due to improved patient outcomes. However, this indirect savings cannot be measured because it will vary depending on circumstances. In Section R156-80a-304, the Division estimates that these proposed amendments will not result in any fiscal impact to local governments over and above the impact from the underlying legislation. As mandated by H.B. 74 (2017), these amendments establish a three-year renewal for certification. This may result in some savings to local governments that choose to pay licensing costs for their certified employees. The fiscal note to S.B. 74 (2017) estimated that "enactment of this bill could result in 152 licensees paying $25 every three years instead of every year to renew". A copy of the fiscal analysis is available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/SB0074.html.

♦ SMALL BUSINESSES: In Section R156-80a-303, the Division estimates that these proposed amendments will not result in any fiscal impact to small businesses over and above the impact from the underlying legislation, because the amendments merely clarify or further define the requirements enacted by S.B. 74 (2017). As a result of the standards mandated by S.B. 74 (2017) and implemented by these proposed amendments, there may be some indirect savings to small businesses that use medical language interpreters, or that employ or provide services to individuals benefiting from medical language interpreter services, due to improved patient outcomes. However, this indirect savings cannot be measured because it will vary depending on circumstances. In Section R156-80a-304, the Division estimates that these proposed amendments will not result in any fiscal impact to small businesses over and above the impact from the underlying legislation. As mandated by H.B. 74 (2017), these amendments establish a three-year renewal for certification. This may result in some savings to small businesses if the business owner obtains certification, or if the business chooses to pay licensing costs for its certified employees. The fiscal note to S.B. 74 (2017) estimated that "enactment of this bill could result in 152 licensees paying $25 every three years instead of every year to renew". A copy of the fiscal analysis is available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/SB0074.html.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: In Section R156-80a-303, the Division estimates that these proposed amendments will not result in any fiscal impact to other persons over and above the impact from the underlying legislation, because the amendments merely clarify or further define the requirements enacted by S.B. 74 (2017). As a result of the standards mandated by S.B. 74 (2017) and implemented by these proposed amendments, there may be some indirect savings to other persons that use medical language interpreters, or who employ or provide services to individuals benefiting from medical language interpreter services, due to improved patient outcomes. However, this indirect savings cannot be measured because it will vary depending on circumstances. In Section R156-80a-304, the Division estimates that these proposed amendments will not result in any fiscal impact to other persons over and above the impact from the underlying legislation. As mandated by H.B. 74 (2017), these amendments establish a three-year renewal for certification. This may result in some savings to other persons who obtain certification, or who choose to pay licensing costs for their certified employees. The fiscal note to S.B. 74 (2017) estimated that "enactment of this bill could result in 152 licensees paying $25 every three years instead of every year to renew". A copy of the fiscal analysis is available from the Utah State Legislature's website at https://le.utah.gov/~2017/bills/static/SB0074.html.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments merely clarify or further define the requirements enacted by S.B. 74 (2017); accordingly, the Division estimates that they will not result in any compliance costs for affected persons over and above the impact from the underlying legislation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule filing implements statutory changes passed through S.B. 74 in the 2017 General Legislative Session, which expanded the examinations and languages the Division may accept when licensing a certified medical interpreter, established a two-tier system of certification, and established a three-year renewal cycle. No additional fiscal impact to businesses is anticipated beyond those considered in passing S.B. 74.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarx@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 11/16/2017 11:30 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 464, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.**
**R156-80a. Medical Language Interpreter Act Rule.**
**R156-80a-[~~203a~~]303. Qualifications for Certification - Examination Requirements.**

(1) In accordance with Subsection[~~s 58-1-203(1)(b), 58-1-301(3) and 58-80a-303(2)~~] 58-80a-303(1)(b)(i), an applicant for certification as either a tier 1 or tier 2 certified medical language interpreter shall provide verification that the examinations or examination passed by the applicant are administered or recognized by either:

(a) the National Board of Certification for Medical Interpreters (NBCMI); or

(b) the Certification Commission for Healthcare Interpreters (CCHI).[~~under Section 58-80a-301 shall:~~

~~(a) complete and pass the Bridging the Gap (BTG) Interpreter Training Program with a minimum passing score established by CCHCP;~~

~~(b) complete and pass pre and post test examinations administered by trainers and organizations approved pursuant to Subsection (1); and~~

~~(c) submit to the Division a certificate of completion documenting that the applicant has met the requirements in Subsections(1)(a) and (b).~~

~~(2) Trainers and organizations that administer pre and post examinations to medical language interpreter applicants shall be approved by the Cross Cultural Health Care Program (CCHCP).~~]

(2) In accordance with Subsection 58-80a-303(2), an applicant for certification shall apply for tier 1 certification if the language for which the applicant will provide medical interpreting is:

(a) Arabic;
(b) Cantonese;
(c) Korean;
(d) Russian;
(e) Mandarin;
(f) Spanish; or
(g) Vietnamese.

(3) In accordance with Subsection 58-80a-303(2), an applicant for certification as a tier 2 certified medical language interpreter shall:

(a) attest that an oral examination meeting the requirements of Subsection 58-80a-303(1)(b) is not available in the language for which the applicant seeks certification; and

(b) agree that if an oral examination meeting the requirements of Subsection 58-80a-303(1)(b) does become available, the applicant must pass that exam and apply for tier 1 certification within six months of the exam's availability or by the end of that licensing period, whichever is later.

**R156-80a-304. Renewal Cycle - Procedures.**

(1) In accordance with [~~Subsection 58-1-308(1)~~]Section 58-80a-304, the renewal date for the [~~two~~]three-year renewal cycle applicable to licensees under Title 58, Chapter 80a is established by rule in Subsection R156-1-308a([~~1~~]2).

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

**KEY: licensing, medical language interpreter, certified medical language interpreter**

**Date of Enactment or Last Substantive Amendment: [~~July 22, 2010~~]2017**
**Notice of Continuation: March 31, 2014**
**Authorizing, and Implemented or Interpreted Law: 58-80a-101; 58-1-106(1)(a); 58-1-202(1)(a)**

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# Education, Administration
# R277-419
## Pupil Accounting

### NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42226
FILED: 10/16/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-419 is amended to clarify language regarding how a local education agency (LEA) may seek a waiver from the minimum school day requirement that an LEA conduct school for at least 180 school days per year, for reasons including an LEA being required to close a school due to excessive snow or inclement weather. Language in the rule was also moved and reorganized to provide more clarity to LEAs.

SUMMARY OF THE RULE OR CHANGE: The amendments to this rule include revising definitions; rearranging text related to exceptions to the rule requirements; providing very specific reporting requirements; and providing a new section regarding a waiver from the minimum requirements of this rule due to snow, inclement weather, or other emergency school closure days.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Section 53A-1-301(3)(d) and Section 53A-1-401 and Section 53A-1-402(1)(e) and Section 53A-1-404(2) and Section 53A-3-404

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The amendments to Rule R277-419 will likely not result in a cost or savings to the state budget. The changes are procedural and apply to LEAs providing instruction to students. are procedural with the intent to better clarify those procedures for LEAs and provide greater flexibility to LEAs when providing instruction to students.
♦ LOCAL GOVERNMENTS: The amendments to Rule R277-419 will likely not result in a cost or savings to local governments. The intent of the changes to the rule are to provide clarification and flexibility for LEAs as they provide instruction to students.
♦ SMALL BUSINESSES: The amendments to Rule R277-419 will likely not result in a cost or savings to small businesses. The changes apply to LEAs and public education and do not affect small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendments to Rule R277-419 will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities. The amendments apply to LEAs and do not affect individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to Rule R277-419 will likely not result in any compliance costs for affected persons. The changes are intended to provide both flexibility and clarification to LEAs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that the amendments to this rule will not result in a fiscal impact to businesses.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

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**R277. Education, Administration.**
**R277-419. Pupil Accounting.**
**R277-419-1. Authority and Purpose.**

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53A-1-402(1)(e), which directs the Board to establish rules and standards regarding:

(i) cost-effectiveness;

(ii) school budget formats; and

(iii) financial, statistical, and student accounting requirements;

(d) Subsection 53A-1-404(2), which requires a local school board's auditing standards to include financial accounting and student accounting;

(e) Subsection 53A-1-301(3)(d), which requires the Superintendent to present to the Governor and the Legislature data on the funds allocated to LEAs; and

(f) Section 53A-3-404, which requires annual financial reports from all school districts.

(2) The purpose of this rule is to specify pupil accounting procedures used in apportioning and distributing state funds for education.

**R277-419-2. Definitions.**

(1) "Aggregate Membership" means the sum of all days in membership during a school year for eligible students enrolled in a public school.

(2) "Approved CTE course" means a course approved by the Board within the Career and Technical Education (CTE) Pathways in the eight areas of study.

(3) "Blended learning program" means a program under the direction of an LEA:

(a) where a student learns at least in part:

(i) at a supervised brick and motar location away from a student's home; and

(ii) through an online delivery; and

(b) that may include some element of student control over time, place, or path, or pace.

(4) "Brick and mortar school" means a traditional school or traditional school building.

(5) "Competency based learning program" means an education program that requires a student to acquire a competency and includes a classroom structure and operation that aid and facilitate the acquisition of specified competencies on an individual basis wherein a student is allowed to master and demonstrate competencies as fast as the student is able.

(6) "Continuing enrollment measurement" means a methodology used to establish a student's continuing membership or enrollment status for purposes of generating membership days.

(7) "Data Clearinghouse" means the electronic data collection system used by the Superintendent to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.

(8) "Distance learning program" means a program, under the direction of an LEA, in which students receive educational services in a location other than a brick and mortar school, and may include educational services delivered over the internet.

(9) "Early graduation student" means a student who has an early graduation student education plan as described in Rule R277-703.

[~~(10) "Electronic High School" means a rigorous program offering 9-12 grade level courses delivered over the Internet and coordinated by the Superintendent.~~

~~~~~~~~]([~~11~~]10) "Eligible student" means a student who satisfies the criteria for enrollment in an LEA, set forth in Subsection R277-419-5.

([~~12~~]11) "Enrollment verification data" includes:

(a) a student's birth certificate or other verification of age;

(b) verification of immunization or exemption from immunization form;

(c) proof of Utah public school residency;

(d) family income verification; or
~~~~~~~~

(e) special education program information, including:

(i) an individualized education program;

(ii) a Section 504 accommodation plan; or

(iii) an English learner plan.

([~~13~~]12) "Face-to-face learning program" means a program within an LEA that consists of eligible, enrolled public school students who physically attend school in a brick and mortar school.

([~~14~~]13)(a) "Home school" means the formal instruction of children in their homes instead of in an LEA.

(b) The differences between a home school student and an online student include:

([~~a~~]i) an online student may receive instruction at home, but the student is enrolled in a public school that follows state Core Standards;

([~~b~~]ii) an online student is:

([~~i~~]A) subject to laws and rules governing state and federal mandated tests; and

([~~ii~~]B) included in accountability measures;

([~~c~~]iii) an online student receives instruction under the direction of a highly qualified, licensed teacher[~~s~~] who [~~are~~]is subject to the licensure requirements of [~~Rule~~] R277-502 and fingerprint and background checks consistent with [~~Rules~~] R277-516 and R277-520;

([~~d~~]iv) instruction delivered in a home school course is not eligible to be claimed in membership of an LEA and does not qualify for funding under the Minimum School Program in Title 53A, Chapter 17a, Minimum School Program Act.

([~~15~~]14) "Home school course" means instruction:

(a) delivered in a home school environment where the curriculum and instruction methods, evaluation of student progress or mastery, and reporting, are provided or administered by the parent, guardian, custodian, or other group of individuals; and

(b) not supervised or directed by an LEA.

([~~16~~]15)(a) "Influenza pandemic" or "pandemic" means a global outbreak of serious illness in people.

(b) [~~It~~]"Influenza pandemic" or "pandemic" may be caused by a strain of influenza that most people have no natural immunity to and that is easily spread from person to person.

([~~17~~]16) "ISI-1" means a student who receives 1 to 59 minutes of YIC related services during a typical school day.

([~~18~~]17) "ISI-2" means a student who receives 60 to 179 minutes of YIC related services during a typical school day.

([~~19~~]18)(a) "Membership" means a public school student is on the current roll of a public school class or public school as of a given date[~~:~~].

([~~a~~]b) A student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official removal from the class or school due to the student having left the school.

([~~b~~]c) Removal from the roll does not mean that an LEA should delete the student's record, only that the student should no longer be counted in membership.

([~~20~~]19) "Minimum School Program" means the same as that term is defined in Section 53A-17a-103.

([~~21~~]20) "Nontraditional Program" means a program within an LEA that consists of eligible, enrolled public school students where the student receives instruction through a:

(a) distance learning program;

(b) online learning program;

(c) blended learning program; or

(d) competency based learning program.

([~~22~~]21) "Online learning program" means a program:

(a) that is under the direction of an LEA; and

(b) in which students receive educational services primarily over the internet.

([~~23~~]22) "Private school" means an educational institution that:

(a) is not an LEA;

(b) is owned or operated by a private person, firm, association, organization, or corporation; and

(c) is not subject to governance by the Board consistent with the Utah Constitution.

([~~24~~]23) "Program" means a course of instruction within a school that is designed to accomplish a predetermined curricular objective or set of objectives.

([~~25~~]24) "Resource" means a student who receives 1 to 179 minutes of special education services during a typical school day consistent with the student's IEP provided for under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq., amended in 2004.

([~~26~~]25) "Qualifying school age" means:

(a) a person who is at least five years old and no more than 18 years old on or before September 1;

(b) with respect to special education, a person who is at least three years old and no more than 21 years old on or before September 1;

([~~3~~]c) with respect to YIC, a person who is at least five years old and no more than 21 years old on or before September 1.

([~~27~~]26) "Retained senior" means a student beyond the general compulsory school age who is authorized at the discretion of an LEA to remain in enrollment as a high school senior in the year(s) after the student's cohort has graduated due to:

(a) sickness;

(b) hospitalization;

(c) pending court investigation or action; or

(d) other extenuating circumstances beyond the control of the student.

([~~28~~]27) "S1" means the record maintained by the Superintendent containing individual student demographic and school membership data in a Data Clearinghouse file.

([~~29~~]28) "S2" means the record maintained by the Superintendent containing individual student data related to participation in a special education program in a Data Clearinghouse file.

([~~30~~]29) "S3" means the record maintained by the Superintendent containing individual student data related to participation in a YIC program in a Data Clearinghouse file.

([~~31~~]30) "School" means an educational entity governed by an LEA that:

(a) is supported with public funds;

(b) includes enrolled or prospectively enrolled full-time students;

(c) employs licensed educators as instructors that provide instruction consistent with Section R277-502[~~-5~~];

(d) has one or more assigned administrators;

(e) is accredited consistent with Section R277-410-3; and

(f) administers required statewide assessments to the school's students.

([~~32~~]31) "School day" means[~~:~~

~~(a)~~] a minimum of two hours per day per session in kindergarten and a minimum of four hours per day in grades one through twelve, subject to the [~~following constraints~~]requirements described in S[~~ubs~~]ection [~~(32)(b)~~]R277-419-4.

~~[(b)(i) All school day calculations shall exclude lunch periods and pass time between classes but may include recess periods that include organization or instruction from school staff.~~

~~(ii) Each day that satisfies hourly instruction time shall count as a school day, regardless of the number or length of class periods or whether or not particular classes meet.~~

~~]~~([~~33~~]32) "School membership" means membership other than in a special education or YIC program in the context of the Data Clearinghouse.

([~~34~~]33) "School of enrollment" means:

(a) a student's school of record; and

(b) the school that maintains the student's cumulative file, enrollment information, and transcript for purposes of high school graduation.

([~~35~~]34) "School year" means the 12 month period from July 1 through June 30.

([~~36~~]35) "Self-contained" means a public school student with an IEP or YIC, who receives 180 minutes or more of special education or YIC related services during a typical school day.

([~~37~~]36) "Self-Contained Resource Attendance Management (SCRAM)" means a record that tracks the aggregate membership of public school special education students for state funding purposes.

([~~38~~]37) "SSID" means Statewide Student Identifier.

([~~39~~]38) "Unexcused absence" means an absence charged to a student when:

(a) the student was not physically present at school at any of the times attendance checks were made in accordance with Subsection R277-419-[~~4(8)~~]6(3); and

(b) the student's absence could not be accounted for by evidence of a legitimate or valid excuse in accordance with local board policy on truancy as defined in Section 53A-11-101.

([~~40~~]39) "Year end upload" means the Data Clearinghouse file due annually by July 15 from LEAs to the Superintendent for the prior school year.

([~~41~~]40) "Youth in [~~C~~]custody (YIC)" means a person under the age of 21 who is:

(a) in the custody of the Department of Human Services;

(b) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or

(c) being held in a juvenile detention facility.

**R277-419-3. Schools and Programs.**

(1)(a) The Superintendent shall provide a list to each school detailing the required accountability reports and other state-mandated reports for the school type and grade range.

(b) All schools shall submit a Clearinghouse report to the Superintendent.

(c) All schools shall employ at least one licensed educator and one administrator.

(2)(a) A student who is enrolled in a program is considered a member of a public school.

(b) The Superintendent may not require programs to receive separate accountability and other state-mandated reports.

(c) A student reported under an LEA's program shall be included in the LEA's WPU and student enrollment calculations of the LEA's school of enrollment.

(d) A course taught at a program shall be credited to the appropriate school of enrollment.

(3) A private school or program may not be required to submit data to the Superintendent.

(4) A private school or program may not receive annual accountability reports.

**R277-419-4. Minimum School Days[~~, LEA Records, and Audits~~].**

(1)(a) Except as provided in Subsection (1)(b) and Subsection 53A-17a-103(7), an LEA shall conduct school for at least 990 instructional hours [~~and~~]over a minimum of 180 school days each school year.

(b) an LEA may seek an exception to the number of school days described in Subsection (1)(a):

(i) except as provided in Subsection (1)(b)(ii), for a whole school or LEA as described in R277-121;

(ii) for a school closure due to snow, inclement weather, or other emergency as described in R277-419-12; or

(iii) for an individual student [~~or school~~] as [~~provided for~~]described in Section R277-419-11.

(2)(a) An LEA may offer the required school days and hours described in Subsection (1)(a) at any time during the school year, consistent with the law.

(b) All school day calculations shall exclude lunch periods and pass time between classes but may include recess periods that include organization or instruction from school staff.

(c) Each school day that satisfies the minimum hourly instruction time described in R277-419-2(31), shall count as a school day, regardless of the number or length of class periods or whether or not particular classes meet.

(3)(a) An LEA shall plan for emergency, activity, and weather-related exigency time in its annual calendaring.

(b) If school is closed for any reason, the school shall make up the instructional time missed under the emergency or activity time as part of the minimum required time to qualify for full Minimum School Program funding.

~~[(3)(a) The Board may waive the school day and hour requirement, following a vote of Board members, pursuant to a directive from the Utah State Health Department or a local health department, that results in the closure of a school in the event of a pandemic or other public health emergency.~~

~~(b) In the event that the Board is unable to meet in a timely manner, the Superintendent may issue a waiver following consultation with a majority of Board members.~~

~~(c) A waiver may be for a designated time period, for a specific area, or for a specific LEA in the state, as determined by the health department directive.~~

~~(d) A waiver may allow an LEA to continue to receive state funds for pupil services and reimbursements.~~

~~(c) A waiver by the Board or Superintendent shall direct an LEA to provide as much notice to students and parents of the suspension of school services, as is reasonably possible.~~

~~(f) A waiver shall direct an LEA to comply with health department directives, but to continue to provide any services to students that are not inconsistent with the directive.~~

~~(g) The Board may encourage an LEA to provide electronic or distance learning services to affected students for the period of the pandemic or other public health emergency to the extent of personnel and funds available.~~]

(4) Minimum standards apply to all public schools in all settings unless Utah law or this rule provides for a specific exception.

(5) An LEA's governing board [~~is encouraged to~~]shall provide adequate contingency school days and hours in the LEA's yearly calendar to avoid the necessity of requesting a waiver [~~request~~] except in the most extreme circumstances.

[~~(6) To determine student membership, an LEA shall ensure that records of daily student attendance are maintained in each school which clearly and accurately show for each student the:~~

~~(a) entry date;~~

~~(b) exit date;~~

~~(c) exit or high school completion status;~~

~~(d) whether or not an absence was excused;~~

~~(e) disability status (resource or self-contained, if applicable); and~~

~~(f) YIC status (ISI-1, ISI-2 or self-contained, if applicable).~~

~~(7) An LEA shall ensure that:~~

~~(a) computerized or manually produced records for CTE programs are kept by teacher, class, and Classification of Instructional Program (CIP) code; and~~

~~(b) the records described in Subsection (7)(a) clearly and accurately show for each student in a CTE class the:~~

~~(i) entry date;~~

~~(ii) exit date; and~~

~~(iii) excused or unexcused status of absence.~~

~~(8) An LEA shall ensure that each school within the LEA completes a minimum of one attendance check each school day.~~

~~(9) Due to school activities requiring schedule and program modification during the first days and last days of the school year:~~

~~(a) for the first five school days, an LEA may report aggregate days of membership equal to the number recorded for the second five-day period of the school year;~~

~~(b) for the last five-day period, an LEA may report aggregate days of membership equal to the number recorded for the immediately preceding five-day period; and~~

~~(c) schools shall continue instructional activities throughout required calendared instruction days.~~

~~(10) An LEA shall employ an independent auditor, under contract, to:~~

~~(a) annually audit student accounting records; and~~

~~(b) report the findings of the audit to:~~

~~(i) the LEA board; and~~

~~(ii) the Finance and Statistics Section of the Board.~~

~~(11) Reporting dates, forms, and procedures are found in the State of Utah Legal Compliance Audit Guide, provided to LEAs by the Superintendent in cooperation with the State Auditor's Office and published under the heading of APP C-5.~~

~~(12) The Superintendent:~~

~~(a) shall review each LEA's student membership and fall enrollment audits as they relate to the allocation of state funds in accordance with the policies and procedures established in Sections R277-484-7 and 8; and~~

~~(b) may periodically or for cause review LEA records and practices for compliance with the laws and this rule.~~]

(6)(a) In addition to the allowance to use up to 32 instructional hours or four school days for professional learning described in Subsection 53A-17a-103(7), to provide planning and professional development time for staff, an LEA may hold school longer some days of the week and shorter other days so long as minimum school day requirements, as provided for in this R277-419-4 and Subsection R277-419-2(32), are satisfied.

(b) A school may conduct parent-teacher and student Plan for College and Career Readiness conferences during the school day.

(c) Parent-teacher and college and career readiness conferences may only be held for a total of the equivalent of three full school days or a maximum of 16.5 hours for the school year.

(d) Student membership for professional development or parent-teacher conference days shall be counted as that of the previous school day.

(e) An LEA may designate no more than a total of 12 instructional days at the beginning of the school year, at the end of the school year, or both for the assessment of students entering or completing kindergarten.

(f) If instruction days are designated for kindergarten assessment:

(i) an LEA shall designate the days in an open meeting;

(ii) an LEA shall provide adequate notice and explanation to kindergarten parents well in advance of the assessment period;

(iii) qualified school employees shall conduct the assessment consistent with Section 53A-3-410; and

(iv) assessment time per student shall be adequate to justify the forfeited instruction time.

(g) The final decision and approval regarding planning time, parent-teacher and SEP conferences rests with an LEA, consistent with Utah law and Board administrative rules.

(h) Total instructional time and school calendars shall be approved by an LEA in an open meeting.

**R277-419-5. Student Membership Eligibility and Continuing Enrollment Measurements.**

(1) A student may enroll in two or more LEAs at the discretion of the LEAs.

(2) A kindergarten student may only enroll in one LEA at a time.

(3) In order to generate membership for funding through the Minimum School Program for any clock hour of instruction on any school day, an LEA shall ensure that a student being counted by the LEA in membership:

(a) has not previously earned a basic high school diploma or certificate of completion;

(b) has not been enrolled in a YIC program with a YIC time code other than ISI-1 or ISI-2;

(c) does not have unexcused absences, which are determined using one of the continuing enrollment measurements described in Subsection (4);

(d) is a resident of Utah as defined under Sections 53A-2-201 through 213;

(e) is of qualifying school age or is a retained senior;

(f)(i) is expected to attend a regular learning facility operated or recognized by an LEA on each regularly scheduled school day, if enrolled in a face-to-face learning program;

(ii) has direct instructional contact with a licensed educator provided by an LEA at:

(A) an LEA-sponsored center for tutorial assistance; or

(B) the student's place of residence or convalescence for at least 120 minutes each week during an expected period of absence, if physically excused from such a facility for an extended period of time, due to:

(I) injury;

(II) illness;

(III) surgery;

(IV) suspension;

(V) pregnancy;

(VI) pending court investigation or action; or

(VII) an LEA determination that home instruction is necessary;

(iii) is enrolled in an approved CTE course(s) on the campus of another state funded institution where such a course is:

(A) not offered at the student's school of membership;

(B) being used to meet Board-approved CTE graduation requirements under Subsection R277-700-6(14); and

(C) a course consistent with the student's SEOP/Plan for College and Career Readiness; or

(iv) is enrolled in a nontraditional program under the direction of an LEA[~~, other than the Utah Electronic High School,~~] that:

(A) is consistent with the student's SEOP/Plan for College and Career Readiness;

(B) has been approved by the student's counselor; and

(C) includes regular instruction or facilitation by a designated employee of an LEA.

(4) An LEA shall use one of the following continuing enrollment measures:

(a) For a student primarily enrolled in a face-to-face learning program, the LEA may not count a student as an eligible student if the eligible student has unexcused absences during all of the prior ten consecutive school days.

(b) For a student enrolled in a nontraditional program, an LEA shall:

(i) adopt a written policy that designates a continuing enrollment measurement to document the continuing membership or enrollment status for each student enrolled in the nontraditional program consistent with Subsection (3)(c);

(ii) document each student's continued enrollment status in compliance with the continuing enrollment policy at least once every ten consecutive school days; and

(iii) appropriately adjust and update student membership records in the student information system for students that did not meet the continuing enrollment measurement, consistent with Subsection (3)(c).

(5) The continuing enrollment measurement described in Subsection (4)(b) may include some or all of the following components, in addition to other components, as determined by an LEA:

(a) a minimum student login or teacher contact requirement;

(b) required periodic contact with a licensed educator;

(c) a minimum hourly requirement, per day or week, when students are engaged in course work; or

(d) required timelines for a student to provide or demonstrate completed assignments, coursework or progress toward academic goals.

(6) For a student enrolled in both face-to-face and nontraditional programs, an LEA shall measure a student's continuing enrollment status using the methodology for the program in which the student earns the majority of their membership days.

(7)(a) An LEA desiring to generate membership for student enrollment in courses outlined in Subsection (3)(f)(iii), or to seek a waiver from a requirement(s) in Subsection (3)(f)(iii), shall submit an application for course approval by April 1 of the year prior to which the membership will be counted.

(b) An LEA shall be notified within 30 days of the application deadline if courses have been approved.

**R277-419-6. Student Membership Calculations.**

(1)(a) Except as provided in Subsection (1)(b) or (1)(c), a student enrolled in only one LEA during a school year is eligible for no more than 180 days of regular membership per school year.

(b) An early graduation student may be counted for more than 180 days of regular membership in accordance with the student's early graduation student education plan.

(c) A student transferring within an LEA to or from a year-round school is eligible for no more than 205 days of regular membership per school year.

(2)(a) Except as provided in Subsection (2)(b), (2)(c), or (2)(d), a student enrolled in two or more LEAs during a school year is eligible for no more than 180 days of regular membership per school year.

(b) A student transferring to or from an LEA with a schedule approved under Subsection R277-419-4(1)(b) is eligible for no more than 220 days of regular membership per school year.

(c) A student transferring to or from an LEA where the student attended or will attend a year-round school is eligible for no more than 205 days of regular membership per school year.

(d) If the exceptions in Subsections (2)(b) and (2)(c) do not apply but a student transfers from one LEA to another at least one time during the school year, the student is eligible for regular membership in an amount not to exceed the sum of:

(i) 170 days; plus

(ii) 10 days multiplied by the number of LEAs the student attended during the school year.

(3) If a student is enrolled in two or more LEAs during a school year and the aggregate regular membership generated for the student between all LEAs exceeds the amount allowed under Subsection (2), the Superintendent shall apportion the days of regular membership allowed between the LEAs.

(4) If a student was enrolled for only part of the school day or only part of the school year, an LEA shall prorate the

student's membership according to the number of hours, periods or credits for which the student actually was enrolled in relation to the number of hours, periods or credits for which a full-time student normally would have been enrolled. For example:

(a) If the student was enrolled for 4 periods each day in a 7 period school day for all 180 school days, the student's aggregate membership would be 4/7 of 180 days or 103 days.

(b) If the student was enrolled for 7 periods each day in a 7 period school day for 103 school days, the student's membership would also be 103 days.

(5) For students in grades 2 through 12, an LEA shall calculate the days in membership using a method equivalent to the following: total clock hours of instruction for which the student was enrolled during the school year divided by 990 hours and then multiplied by 180 days and finally rounded up to the nearest whole day. For example, if a student was enrolled for only 900 hours during the school year, the student's aggregate membership would be (900/990)*180, and the LEA would report 164 days.

(6) For students in grade 1, an LEA shall adjust the first term of the formula to use 810 hours as the denominator.

(7) For students in kindergarten, an LEA shall adjust the first term of the formula to use 450 hours as the denominator.

(8) The sum of regular plus self-contained special education and self-contained YIC membership days may not exceed 180 days.

(9) The sum of regular and resource special education membership days may not exceed 360 days.

(10) The sum of regular, ISI-1 and ISI-2 YIC membership days may not exceed 360 days.

(11) An LEA may also count a student in membership for the equivalent in hours of up to:

(a) one period each school day, if the student has been:

(i) released by the school, upon a parent or guardian's request, during the school day for religious instruction or individual learning activity consistent with the student's SEOP/Plan for College and Career Readiness; or

(ii) participating in one or more extracurricular activities under Rule R277-438, but has otherwise been exempted from school attendance under Section 53A-11-102 for home schooling;

(b) two periods each school day per student for time spent in bus travel during the regular school day to and from another state-funded institution, if the student is enrolled in CTE instruction consistent with the student's SEOP/Plan for College and Career Readiness;

(c) all periods each school day, if the student is enrolled in:

(i) a concurrent enrollment program that satisfies all the criteria of Rule R277-713;

(ii) a private school without religious affiliation under a contract initiated by an LEA to provide special education services which directs that the instruction be paid by public funds if the contract with the private school is approved by an LEA board in an open meeting;

(iii) a foreign exchange student program under Subsection 53A-2-206(8); or

[~~(iv) Electronic High School courses for credit which meet curriculum requirements, consistent with the student's SEOP/Plan for College and Career Readiness and following written school counselor approval; or~~]

(iv) a school operated by an LEA under a Utah Schools for the Deaf and the Blind IEP provided that:

(A) the student may only be counted in S1 membership and may not have an S2 record; and

(B) the S2 record for the student is submitted by the Utah Schools for the Deaf and the Blind.

**R277-419-7. Calculations for a First Year Charter School.**

(1) For the first operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on October 1 counts.

(2) For the second operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on Section 53A-17a-106.

**R277-419-8. Reporting Requirements, LEA Records, and Audits.**

(1) An LEA shall report aggregate membership for each student via the School Membership field in the S1 record and special education membership in the SCRAM Membership field in the S2 record and YIC membership in the S3 record of the Year End upload of the Data Clearinghouse file.

(2) In the Data Clearinghouse, aggregate membership is calculated in days of membership.

(3) To determine student membership, an LEA shall ensure that records of daily student attendance are maintained in each school which clearly and accurately show for each student the:

(a) entry date;

(b) exit date;

(c) exit or high school completion status;

(d) whether or not an absence was excused;

(e) disability status (resource or self-contained, if applicable); and

(f) YIC status (ISI-1, ISI-2 or self-contained, if applicable).

(4) An LEA shall ensure that:

(a) computerized or manually produced records for CTE programs are kept by teacher, class, and classification of instructional program (CIP) code; and

(b) the records described in Subsection (4)(a) clearly and accurately show for each student in a CTE class the:

(i) entry date;

(ii) exit date; and

(iii) excused or unexcused status of absence.

(5) An LEA shall ensure that each school within the LEA completes a minimum of one attendance check each school day.

(6) Due to school activities requiring schedule and program modification during the first days and last days of the school year:

(a) for the first five school days, an LEA may report aggregate days of membership equal to the number recorded for the second five-day period of the school year;

(b) for the last five-day period, an LEA may report aggregate days of membership equal to the number recorded for the immediately preceding five-day period; and

(c) schools shall continue instructional activities throughout required calendared instruction days.

(7) An LEA shall employ an independent auditor, under contract, to:

(a) annually audit student accounting records; and
(b) report the findings of the audit to:
(i) the LEA board; and
(ii) the Financial Operations Section of the Board.
(8) Reporting dates, forms, and procedures are found in the State of Utah Legal Compliance Audit Guide, provided to LEAs by the Superintendent in cooperation with the State Auditor's Office.
(9) The Superintendent:
(a) shall review each LEA's student membership and fall enrollment audits as they relate to the allocation of state funds in accordance with the policies and procedures established in Sections R277-484-7 and 8; and
(b) may periodically or for cause review LEA records and practices for compliance with the laws and this rule.

**R277-419-9. High School Completion Status.**

(1) An LEA shall account for the final status of all students who enter high school (grades 9-12) whether they graduate or leave high school for other reasons, using the following decision rules to indicate the high school completion or exit status of each student who leaves the Utah public education system:

(a) graduates are students who earn a basic high school diploma by satisfying one of the options consistent with Subsection R277-705-4(2) or out-of-school youths of school age who complete adult education secondary diploma requirements consistent with R277-733;

(b) completers are students who have not satisfied Utah's requirements for graduation but who:

(i) are in membership in twelfth grade on the last day of the school year; and

(ii)(A) meet any additional criteria established by an LEA consistent with its authority under Section R277-705-4;

(B) meet any criteria established for special education students under Utah State Board of Education Special Education Rules, Revised, June 2016, and available at: http://www.schools.utah.gov/sars/Laws.aspx and the Utah State Board of Education;

(C) meet any criteria established for special education students under Subsection R277-700-8(5); or

(D) pass a General Educational Development (GED) test with a designated score;

(c) continuing students are students who:

(i) transfer to higher education, without first obtaining a diploma;

(ii) transfer to the Utah Center for Assistive Technology without first obtaining a diploma; or

(iii) age out of special education;

(d) dropouts are students who:

(i) leave school with no legitimate reason for departure or absence;

(ii) withdraw due to a situation so serious that educational services cannot be continued even under the conditions of Subsection R277-419-5(3)(f)(ii);

(iii) are expelled and do not re-enroll in another public education institution; or

(iv) transfer to adult education;

(e) an LEA shall exclude a student from the cohort calculation if the student:

(i) transfers out of state, out of the country, to a private school, or to home schooling;

(ii) is a U.S. citizen who enrolls in another country as a foreign exchange student;

(iii) is a non-U.S. citizen who enrolls in a Utah public school as a foreign exchange student under Section 53A-2-206 in which case the student shall be identified by resident status (J for those with a J-1 visa, F for all others), not by an exit code;

(iv) dies; or

(v) beginning with the 2015-2016 school year, is attending an LEA that is not the student's school of enrollment.

(2)(a) An LEA shall report the high school completion status or exit code of each student to the Superintendent as specified in Data Clearinghouse documentation.

(b) High School completion status or exit codes for each student are due to the Superintendent by year end upload for processing and auditing.

(c) Except as provided in Subsection (2)(d), an LEA shall submit any further updates of completion status or exit codes by October 1 following the end of a student's graduating cohort pursuant to Section R277-484-3.

(d) An LEA with an alternative school year schedule where all of the students have an extended break in a season other than summer, shall submit the LEA's data by the next complete data submission update, following the LEA's extended break, as defined in Section R277-484-3.

(3)(a) The Superintendent shall report a graduation rate for each school, LEA, and the state.

(b) The Superintendent shall calculate the graduation rates in accordance with applicable federal law.

(c) The Superintendent shall include a student in a school's graduation rate if:

(i) the school was the last school the student attended before the student's expected graduation date; and

(ii) the student does not meet any exclusion rules as stated in Subsection (1)(e).

(d) The last school a student attended will be determined by the student's exit dates as reported to the Data Clearinghouse.

(e) A student's graduation status will be attributed to the school attended in their final cohort year.

(f) If a student attended two or more schools during the student's final cohort year, a tie-breaking logic to select the single school will be used in the following hierarchical order of sequence:

(i) school with an attached graduation status for the final cohort year;

(ii) school with the latest exit date;

(iii) school with the earliest entry date;

(iv) school with the highest total membership;

(v) school of choice;

(vi) school with highest attendance; or

(vii) school with highest cumulative GPA.

(g) The Superintendent shall report the four-year cohort rate on the annual state reports.

**R277-419-10. Student Identification and Tracking.**

(1)(a) Pursuant to Section 53A-1-603.5, an LEA shall:

(i) use the SSID system maintained by the Superintendent to assign every student enrolled in a program under the direction of

the Board or in a program or a school that is supported by public school funding a unique student identifier; and

(ii) display the SSID on student transcripts exchanged with LEAs and Utah public institutions of higher education.

(b) The unique student identifier:

(i) shall be assigned to a student upon enrollment into a public school program or a public school-funded program;

(ii) may not be the student's social security number or contain any personally identifiable information about the student.

(2) An LEA shall require all students to provide their legal first, middle, and last names at the time of registration to ensure that the correct SSID follows students who transfer among LEAs.

(a) A school shall transcribe the names from the student's birth certificate or other reliable proof of the student's identity and age, consistent with Section 53A-11-503;

(b) The direct transcription of student names from birth certificates or other reliable proof of student identity and age shall be the student's legal name for purposes of maintaining school records; and

(c) An LEA may modify the order of student names, provide for nicknames, or allow for different surnames, consistent with court documents or parent preferences, so long as legal names are maintained on student records and used in transmitting student information to the Superintendent.

(3) The Superintendent and LEAs shall track students and maintain data using students' legal names.

(4) If there is a compelling need to protect a student by using an alias, an LEA should exercise discretion in recording the name of the student.

(5) An LEA is responsible to verify the accuracy and validity of enrollment verification data, prior to enrolling students in the LEA, and provide students and their parents with notification of enrollment in a public school.

(6) An LEA shall ensure enrollment verification data is collected, transmitted, and stored consistent with sound data policies, established by the LEA as required in Rule R277-487.

**R277-419-11. [~~Variances~~]Exceptions.**

(1)(a) An LEA may, at its discretion, make an exception for school attendance for a public school student, in the length of the school day or year, for a student with compelling circumstances.

(b) The time an excepted student is required to attend school shall be established by the student's IEP or [~~SEOP/~~]Plan for College and Career Readiness.

[~~(2)(a) An LEA shall plan for emergency, activity, and weather-related exigency time in its annual calendaring.~~

~~(b) If school is closed for any reason, the school shall make up the instructional time missed under the emergency/activity time as part of the minimum required time to qualify for full Minimum School Program funding.~~

~~(3)(a) To provide planning and professional development time for staff, an LEA may hold school longer some days of the week and shorter other days so long as minimum school day requirements, as provided for in Subsection R277-419-2(32), are satisfied.~~

~~(b) A school may conduct parent-teacher and Student Education Plan (SEP) conferences during the school day.~~

~~(c) Parent-teacher and SEP conferences may only be held for a total of the equivalent of three full school days or a maximum of 16.5 hours for the school year.~~

~~(d) Student membership for professional development or parent-teacher conference days shall be counted as that of the previous school day.~~

~~(e) An LEA may designate no more than 12 instructional days at the beginning of the school year, at the end of the school year, or both for the assessment of students entering or completing kindergarten.~~

~~(f) If instruction days are designated for kindergarten assessment:~~

~~(i) an LEA shall designate the days in an open meeting;~~

~~(ii) an LEA shall provide adequate notice and explanation to kindergarten parents well in advance of the assessment period;~~

~~(iii) qualified school employees shall conduct the assessment consistent with Section 53A-3-410; and~~

~~(iv) assessment time per student shall be adequate to justify the forfeited instruction time.~~

~~(g) The final decision and approval regarding planning time, parent-teacher and SEP conferences rests with an LEA, consistent with Utah law and Board administrative rules.~~

~~(h) Total instructional time and school calendars shall be approved by an LEA in an open meeting.~~]

([~~4~~]2) A school using a modified 45-day/15-day year round schedule initiated prior to July 1, 1995 shall be considered to be in compliance with this rule if the school's schedule includes a minimum of 990 hours of instruction time in a minimum of 172 days.

**R277-419-12. Snow, Inclement Weather, or Other Emergency School Closure Days.**

(1) An LEA may seek a waiver directly from the Superintendent from the 180 day requirement described in Subsection R277-419-4(1) if:

(a) the LEA closes a school for one school day due to excessive snow, inclement weather, or an other emergency; and

(b) the school closure will result in the LEA not meeting the 180 day requirement described in Section R277-419-4.

(2) The Superintendent may grant up to one waiver, per school year, per school, for the school to close due to excessive snow, inclement weather, or other emergency without Board approval if the LEA has provided adequate contingency school days and hours into the LEA's calendar to avoid the necessity of requesting a waiver as required in Subsection R277-419-4(5).

(3) If the Superintendent denies an LEA's request described in Subsection (1), the LEA may appeal the Superintendent's decision by making the request of the full Board.

(4) If an LEA seeks a waiver for two or more school days due to excessive snow, inclement weather, or other emergency, the LEA shall seek the waiver pursuant to the procedures described in R277-121.

(5)(a) An LEA may request the Board to waive the school day and hour requirement pursuant to a directive from the Utah State Health Department or a local health department, that results in the closure of a school in the event of a pandemic or other public health emergency.

(b) A waiver described in this Subsection (5) may be for a designated time period, for a specific area, or for a specific LEA in the state, as determined by the health department directive.

(c) A waiver may allow an LEA to continue to receive state funds for pupil services and reimbursements.

(d) A waiver granted by the Board or Superintendent as described in this Subsection (5) shall direct an LEA to provide as much notice to students and parents of the suspension of school services, as is reasonably possible.

(e) A waiver granted shall direct an LEA to comply with health department directives, but to continue to provide any services to students that are not inconsistent with the directive.

(f) The Board may encourage an LEA to provide electronic or distance learning services to affected students for the period of the pandemic or other public health emergency to the extent of personnel and funds available.

**KEY: education finance, school enrollment, pupil accounting**
**Date of Enactment or Last Substantive Amendment: [~~October 11, 2016~~]2017**
**Notice of Continuation: August 14, 2017**
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401; 53A-17a-103(7); 53A-1-402(1)(e); 53A-1-404(2); 53A-1-301(3)(d); 53A-3-404[~~; 53A-3-410~~]**

# Environmental Quality, Waste Management and Radiation Control, Radiation
# R313-25
# License Requirements for Land Disposal of Radioactive Waste – General Provisions

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42204
FILED: 10/12/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2015 General Session, the Legislature passed S.B. 173 that affected portions of Rule R313-25. However, rulemaking was deferred because the Nuclear Regulatory Commission (NRC) determined that certain provisions of S.B. 173 were incompatible with federal law. These incompatibility issues were not finally resolved until 2017. During the 2017 General Session, the Legislature passed S.B. 79, Waste Management Amendments, which requires the Waste Management and Radiation Control Board to: i) modify financial assurance requirements for the closure and post-closure care of a radioactive waste disposal facility; and ii) to make conforming and clarifying amendments as to "facility" definitions adopted in S.B. 79.

SUMMARY OF THE RULE OR CHANGE: During the 2015 General Session, the Legislature passed S.B. 173 that affected portions of Rule R313-25. However, rulemaking was deferred because the Nuclear Regulatory Commission (NRC) determined that certain provisions of S.B. 173 were incompatible with federal law. These incompatibility issues were not finally resolved until 2017. During the 2017 General Session, the Legislature passed and the governor signed S.B. 79 which requires the Board to promulgate rules regarding financial assurance requirements for the closure and post closure care of a low-level radioactive waste disposal facility. S.B. 79 also modified certain facility definitions, triggering the need for conforming amendments in the rules. The current changes reflect both S.B. 173 and S.B. 79. Although financial assurance requirements have existed in Rule R313-25 for several years, the proposed changes are being made in order to meet the prescribed rulemaking direction found in S.B. 79, and to provide the tools and flexibility the Director believes are necessary to implement S.B. 79. More specifically, S.B. 79 allows radioactive waste licensees the opportunity to rely on either (i) RS Means or (ii) a "competitive site-specific estimate" as the basis for calculating financial surety. While RS Means represents a national average of heavy civil construction costs, S.B. 79 did not provide a definition for "competitive site-specific estimate". Based on the legislative history of S.B. 79, it was apparent to the Director that this undefined term referred to local market costs. Based on the Utah Supreme Court case, Associated General Contractors v. Board of Oil, Gas and Mining, 2001 UT 112, 38 P.3d 291, the Director in this rulemaking proposes to: i) define this term; ii) provide the Division with access to local market expertise from heavy civil contractors or cost estimators who are familiar with local market construction costs in order to review and validate the information submitted by a licensee; and iii) provide that the licensee fund such review costs. The proposed changes to Section R313-25-31 incorporate the mandatory new rule text from S.B. 79. In addition a new section, R313-25-31.5, is being added to include the changes summarized above.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-104 and Subsection 19-6-104(1)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The proposed rule change allows a radioactive disposal facility applicant or licensee two options in providing a financial assurance cost estimate to the Director for his review. The Director's review of and action on the cost estimate will be covered by the existing budget and allocation of staff resources. If the applicant or licensee elects to submit a competitive site-specific cost estimate and the Director chooses to engage the services of a contractor or cost estimator to assist the Director in his review, then the applicant or licensee is required to reimburse the agency for the cost of the contractor's and/or the cost estimator's review. Therefore, the proposed rule change will be cost neutral to the state's budget.
♦ LOCAL GOVERNMENTS: No local governments own, operate, or are licensed to operate a radioactive waste

disposal facility; therefore there is no cost or savings impact to local governments.
♦ SMALL BUSINESSES: The existing radioactive waste disposal facility is not considered a small business and no small businesses in Utah own, operate, or are licensed to operate a radioactive waste disposal facility; therefore there is no cost or savings impact to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is only one facility in Utah that is currently affected by the proposed rule changes. S.B. 79 creates an optional way that a licensee may establish the estimated closure and post-closure costs. If the licensee chooses RS Means as the basis, there is no added cost compared to existing requirements. If the licensee chooses to submit a competitive site-specific estimate, the cost to a licensee to prepare such cost estimate may include the hiring an outside contractor. In addition, the licensee will be required to provide funding if the Director seeks outside assistance from a consultant who is familiar with local market costs to help evaluate the licensee's submission. Such contractor and consulting costs will be based on the scope of the development of the estimate and the Director's review. Whether these additional costs are incurred is completely within the licensee's discretion. Because S.B. 79 and the associated proposed rule changes allow a facility the option to prepare a cost estimate using RS Means data rather than developing a competitive site-specific estimate through an outside contractor, the use of RS Means compared to the competitive site-specific estimate will result in an unspecified cost savings to the licensee. The proposed rule change could decrease the estimated cost of closing the facility, by an unspecified amount, by allowing the facility to separate or combine units and use whichever estimate has the lowest closure and post-closure care costs. The proposed rule change also allows the facility to reduce closure costs by closing the unit that is not filled to capacity as a smaller unit.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Existing law places the burden on the licensee to demonstrate that its financial surety is sufficient at all times to cover the costs of a third party contractor to complete the required closure and post-closure activities in the event the licensee is unable or unwilling to perform closure and post-closure activities. This serves to protect Utah taxpayers from paying for these activities. S.B. 173, S.B, 79, and the proposed rule changes do not alter the underlying compliance requirement; however, these changes do provide an alternate way in lieu of RS Means for the licensee to demonstrate compliance. The licensee's potential compliance costs will be similar to those described above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is only one facility in Utah that is currently affected by the proposed rule changes. If the licensee chooses RS Means as the basis, there is no added cost compared to the existing requirements. If the licensee chooses to prepare and submit a competitive site-specific estimate, there are undetermined costs due to the variability in the scope of the development of the estimate and the Director's review. It is important that the Director have access to the expertise of an outside estimator familiar with local market costs to assist in the review and evaluation of the competitive site-specific estimate. The proposed rule changes establish that the cost of this assistance should be borne by the licensee.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
WASTE MANAGEMENT AND RADIATION
CONTROL, RADIATION
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-4880
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-536-0222, or by Internet E-mail at rlundberg@utah.gov
♦ Thomas Ball by phone at 801-536-0251, or by Internet E-mail at tball@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 01/12/2018

AUTHORIZED BY: Scott Anderson, Director

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**R313. Environmental Quality, Waste Management and Radiation Control, Radiation.**
**R313-25. License Requirements for Land Disposal of Radioactive Waste - General Provisions.**
**R313-25-1. Purpose and Authority.**

(1) The purpose of this rule is to prescribe the requirements for the issuance of licenses for the land disposal of wastes received from other persons.

(2) The rules set forth herein are adopted pursuant to the provisions of Subsections 19-3-104(4), 19-3-104(7), 19-3-104(10), and 19-3-104(11).

(3) The requirements of Rule R313-25 are in addition to, and not in substitution for, other applicable requirements of these rules.

**R313-25-2. Definitions.**

As used in Rule R313-25, the following definitions apply:

"Active maintenance" means significant activity needed during the period of institutional control to maintain a reasonable assurance that the performance objectives in Sections R313-25-20 and R313-25-21 are met. Active maintenance may include the pumping and treatment of water from a disposal unit, the replacement of a disposal unit cover, or other episodic or continuous measures. Active maintenance does not include custodial activities like repair of fencing, repair or replacement of monitoring equipment, revegetation, minor additions to soil cover, minor repair of disposal unit covers, and general disposal site upkeep.

"Approval application" means an application by a radioactive waste facility regulated under Title 19, Chapter 3 or Title 19, Chapter 5, for a permit, permit modification, license, license amendment, or other authorization.

"Buffer zone" means a portion of the disposal site that is controlled by the licensee and that lies under the disposal units and between the disposal units and the boundary of the site.

"Competitive site-specific estimate" means a market-based cost estimate identifying and calculating the reasonable closure costs of a land disposal facility, including the cost of each activity in the closure, post-closure and institutional care of such facility, and market-based overhead(s) provided in sufficient detail to allow the Director to review and approve the same.

"Custodial agency" means an agency of the government designated to act on behalf of the government owner of the disposal site.

"Day" for purposes of this Rule means calendar days.

"Disposal" means the isolation of wastes from the biosphere by placing them in a land disposal facility.

"Disposal site" means that portion of a land disposal facility which is used for disposal of waste. It consists of disposal units and a buffer zone.

"Disposal unit" means a discrete portion of the disposal site into which waste is placed for disposal. For near-surface disposal, the disposal unit may be a trench.

"Engineered barrier" means a man-made structure or device intended to improve the land disposal facility's performance under Rule R313-25.

"Groundwater permit" means a groundwater quality discharge permit issued under the authority of Title 19, Chapter 5 and Rule R317-6.

"Hydrogeologic unit" means a soil or rock unit or zone that has a distinct influence on the storage or movement of ground water.

"Inadvertent intruder" means a person who may enter the disposal site after closure and engage in activities unrelated to post closure management, such as agriculture, dwelling construction, or other pursuits which could, by disturbing the site, expose individuals to radiation.

"Intruder barrier" means a sufficient depth of cover over the waste that inhibits contact with waste and helps to ensure that radiation exposures to an inadvertent intruder will meet the performance objectives set forth in Rule R313-25, or engineered structures that provide equivalent protection to the inadvertent intruder.

"Land disposal facility" means the land, buildings and structures, and equipment which are intended to be used for the disposal of radioactive waste. Land disposal facility also includes any land, buildings and structures, and equipment adjacent to such land disposal facility used for the receipt, storage, treatment, or processing of radioactive waste.

"Monitoring" means observing and making measurements to provide data to evaluate the performance and characteristics of the disposal site.

"Near-surface disposal facility" means a land disposal facility in which waste is disposed of within approximately the upper 30 meters of the earth's surface.

"Site closure and stabilization" means those actions that are taken upon completion of operations that prepare the disposal site for custodial care, and that assure that the disposal site will remain stable and will not need ongoing active maintenance.

"Stability" means structural stability.

"Surveillance" means monitoring and observation of the disposal site to detect needs for maintenance or custodial care, to observe evidence of intrusion, and to ascertain compliance with other license and regulatory requirements.

"Tolling period," for purposes of this Rule, means a period during which days are not counted toward the deadlines specified in Subsections R313-25-6(3)(c), (4)(c)(i), (5)(b)(i), and (6)(b)(i).

"Treatment" means the stabilization or the reduction in volume of waste by a chemical or a physical process.

"Unlicensed facility" means a structure, road, or property adjacent to, but outside of, a licensed or permitted area and that is not used for waste disposal or management.

"Waste" means those low-level radioactive wastes containing radioactive material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in (b), (c), and (d) of the definition for byproduct material found in Section R313-12-3.

**R313-25-3. Pre-licensing Plan Approval Criteria for Siting of Commercial Radioactive Waste Disposal Facilities.**

(1) Persons proposing to construct or operate commercial radioactive waste disposal facilities, including waste incinerators, shall obtain a plan approval from the Director before applying for a license. Plans shall meet the siting criteria and plan approval requirements of Section R313-25-3.

(2) The siting criteria and plan approval requirements in Section R313-25-3 apply to prelicensing plan approval applications.

(3) Treatment and disposal facilities, including commercial radioactive waste incinerators, shall not be located:

(a) within or underlain by:

(i) national, state, and county parks, monuments, and recreation areas; designated wilderness and wilderness study areas; wild and scenic river areas;

(ii) ecologically and scientifically significant natural areas, including wildlife management areas and habitats for listed or proposed endangered species as designated by federal law;

(iii) 100 year floodplains;

(iv) areas 200 feet distant from Holocene faults;

(v) underground mines, salt domes and salt beds;

(vi) dam failure flood areas;

(vii) areas subject to landslide, mud flow, or other earth movement, unless adverse impacts can be mitigated;

(viii) farmlands classified or evaluated as "prime", "unique", or of "statewide importance" by the U.S. Department of Agricultural Soil Conservation Service under the Prime Farmland Protection Act;

(ix) areas five miles distant from existing permanent dwellings, residential areas, and other habitable structures, including schools, churches, and historic structures;

(x) areas five miles distant from surface waters including intermittent streams, perennial streams, rivers, lakes, reservoirs, and wetlands;

(xi) areas 1000 feet distant from archeological sites to which adverse impacts cannot reasonably be mitigated;

(xii) recharge zones of aquifers containing ground water which has a total dissolved solids content of less than 10,000 mg/l; or

(xiii) drinking water source protection areas designated by the Utah Drinking Water Board;

(b) in areas:

(i) above or underlain by aquifers containing ground water which has a total dissolved solids content of less than 500 mg/l and which aquifers do not exceed state ground water standards for pollutants;

(ii) above or underlain by aquifers containing ground water which has a total dissolved solids content between 3000 and 10,000 mg/l when the distance from the surface to the ground water is less than 100 ft.;

(iii) areas of extensive withdrawal of water, mineral or energy resources.

(iv) above or underlain by weak and unstable soils, including soils that lose their ability to support foundations as a result of hydrocompaction, expansion, or shrinkage;

(v) above or underlain by karst terrains.

(4) Commercial radioactive waste disposal facilities may not be located within a distance to existing drinking water wells and watersheds for public water supplies of five years ground water travel time plus 1000 feet.

(5) The plan approval siting application shall include hydraulic conductivity and other information necessary to estimate adequately the ground water travel distance.

(6) The plan approval siting application shall include the results of studies adequate to identify the presence of ground water aquifers in the area of the proposed site and to assess the quality of the ground water of all aquifers identified in the area of the proposed site.

(7) Emergency response and safety.

(a) The plan approval siting application shall demonstrate the availability and adequacy of services for on-site emergencies, including medical and fire response. The application shall provide written evidence that the applicant has coordinated on-site emergency response plans with the local emergency planning committee (LEPC).

(b) The plan approval siting application shall include a comprehensive plan for responding to emergencies at the site.

(c) The plan approval siting application shall show proposed routes for transportation of radioactive wastes within the state. The plan approval siting application shall address the transportation means and routes available to evacuate the population at risk in the event of on-site accidents, including spills and fires.

(8) The plan approval siting application shall provide evidence that if the proposed disposal site is on land not owned by state or federal government, that arrangements have been made for assumption of ownership in fee by a state or federal agency.

(9) Siting Authority. The Director recognizes that Titles 10 and 17 of the Utah Code give cities and counties authority for local use planning and zoning. Nothing in Section R313-25-3 precludes cities and counties from establishing additional requirements as provided by applicable state and federal law.

**R313-25-4. License Required.**

(1) Persons shall not receive, possess, store, treat, or dispose of waste at a land disposal facility unless authorized by a license issued by the Director pursuant to the Utah Radiation Control Act and Rules R313-25 and R313-22.

(2) Persons shall file an application with the Director pursuant to Section R313-22-32 and obtain a license as provided in Rule R313-25 before commencement of construction of a land disposal facility. Failure to comply with this requirement may be grounds for denial of a license and other penalties established by law and rules.

**R313-25-5. Content of Application.**

In addition to the requirements set forth in Section R313-22-33, an application to receive from others, possess, and dispose of wastes shall consist of general information, specific technical information, institutional information, and financial information as set forth in Sections R313-25-7 through R313-25-11.

**R313-25-6. Director Review of Application.**

(1) The Director shall review each approval application to determine whether it complies with applicable statutory and regulatory requirements. Approval applications will be categorized as Category 1, 2, 3 and 4 applications, as provided in Subsections R313-25-6(2) through (5).

(2) Category 1 applications.

(a) A Category 1 application is an application that:

(i) is administrative in nature;

(ii) requires limited scrutiny by the Director; and

(iii) does not require public comment.

(b) Examples of a Category 1 application include an application to:

(i) correct typographical errors;

(ii) Change the name, address, or phone number of persons or agencies identified in the license or permit;

(iii) change the procedures or location for maintaining records; or

(iv) extend the date for compliance with a permit or license requirement by no more than 120 days.

(c) The Director shall review and approve or deny a Category 1 application within 30 days after the day on which the Director Receives the application.

(3) Category 2 applications:

(a) A Category 2 application is one that is not a Category 1, 3 or 4 application.

(b) Examples of a Category 2 application include:

(i) Increase in process, storage, or disposal capacity

(ii) Change engineering design, construction, or process controls;

(iii) Approve a proposed corrective action plan; or

(iv) Transfer direct control of a license or groundwater permit.

(c)(i) The Director shall review and approve or deny a Category 2 application within 180 days after the day on which the Director receives the application.

(ii) The period described in Subsection R313-25-6(3)(c)(i) shall be tolled as provided in Subsection R313-25-6(7).

(4) Category 3 applications.

(a) Category 3 application is an application for:

(i) a radioactive waste license renewal;

(ii) a groundwater permit renewal;

(iii) an amendment to an existing radioactive waste license or groundwater permit to allow a new disposal cell;

(iv) an amendment to an existing radioactive waste license or groundwater permit that would allow the facility to eliminate groundwater monitoring; or

(v) approval of a radioactive waste disposal facility closure plan.

(b)(i) The Director shall review and approve or deny a Category 3 application within 365 days after the day on which the Director receives the application.

(ii) The period described in Subsection R313-25-6(4)(b)(i) shall be tolled as provided in Subsection R313-25-6(7).

(5) Category 4 applications.

(a) A Category 4 application is an application for:

(i) a new radioactive waste license; or

(ii) a new groundwater permit.

(b)(i) The Director shall review and approve or deny a Category 4 application within 540 days after the day on which the Director receives the application.

(ii) The period described in Subsection R313-25-6(5)(b)(i) shall be tolled as provided in Subsection R313-25-6(7).

(6)(a) Within 60 days after the day on which the Director receives a Category 2, 3 or 4 approval application, the Director shall determine whether the application is complete and contains all the information necessary to process it for approval and make a finding by issuance of a written:

(i) notice of completeness to the applicant; or

(ii) notice of deficiency to the applicant, including a list of the additional information necessary to complete the application.

(b) The Director shall review written information submitted in response to a notice of deficiency within 30 days after the day on which the Director receives the supplemental information and shall again follow the procedures specified in Subsection R313-25-6(1)(a).

(c) If a document that is submitted as an application is substantially deficient, the Director may determine that it does not qualify as an application. Any such determination shall be made within 45 days of the document's submission and will include the Director's written findings.

(7) Tolling Periods. The periods specified for the Director's review and approval or denial under Subsections R313-25-6(3)(c)(i), (4)(b)(i), and (5)(b)(i) shall be tolled:

(a) while an owner or operator of a facility responds to the Director's request for information;

(b) during a public comment period; and

(c) while the federal government reviews the application.

(8) The Director shall prepare a detailed written explanation of the technical and regulatory basis for the Director's approval or denial of an approval application.

**R313-25-7. General Information.**

The general information shall include the following:

(1) identity of the applicant including:

(a) the full name, address, telephone number, and description of the business or occupation of the applicant;

(b) if the applicant is a partnership, the names and addresses of the partners and the principal location where the partnership does business;

(c) if the applicant is a corporation or an unincorporated association;

(i) the state where it is incorporated or organized and the principal location where it does business; and

(ii) the names and addresses of its directors and principal officers; and

(d) if the applicant is acting as an agent or representative of another person in filing the application, the applicant shall provide, with respect to the other person, information required under Subsection R313-25-7(1).

(2) Qualifications of the applicant shall include the following;

(a) the organizational structure of the applicant, both offsite and onsite, including a description of lines of authority and assignments of responsibilities, whether in the form of administrative directives, contract provisions, or otherwise;

(b) the technical qualifications, including training and experience of the applicant and members of the applicant's staff, to engage in the proposed activities. Minimum training and experience requirements for personnel filling key positions described in Subsection R313-25-7(2)(a) shall be provided;

(c) a description of the applicant's personnel training program; and

(d) the plan to maintain an adequate complement of trained personnel to carry out waste receipt, handling, and disposal operations in a safe manner.

(3) A description of:

(a) the location of the proposed disposal site;

(b) the general character of the proposed activities;

(c) the types and quantities of waste to be received, possessed, and disposed of;

(d) plans for use of the land disposal facility for purposes other than disposal of wastes; and

(e) the proposed facilities and equipment; and

(4) proposed schedules for construction, receipt of waste, and first emplacement of waste at the proposed land disposal facility.

**R313-25-8. Specific Technical Information.**

The application shall include certain technical information. The following information is needed to determine whether or not the applicant or licensee can meet the performance objectives and the applicable technical requirements of Rule R313-25:

(1) A description of the natural and demographic disposal site characteristics shall be based on and determined by disposal site selection and characterization activities. The description shall include geologic, geochemical, geotechnical, hydrologic, ecologic, archaeologic, meteorologic, climatologic, and biotic features of the disposal site and vicinity.

(2) Descriptions of the design features of the land disposal facility and of the disposal units for near-surface disposal shall include those design features related to infiltration of water; integrity of covers for disposal units; structural stability of backfill, wastes, and covers; contact of wastes with standing water; disposal site drainage; disposal site closure and stabilization; elimination to the extent practicable of long-term disposal site maintenance; inadvertent intrusion; occupational exposures; disposal site monitoring; and adequacy of the size of the buffer zone for monitoring and potential mitigative measures.

(3) Descriptions of the principal design criteria and their relationship to the performance objectives.

(4) Descriptions of the natural events or phenomena on which the design is based and their relationship to the principal design criteria.

(5) Descriptions of codes and standards which the applicant has applied to the design, and will apply to construction of the land disposal facilities.

(6) Descriptions of the construction and operation of the land disposal facility. The description shall include as a minimum the methods of construction of disposal units; waste emplacement; the procedures for and areas of waste segregation; types of intruder barriers; onsite traffic and drainage systems; survey control program; methods and areas of waste storage; and methods to control surface water and ground water access to the wastes. The description shall also include a description of the methods to be employed in the handling and disposal of wastes containing chelating agents or other non-radiological substances which might affect meeting the performance objectives of Rule R313-25

(7) A description of the disposal site closure plan, including those design features which are intended to facilitate disposal site closures and to eliminate the need for active maintenance after closure.

(8) Identification of the known natural resources at the disposal site whose exploitation could result in inadvertent intrusion into the wastes after removal of active institutional control.

(9) Descriptions of the kind, amount, classification and specifications of the radioactive material proposed to be received, possessed, and disposed of at the land disposal facility.

(10) Descriptions of quality assurance programs, tailored to low-level waste disposal, including audit and managerial controls, for the determination of natural disposal site characteristics and for quality control during the design, construction, operation, and closure of the land disposal facility and the receipt, handling, and emplacement of waste.

(11) A description of the radiation safety program for control and monitoring of radioactive effluents to ensure compliance with the performance objective in Section R313-25-20 and monitoring of occupational radiation exposure to ensure compliance with the requirements of Rule R313-15 and to control contamination of personnel, vehicles, equipment, buildings, and the disposal site. The applicant shall describe procedures, instrumentation, facilities, and equipment appropriate to both routine and emergency operations.

(12) A description of the environmental monitoring program to provide data and to evaluate potential health and environmental impacts and the plan for taking corrective measures if migration is indicated.

(13) Descriptions of the administrative procedures that the applicant will apply to control activities at the land disposal facility.

(14) A description of the facility electronic recordkeeping system as required in Section R313-25-33.

**R313-25-9. Technical Analyses.**

(1) The licensee or applicant shall conduct a site-specific performance assessment and receive Director approval prior to accepting any radioactive waste if:

(a) the waste was not considered in the development of the limits on Class A waste and not included in the analyses of the Draft Environmental Impact Statement on 10 CFR Part 61 "Licensing Requirements for Land Disposal of Radioactive Waste," NUREG-0782. U.S. Nuclear Regulatory Commission. September 1981, or

(b) the waste is likely to result in greater than 10 percent of the dose limits in Section R313-25-19 during the time period at which peak dose would occur, or

(c) the waste will result in greater than 10 percent of the total site source term over the operational life of the facility, or

(d) the disposal of the waste would result in an unanalyzed condition not considered in Rule R313-25.

(2) A licensee that has a previously-approved site-specific performance assessment that addressed a radioactive waste for which a site-specific performance assessment would otherwise be required under Subsection R313-25-9(1) shall notify the Director of the applicability of the previously-approved site-specific performance assessment at least 60 days prior to the anticipated acceptance of the radioactive waste.

(3) The licensee shall not accept radioactive waste until the Director has approved the information submitted pursuant to Subsections R313-25-9(1) or (2).

(4) The licensee or applicant shall also include in the specific technical information the following analyses needed to demonstrate that the performance objectives of Rule R313-25 will be met:

(a) Analyses demonstrating that the general population will be protected from releases of radioactivity shall consider the pathways of air, soil, ground water, surface water, plant uptake, and exhumation by burrowing animals. The analyses shall clearly identify and differentiate between the roles performed by the natural disposal site characteristics and design features in isolating and segregating the wastes. The analyses shall clearly demonstrate a reasonable assurance that the exposures to humans from the release of radioactivity will not exceed the limits set forth in Section R313-25-20.

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

(c) Analysis of the protection of individuals during operations shall include assessments of expected exposures due to routine operations and likely accidents during handling, storage, and disposal of waste. The analysis shall provide reasonable assurance that exposures will be controlled to meet the requirements of Rule R313-15.

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

(5)(a) Notwithstanding Subsection R313-25-9(1), any facility that proposes to land dispose of significant quantities of concentrated depleted uranium (more than one metric ton in total accumulation) after June 1, 2010, shall submit for the Director's review and approval a performance assessment that demonstrates that the performance standards specified in 10 CFR Part 61 and corresponding provisions of Utah rules will be met for the total quantities of concentrated depleted uranium and other wastes, including wastes already disposed of and the quantities of concentrated depleted uranium the facility now proposes to dispose. Any such performance assessment shall be revised as needed to reflect ongoing guidance and rulemaking from NRC. For purposes of this performance assessment, the compliance period shall be a minimum of 10,000 years. Additional

simulations shall be performed for the period where peak dose occurs and the results shall be analyzed qualitatively.

(b) No facility may dispose of significant quantities of concentrated depleted uranium prior to the approval by the Director of the performance assessment required in Subsection R313-25-9(5)(a).

(c) For purposes of this Subsection R313-25-9(5) only, "concentrated depleted uranium" means waste with depleted uranium concentrations greater than 5 percent by weight.

**R313-25-10. Institutional Information.**

The institutional information submitted by the applicant shall include:

(1) A certification by the federal or state agency which owns the disposal site that the agency is prepared to accept transfer of the license when the provisions of Section R313-25-17 are met and will assume responsibility for institutional control after site closure and for post-closure observation and maintenance.

(2) Evidence, if the proposed disposal site is on land not owned by the federal or a state government, that arrangements have been made for assumption of ownership in fee by the federal or a state agency.

**R313-25-11. Financial Information.**

This information shall demonstrate that the applicant is financially qualified to carry out the activities for which the license is sought. The information shall meet other financial assurance requirements of Rule R313-25.

**R313-25-12. Requirements for Issuance of a License.**

A license for the receipt, possession, and disposal of waste containing radioactive material will be issued by the Director upon finding that:

(1) the issuance of the license will not constitute an unreasonable risk to the health and safety of the public;

(2) the applicant is qualified by reason of training and experience to carry out the described disposal operations in a manner that protects health and minimizes danger to life or property;

(3) the applicant's proposed disposal site, land disposal facility design, land disposal facility operations, including equipment, facilities, and procedures, disposal site closure, and post-closure institutional control, are adequate to protect the public health and safety as specified in the performance objectives of Section R313-25-20;

(4) the applicant's proposed disposal site, land disposal [~~site~~]facility design, land disposal facility operations, including equipment, facilities, and procedures, disposal site closure, and post-closure institutional control are adequate to protect the public health and safety in accordance with the performance objectives of Section R313-25-21;

(5) the applicant's proposed land disposal facility operations, including equipment, facilities, and procedures, are adequate to protect the public health and safety in accordance with Rule R313-15;

(6) the applicant's proposed disposal site, land disposal [~~site~~]facility design, land disposal facility operations, disposal site closure, and post-closure institutional control plans are adequate to protect the public health and safety in that they will provide reasonable assurance of the long-term stability of the disposed waste and the disposal site and will eliminate to the extent practicable the need for continued maintenance of the disposal site following closure;

(7) the applicant's demonstration provides reasonable assurance that the requirements of Rule R313-25 will be met;

(8) the applicant's proposal for institutional control provides reasonable assurance that control will be provided for the length of time found necessary to ensure the findings in Subsections R313-25-12(3) through (6) and that the institutional control meets the requirements of Section R313-25-29.

(9) the financial or surety arrangements meet the requirements of Rule R313-25.

**R313-25-13. Conditions of Licenses.**

(1) A license issued under Rule R313-25, or a right thereunder, may not be transferred, assigned, or disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to a person, unless the Director finds, after securing full information, that the transfer is in accordance with the provisions of the Radiation Control Act and Rules and gives his consent in writing in the form of a license amendment.

(2) The Director may require the licensee to submit written statements under oath.

(3) The license will be terminated only on the full implementation of the final closure plan, including post-closure observation and maintenance, as approved by the Director.

(4) The licensee shall submit to the provisions of the Act now or hereafter in effect, and to all findings and orders of the Director. The terms and conditions of the license are subject to amendment, revision, or modification, by reason of amendments to, or by reason of rules, and orders issued in accordance with the terms of the Act and these rules.

(5) Persons licensed by the Director pursuant to Rule R313-25 shall confine possession and use of the materials to the locations and purposes authorized in the license.

(6) The licensee shall not dispose of waste until the Director has inspected the land disposal facility and has found it to conform with the description, design, and construction described in the application for a license.

(7) The Director may incorporate, by rule or order, into licenses at the time of issuance or thereafter, additional requirements and conditions with respect to the licensee's receipt, possession, and disposal of waste as the Director deems appropriate or necessary in order to:

(a) protect health or to minimize danger to life or property;

(b) require reports and the keeping of records, and to provide for inspections of licensed activities as the Director deems necessary or appropriate to effectuate the purposes of the Radiation Control Act and Rules.

(8) The authority to dispose of wastes expires on the expiration date stated in the license. An expiration date on a license applies only to the above ground activities and to the authority to dispose of waste. Failure to renew the license shall not relieve the licensee of responsibility for implementing site closure, post-closure observation, and transfer of the license to the site owner.

**R313-25-14. Application for Renewal or Closure.**

(1) An application for renewal or an application for closure under Section R313-25-15 shall be filed at least 90 days prior to license expiration.

(2) Applications for renewal of a license shall be filed in accordance with Sections R313-25-5 and R313-25-7 through 25-11. Applications for closure shall be filed in accordance with Section R313-25-15. Information contained in previous applications, statements, or reports filed with the Director under the license may be incorporated by reference if the references are clear and specific.

(3) If a licensee has filed an application in proper form for renewal of a license, the license shall not expire unless and until the Director has taken final action to deny application for renewal.

(4) In evaluating an application for license renewal, the Director will apply the criteria set forth in Section R313-25-12.

**R313-25-15. Contents of Application for Site Closure and Stabilization.**

(1) Prior to final closure of the disposal site, or as otherwise directed by the Director, the licensee shall submit an application to amend the license for closure. This closure application shall include a final revision and specific details of the land disposal [~~site~~]facility closure plan included in the original license application submitted and approved under Section R313-25-8(7). The plan shall include the following:

(a) additional geologic, hydrologic, or other data pertinent to the long-term containment of emplaced wastes obtained during the operational period;

(b) the results of tests, experiments, or other analyses relating to backfill of excavated areas, closure and sealing, waste migration and interaction with emplacement media, or other tests, experiments, or analyses pertinent to the long-term containment of emplaced waste within the disposal site;

(c) proposed revision of plans for:

(i) decontamination or dismantlement of surface facilities;

(ii) backfilling of excavated areas; or

(iii) stabilization of the disposal site for post-closure care.

(d) Significant new information regarding the environmental impact of closure activities and long-term performance of the disposal site.

(2) Upon review and consideration of an application to amend the license for closure submitted in accordance with Subsection R313-25-15(1), the Director shall issue an amendment authorizing closure if there is reasonable assurance that the long-term performance objectives of Rule R313-25 will be met.

**R313-25-16. Post-Closure Observation and Maintenance.**

The licensee shall observe, monitor, and carry out necessary maintenance and repairs at the disposal site until the site closure is complete and the license is transferred by the Director in accordance with Section R313-25-17. The licensee shall remain responsible for the disposal site for an additional five years. The Director may approve closure plans that provide for shorter or longer time periods of post-closure observation and maintenance, if sufficient rationale is developed for the variance.

**R313-25-17. Transfer of License.**

Following closure and the period of post-closure observation and maintenance, the licensee may apply for an amendment to transfer the license to the disposal site owner. The license shall be transferred when the Director finds:

(1) that the disposal site was closed according to the licensee's approved disposal site closure plan;

(2) that the licensee has provided reasonable assurance that the performance objectives of Rule R313-25 have been met;

(3) that funds for care and records required by Subsections R313-25-33(4) and (5) have been transferred to the disposal site owner;

(4) that the post-closure monitoring program is operational and can be implemented by the disposal site owner; and

(5) that the Federal or State agency which will assume responsibility for institutional control of the disposal site is prepared to assume responsibility and ensure that the institutional requirements found necessary under Subsection R313-25-12(8) will be met.

**R313-25-18. Termination of License.**

(1) Following the period of institutional control needed to meet the requirements of Section R313-25-12, the licensee may apply for an amendment to terminate the license.

(2) This application will be reviewed in accordance with the provisions of Section R313-22-32.

(3) A license shall be terminated only when the Director finds:

(a) that the institutional control requirements of Subsection R313-25-12(8) have been met;

(b) that additional requirements resulting from new information developed during the institutional control period have been met;

(c) that permanent monuments or markers warning against intrusion have been installed; and

(d) that records required by Subsections R313-25-33(4) and (5) have been sent to the party responsible for institutional control of the disposal site and a copy has been sent to the Director immediately prior to license termination.

**R313-25-19. General Requirement.**

Land disposal facilities shall be sited, designed, operated, closed, and controlled after closure so that reasonable assurance exists that exposures to individuals do not exceed the limits stated in Sections R313-25-20 and 25-23.

**R313-25-20. Protection of the General Population from Releases of Radioactivity.**

Concentrations of radioactive material which may be released to the general environment in ground water, surface water, air, soil, plants or animals shall not result in an annual dose exceeding an equivalent of 0.25 mSv (0.025 rem) to the whole body, 0.75 mSv (0.075 rem) to the thyroid, and 0.25 mSv (0.025 rem) to any other organ of any member of the public. No greater than 0.04 mSv (0.004 rem)committed effective dose equivalent or total effective dose equivalent to any member of the public shall come from groundwater. Reasonable efforts should be made to maintain releases of radioactivity in effluents to the general environment as low as is reasonably achievable.

**R313-25-21. Protection of Individuals from Inadvertent Intrusion.**

Design, operation, and closure of the land disposal facility shall ensure protection of any individuals inadvertently intruding into the disposal site and occupying the site or contacting the waste after active institutional controls over the disposal site are removed.

**R313-25-22. Protection of Individuals During Operations.**

Operations at the land disposal facility shall be conducted in compliance with the standards for radiation protection set out in Rule R313-15 of these rules, except for release of radioactivity in effluents from the land disposal facility, which shall be governed by Section R313-25-20. Every reasonable effort should be made to maintain radiation exposures as low as is reasonably achievable, ALARA.

**R313-25-23. Stability of the Disposal Site After Closure.**

The disposal facility shall be sited, designed, used, operated, and closed to achieve long-term stability of the disposal site and to eliminate, to the extent practicable, the need for ongoing active maintenance of the disposal site following closure so that only surveillance, monitoring, or minor custodial care are required.

**R313-25-24. Disposal Site Suitability Requirements for Land Disposal - Near-Surface Disposal.**

(1) The primary emphasis in disposal site suitability is given to isolation of wastes and to disposal site features that ensure that the long-term performance objectives are met.

(2) The disposal site shall be capable of being characterized, modeled, analyzed and monitored.

(3) Within the region where the facility is to be located, a disposal site should be selected so that projected population growth and future developments are not likely to affect the ability of the disposal facility to meet the performance objectives of Rule R313-25.

(4) Areas shall be avoided having known natural resources which, if exploited, would result in failure to meet the performance objectives of Rule R313-25.

(5) The disposal site shall be generally well drained and free of areas of flooding or frequent ponding. Waste disposal shall not take place in a 100-year flood plain, coastal high-hazard area or wetland, as defined in Executive Order 11988, "Floodplain Management Guidelines."

(6) Upstream drainage areas shall be minimized to decrease the amount of runoff which could erode or inundate waste disposal units.

(7) The disposal site shall provide sufficient depth to the water table that ground water intrusion, perennial or otherwise, into the waste will not occur. The Director will consider an exception to this requirement to allow disposal below the water table if it can be conclusively shown that disposal site characteristics will result in molecular diffusion being the predominant means of radionuclide movement and the rate of movement will result in the performance objectives being met. In no case will waste disposal be permitted in the zone of fluctuation of the water table.

(8) The hydrogeologic unit used for disposal shall not discharge ground water to the surface within the disposal site.

(9) Areas shall be avoided where tectonic processes such as faulting, folding, seismic activity, vulcanism, or similar phenomena may occur with such frequency and extent to significantly affect the ability of the disposal site to meet the performance objectives of Rule R313-25 or may preclude defensible modeling and prediction of long-term impacts.

(10) Areas shall be avoided where surface geologic processes such as mass wasting, erosion, slumping, landsliding, or weathering occur with sufficient such frequency and extent to significantly affect the ability of the disposal site to meet the performance objectives of Rule R313-25, or may preclude defensible modeling and prediction of long-term impacts.

(11) The disposal site shall not be located where nearby facilities or activities could adversely impact the ability of the site to meet the performance objectives of Rule R313-25 or significantly mask the environmental monitoring program.

**R313-25-25. Disposal Site Design for Near-Surface Land Disposal.**

(1) Site design features shall be directed toward long-term isolation and avoidance of the need for continuing active maintenance after site closure.

(2) The disposal site design and operation shall be compatible with the disposal site closure and stabilization plan and lead to disposal site closure that provides reasonable assurance that the performance objectives will be met.

(3) The disposal site shall be designed to complement and improve, where appropriate, the ability of the disposal site's natural characteristics to assure that the performance objectives will be met.

(4) Covers shall be designed to minimize, to the extent practicable, water infiltration, to direct percolating or surface water away from the disposed waste, and to resist degradation by surface geologic processes and biotic activity.

(5) Surface features shall direct surface water drainage away from disposal units at velocities and gradients which will not result in erosion that will require ongoing active maintenance in the future.

(6) The disposal site shall be designed to minimize to the extent practicable the contact of water with waste during storage, the contact of standing water with waste during disposal, and the contact of percolating or standing water with wastes after disposal.

**R313-25-26. Near Surface Land Disposal Facility Operation and Disposal Site Closure.**

(1) Wastes designated as Class A pursuant to Section R313-15-1009 of these rules shall be segregated from other wastes by placing them in disposal units which are sufficiently separated from disposal units for the other waste classes so that any interaction between Class A wastes and other wastes will not result in the failure to meet the performance objectives of Rule R313-25. This segregation is not necessary for Class A wastes if they meet the stability requirements of Subsection R313-15-1009(2)(b).

(2) Wastes designated as Class C pursuant to Section R313-15-1009 shall be disposed of so that the top of the waste is a minimum of five meters below the top surface of the cover or shall be disposed of with intruder barriers that are designed to protect against an inadvertent intrusion for at least 500 years.

(3) Except as provided in Subsection R313-25-1(1), only waste classified as Class A, B, or C shall be acceptable for near-surface disposal. Wastes shall be disposed of in accordance with the requirements of Subsections R313-25-26(4) through 11.

(4) Wastes shall be emplaced in a manner that maintains the package integrity during emplacement, minimizes the void spaces between packages, and permits the void spaces to be filled.

(5) Void spaces between waste packages shall be filled with earth or other material to reduce future subsidence within the fill.

(6) Waste shall be placed and covered in a manner that limits the radiation dose rate at the surface of the cover to levels that at a minimum will permit the licensee to comply with all provisions of Sections R313-15-301 and 302 at the time the license is transferred pursuant to Section R313-25-17.

(7) The boundaries and locations of disposal units shall be accurately located and mapped by means of a land survey. Near-surface disposal units shall be marked in such a way that the boundaries of the units can be easily defined. Three permanent survey marker control points, referenced to United States Geological Survey or National Geodetic Survey control stations, shall be established on the site to facilitate surveys. The United States Geological Survey or National Geodetic Survey control stations shall provide horizontal and vertical controls as checked against United States Geological Survey or National Geodetic Survey record files.

(8) A buffer zone of land shall be maintained between any buried waste and the disposal site boundary and beneath the disposed waste. The buffer zone shall be of adequate dimensions to carry out environmental monitoring activities specified in Subsection R313-25-27(4) and take mitigative measures if needed.

(9) Closure and stabilization measures as set forth in the approved site closure plan shall be carried out as the disposal units are filled and covered.

(10) Active waste disposal operations shall not have an adverse effect on completed closure and stabilization measures.

(11) Only wastes containing or contaminated with radioactive material shall be disposed of at the disposal site.

(12) Proposals for disposal of waste that are not generally acceptable for near-surface disposal because the wastes form and disposal methods shall be different and, in general, more stringent than those specified for Class C waste, may be submitted to the Director for approval.

**R313-25-27. Environmental Monitoring.**

(1) At the time a license application is submitted, the applicant shall have conducted a preoperational monitoring program to provide basic environmental data on the disposal site characteristics. The applicant shall obtain information about the ecology, meteorology, climate, hydrology, geology, geochemistry, and seismology of the disposal site. For those characteristics that are subject to seasonal variation, data shall cover at least a 12-month period.

(2) During the land disposal facility site construction and operation, the licensee shall maintain an environmental monitoring program. Measurements and observations shall be made and recorded to provide data to evaluate the potential health and environmental impacts during both the construction and the operation of the facility and to enable the evaluation of long-term effects and need for mitigative measures. The monitoring system shall be capable of providing early warning of releases of waste from the disposal site before they leave the site boundary.

(3) After the disposal site is closed, the licensee responsible for post-operational surveillance of the disposal site shall maintain a monitoring system based on the operating history and the closure and stabilization of the disposal site. The monitoring system shall be capable of providing early warning of releases of waste from the disposal site before they leave the site boundary.

(4) The licensee shall have plans for taking corrective measures if the environmental monitoring program detects migration of waste which would indicate that the performance objectives may not be met.

**R313-25-28. Alternative Requirements for Design and Operations.**

The Director may, upon request or on the Director's own initiative, authorize provisions other than those set forth in Sections R313-25-25 and 25-27 for the segregation and disposal of waste and for the design and operation of a land disposal facility on a specific basis, if it finds reasonable assurance of compliance with the performance objectives of Rule R313-25.

**R313-25-29. Institutional Requirements.**

(1) Land Ownership. Disposal of waste received from other persons may be permitted only on land owned in fee by the Federal or a State government.

(2) Institutional Control. The land owner or custodial agency shall conduct an institutional control program to physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator. The institutional control program shall also include, but not be limited to, conducting an environmental monitoring program at the disposal site, periodic surveillance, minor custodial care, and other equivalents as determined by the Director, and administration of funds to cover the costs for these activities. The period of institutional controls will be determined by the Director, but institutional controls may not be relied upon for more than 100 years following transfer of control of the disposal site to the owner.

**R313-25-30. Applicant Qualifications and Assurances.**

The applicant shall show that it either possesses the necessary funds, or has reasonable assurance of obtaining the necessary funds, or by a combination of the two, to cover the estimated costs of conducting all licensed activities over the planned operating life of the project, including costs of construction and disposal.

**R313-25-31. Funding for Disposal Site Closure and Stabilization.**

(1) The applicant shall provide assurances prior to the commencement of operations, and a licensee shall provide assurances annually, that sufficient funds are or will be available to carry out land disposal [~~site~~]facility closure and stabilization, including:

(a) decontamination or dismantlement of land disposal facility structures, and

(b) closure and stabilization of the disposal site so that following transfer of the disposal site to the site owner, the need for ongoing active maintenance is eliminated to the extent practicable and only minor custodial care, surveillance, and monitoring are required. These assurances shall be based on Director approved cost estimates reflecting the Director approved plan for disposal site closure and stabilization. The applicant's or the licensee's cost estimates shall take into account total costs that would be incurred if an independent contractor were hired to perform the closure and stabilization work, in accordance with R313-25-31.5.

(2) In order to avoid unnecessary duplication and expense, the Director will accept financial sureties that have been consolidated with earmarked financial or surety arrangements established to meet requirements of Federal or other State agencies or local governmental bodies for decontamination, closure, and stabilization[~~.~~] as to any unlicensed facility. The Director will accept these arrangements only if they are considered adequate to satisfy the requirements of Section R313-25-31 and if they clearly identify [~~that~~] the portion of the surety which covers the closure of [~~the disposal site is clearly identified~~]such unlicensed facility and is committed for use in accomplishing these activities.

(3) The licensee's financial or surety arrangement shall be submitted annually for review by the Director to assure that sufficient funds will be available for completion of the closure plan.

(4) The amount of the licensee's financial or surety arrangement shall change in accordance with changes in the predicted costs of closure and stabilization. Factors affecting closure and stabilization cost estimates include inflation, increases in the amount of disturbed land, changes in engineering plans, closure and stabilization that have already been accomplished, and other conditions affecting costs. The financial or surety arrangement shall be sufficient at all times to cover the costs of closure and stabilization of the disposal units that are expected to be used before the next license renewal.

(5) The financial or surety arrangement shall be written for a specified period of time and shall be automatically renewed unless the person who issues the surety notifies the Director; the beneficiary, the site owner; and the principal, the licensee, not less than 90 days prior to the renewal date of its intention not to renew. In such a situation, the licensee shall submit a replacement surety within 30 days after notification of cancellation. If the licensee fails to provide a replacement surety acceptable to the Director, the beneficiary may collect on the original surety.

(6) Proof of forfeiture shall not be necessary to collect the surety so that, in the event that the licensee could not provide an acceptable replacement surety within the required time, the surety shall be automatically collected prior to its expiration. The conditions described above shall be clearly stated on surety instruments.

(7) Financial or surety arrangements generally acceptable to the Director include surety bonds, cash deposits, certificates of deposit, deposits of government securities, escrow accounts, irrevocable letters or lines of credit, trust funds, and combinations of the above or other types of arrangements as may be approved by the Director. Self-insurance, or an arrangement which essentially constitutes self-insurance, will not satisfy the surety requirement for private sector applicants.

(8) The licensee's financial or surety arrangement shall remain in effect until the closure and stabilization program has been completed and approved by the Director, and the license has been transferred to the site owner.

(9) The financial assurance shall be based on an annual estimate and shall include closure and post-closure costs in all areas subject to the licensed or permitted portions of the facility;

(10) Financial assurance for an unlicensed facility that supports the operation of a licensed or permitted facility shall include the estimated cost of:

(a) the removal of structures;

(b) the testing of structures, roads, and property to ensure no radiological contamination has occurred outside of the licensed area; and

(c) stabilization and water infiltration control;

(11) Financial assurance cost estimates for a single approved waste disposal unit for which the volume of waste already placed and proposed to be placed in the unit within the surety period is less than the full waste capacity of the unit shall reflect the closure and post-closure costs for a waste disposal unit smaller than the approved waste disposal unit, if the unit could be reduced in size, meet closure requirements, and reduce closure costs;

(12) Financial assurance cost estimates for two approved adjacent waste disposal units that have been approved to be combined into a single unit and for which the combined volume of waste already placed and proposed to be placed in the units within the surety period is less than the combined waste capacity for the two separate units shall reflect either two separate waste disposal units or a single combined unit, whichever has the lowest closure and post-closure costs;

(13) The licensee or permittee shall annually propose closure and post-closure costs upon which financial assurance amounts are based, including costs of potential remediation at the licensed or permitted facility and, notwithstanding the obligations described in Subsection R313-25-31(10), any unlicensed facility;

(14) To provide the information in Subsection R313-25-31(13), the licensee or permittee shall provide:

(a) a proposed annual cost estimate using the current edition of RS Means Facilities Construction Cost Data or using a process, including an indirect cost multiplier, previously agreed to between the licensee or permittee and the Director; or

(b)(i) for an initial financial assurance determination and for each financial assurance determination every five years thereafter, a proposed competitive site-specific estimate for closure and post-closure care of the facility at least once every five years; and

(ii) for each year between a financial assurance determination described in Subsection R313-25-31(14)(b)(i), a proposed financial assurance estimate that accounts for current site conditions and that includes an annual inflation adjustment to the financial assurance determination using the Gross Domestic Product Implicit Price Deflator of the Bureau of Economic Analysis, United States Department of Commerce, calculated by dividing the latest annual deflator by the deflator for the previous year; and

(15) The Director shall:

(a) annually review the licensee's or permittee's proposed closure and postclosure estimate; and

(b) approve the estimate if the Director determines that the estimate would be sufficient to provide for closure and post-closure costs.

**R313-25-31.5. Calculation of Closure Costs.**

(1) In order to demonstrate the adequacy of closure, stabilization, post-closure, and institutional control funding in compliance with Section 19-3-104 and Subsection R313-25-31(1)(b), the applicant or licensee shall establish the level of costs that an independent contractor would incur by reliance on one of two methods, as follows:

(a) using the current edition of RS Means Facility Construction Cost Data; or

(b) using a competitive site-specific estimate.

(2) Any proposed competitive site-specific estimate submitted pursuant to Subsection R313-25-31(14)(b)(i) shall:

(a) be certified by a professional engineer or geologist licensed in Utah; and

(b) include sufficient detail so that the Director can determine that the cost estimate would be sufficient to provide for closure, post closure costs, and institutional control costs in compliance with Chapter 19-3 and Section R313-25-31.

(3) In the event that an applicant or licensee submits a competitive site-specific estimate, the Director may engage the services of a contractor or cost estimator who is familiar with competitive, site-specific construction costs in order to assist the Director in his review. In that event, the applicant or licensee shall reimburse the costs of the contractor or cost estimator's review.

(4) In the intervening four years following Director approval of a competitive site-specific estimate, a proposed cost estimate that accounts for current site conditions or changes to site conditions under Subsection R313-25-31(14)(b)(ii) shall be submitted by using either:

(a) the current edition of RS Means Facility Construction Cost Data; or

(b) the cost estimating rationale developed in the approved competitive site-specific estimate.

**R313-25-32. Financial Assurances for Institutional Controls.**

(1) Prior to the issuance of the license, the applicant shall provide for Director approval, a binding arrangement, between the applicant and the disposal site owner that ensures that sufficient funds will be available to cover the costs of monitoring and required maintenance during the institutional control period. The binding arrangement shall be reviewed annually by the Director to ensure that changes in inflation, technology, and disposal facility operations are reflected in the arrangements.

(2) Subsequent changes to the binding arrangement specified in Subsection R313-25-32(1) relevant to institutional control shall be submitted to the Director for prior approval.

**R313-25-33. Maintenance of Records, Reports, and Transfers.**

(1) Licensees shall maintain records and make reports in connection with the licensed activities as may be required by the conditions of the license or by the rules and orders of the Director.

(2) Records which are required by these rules or by license conditions shall be maintained for a period specified by the appropriate rules or by license condition. If a retention period is not otherwise specified, these records shall be maintained and transferred to the officials specified in Subsection R313-25-33(4) as a condition of license termination unless the Director otherwise authorizes their disposition.

(3) Records which shall be maintained pursuant to Rule R313-25 may be the original or a reproduced copy or microfilm if this reproduced copy or microfilm is capable of producing copy that is clear and legible at the end of the required retention period.

(4) Notwithstanding Subsections R313-25-33(1) through (3), copies of records of the location and the quantity of wastes contained in the disposal site shall be transferred upon license termination to the chief executive of the nearest municipality, the chief executive of the county in which the facility is located, the county zoning board or land development and planning agency, the State Governor, and other state, local, and federal governmental agencies as designated by the Director at the time of license termination.

(5) Following receipt and acceptance of a shipment of waste, the licensee shall record the date that the shipment is received at the disposal facility, the date of disposal of the waste, a traceable shipment manifest number, a description of any engineered barrier or structural overpack provided for disposal of the waste, the location of disposal at the disposal site, the condition of the waste packages as received, discrepancies between the materials listed on the manifest and those received, the volume of any pallets, bracing, or other shipping or onsite generated materials that are contaminated, and are disposed of as contaminated or suspect materials, and evidence of leakage or damaged packages or radiation or contamination levels in excess of limits specified in U.S. Department of Transportation and Director regulations or rules. The licensee shall briefly describe repackaging operations of the waste packages included in the shipment, plus other information required by the Director as a license condition.

(6) Licensees authorized to dispose of waste received from other persons shall file a copy of their financial report or a certified financial statement annually with the Director in order to update the information base for determining financial qualifications.

(7)(a) Licensees authorized to dispose of waste received from other persons, pursuant to Rule R313-25, shall submit annual reports to the Director. Reports shall be submitted by the end of the first calendar quarter of each year for the preceding year.

(b) The reports shall include:

(i) specification of the quantity of each of the principal contaminants released to unrestricted areas in liquid and in airborne effluents during the preceding year;

(ii) the results of the environmental monitoring program;

(iii) a summary of licensee disposal unit survey and maintenance activities;

(iv) a summary, by waste class, of activities and quantities of radionuclides disposed of;

(v) instances in which observed site characteristics were significantly different from those described in the application for a license; and

(vi) other information the Director may require.

(c) If the quantities of waste released during the reporting period, monitoring results, or maintenance performed are significantly different from those predicted, the report shall cover this specifically.

(8) In addition to the other requirements in Section R313-25-33, the licensee shall store, or have stored, manifest and other information pertaining to receipt and disposal of radioactive waste in an electronic recordkeeping system.

(a) The manifest information that must be electronically stored is:

(i) that required in Appendix G of 10 CFR 20.1001 to 20.2402, (2006), which is incorporated into these rules by reference, with the exception of shipper and carrier telephone numbers and shipper and consignee certifications; and

(ii) that information required in Subsection R313-25-33(5).

(b) As specified in facility license conditions, the licensee shall report the stored information, or subsets of this information, on a computer-readable medium.

**R313-25-34. Tests on Land Disposal Facilities.**

Licensees shall perform, or permit the Director to perform, any tests the Director deems appropriate or necessary for the administration of the rules in Rule R313-25, including, but not limited to, tests of;

(1) wastes;

(2) facilities used for the receipt, storage, treatment, handling or disposal of wastes;

(3) radiation detection and monitoring instruments; or

(4) other equipment and devices used in connection with the receipt, possession, handling, treatment, storage, or disposal of waste.

**R313-25-35. Director Inspections of Land Disposal Facilities.**

(1) Licensees shall afford to the Director, at reasonable times, opportunity to inspect waste not yet disposed of, and the premises, equipment, operations, and facilities in which wastes are received, possessed, handled, treated, stored, or disposed of.

(2) Licensees shall make available to the Director for inspection, upon reasonable notice, records kept by it pursuant to these rules. Authorized representatives of the Director may copy and take away copies of, for the Director's use, any records required to be kept pursuant to Rule R313-25.

**KEY: radiation, radioactive waste disposal, depleted uranium**
**Date of Enactment or Last Substantive Amendment: [~~October 21, 2014~~]January 12, 2018**
**Notice of Continuation: July 1, 2016**
**Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-104(1); 19-6-107**

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# Governor, Economic Development
# R357-5
## Motion Picture Incentive

### NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42232
FILED: 10/16/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for the change is to clarify the procedures required for program compliance when hiring a CPA to conduct the required audits for the program.

SUMMARY OF THE RULE OR CHANGE: This change clarifies frequent questions that have been asked by participants of the program. More specifically, it outlines a definition for what counts as "dollars left in the state" and provides a more detailed explanation for what is required of a CPA when hired by a production company to perform the statutorily required CPA audit of the dollars left in the state.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63N-8-104(1)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no impact to the state budget because the program is already limited to an annual fiscal year allocation of tax credits and cash rebates it can issue. This rule change does not apply to any state agencies because they are not allowed to participate in the program.
♦ LOCAL GOVERNMENTS: There is no impact to local governments because they are not allowed to participate in the program.
♦ SMALL BUSINESSES: This rule change only clarifies already existing requirements and practices within the program and therefore should not create any new or additional costs to the small businesses that are approved to participate in the program. This amendment simply clarifies what is required of a participant if they are approved to receive a tax credit or cash rebate under the requirements laid out in statute.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: As with small businesses, this rule change only clarifies already existing requirements and practices within the program and therefore should not create any new or additional costs to the larger businesses that are approved to participate in the program. This amendment simply clarifies what is required of a participant if they are approved to receive a tax credit or cash rebate under the requirements laid out in statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no new compliance costs for any affected persons because the rule only clarifies already existing requirements provided for in statute for the program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no anticipated costs to businesses generally because a business must be approved for a tax credit to even participate in the program. Furthermore, those that are approved are already required to live by these requirements. This amendment is simply clarifying those requirements.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
GOVERNOR
ECONOMIC DEVELOPMENT
60 E SOUTH TEMPLE
THIRD FLOOR
SALT LAKE CITY, UT 84111
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jeffrey Van Hulten by phone at 801-538-8694, by FAX at 801-538-8888, or by Internet E-mail at jeffreyvan@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Val Hale, Executive Director

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**R357. Governor, Economic Development.**
**R357-5. Motion Picture Incentive.**
**R357-5-1. Authority.**

(1) Subsection 63N-8-104(1) requires the office to make rules establishing the standards that a motion picture company, and digital media company must meet to qualify for a motion picture incentive and the criteria for determining the amount of the motion picture incentive.

**R357-5-2. Definitions.**

(1) The definitions below are in addition to or serve to clarify the definitions found in Utah Code Section 63N-8-102.

(2) [~~"Low-Budget Film Production"~~]"Community Film Incentive Program" means a production where a motion picture company has a maximum budget of under $500,000.

(3) "Dollars Left in the State" means in addition to 63N-8 does NOT include:

(a) Salary for any individual earning more than 500,000

(b) Marketing and distributions expenditures

(c) 50% of shipping or airfare charges with one destination point within Utah and all shipping or airfare outside of Utah

(d) any value beyond the depreciated amount for capital expenditures, rentals, and any purchases made where the item is used for only a portion of its useful life

(e) any per diem value beyond 120 percent of the current federal rate for the area

(4) "Independent Utah CPA" means, a Certified Public Accountant (CPA) holding an active license in the state of Utah that is independent of the production and production activities.

([~~3~~]5) "Motion Pictures" means, but is not limited to, narrative or documentary films or high definition digital production, and originally intended for commercial distribution to motion picture theaters, directly to the home video and/or DVD markets, cable television, broadcast television or video on demand.

(a) The term "Motion Picture" does not include:

(i) News;

(ii) Commercials;

(iii) Live Broadcasts;

(iv) Digital Media Products;

(v) Discrete Sporting events;

(vi) Live Coverage of other theatrical or entertainment events; or

(vii) Programs that solicit funds.

([~~4~~]6) "Rural Utah" means all counties [~~of the 4th, 5th, and 6th class, and municipalities in a county of the 3rd class that has a population under 20,000 and a median household income under $70,000 as reflected in the most recently available data collected and reported by the United States Census Bureau.~~]outside of Davis County, Salt Lake County, Utah County, and Weber County.

([~~5~~]7) "Significant Percentage of cast and crew from Utah" means

(a) For productions that have less than $500,000 dollars left in state: that at least 85% of the cast and crew are Utah residents.

(b) For productions that have more than $500,000 dollars left in state: that at least 75% of the cast and crew are Utah residents excluding extras and five principal cast.

(c) "Utah Resident" means that the individual files a Utah Resident tax return.

([~~6~~]8) "State-approved production" means a production that is:

(a) approved by the office and ratified by the Governor's Office of Economic Development Board; and

(b) all or a portion of the production is produced in the state.

([~~7~~]9) "Total budget for the product" means the total budget for Dollars left in state of pre-production, production and post-production.

([~~8~~]10) "Treatment" means: A written description of the production.

([~~9~~]11) "UFC" means: the Utah Film Commission, a sub-entity of the Utah Governor's Office of Economic Development.

([~~10~~]12) "Utah Resident" means a person who files a Utah State Tax Return as a resident of Utah.

**R357-5-3. Motion Picture Incentive Applications: Procedures and Minimum Requirements for a Motion Picture Company.**

(1) A motion picture company's application may be approved [~~may qualify~~ ]for a motion picture incentive only if all of the following requirements are met in addition to those listed throughout 63N-8:

(a) The motion picture company is making all or a portion of a motion picture in the state of Utah;

(b) The motion picture is a state approved production;

(c) The motion picture company guarantees UFC access to production's behind the scenes footage, interviews and still photography or allow the office to produce its own;

(d) The motion picture company guarantees the production will display the Utah logo as outlined in the incentive agreement and provide a screen shot of the logo as it appears in the credits.

(e) The motion picture company has obtained financing for at least 75% of the anticipated Dollars left in state for the project, and the applicant provides proof of financing in a form specified in the application documents.

(f) The motion picture company must retain financing as set forth in subsection (e) for the life of the contract with the State.

(g) The motion picture company intends to report at least $500,000 dollars left in state if applying for a film incentive pursuant to R357-5-5(1) or a maximum of under $500,000 if applying for an incentive pursuant to R357-5-5(2);

(h) As of the date that the Office receives a completed motion picture incentive application, the motion picture production company has not started principle photography of the production in the state.

(i) If a production has initiated principal photography prior to the Office's receipt of a completed application, the application for incentive shall be denied.

[~~(ii) An application for incentive may be submitted if the motion picture production company has initiated pre-production activities in the State of Utah, as long as principal photography has not been initiated.~~

]

(2) The motion picture incentive application shall not be construed as a property right and neither the Office nor the Board is required to approve an application.

(3) In order to receive state approval for an incentive application, a production must, in the State's sole discretion, reflect positively on the image of state of Utah.

(a) In determining whether or not a production reflects positively on the image of the state of Utah, the Office and Board may take into consideration:

(i) Whether and to what extent the motion picture promotes Utah as a tourist destination;

(ii) the overall strength and viability of the script of the production;

(iii) the industry reputation of the production or motion picture company;

(iv) the record of the motion picture company in matters of safety and responsible filmmaking; and

(v) the existence of any legal action or the likelihood of any legal action in relation to either the production or the motion picture company;

(vi) general standards of decency and respect for the diverse beliefs and values of Utahns; and

(vii) any other factors related to the production or the motion picture company that may reasonably affect the image of the state of Utah.

(4) The Office and Board may consider the relative merit of applications, and the need to reserve its allocations for future applications.

(a) Factors that contribute to the relative merit will be weighted by a point system available on the Utah Film Commission's website and include, but are not limited to:

(i) Number of anticipated jobs in Utah;

(ii) Number of production days in Utah;

(iii) Length of employment for Utah cast and crew;

(iv) Local cast and crew wages;

(v) Other economic development that the film contributes in the State of Utah;

(b) Applications shall be made in the form prescribed by the Office, including required attachments or additional information.

(i) Incomplete applications will not be considered received until the application is deemed complete by the UFC.

(ii) A script is required as part of the application.

(1) A treatment may only be submitted where a script for a project type is not possible for example, because the project is a documentary or reality based television show. The Utah Film Commission will determine in its sole discretion if a treatment can be substituted for a script.

(5) A production company may file more than one application if it has more than one production in the state, but a separate application must be filed for each production.

(6) Applications will be subject to submission deadlines, which will be posted on the Utah Film Commission Website and are available in other formats upon request.

(a) If the applicant fails to submit a completed application prior to the submission deadline, the application may be considered with the next round of submissions.

(7) Submitting an application does not guarantee approval of a film incentive.

(a) All film incentives are subject to and contingent upon the amount of available funding and/or tax credit allocation available in the Motion Picture Restricted account;

(b) Lack of state approval shall not be construed as prohibiting a production or prohibiting a motion picture company from filming in Utah.

**R357-5-4. Motion Picture Incentive Applications: Award for a Motion Picture Production.**

(1) Upon receipt of a completed application, the Office will align each project into incentive categories as set forth in R357-5-5.

**R357-5-5. Film Categories and Conditions.**

(1) Utah Motion Picture Incentive Program

(a) The Utah motion Picture Incentive program will have an incentive cap of 20% the dollars left in state, unless a higher cap is awarded pursuant to subsection (c).

(b) Incentives will only be awarded if the motion picture company meets criteria listed in statute, R357-5-3

(c) An additional cap of up to 5% may be granted if the motion picture company:

(i) Motion picture company has at least $1,000,000 in qualified dollars left in state, and

(ii) 75% of cast and crew are Utah residents excluding extras and five principal cast members, or

(iii) 75% of Dollars left in state occurs in rural Utah

(2) [~~Low Budget Film Production Incentive~~]"Community Film Incentive Program"

(a) The [~~Low Budget Film Production Incentives Program~~]"Community Film Incentive Program" will provide a maximum of a 20% post performance cash rebate or tax incentive for dollars left in state by a low budget production.

(b) [~~Low Budget Film Production Incentive Program~~]"Community Film Incentive Program" incentives will only be awarded if the motion picture company meets criteria listed in statute, R357-5-3, has a maximum budget of under $500,000, and meets following criteria:

(i) Minimum wage of 60% of area standard rates for each cast and crew member; and

(ii) 85% of cast and crew must be Utah residents;

(c) Applications for the [~~Low Budget Film Production Incentive Program~~]"Community Film Incentive Program" will be reviewed quarterly beginning in August of each calendar year.

(d) Awards will be made to motion picture companies based upon the scoring system outlined in the [~~Low Budget Film Production Incentive Program~~]"Community Film Incentive Program" application provided by UFC.

(3) For applications made under either (1) or (2), the motion picture company must provide all information and documentation to show measureable outcomes as outlined in the application for any incentive listed in R357-5-5.

**R357-5-6. Funding -- Post-Performance Compliance.**

(1) A motion picture company may qualify for issuance of either a Post-Performance Refundable Tax Credit or Post-Performance Cash award based on the method outlined in their contract if all of the following requirements are met in addition to those listed throughout 63N-8:

(a) The motion picture company must follow the Agreed-Upon Procedures, which will be posted on the Utah Film Commission Website.

(i) If the motion picture company has residency requirements, the motion picture company will be responsible for providing sufficient documentation to the CPA for residency verification, this includes:

(A) A copy of a Utah driver's license; or

(B) A copy of government issued identification (from any state or foreign government or student ID/Report card), and (2) documentation showing residency, covering at least 183 days, matching the name, or parent or guardian, on the submitted government ID.

(b) The motion picture company must submit a completed final application to the Governor's Office of Economic Development's Compliance team, in the form prescribed by the Office, including required attachments or additional information.

(2) A CPA when conducting a review of a motion picture company's expenses and contract requirements, the CPA must follow the Agreed-Upon Procedures, which will be posted on the Utah Film Commission Website.

(3) The CPA must retain work papers related to performing these Agreed-Upon Procedures for at least two years. The Governor's Office of Economic Development, at its own discretion, shall have the right to review the CPA's work to ensure consistency amoung the various CPAs, to find areas for improvement to the Agreed-Upon Procedures, and as an internal control.

**R357-5-8. Funding -- Post-Performance Refundable Tax Credit.**

(1) Post-performance refundable tax credits are nontransferable and can only be issued to the state-approved motion picture that submits the motion picture incentive application and is approved by the office with advice from the Board.

**R357-5-9. Funding -- Post-Performance Cash.**

(1) The office may only issue funds appropriated by the state legislature to the Motion Picture Incentive Account to a motion picture company

(2) Post-performance cash can only be issued to the state-approved motion picture company who submits the motion picture incentive application and is approved by the office with advice from the Board.

**R357-5-10. Request for Incentive Amendment.**

(1) A motion picture company may request an incentive amendment only under the conditions listed in the incentive application.

(2) Amendments will be reviewed and approved by the UFC on a case by case basis with a written explanation for the approval or denial provided to the applicant.

**KEY: economic development, motion picture, digital media, new state revenue**
**Date of Enactment or Last Substantive Amendment: [~~July 22, 2016~~]2017**
**Notice of Continuation: June 9, 2016**
**Authorizing, and Implemented or Interpreted Law: 63N-8-104**

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# Health, Health Care Financing, Coverage and Reimbursement Policy
# R414-1-5
## Incorporations by Reference

### NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42203
FILED: 10/11/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to implement by rule Medicaid policy through incorporating by reference the 10/01/2017, version of the Medicaid State Plan, and incorporating by reference the 10/01/2017, versions of all Medicaid provider manuals.

SUMMARY OF THE RULE OR CHANGE: The Department incorporates by reference the Utah Medicaid State Plan and any approved State Plan Amendments (SPAs) to 10/01/2017. Accordingly, the Department incorporates by reference the following: SPA 17-0001-UT Medicaid Cost Sharing, which updates cost sharing for vision services, pharmacy services, chiropractic services, physician or podiatrist services, inpatient hospital stays, outpatient hospital services, and non-emergency services in emergency departments. It also updates Medicaid policy for members who are outside cost-sharing exempt status, updates the list of members who are exempt from cost-sharing requirements, and updates the list of services that do not require copayments; SPA 17-0017-UT Utah Educational Savings Plan, which implements a disregard from resources when funds are held in a Utah Educational Savings Plan and when the Department makes eligibility determinations for certain Medicaid programs. It also specifies eligible groups and individuals; SPA 17-0019-UT Limitations on Physician Services, which updates and clarifies limitations in coverage for physician services that include limitations on physician licensing, provision of services, physician procedures, and utilization criteria; SPA 17-0020-UT Ambulance Rates, which implements a new effective date of rates (July 10) for ambulance services; and SPA 17-0021-UT Peer Support Services, which removes the reimbursement page for peer support services because reimbursement for these services already falls under the category of rehabilitative mental health. This proposed rule also incorporates by reference the following Medicaid provider manuals to 10/01/2017: Medical Supplies and Durable Medical Equipment Utah Medicaid Provider Manual, and the manual's attachment for Donor Human Milk Request Form; Hospital Services Utah Medicaid Provider Manual with its attachments; Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid; Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual; Hospice Care Utah Medicaid Provider Manual; Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual, with its attachments; Utah Home and Community-Based Services (HCBS) Waiver for Individuals Age 65 or Older Utah Medicaid Provider Manual; Personal Care Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with an Acquired Brain Injury Utah Medicaid Provider Manual; Utah Community Supports Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual; Utah Home and Community-Based Services Waiver for Individuals with Physical Disabilities Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual; Utah Home and Community-Based Services Waiver for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services Medicaid Autism Waiver Utah Medicaid Provider

Manual; Office of Inspector General (OIG) Administrative Hearings Procedures Manual; Pharmacy Services Utah Medicaid Provider Manual with its attachments; Coverage and Reimbursement Code Look-up Tool; Child Health Evaluation and Care (CHEC) Services Utah Medicaid Provider Manual with its attachments; Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual; General Attachments (All Providers) for the Utah Medicaid Provider Manual; Indian Health Utah Medicaid Provider Manual; Medical Transportation Utah Medicaid Provider Manual; Non-Traditional Medicaid Plan Utah Medicaid Provider Manual with attachment; Licensed Nurse Practitioner Utah Medicaid Provider Manual; Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, and the manual's attachment for Physical Therapy and Occupational Therapy Decision Tables; Physician Services Utah Medicaid Provider Manual with its attachments; Podiatric Services Utah Medicaid Provider Manual; Primary Care Network Utah Medicaid Provider Manual with its attachments; Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual; Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual; School-Based Skills Development Services Utah Medicaid Provider Manual; Section I: General Information Utah Medicaid Provider Manual; Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual; Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual; Vision Care Services Utah Medicaid Provider Manual; Medically Complex Children's Waiver Utah Medicaid Provider Manual; and Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid Provider Manual. This incorporation of the manuals includes the following changes: Policy coverage for the Physician Services manual is moved to Rule R414-10, and information regarding specific code coverage and radiation therapy is removed from this manual. The Physician Services manual has also acquired all policy from the Anesthesiology Services manual, which is archived; The Hospital Services manual contains new information on Long Term Acute Care (LTAC) hospitalizations that includes documentation requirements on an LTAC request, timely submission of requests for preadmission and continued stay, a negotiated rate letter submission, and denials of LTAC admission, continued stay, or retroactive requests. Information regarding specific code coverage is also removed from this manual, although the manual will continue to be a reference for criteria and reporting instructions. Policy coverage for inpatient and outpatient hospital services is moved to Rules R414-2A and R414-3A; The Home Health Services manual is updated to include new criteria for physical therapy and occupational therapy in accordance with physician orders, plan of care, and licensure; The General Information provider manual (Section I) is updated to include new information on quantity limits as they relate to transportation and delivery of health care services. It also includes an update to coverage criteria as it relates to identifying emergency services for non-citizens; Coverage criteria on disposable incontinence products is updated in the Medical Supplies and Durable Medical Equipment manual; The CHEC Services manual and the Physician Services manual have acquired all policy from the Chiropractic Services manual, which is archived; The Speech-Language Pathology and Audiology Services manual is updated to include hearing screening as a covered service for newborns; The HCBS Waiver for Individuals Age 65 or Older Manual is updated to include new information on claim submissions and to correct billing codes for personal emergency response; The Pharmacy Services manual is updated to include new information on copayments, prescriptions, provider-administered drugs, Utah Maximum Allowable Cost, dispensing fees, and End Stage Renal Disease.

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

MATERIALS INCORPORATED BY REFERENCE:

- ♦ Updates Licensed Nurse Practitioner Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
- ♦ Updates General Attachments (All Providers) for the Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
- ♦ Updates Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
- ♦ Updates Vision Care Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
- ♦ Updates Section I: General Information Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
- ♦ Updates Primary Care Network Utah Medicaid Provider Manual with its attachments, published by Primary Care Network Utah Medicaid Provider Manual with its attachments, 10/01/2017
- ♦ Updates Indian Health Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
- ♦ Updates Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual, published by Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual, 10/01/2017
- ♦ Updates Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, and the manual's attachment for Physical Therapy and Occupational Therapy Decision Tables, published by Division of Medicaid and Health Financing, 10/01/2017
- ♦ Updates Utah Home and Community-Based Waiver Services Medicaid Autism Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017

♦ Updates Pharmacy Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Utah Home and Community-Based Services Waiver for Individuals with Physical Disabilities Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Medically Complex Children's Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates School-Based Skills Development Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, and the manual's attachment for Physical Therapy and Occupational Therapy Decision Tables, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Removes Chiropractic Medicine Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
♦ Updates Non-Traditional Medicaid Plan Utah Medicaid Provider Manual with attachment, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Medical Transportation Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Removes Anesthesiology Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
♦ Updates Coverage and Reimbursement Code Look-up Tool, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Podiatric Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Vision Care Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Medically Complex Children's Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Utah Home and Community-Based Services Waiver for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates CHEC Services Utah Medicaid Provider Manual with its attachments, published by CHEC Services Utah Medicaid Provider Manual with its attachments, 10/01/2017
♦ Updates Non-Traditional Medicaid Plan Utah Medicaid Provider Manual with attachment, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Licensed Nurse Practitioner Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Removes Anesthesiology Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
♦ Updates Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Removes Chiropractic Medicine Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2017
♦ Updates Physician Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 10/01/2017
♦ Updates Office of Inspector General Administrative Hearings Procedures Manual, published by Office of Inspector General and Medicaid Services, 10/01/2017
♦ Updates Medical Transportation Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2017

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no budget impact because this change only fulfills the requirement to incorporate the

State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to the Department or other state agencies.

♦ LOCAL GOVERNMENTS: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to local governments.

♦ SMALL BUSINESSES: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to Medicaid members and to Medicaid providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to a single Medicaid member or to a Medicaid provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

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 or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

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

**R414-1. Utah Medicaid Program.**

**R414-1-5. Incorporations by Reference.**

The Department incorporates the [~~July~~]October 1, 2017, versions of the following by reference:

(1) Utah Medicaid State Plan, including any approved amendments, under Title XIX of the Social Security Act Medical Assistance Program;

(2) Medical Supplies and Durable Medical Equipment Utah Medicaid Provider Manual, as applied in Rule R414-70, and the manual's attachment for Donor Human Milk Request Form;

(3) Hospital Services Utah Medicaid Provider Manual with its attachments;

(4) Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid;

(5) Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual;

(6) Hospice Care Utah Medicaid Provider Manual;

(7) Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual with its attachments;

(8) Personal Care Utah Medicaid Provider Manual;

(9) Utah Home and Community-Based Waiver Services for Individuals Age 65 or Older Utah Medicaid Provider Manual;

(10) Utah Home and Community-Based Waiver Services for Individuals with an Acquired Brain Injury Utah Medicaid Provider Manual;

(11) Utah Community Supports Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual;

(12) Utah Home and Community-Based Services Waiver for Individuals with Physical Disabilities Utah Medicaid Provider Manual;

(13) Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual;

(14) Utah Home and Community-Based Services Waiver for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual;

(15) Utah Home and Community-Based Waiver Services Medicaid Autism Waiver Utah Medicaid Provider Manual;

(16) Office of Inspector General Administrative Hearings Procedures Manual;

(17) Pharmacy Services Utah Medicaid Provider Manual with its attachments;

(18) Coverage and Reimbursement Code Look-up Tool found at http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php;

(19) CHEC Services Utah Medicaid Provider Manual with its attachments;

[~~(20) Chiropractic Medicine Utah Medicaid Provider Manual;~~]

(2[~~1~~]0) Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual;

(2[~~2~~]1) General Attachments (All Providers) for the Utah Medicaid Provider Manual;

(2[~~3~~]2) Indian Health Utah Medicaid Provider Manual;

(2[~~4~~]3) Medical Transportation Utah Medicaid Provider Manual;

(2[~~5~~]4) Non-Traditional Medicaid Plan Utah Medicaid Provider Manual with attachment;

(2[~~6~~]5) Licensed Nurse Practitioner Utah Medicaid Provider Manual;

(2[~~7~~]6) Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, and the manual's attachment for Physical Therapy and Occupational Therapy Decision Tables;

(2[~~8~~]7) Physician Services Utah Medicaid Provider Manual with its attachments;

[~~(29) Anesthesiology Utah Medicaid Provider Manual;~~]

([~~30~~]28) Podiatric Services Utah Medicaid Provider Manual;

([~~31~~]29) Primary Care Network Utah Medicaid Provider Manual with its attachments;

(3[~~2~~]0) Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual;

(3[~~3~~]1) Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual;

(3[~~4~~]2) School-Based Skills Development Services Utah Medicaid Provider Manual;

(3[~~5~~]3) Section I: General Information Utah Medicaid Provider Manual;

(3[~~6~~]4) Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual;

(3[~~7~~]5) Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual;

(3[~~8~~]6) Vision Care Services Utah Medicaid Provider Manual;

([~~39~~]37) Medically Complex Children's Waiver Utah Medicaid Provider Manual; and

([~~40~~]38) Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid Provider Manual.

**KEY: Medicaid**
**Date of Enactment or Last Substantive Amendment: [~~July 1~~], 2017**
**Notice of Continuation: September 15, 2017**
**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-34-2**

# Health, Center for Health Data, Health Care Statistics
# R428-1
# Health Data Plan and Incorporated Documents

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42209
FILED: 10/13/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change updates the versions of required documents for compliance in 2017 and 2018.

SUMMARY OF THE RULE OR CHANGE: The changes update materials incorporated by reference to reflect technical requirements expected for compliance; also clarify effective dates for Healthcare Facility Database (HFD) Data Submission Guides (Version 1 and Version 2), HEDIS Volume 3 Specifications for Survey Measures; HEDIS Volume 5 Compliance Audit, Standards, Policies and Procedures; and for the All Payer Claims Database (APCD) Data Submission Guides (Version 3.0 and Version 3.1).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-33a-104

MATERIALS INCORPORATED BY REFERENCE:

- ♦ Removes All-Payer Claims Database Submission Guide, published by Utah Department of Health, Office of Health Care Statistics, 09/15/2016
- ♦ Adds Utah All-Payer Claims Database Submission Guide, published by Utah Department of Health, Office of Health Care Statistics, 09/26/2017
- ♦ Adds Healthcare Facility Database Submission Guide, published by Utah Department of Health, Office of Health Care Statistics, 09/12/2017

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: This rule change iterates forward to the current versions of documents. The Utah Department of Health (UDOH) determines enactment of the amended version will not create any cost or savings impact to the state budget or UDOH's budget, since the change will not increase workload and can be carried out within the existing budget.

♦ LOCAL GOVERNMENTS: This filing does not create any direct cost or savings impact to local governments since they are not directly affected by the rule; nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

♦ SMALL BUSINESSES: None--Small businesses are not impacted by this rule change, all potentially impacted

businesses have more than 50 employees. As a result, the rule change will have no effect on small business for costs or savings.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Some data suppliers will need to program changes in their system in order to be consistent with the updated guidelines. According to our research with APCD data carriers, some suppliers may incur cost while others report $0 as an estimate for compliance. Overall, UDOH estimates a one-time compliance cost of $2,000 per carrier (approximately 24 man hours x DTS approved Tier 3 rate of $88 per hour) to comply with proposed APCD DSG 3.1. According to our research of submitting healthcare facilities such as hospitals, ambulatory surgery centers and emergency departments, the compliance costs will be $0 per facility to comply with proposed HFD DSG Version 2, in part due to changes being absorbed by existing maintenance contracts between the facility and its vendor.

COMPLIANCE COSTS FOR AFFECTED PERSONS: UDOH anticipates that some APCD carriers will need to make programming changes to implement the additional flexibility and clarifications. By agreement with the APCD data suppliers, changes to the APCD DSG are limited to once per calendar year, so they should anticipate these changes as part of their normal business process in preparation for next year. The burden of these changes is consistent with that understanding. Based on figures reported in Box 7D and current APCD submission roster, UDOH estimates an industry cost of $84,000 (42 active carriers x $2,000) to comply with proposed APCD DSG 3.1. For healthcare facilities, consistent with the per-facility figure presented in Box 7D and current HFD submission roster, UDOH estimates an industry cost of $0 (93 active facilities x $0) to comply with proposed HFD DSG Version 2.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Some businesses will be impacted with a portion of a one time industry cost of $84,000 while other business will have no cost.

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

HEALTH
CENTER FOR HEALTH DATA,
HEALTH CARE STATISTICS
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mike Martin by phone at 801-538-9205, by FAX at 801-538-9916, or by Internet E-mail at mikemartin@utah.gov or mail at PO Box 144004, Salt Lake City, UT 84114-4004

♦ Norman Thurston by phone at 801-538-7052, by FAX at 801-237-0787, or by Internet E-mail at nthurston@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

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**R428. Health, Center for Health Data, Health Care Statistics.**
**R428-1. Health Data Plan and Incorporated Documents.**
**R428-1-1. Legal Authority.**

This rule is promulgated in accordance with Title 26, Chapter 33a.

**R428-1-2. Purpose.**

This rule adopts and incorporates documents related to the collection, analysis, and dissemination of data covered in this title.

**R428-1-3. Health Data Plan Adoption.**

As required by Section 26-33a-104, the Health Data Committee adopts by rule the health data plan dated October 3, 1991.

**R428-1-4. Incorporation by Reference.**

The following documents are adopted and incorporated by reference:

(1) "Utah Healthcare Facility Data Submission Guide" means:

(a) Utah Healthcare Facility Data Submission Guide, Version 1, January 15, 2016 for data submissions required before February 16, 2018, and

(b) Utah Healthcare Facility Data Submission Guide, Version 2 for data submissions required on or after February 16, 2018;

(2) "NCQA Survey Specifications" means:

(a) HEDIS 2017, Volume 3: Specifications for Survey Measures, published by NCQA for data submissions required before January 1, 2018, and

(b) HEDIS 2018, Volume 3: Specifications for Survey Measures, published by NCQA for data submissions required on or after January 1, 2018;

(3) "NCQA HEDIS Specifications" means:

(a) HEDIS 2017, Volume 5: HEDIS Compliance Audit: Standards, Policies, and Procedures, published by NCQA for data submissions required before January 1, 2018, and

(b) HEDIS 2018, Volume 5: HEDIS Compliance Audit: Standards, Policies, and Procedures, published by NCQA for data submissions required on or after January 1, 2018;

(4) "Data Submission Guide for Claims Data" means:

(a) Utah All-Payer Claims Database Data Submission Guide Version [~~2.2.1~~]3.0 for data submissions required before March 1, 2018, and

(b)[~~(5)~~] Utah All-Payer Claims Database Data Submission Guide Version [~~3.0~~]3.1 for data submissions required on or after March 1, 2018.

**KEY: health, health policy, health planning**
**Date of Enactment or Last Substantive Amendment: [~~November 28, 2016~~]2017**
**Notice of Continuation: November 10, 2016**
**Authorizing, and Implemented or Interpreted Law: 26-33a-104**

# Health, Center for Health Data, Health Care Statistics
# R428-2
# Health Data Authority Standards for Health Data

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42208
FILED: 10/13/2017

## RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to align language in Rule R428-2 for the new version of APCD Data Submittal Guide, expected for submissions as of 03/01/2018, with similar reference in Rule R428-1.

SUMMARY OF THE RULE OR CHANGE: This change clarifies one definition referenced in Subsection R428-1-4(4); and deletes a reference to the effective dates for the older version of the document.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-33a-109

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This rule amendment updates the version of Data Submitter Guide expected for use by data submitters to Utah's All Payer Claims Database. The Utah Department of Health (UDOH) determined that enactment of the amended version will not create any cost or savings impact to the state budget or UDOH's budget since the change will not increase workload and can be carried out within the existing budget.
♦ LOCAL GOVERNMENTS: This filing does not create any direct cost or savings impact to local governments since they are not directly affected by the rule; nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.
♦ SMALL BUSINESSES: None--Small businesses are not impacted by this rule change, all potentially impacted businesses have more than 50 employees. As a result, the rule change will have no effect on small businesses for costs or savings.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Technical changes will not create any cost or savings to businesses, individuals, local governments, or persons that are not small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The change clarifies a specific reference to the APCD Data Submittal Guide in Subsection R428-1-4(4) which does not result in compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed change clarifies the definition of "Data Submission Guide for Claims Data" and removes effective dates for the older version of the APCD Data Submission Guide. After conducting a thorough analysis, it was determined that this proposed rule change will not result in a fiscal impact to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
CENTER FOR HEALTH DATA,
HEALTH CARE STATISTICS
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mike Martin by phone at 801-538-9205, by FAX at 801-538-9916, or by Internet E-mail at mikemartin@utah.gov or mail at PO Box 144004, Salt Lake City, UT 84114-4004
♦ Norman Thurston by phone at 801-538-7052, by FAX at 801-237-0787, or by Internet E-mail at nthurston@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Joseph MD, Miner, Executive Director

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**R428. Health, Center for Health Data, Health Care Statistics.**
**R428-2. Health Data Authority Standards for Health Data.**
**R428-2-1. Legal Authority.**

This rule is promulgated under authority granted by Title 26, Chapter 33a.

**R428-2-2. Purpose.**

This rule establishes definitions, requirements, and general guidelines relating to the collection, control, use and release of data pursuant to Title 26, Chapter 33a.

**R428-2-3. Definitions.**

(1) The terms used in this rule are defined in Section 26-33a-102.

(2) In addition, the following definitions apply to all of Title R428:

(a) "Adjudicated claim" means a claim submitted to a carrier for payment where the carrier has made a determination whether the services provided fall under the carrier's benefit.

(b) "Ambulatory surgery data" means the consolidation of complete billing, medical, and personal information describing a patient, the services received, and charges billed for a surgical or diagnostic procedure treatment in an outpatient setting into a data record.

(c) "Ambulatory surgical facility" is defined in Section 26-21-2.

(d) "Carrier" means any of the following Third Party Payors as defined in 26-33a-102(16):

(i) an insurer engaged in the business of health care or dental insurance in the state of Utah, as defined in Section 31A-1-301;

(ii) a business under an administrative services organization or administrative services contract arrangement;

(iii) a third party administrator, as defined in Section 31A-1-301, licensed by the state of Utah that collects premiums or settles claims of residents of the state, for health care insurance policies or health benefit plans, as defined in Section 31A-1-301;

(iv) a governmental plan, as defined in Section 414 (d), Internal Revenue Code, that provides health care benefits;

(v) a program funded or administered by Utah for the provision of health care services, including Medicaid, the Utah Children's Health Insurance Program created under Section 26-40-103, and the medical assistance programs described in Title 26, Chapter 18 or any entity under a contract with the Utah Department of Health to serve clients under such a program;

(vi) a non-electing church plan, as described in Section 410 (d), Internal Revenue Code, that provides health care benefits;

(vii) a licensed professional employer organization as defined in Section 31a-40-102 acting as an administrator of a health care insurance plan;

(viii) a health benefit plan funded by a self-insurance arrangement;

(ix) the Public Employees' Benefit and Insurance Program created in Section 49-20-103;

(x) a pharmacy benefit manager, defined to be a person that provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of any other carrier defined in subsection R428-2-3.

(e) "Claim" means a request or demand on a carrier for payment of a benefit.

(f) "Covered period" means the calendar year on which the data used for calculation of HEDIS measures is based.

(g) "Data element" means the specific information collected and recorded for the purpose of health care and health service delivery. Data elements include information to identify the individual, health care provider, data supplier, service provided, charge for service, payer source, medical diagnosis, and medical treatment.

(h) "Discharge data" means the consolidation of complete billing, medical, and personal information describing a patient, the services received, and charges billed for a single inpatient hospital stay into a discharge data record.

(i) "Electronic media" means a compact disc, digital video disc, external hard drive, or other media where data is stored in digital form.

(j) "Electronic transaction" means to submit data directly via electronic connection from a hospital or ambulatory surgery facility to the Office according to Electronic Data Interchange standards established by the American National Standards Institute's Accredited Standards Committee, known as the Health Care Transaction Set (837) ASC X 12N.

(k) "Eligible Enrollee" means an enrollee who meets the criteria outlined in the NCQA survey specifications.

(l) "Emergency Room Data" means the consolidation of complete billing, medical, and personal information describing a patient, the services received, and charges billed for a single visit and treatment of a patient in an emergency room into an emergency room data record.

(m) "Enrollee" means any individual who has entered into a contract with a carrier for health care or on whose behalf such an arrangement has been made.

(n) "Health Insurance" has the same meaning as found in Section 31A-1-301.

(o) "Healthcare claims data" means information consisting of, or derived directly from, member enrollment, medical claims, and pharmacy claims that this rule requires a carrier to report.

(p) "Healthcare Facility" means a hospital or ambulatory surgical facility.

(q) "Healthcare Facility Data" means ambulatory surgery data, discharge data, or emergency room data.

(r) "HEDIS" means the Healthcare Effectiveness Data and Information Set, a set of standardized performance measures developed by the NCQA.

(s) "HEDIS data" means the complete set of HEDIS measures calculated by the carriers according to NCQA specifications, including a set of required measures and voluntary measures defined by the department, in consultation with the carriers.

(t) "Hospital" means a general acute hospital or specialty hospital as defined in Section 21-21-2 that is licensed under Rule R432.

(u) "Level 1 data element" means a required reportable data element.

(v) "Level 2 data element" means a data element that is reported when the information is available from the patient's hospital record.

(w) "NCQA" means the National Committee for Quality Assurance, a not-for-profit organization committed to evaluating and reporting on the quality of managed care plans.

(x) "Office" means the Office of Health Care Statistics within the Utah Department of Health.

(y) "Order" means an action of the committee that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.

(z) "Patient Social Security number" is the social security number of a person receiving health care.

(aa) "Performance Measure" means the quantitative, numerical measure of an aspect of the carrier, or its membership in part or in its entirety, or qualitative, descriptive information on the carrier in its entirety as described in HEDIS.

(bb) "Public Use Data Set" means a data extract or a subset of a database that is deemed by the Office to not include identifiable data or where the probability of identifying individuals is minimal.

(cc) "Report" means a disclosure of data or information collected or produced by the committee or Office, including but not

limited to a compilation, study, or analysis designed to meet the needs of specific audiences.

(dd) "Research and Statistical Purposes" means having the objective of creating knowledge or answering questions, including a systematic investigation that includes development, testing, and evaluation; the description, estimation, projection, or analysis of the characteristics of individuals, groups, or organizations; an analysis of the relationships between or among these characteristics; the identification or creation of sampling frames and the selection of samples; the preparation and publication of reports describing these matters; and the development, implementation, and maintenance of methods, procedures, or resources to support the efficient use or management of the data.

(ee) "Research Data Set" means a data extract or subset of a database intended for use by investigators or researchers for bona fide research purposes that may include identifiable information or where there is more than a minimal probability that the data could be used to identify individuals.

(ff) "Record linkage number" is an irreversible, unique, encrypted number that will replace patient social security number.

(gg) "Sample file" means the data file containing records of selected eligible enrollees drawn by the survey agency from the carrier's sampling frame.

(hh) "Sampling Frame" means the carrier enrollment file as described criteria outlined by the NCQA survey specifications.

(ii) "Submission year" means the year immediately following the covered period.

(jj) "Survey agency" means an independent contractor on contract with the Office of Health Care Statistics.

(kk) "Utah Health Care Performance Measurement Plan" means the plan for data collection and public reporting of health-related measures, adopted by the Utah Health Data Committee to establish a statewide health performance reporting system.

(ll) "Uniform billing form" means the uniform billing form recommended for use by the National Uniform Billing Committee.

(mm) "Utah Healthcare Facility Data Submission Guide" means the document referenced in Subsection R428-1-4(1).

(nn) "NCQA Survey Specifications" means the document referenced in Subsection R428-1-4(2)

(oo) "NCQA HEDIS Specifications" means the document referenced in Subsection R428-1-4(3)

(pp) "Data Submission Guide for Claims Data" means the document referenced in Subsection R428-1-4(4)[~~ for data submissions required from April 1, 2016 to February 28, 2017 and the document referenced in Subsection R428-1-4(5) for data submissions beginning March 1, 2017~~].

**R428-2-4. Technical Assistance.**

The Office may provide technical assistance or consultation to a data supplier upon request and resource availability. The consultation shall be to enable a data supplier to submit required data according to Title R428.

**R428-2-5. Data Classification and Access.**

(1) Data collected by the committee are not public, and as such are exempt from the classification and release requirements specified in Title 63g, Chapter 2, Government Records Access and Management Act.

(2) Any person having access to data collected or produced by the committee or the Office under Title 26, Chapter 33a shall not:

(a) take any action that might provide information to any unauthorized individual or agency;

(b) scan, copy, remove, or review any information to which specific authorization has not been granted;

(c) discuss information with unauthorized persons which could lead to identification of individuals;

(d) give access to any information by sharing passwords or file access codes.

(3) Any person having access to data collected or produced by the committee or the Office under Title 26, Chapter 33a shall:

(a) maintain the data in a safe manner which restricts unauthorized access;

(b) limit use of the data to the purposes for which access is authorized;

(c) report immediately any unauthorized access to the Office or its designated security officer.

(4) A failure to report known violations by others is subject to the same punishment as a personal violation.

(5) The Office shall deny a person access to the facilities, services and data as a consequence of any violation of the responsibilities specified in this section.

**R428-2-6. Editing and Validation.**

(1) Each data supplier shall review each required record prior to submission. The review shall consist of checks for accuracy, consistency, completeness, and conformity.

(2) The Office may subject submitted data to edit checks. The Office may require the data supplier to correct data failing an edit check as follows:

(a) The Office may, by first class U.S. mail or email, inform the submitting data supplier of any data failing an edit check.

(b) The submitting data supplier shall make necessary corrections and resubmit all corrected data to the Office within 10 business days of the date the Office notified the supplier.

(3) The Office or its designee may reject any data submission that fails to conform to the submission requirements. A data supplier whose submission is rejected shall resubmit the data in the appropriate, corrected format to the Office or its designee within 10 state business days of notice that the data does not meet the submission requirements.

**R428-2-7. Error Rates.**

The committee may establish and order reporting quality standards based on non-reporting or edit failure rates.

**R428-2-8. Data Disclosure.**

(1) The committee may disclose data received from data suppliers or data or information derived from this data as specified in Title 26, Chapter 33a.

(2) The Office may prepare reports relating to health care cost, quality, access, health promotion programs, or public health. These actions may be to meet legislative intent or upon request from individuals, government agencies, or private organizations. The Office may create reports in a variety of formats including print or electronic documents, searchable databases, web-sites, or other user-oriented methods for displaying information.

(3) Unless otherwise specified by the committee, the time period for data suppliers and health care providers to prepare a response as required in Subsections 26-33a-107(1) and 26-33a-107(3) shall be 15 business days. If a data supplier fails to respond in the specified time frame, the committee may conclude that the information is correct and suitable for release.

(4) The committee may note in a report that accurate appraisal of a certain category or entity cannot be presented because of a failure to comply with the committee's request for data, edit corrections, or data validation.

(5) The Office may release to the data supplier or its designee any data elements provided by the supplier without notification when a data supplier requests the data be so supplied.

(6) The committee may disclose data in computer readable formats.

(7) The Director of the Office may approve the disclosure of a public use data set upon receipt of a written request that includes the following:

(a) the name, address, e-mail and telephone number of the requester;

(b) a statement of the purpose for which the data will be used;

(c) agreement to other terms and conditions as deemed necessary by the Office.

(8) As allowed by Section 26-33a-109, thecommittee may release identified data for research and statistical purposes. A person requesting a research data set must provide:

(a) the name, address, e-mail and telephone number of the requester and for each person who will have access to the research data set;

(b) a statement of the purpose for which the research data set will be used;

(c) the starting and ending dates for which the research data set is requested;

(d) an explanation of why a public use data set could not be used for to accomplish the stated research purposes, including a separate justification for each element containing identified data requested;

(e) evidence of the integrity and ability to safeguard the data from any breach of confidentiality;

(f) evidence of competency to effectively use the data in the manner proposed;

(g) a satisfactory review from an Office-approved institutional review board;

(h) a guarantee that no further disclosure will occur without prior approval of the Office;

(i) a signed agreement to comply with other terms and conditions as stipulated by the committee.

**R428-2-9. Penalties.**

(1) The Office may apply civil penalties or subject violators to legal prosecution.

(2) Sections 26-23-6 and 26-33a-110 specify civil and criminal penalties for failure to comply with the requirements of Title R428 or Title 26, Chapter 33a.

(3) Notwithstanding Subsection R428-2-9(2), any person that violates any provision of Title R428 may be assessed an administrative civil money penalty not to exceed $3,000 upon an administrative finding of a first violation and up to $5,000 for a subsequent similar violation within two years. A person may also be subject to penalties imposed by a civil or criminal court, which may not exceed $5,000 or a class B misdemeanor for the first violation and a class A misdemeanor for any subsequent similar violation within two years.

(4) Notwithstanding Subsection R428-2-9(2) and R428-2-9(3), a data supplier that violates any provision of Title R428 may be assessed an administrative civil money penalty for each day of non-compliance. Fines may be imposed as follows:

(a) Not to exceed the sum of $10,000 per violation

(b) Each day of violation is a separate violation

(c) Deadlines established in separate sections of Title R428 are considered as separate provisions.

(5) The Office may impose a fine on any data supplier that misses a deadline to submit data required in Title R428 as follows:

(a) A fine of $250 per violation shall be imposed until the data has been supplied as required

(b) The fines shall increase to $500 per violation for each violation when any data supplier that is currently in violation misses another deadline

(c) After forty-five consecutive calendar days of violation, the Office may adjust the per day penalty subject to the limits in (4)(a) taking into account the following aggravating and mitigating circumstances:

(i) Prior violation history and history of compliance

(ii) Good faith efforts to prevent violations

(iii) The size and financial capability of the data supplier.

**R428-2-10. Exemptions and Extensions.**

(1) The committee may grant exemptions or extensions from reporting requirements in Title R428 to data suppliers under certain circumstances.

(2) The committee may grant an exemption to a data supplier when the supplier demonstrates that compliance imposes an unreasonable cost.

(a) A data supplier may request an exemption from any particular requirement or set of requirements of Title R428. The data supplier must submit a request for exemption no less than 30 calendar days before the date the supplier would have to comply with the requirement.

(b) The committee may grant an exemption for a maximum of one calendar year. A data supplier wishing an additional exemption must submit an additional, separate request.

(3) The committee may grant an extension to a data supplier when the supplier demonstrates that technical or unforeseen difficulties prevent compliance.

(a) A data supplier may request an extension for any deadline required in Title R428. For each deadline for which the data supplier requests an extension, the data supplier must submit its request no less than seven calendar days before the deadline in question.

(b) The committee may grant an extension for a maximum of 30 calendar days. A data supplier wishing an additional extension must submit an additional, separate request.

(4) The supplier requesting an extension or exemption shall include:

(a) The data supplier's name, mailing address, telephone number, and contact person;

(b) the dates the exemption or extension is to start and end;

(c) a description of the relief sought, including reference to specific sections or language of the requirement;

(d) a statement of facts, reasons, or legal authority in support of the request; and

(e) a proposed alternative to the requirement or deadline.

(5) A carrier that covers fewer than 2,500 individual Utah residents as of January 1 of a given year is exempt from all requirements of this title except that once a carrier has covered a cumulative total of 2,500 such individuals during a calendar year, they are no longer considered exempt for the remainder of that year.

**R428-2-11. Contractor Liability.**

(1) A data supplier may contract with another entity to submit required data elements on their behalf under Title R428. In such cases, the data supplier must notify the Office of the identity and contact information of the contractor.

(2) Regardless of the existence of a contractor, the responsibility for complying with all requirements of Title R428 remains solely with the data supplier.

**R428-2-12. Data Supplier Contacts.**

(1) Data suppliers required to submit healthcare claims data or healthcare facility data shall provide current contact information to the Office by September 1 of each year using a web-site provided by the Office for this purpose.

(2) Each data supplier newly required to submit healthcare claims data or healthcare facility data under this rule, including by a change to the rule or because it no longer qualifies for an exemption, shall provide contact information to the Office within 30 days of learning that they will be required to submit data under this rule.

(3) Each data supplier shall designate a person who is responsible for submitting data and a person who is responsible for communicating with the Office regarding the submission of the data. Each data supplier shall notify the Office of changes in this designation within thirty calendar days.

**KEY: health, health policy, health planning**
**Date of Enactment or Last Substantive Amendment: [~~December 8, 2016~~]2017**
**Notice of Continuation: November 10, 2016**
**Authorizing, and Implemented or Interpreted Law: 26-33a-104**

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# Health, Family Health and Preparedness, Licensing
# R432-150-8
# Administrator

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42201
FILED: 10/06/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule amendment is to clarify that required reports for nursing care facilities includes a monthly census report. The Health Facility Committee reviewed and approved these rule amendments on 09/13/2017.

SUMMARY OF THE RULE OR CHANGE: The rule amendment is to clarify that required reports for nursing care facilities includes a monthly census report, defines the due date, and restates that civil money penalties can be issued for failure to file the census report.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: After conducting a thorough analysis, it was determined that this proposed amendment will not result in a fiscal impact to the state budget because this amendment simply clarifies the rule requirements.
♦ LOCAL GOVERNMENTS: After conducting a thorough analysis, it was determined that this proposed amendment will not result in a fiscal impact to local governments because this amendment simply clarifies the rule requirements.
♦ SMALL BUSINESSES: After conducting a thorough analysis, it was determined that this proposed amendment will not result in a fiscal impact to small businesses because this amendment clarifies the rule requirements.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: After conducting a thorough analysis, it was determined that this proposed amendment will not result in a fiscal impact to businesses, individuals, local governments, or persons that are not small businesses because this amendment simply clarifies the rule requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to affected persons because this amendment simply clarifies the rule requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
FAMILY HEALTH AND PREPAREDNESS, LICENSING
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov

♦ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov or mail at PO Box 142003, Salt Lake City, UT 84114-2003

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

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**R432. Health, Family Health and Preparedness, Licensing.**
**R432-150. Nursing Care Facility.**
**R432-150-8. Administrator.**

(1) The administrator must comply with the following requirements.

(a) The administrator must be licensed as a health facility administrator by the Utah Department of Commerce pursuant to Title 58, Chapter 15.

(b) The administrator's license shall be posted in a place readily visible to the public.

(c) The administrator may supervise no more than one nursing care facility.

(d) The administrator shall have sufficient freedom from other responsibilities to permit attention to the management and administration of the facility.

(e) The administrator shall designate, in writing, the name and title of the person who shall act as administrator in any temporary absence of the administrator. This person shall have the authority and freedom to act in the best interests of resident safety and well-being. It is not the intent of this paragraph to permit an unlicensed de facto administrator to supplant or replace the designated, licensed administrator.

(2) The administrator's responsibilities must be defined in a written job description on file in the facility. The job description shall include at least the following responsibilities:

(a) complete, submit, and file all [~~records and reports required by the Department;~~]required reports, including a monthly census report to the Division of Medicaid and Health Financing as required by R414-401-4, by the end of the succeeding month;

(i) The Department may issue sanctions, including civil money penalties, in accordance with R432-3-7, for failure to report the required census information.

(b) act as a liaison between the licensee, medical and nursing staffs, and other supervisory staff of the facility;

(c) respond to recommendations made by the quality assurance committee;

(d) implement policies and procedures governing the operation of all functions of the facility; and

(e) review all incident and accident reports and document the action taken or reason for no action.

(3) The administrator shall ensure that facility policies and procedures reflect current facility practice, and are revised and updated as needed.

(4) The administrator shall secure and update contracts for required professional services not provided directly by the facility.

(a) Contracts shall document the following:

(i) the effective and expiration date of contract;

(ii) a description of goods or services provided by the contractor to the facility;

(iii) a statement that the contractor shall conform to the standards required by Utah law or rules;

(iv) a provision to terminate the contract with advance notice;

(v) the financial terms of the contract;

(vi) a copy of the business or professional license of the contractor; and

(vii) a provision to report findings, observations, and recommendations to the administrator on a regular basis.

(b) Contracts shall be signed, dated and maintained for review by the Department.

(5) The administrator shall maintain a written transfer agreement with one or more hospitals to facilitate the transfer of residents and essential resident information. The transfer agreement must include:

(a) criteria for transfer;

(b) method of transfer;

(c) transfer of information needed for proper care and treatment of the resident transferred;

(d) security and accountability of personal property of the resident transferred;

(e) proper notification of hospital and responsible person before transfer;

(f) the facility responsible for resident care during the transfer; and

(g) resident confidentiality.

**KEY: health care facilities**
**Date of Enactment or Last Substantive Amendment: 2017**
**Notice of Continuation: February 13, 2017**
**Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-16**

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# Health, Family Health and Preparedness, Licensing
# R432-270-19
# Medication Administration

## NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 42200
FILED: 10/06/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule amendment is to clarify the kind of personal injection that a resident can independently administer. The Health Facility Committee reviewed and approved these rule amendments on 09/13/2017.

SUMMARY OF THE RULE OR CHANGE: The rule amendment is to clarify that a resident can independently administer any type personal injection, previously only insulin injections were allowed.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to the state budget because this amendment simply clarifies the rule requirements.
♦ LOCAL GOVERNMENTS: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to local governments because this amendment simply clarifies the rule requirements.
♦ SMALL BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to small businesses because this amendment simply clarifies the rule requirements.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses, individuals, local governments, and persons that are not small businesses because this amendment simply clarifies the rule requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to affected persons because this amendment simply clarifies the rule requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact because this amendment simply clarifies the rule requirements.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
FAMILY HEALTH AND PREPAREDNESS,
LICENSING
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov
♦ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov or mail at PO Box 142003, Salt Lake City, UT 84114-2003

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

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**R432. Health, Family Health and Preparedness, Licensing.**
**R432-270. Assisted Living Facilities.**
**R432-270-19. Medication Administration.**

(1) A licensed health care professional must assess each resident to determine what level and type of assistance is required for medication administration. The level and type of assistance provided shall be documented on each resident's assessment.

(2) Each resident's medication program must be administered by means of one of the methods described in (a) through (f) in this section:

(a) The resident is able to self-administer medications.

(i) Residents who have been assessed to be able to self-administer medications may keep prescription medications in their rooms.

(ii) If more than one resident resides in a unit, the facility must assess each person's ability to safely have medications in the unit. If safety is a factor, a resident shall keep his medication in a locked container in the unit.

(b) The resident is able to self-direct medication administration. Facility staff may assist residents who self-direct medication administration by:

(i) reminding the resident to take the medication;

(ii) opening medication containers; and

(iii) reminding the resident or the resident's responsible person when the prescription needs to be refilled.

(c) Family members or a designated responsible person may administer medications. If a family member or designated responsible person assists with medication administration, they shall sign a waiver indicating that they agree to assume the responsibility to fill prescriptions, administer medication, and document that the medication has been administered. Facility staff may not serve as the designated responsible person.

(d) For residents who are unable to self-administer or self-direct medications, facility staff may administer medications only after delegation by a licensed health care professional under the scope of their practice.

(i) If a licensed health care professional delegates the task of medication administration to unlicensed assistive personnel, the delegation shall be in accordance with the Nurse Practice Act and R156-31B-701.

(ii) The medications must be administered according to the prescribing order.

(iii) The delegating authority must provide and document supervision, evaluation, and training of unlicensed assistive personnel assisting with medication administration.

(iv) The delegating authority or another registered nurse shall be readily available either in person or by telecommunication.

(e) Residents may independently administer their own personal[ ~~insulin~~ ] injections if they have been assessed to be independent in that process. This may be done in conjunction with the administration of medication in methods (a) through (d) of this section.

(f) home health or hospice agency staff may provide medication administration to facility residents exclusively, or in conjunction with (a) through (e) of this section.

(3) The facility must have a licensed health care professional or licensed pharmacist review all resident medications at least every six months.

(4) Medication records shall include the following:

(a) the resident's name;

(b) the name of the prescribing practitioner;

(c) medication name including prescribed dosage;

(d) the time, dose and dates administered;

(e) the method of administration;

(f) signatures of personnel administering the medication; and

(g) the review date.

(5) The licensed health care professional or licensed pharmacist should document any change in the dosage or schedule of medication in the medication record. When changes in the medication are documented by the facility staff the licensed health care professional must co-sign within 72 hours. The licensed health care professional must notify all unlicensed assistive personnel who administer medications of the medication change.

(6) The facility must have access to a reference for possible reactions and precautions for all prescribed medications in the facility.

(7) The facility must notify the licensed health care professional when medication errors occur.

(8) Medication error incident reports shall be completed when a medication error occurs or is identified.

(9) Medication errors must be incorporated into the facility quality improvement process.

(10) Medications stored in a central storage area shall be:

(a) locked to prevent unauthorized access; and

(b) available for the resident to have timely access to the medication.

(11) Medications that require refrigeration shall be stored separately from food items and at temperatures between 36 - 46 degrees Fahrenheit.

(12) The facility must develop and implement policies governing the;

(a) security and disposal of controlled substances by the licensee or facility staff which shall be consistent with the provisions of 21 CFR 1307.21; and

(b) destruction and disposal of unused, outdated, or recalled medications.

(13) The facility shall document the return of resident's medication to the resident or to the resident's responsible person upon discharge.

**KEY: health care facilities**
**Date of Enactment or Last Substantive Amendment: [~~February 13~~], 2017**
**Notice of Continuation: April 10, 2014**
**Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-1**

# Human Services, Administration, Administrative Services, Licensing
# R501-1
# General Provisions for Licensing

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42216
FILED: 10/13/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is to comply with the updated statute from the 2017 General Session on changes to Title 62A, Chapter 2 (H.B. 185).

SUMMARY OF THE RULE OR CHANGE: The changes: 1) clarify license extension and expiration parameters due to H.B.185 (2017) changes; 2) update definitions based on DHS consistency and stakeholder feedback; 3) clarify general licensure processes, including criteria for denial; 4) update processes for reporting critical incidents in a licensed setting or reporting a complain regarding a licensed setting; 5) update critical incident definition to allow for streamlined DHS-wide reporting of critical incidents; 6) clarify that pending investigations or those that do not result in violations are classified as protected; 7) remove signature requirements to streamline processes; and 8) update the code of conduct. These changes were shared with stakeholders and feedback received.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 62A, Chapter 2

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These processes do not significantly change the Office of Licensing duties that would result in higher cost of service. There is, however, the potential for a little bit more processing time on critical incidents as the definition has been expanded to create all the items needed DHS wide for critical incident reporting. For providers, this consistency means one report to one DHS agency and it will then be shared across all DHS agencies. For DHS agencies, it means minor increased coordination of report sharing. It is difficult to know if this will result in a savings or a cost to the state agencies, but it could go slightly either way. All the agencies are already accepting their individual critical incidents separately.
♦ LOCAL GOVERNMENTS: No significant anticipated changes for local governments. A few government entities do hold licenses with the Office of Licensing and would be impacted by changes to critical incident reporting. This could require more submissions on their part, but costs are not anticipated to be significant, and if the entity had previously

been reporting to multiple DHS agencies they may see a cost savings in their processes as their reports will be minimized to just one DHS agency.
♦ SMALL BUSINESSES: Similarly to on the state side, changes in critical incident reporting could either take a bit more time or a bit less time for agencies depending on their circumstances, contracts, and clientele. Costs or savings are expected to be minimal as the submission of an incident report is simply an email with a few basic details in it. The most significant incidents that will take the most time would have already been submitted under the former rule as well.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No other entities are affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule governs mostly the processes and determinations by the Office of Licensing with no costs for affected persons. As detailed above, critical incident reporting could possibly lead to slightly increased cost, but especially for those under contract it could lead to slight savings due to a more streamlined DHS processes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After analysis, the fiscal impact of this rule change are either none or will result in a slight cost or savings depending on individual provider circumstances.

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

HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov
♦ Samantha Hanson by phone at 801-538-4041, or by Internet E-mail at samanthahanson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Diane Moore, Director

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**R501. Human Services, Administration, Administrative Services, Licensing**
**R501-1. General Provisions for Licensing.**
**R501-1-1. Authority and Purpose.**

(1) This Rule is authorized by Utah Code Title 62A, Chapter 2.

(2) This Rule clarifies the standards for:

(a) approving or denying a human services program license application;

(b) [~~approving, ~~]renewing, extending, placing conditions on, restricting admissions, suspending, or revoking a license for a human services program;

(c) inspecting, monitoring, and investigating a prospective or current human services program; and

(d) approving or denying a variance to the Human Services Administrative Rules, Title R501, regarding the licensing of human services programs.

**R501-1-2. Definitions.**

As used in this Title 501:

(1) "Abuse" includes, but is not limited to:

(a) attempting to cause harm;

(b) threatening to cause harm;

(c) causing non-accidental harm;

(d) unreasonable or inappropriate use of a restraint, medication, confinement, seclusion or isolation that causes harm;

(e) sexual exploitation, as defined in 78A-6-105;

(f) sexual abuse, including sexual contact or conduct with a client, or as defined in 78A-6-105;

(g) a sexual offense, as described in Title 76 Chapter 5; or

(h) domestic violence or domestic violence related to child abuse.

(i) "Abuse" does not include the reasonable discipline of a child, or the use of reasonable and necessary force in self-defense or the defense of others, as such force is defined in 76-2-4.

(2) "Applicant" is defined in 62A-2-101.

(3) "Associated with the Licensee" is defined in 62A-2-101.

(4) "Category" means the type of human service license described in 62A-2-101.

(5) "Client" is defined in 62A-2-101.

(6) "Clinical" means services delivered by a Division of Occupational and Professional Licensing (DOPL) licensed mental health or medical professional in accordance with Utah Code Title 58, Chapters 60, 61, 67 and 68.

(7) "Compliant" means adherence to governing rule and statute or only minor violations that do not rise to the level of a corrective action plan or penalty.

(8) "Conflict of Interest" means a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.

([~~6~~]9) "Critical Incident" means an occurrence that involves:

(a) abuse;

(b) neglect;

(c) exploitation;

(d) unexpected death;

(e) any client injury, including self-harm, requiring medical attention beyond basic first aid;

(f) any client injury that is a result of staff or client assault, restraint or intervention;

(g) all criminal activity excluding minor infractions, medical emergency or protective service intervention;

([~~g~~]h) the unlawful or unauthorized presence or use of alcohol, [~~or~~] substances, or harmful contraband items;

(i) the unauthorized presence or misuse of dangerous weapons;

(j) attempted suicide;

(k) any on-duty or client-involved staff sexual misconduct or any client unlawful sexual misconduct;

(l) client rights violations;

(i) per Office of Licensing code of conduct for all licensed providers; and

(ii) per DHS code of conduct for DHS contracted providers; and

(iii) per human rights committee approval for DSPD contracted providers;

(m) medication errors resulting in impact on client's well-being, medical status or functioning;

([~~h~~]n) the unauthorized departure of a client from the program;

([~~i~~]o) outbreak of a contagious illness or situation requiring notification of or consultation with the local health department;

[~~(j) the misuse of dangerous weapons; or~~

~~(k) unsafe conditions caused by weather events, mold, infestations, or other conditions that may affect the health, safety or well-being of clients.~~](p) any event compromising the client environment, including roof collapse, fire, flood, weather events, natural disasters and infestations;

(q) any other incident that compromises client health and safety shall result in a critical incident report;

(i) specific contract language may also exist that requires additional criteria for DHS contracted providers.

([~~7~~]10) "Director[~~(s)~~]" refers to the Office of Licensing director as defined in 62A-2-101, and is not a "Program Director" as defined in this Chapter.[~~means a person or persons ultimately responsible for day to day operations of a program; and may include medical, clinical, or those directing other aspects of the program.~~]

([~~8~~]11) "Exploitation" includes, but is not limited to:

(a) the use of a client's property, labor, or resources without the client's consent or in a manner that is contrary to the client's best interests, or for the personal gain of someone other than the client; such as expending a client's funds for the benefit of another; or

(b) using the labor of a client without paying the client a fair wage or without providing the client with just or equivalent non-monetary compensation, where such use is consistent with therapeutic practices; or

(c) engaging or involving a client in any sexual conduct; or

(d) any offense described in 76-5-111(4) or [~~Section~~] 76-5b-201 and 202.

([~~9~~]12) "Foster Home" is defined in 62A-2-101 (18).

(1[~~0~~]3) "Fraud" means a false or deceptive statement, act, or omission that causes, or attempts to cause, property or financial damages, or for personal or licensee gain. Fraud includes the offenses identified as fraud in Utah Code Title 76 Chapter 6.

(1[~~1~~]4) "Harm" means physical or emotional pain, damage, or injury.

(1[~~2~~]5) "Human Services Program" is defined in 62A-2-101.

(1[~~3~~]6) "Initial License" means the license issued to operate a human services program during the licensee's first year of licensure. This license is considered provisional and allows for the licensee to demonstrate sustained compliance with licensing rules prior to renewal.

(1[~~4~~]7) "Inspection" means announced or unannounced visit of the licensed site in accordance with 62A-2-118.

(1[~~5~~]8) "Licensee" is defined in 62A-2-101 and includes the person or persons responsible for administration and decision making for the licensed site or program. The term licensee may be used to describe a person or entity that has caused any of the violations described in 62A-2-112 that are related to the human services program.

(1[~~6~~]9) "Local Government" is defined in 62A-2-101.

(20) "Medical Emergency" is an acute injury or illness posing an immediate risk to a person's life or long-term health.

([~~17~~]21) "Medication-Assisted Treatment" means the use of medications with counseling and behavioral therapies to treat substance use disorders [~~and~~]or prevent opioid overdose.

([~~18~~]22) "Mistreatment" means emotional or physical mistreatment:

(a) emotional mistreatment is verbal or non-verbal conduct that results in a client suffering significant mental anguish, emotional distress, fear, humiliation, or degradation; and may include demeaning, threatening, terrorizing, alienating, isolating, intimidating, or harassing a client; and

(b) physical mistreatment includes:

(i) misuse of work, exercise restraint, or seclusion as a means of coercion, punishment, or retaliation against a client, or for the convenience of the licensee, or when inconsistent with the client's treatment or service plan, health or abilities;

(ii) compelling a client to remain in an uncomfortable position or repeating physical movements to coerce, punish, or retaliate against a client, or for the convenience of the licensee;

(iii) physical punishment.

([~~19~~]23) "Neglect" means abandonment or the failure to provide necessary care, which may include nutrition, education, clothing, shelter, sleep, bedding, supervision, health care, hygiene, treatment, or protection from harm.

(2[~~0~~]4) "Office" means the Utah Department of Human Services Office of Licensing.

(2[~~1~~]5) "Owner/Ownership" means any licensee, person, or entity that:

(a) is defined as a "[~~m~~]Member" in 62A-2-108; or

(b) is a person or persons listed on a foster home license; or

(c) possesses the exclusive right to hold, use, benefit-from, enjoy, convey, transfer, and otherwise dispose of a program; or

(d) retains the rights, participates in, or is ultimately responsible for operations and business decisions of program, or

(e) may or may not own the real property or building where the facility operates; or

(f) a property owner is also an owner of the program if they operate or have engaged the services of others to operate the program.

(2[~~2~~]6) "Parent Program" means an applicant or licensee owning or directing multiple sites under the same general administrative organization.

(2[~~3~~]7) "Penalty" means the Office's denying, placing conditions on, suspending, or revoking a human services license due to noncompliance with statute or administrative rules, may include penalties outlined in 62A-2-112. A penalty does not include corrective action plans as used in this [~~r~~]Rule.

(2[~~4~~]8) [~~"Pending Renewal License" means a temporary program license status that is assigned when an expiring license has a corrective action plan, penalty, or pending appeal. Pending renewal licenses may be granted only after submission of fees and application, and are valid for no more than 12 months.~~

~~(25)~~ ]"Program" refers to a Human Services Program as defined herein.

(2[~~6~~]9) "Program Director" means a person or persons ultimately responsible for day to day operations of a program.

(30) "Person" means an individual, agency, association, partnership, corporation, business entity, or governmental entity.

([~~27~~]31) "Regular Business Hours" are the hours that the program is available to the public or providing services to clients.

(32) "Renewal License" means a continuing program license issued based upon ongoing compliance with administrative rules and statutes. It is issued annually or biennially in compliance with 62A-2 108(4).

([~~28~~]33) "Restraint" means the involuntary method of physically restricting a person's freedom of movement, physical activity, or normal access to their body. Restraint is only allowed to prevent harm to the client or in protection of others and is only to be completed by an individual with documented training in non-violent crisis intervention or de-escalation techniques.

([~~29~~]34) "Seclusion" means the involuntary confinement of the individual in a room or an area away from the client community, where the individual is physically prevented from leaving.

(3[~~0~~]5) "Site" means a human services program identified by a single geographic location and must be linked to the parent program, if one exists.

(36) "Significant Criminal Activity" is any staff or client involved criminal activity that occurs in or related to the program that poses an immediate and serious threat to health and safety.

(3[~~1~~]7) "Staff" means direct care employees, support employees, managers, program directors, supervisors, administrators, agents, volunteers, owners, and contractors.

(3[~~2~~]8) "Variance" means the Office authorized deviation from the administrative rule.

(3[~~3~~]9) "Violation" means an act or omission by the licensee, or any person associated with the licensee, contrary to any administrative regulation, or local, state, or federal law applicable to the program.

**R501-1-3. Licensing Application Procedures.**

(1) Initial and Renewal Application.

(a) An applicant shall not accept any fees, enter any agreements to provide client services, or provide any client services until they have received a license certificate issued by the Office.

(b) The Office shall issue a license for a human service program only after verifying compliance with applicable administrative rules and statutes.

([~~b~~]c) Applicants and licensees shall permit the Office to have immediate, unrestricted access to the site, all on and off-site program and client records, and all staff and clients.

([e]d) An applicant may withdraw their application for a license, in writing, at any time during the application process.

([~~d~~]e) An applicant seeking an initial or renewal license to operate a human services program shall submit:

(i) an application as provided by the Office; a renewal application that is not submitted at least thirty days prior to the expiration date of the current license may result in the license expiring;

(ii) the fee(s) required for each category of human service program license(s); except as excluded in R501-1-7-2;

(iii) a completed background screening application, fees and supporting documentation for each person associated with the human services program in accordance with 62A-2-120 and R501-14, except for those excluded in 62A-2-120(13);

(iv) the applicant's required policies and procedures;

(A) for renewal purposes the applicant may submit only the policies and procedures that have been modified[~~the applicant's required policies and procedures per R-501-2. Renewal applicants may submit modifications made to previously submitted policies and procedures~~];

(v) name and contact information for all owners and program directors, as defined in this [e]Chapter; and

[~~(vi) disclosure of any individual associated with the application who has been a licensee as defined in this rule that had a license revoked by the Office within the five years prior to the date on the application; and;~~]

(vi[~~i~~]) documentation verifying compliance with, or exemption from, local government zoning, health, fire, safety, and business license requirements.

(A) For residential treatment programs applying for initial licensure, a copy of its notice of intent to operate a residential treatment program, and proof of service, in accordance with 62A-2-108.2.

(2) Application Expiration.

(a) A program initial application, other than an initial foster home application, that remains incomplete shall expire one year from the date it was first submitted to the Office.

(b) A foster home initial application that [~~remains incomplete, or~~ ]lacks required documentation may expire 90 days from the date is was first submitted to the Office unless the Office determines the applicant to be making active progress toward licensing compliance.

(c) An expired initial application is void and requires a new initial application and applicable fees for each category of license.

(3) [~~Two-Year Licenses~~]The Office may deny the initial application or place a penalty on a renewal license if:

(a) the program has failed to achieve or maintain compliance with administrative rules, laws, ordinances or statutes; or[~~A program may apply for a two year license if:~~

~~(i) the program has been licensed consecutively without penalty for two years prior to application;~~

~~(ii) there are no current corrective action plans, penalties or pending appeals at the time of application;~~

~~(iii) the program submits double the annual fees for their category/categories of licenses; and~~

~~(iv) the program submits a plan for maintaining continued compliance with background screenings as described in 62A-2-120.~~]

(b) the Office determines that the program is not reasonably likely to provide services in accordance with governing rules or statutes;

(i) the Office may consider the history of rule violations by the owner, licensee, or persons associated with the program;

(ii) the Office determines that significant false or misleading information regarding the program has been provided to the Office, program clients, prospective clients, or the public; or

(c) program directors, owners or any individuals involved in providing billed services or directly preparing billing have been identified and listed on the Medicaid LEIE exclusion list; or

(d) the agency maintains association with any individual who has been a licensee that has had a license revoked by the Office within the five years prior to the date on the application.

(4) Previously denied applicants shall not reapply for at least three months from the date of denial.

**R501-1-4. Licensing Determinations.**

(1) [~~Application Approval~~

~~(a) The Office shall issue a license for a human service program only after verifying compliance with applicable administrative rules and statutes.~~

~~(b)~~ ]The Office may place individualized parameters on a program license in order to promote the health, safety, and welfare of clients. Such parameters may include, but are not limited to:

([~~i~~]a) age restrictions;

([~~ii~~]b) admission or placement restrictions; or

([~~iii~~]c) other parameters specific to individual sites and programs.

([~~e~~]2) A license certificate shall state the name, site address, license category, maximum client capacity if applicable, any specific parameters, and effective dates of the license.

([~~d~~]a) Licensee shall post the license certificate in a conspicuous location at the licensed site.

([~~e~~]3) A [~~program~~]site associated with a parent program shall not be issued an initial license while any other license associated with[~~in~~] that [~~program or~~ ]parent program is under penalty, or has a pending appeal.

([~~2~~]4) [~~Application Denial~~]Two Year Licenses.

(a) [~~The Office may deny the application for a human service program if:~~ ]A program may apply for a two year license if:

(i) the program has [~~failed to achieve and maintain compliance with administrative rules and statutes. All inspections, investigations, and other information gathered during the licensed period shall contribute to the renewal determination~~ ]been licensed consecutively and in compliance for two years prior to application; and

(ii) the Office has determine[~~s~~]d that[~~,~~] the program's individual services and circumstances are likely to maintain compliance under a two year cycle; and[~~is not reasonably likely to provide services in accordance with governing rules or statutes. The Office may consider the history of rule violations by the owner, licensee, or persons associated with the program; or~~]

(iii) the [~~Office determines that significant false or misleading information regarding the program has been provided to the Office, program clients, prospective clients, or the public.~~ ]program submits double the annual fees for their category/categories of license(s); and

([~~b~~]iv) [~~Previously denied applicants shall not reapply for at least three months from the date of denial~~] the program submits a plan for maintaining continued compliance with background screenings as described in 62A-2-120.

[~~(3) Renewing a License with Violations~~

~~(a) If a license has a penalty, pending appeal, or corrective action plan at the time of renewal, the license shall not be renewed per 62A-2-108(4), but shall be put in a pending renewal status until compliance or other resolution is achieved. Pending renewal status:~~

~~(i) provides an opportunity for the licensee to achieve compliance and qualify for full renewal per 62A-2-108(4);~~

~~(ii) is only issued after submission of renewal application and fees;~~

~~(iii) is valid for up to 12 months of the requested renewal period, and cannot be extended;~~

~~(iv) may be converted to a regular renewal license for the balance of the renewal period once compliance is verified; and~~

~~(v) will be designated on the license certificate.~~]

(b) A two year license [~~that does not achieve compliance or other resolution in that time shall be denied further renewal~~]remains subject to the same annual monitoring as a one year license.

[

**R501-1-5. Expiration, Extension, and Relinquishment.]**

([~~1~~]5) License Expiration.

(a) A license that has expired is void and may not be renewed.

(b) A license expires at midnight on the last day of the same month the license was issued, one year following the date or issuance[~~expiration date listed on the license that is issued by the Office,~~] unless:

(i) the license has been revoked by the Office[~~,~~]; or

(ii) the license has been extended by the Office[~~,~~]; or

[~~(iii) the license has been placed in pending renewal status by the Office in accordance with 501-1-4-3, or~~]

([~~iv~~]iii) the license has been relinquished by the licensee; or[~~,~~]

(iv) the license was issued as a two year license, which will expire at midnight on the last day of the same month the license was issued, two years following the date of issuance and in accordance with R501-4-2.

(c) A program with an expired license shall not accept any fees, enter any agreements to provide client services, or provide any client services.

(d) A program with an expired license [~~wishing to operate a human services program~~] shall submit an application and fees for an initial license and be granted an initial license prior to providing any services in accordance with this [~~r~~]Rule.

([~~2~~]6) License Extensions.

(a) The Office may extend the current license of a human service program only when the renewal application and applicable fee have been submitted.

(b) A license that is compliant prior to expiration may be extended for a one time[~~, up to a~~] maximum of 90 days past the current license expiration date[~~, only if the Office determines there is a reasonable likelihood the program will achieve compliance prior to the expiration of the extension, and there are not current penalties or pending appeals~~].

(c) A license that is not compliant prior to expiration may be extended in non-compliant status.

([~~e~~]i) A compliant renewal license will not be granted until resolution of identified compliance issues.[~~The application for a license that has been extended, but does not qualify for renewal within the timeframe of the extension, shall be denied.~~

~~(3) License Relinquishment; A licensee wishing to voluntarily relinquish its license shall submit a written notice to the Office.~~]

(d) The subsequent license following an extension shall be reduced in duration by the time of the extension.

(7) License Relinquishment.

(a) A licensee wishing to voluntarily relinquish its license shall submit a written notice to the Office.

(b) Voluntary relinquishment of a license shall not be accepted by the Office if a notice of agency action revoking the license has been initiated.

**R501-1-[6]5. Program Changes.**

(1) Name Change.

(a) A licensee wishing to change only the name of the program or site does not need to submit an application or fee; they shall submit updated program documentation reflecting the new name to the Office at least ten days prior to the change.

(b) The Office may link the name of the former program to the new name on the licensing database, and on all license certificates and public websites, for two years following the change.

(2) Relocation.

(a) A human services program wishing to relocate to a new address may serve clients at the new site, only after:

(i) submission of renewal application and renewal fees at least 30 days prior to the move;

(ii) submission of local government business license and applicable inspections and clearances, including but not limited to:

(A) health;

(B) fire; and/or

(C) as required by the rules of a human service program categor[~~icall~~]y[ ~~required~~];

(iii) submission of insurance coverage at the new site[~~,~~];

(iv) inspection by the Office; and

(v) receipt of the updated license certificate for the new site.

(b) A foster home that intends to relocate to a new site may have their license transferred to the new site only after:

(i) a request to relocate has been submitted to the Office at least 30 days prior to the move;

(ii) Office of Licensing inspection and approval of licensure at the new site which shall occur within two weeks, if a foster child is placed, and within 30 days if there are no current foster placements;

(A) if a foster child is placed, it is the responsibility of the licensed foster parent to ensure health and safety of the foster child during the transfer to the new site.

(c) Except for foster homes outlined in subsection (b), no clients may be present and no services may be provided at a relocation address until after the Office issues a new license in accordance with this Rule.

(d) Moving from a licensed site voids that site's license unless the provisions of this Chapter are followed for relocation.

(3) Capacity Change.

(a) A licensee seeking to increase the maximum client capacity of a program shall submit an application and renewal fee for a license renewal as [~~categorically~~ ]required by the rules of the human service program category.

(4) Add New License Category.

(a) A program may request to add a new category of service to an existing licensed site by submitting application and fees for an initial license. All requirements for initial licensure must be verified.

(5) Add New Location.

(a) A program may add an additional site of service by submitting an application and fees for an initial license. All requirements for initial licensure must be verified.

(6) Owner/Ownership Changes.

(a) A program anticipating, or undergoing a change of ownership, or change in owner(s), shall submit in writing, prior to the change:

(i) any changes to the programming and services;

(ii) declaration regarding responsibility for records and records retention to include an agreement signed by both current and prospective owners and/or program directors, detailing how all program staff and client records will be retained and remain available to the Office for six years or in accordance with DHS contract requirements regardless of whether the program remains licensed;

(iii) names and contact information of any new directors or owners;

(iv) documentation of continuous insurance coverage; and

(v) an updated business license.

(b) The status of a license at the time of a change of ownership shall continue.

(7) For any substantial change in this [~~s~~]Section, the Office may require new, initial application and fees for each license category.

(a) Substantial changes include:

(i) those resulting in direct client impact;

(ii) changes to programming;

(iii) changes in populations served;

(iv) severing ties with previous owner or staff affiliations; or

(v) disrupting continuity of record retention, etc.

**R501-1-[7]6. License Fees.**

(1) The Office shall collect licensing fees in accordance with 62A-2-106, and Utah Code Title 63J Chapter 1 Part 5.

(2) No licensing fee shall be required from a foster home, or a Division, or Office, of the Department of Human Services.

(3) The Office is not required to perform an on-site visit, or document review until the applicant pays the licensing fee.

(4) A license application fee will expire after 12 months if a program has been unable to meet the license requirements.

(5) A fee paid by a licensee shall not be transferred, prorated, reduced, waived, or refunded. Costs incurred by applicants in preparation for, or maintenance of licensure are the sole responsibility of the applicant.

(6) Separate initial license fees are required for each new category of human services program offered at each program site.

(7) Separate renewal license fees, and applicable capacity fees, are required for each license category that is renewed at each program site.

(a) Capacity fees are calculated according to the maximum licensed client capacity of the human service program, and not according to the number of clients actually served in the program.

(8) A human service program with more than one building, unit, or suite at one site, may choose to have its fees assessed and each category of license issued:

(a) so that each category of license will be issued to include all on-site buildings, units or suites as one; or

(b) so that separate licenses will be issued for each individual on-site building, unit or suite.

**R501-1-[8]7. Variances.**

(1) A licensee shall not deviate from any administrative rule without first receiving written approval of a specific variance request signed by the Director of the Office, or the director's designee.

(2) The director of the Office, or the director's designee, may grant a variance if the director or the Director's designee determines a variance is not likely to compromise client health and safety, or provide opportunity for abuse, neglect, exploitation, harm, mistreatment, or fraud.

(3) A licensee seeking a variance must submit a written request to their licensing specialist, and specifically describe:

(a) the rule for which the variance is requested;

(b) the reason for the request;

(c) how the variance provides for the best interest of the client(s);

(d) what procedures will be implemented to ensure the health and safety of all clients; and

(e) the proposed variance start and expiration dates.

(4) The Office shall review the variance and notify the licensee of the approval, approval with modification, or denial of the variance, in writing, within 30 days.

(5) The licensee shall comply with the terms of a written variance, including any conditions or modifications contained within the approved written variance.

(6) A variance expires on the end date listed on the approval notice and terms of the variance are no longer permitted after that expiration date, unless a renewal of the variance is granted.

(7) A variance may be renewed by the office when the program is able to justify the request, and ensure ongoing health and safety of all clients.

**R501-1-[9]8. Monitoring.**

(1) The Office shall conduct a minimum of one annual on-site inspection, but may conduct as many announced, or unannounced inspections as deemed necessary to monitor compliance, investigate alleged violations, monitor corrective action plans or penalty compliance, or to gather information for license renewal.

(2) On-site inspections shall take place during regular business hours, as defined in 62A-2-101.

(3) Applicants and licensees shall not restrict the Office's access to the site, clients, staff, and all program records.

(4) Licensees and staff shall not compromise the integrity of the Office's information gathering process by withholding or manipulating information, or influencing the specific responses of staff or clients.

(5) All on-site inspections shall contribute toward the renewal or denial of the license application at the end of the license period.

(6) The Office shall provide written findings to the Program identifying areas of non-compliance with licensing requirements after each on-site inspection.

(7) Except for reports made in relation to foster homes, the licensee shall make copies of inspection reports available to the public upon request per 62A-2-118(5).

(8) The Office may adopt a written inspection report from a local government, certifying, contracting, or accrediting entity to assist in a determination whether a licensee has complied with a licensing requirement.

(9) The Office shall be allowed access to all program documentation and staff that may be located at an administrative location, away from the licensed site.

**R501-1-[10]9. Investigations of Alleged Violations.**

(1) Unlicensed Programs.

(a) The Office shall investigate reports of unlicensed human service programs.

(b) Investigation of an unlicensed human service program may include interviewing anyone at the site, neighbors, or gathering information from any source that will aid the Office in making a determination as to whether or not the site should be licensed.

(c) An unlicensed human services program that meets licensure definition, but does not submit an application and fee, or fails to become licensed, shall be referred to the Office of the Attorney General, and the appropriate County Attorney.

(d) The Office may penalize a licensed program at all program sites when a program adds or operates an unlicensed site that requires licensure by the Office.

(2) Licensed Program Complaints and Critical Incidents.

(a) The Office shall investigate critical incidents and complaints involving alleged licensing violations regarding a licensed human services program.

(b) Complaints about licensees can come to the Office via any means from any source including the Office of Licensing email address: licensingconcerns@utah.gov.

(c) The Office retains discretion to decline investigation of a complaint that is anonymous, unrelated to current conditions of the program, or not an alleged violation of a rule or statute.

(d) Critical incidents that involve one or more clients and/or on-duty staff in a licensed setting or under the direct responsibility and supervision of the program shall be reported [~~by the program to the office~~ ]by the licensee as follows[~~end of the following business day, to legal guardians of involved clients, and to any other agencies as required by law, including~~]:

(i) [~~Child and Adult Protective Services~~] report shall be made to DHS and legal guardians of involved clients within one business day;[~~or~~]

(A) if the critical incident involves a client or service under a DHS contract, the critical incident report must be completed within 24 hours and may require a five day follow up report to the involved DHS Division;

(B) if the critical incident involves a client or service to a youth currently in the custody of DHS or its Divisions an immediate live-person verbal notification to the involved Division is additionally required.

(ii) [~~Law Enforcement.~~]Initial critical incident reports to DHS shall include the following in writing:

(A) name of provider and all involved staff, witnesses and clients;

(B) date, time, and location of the incident, and date and time of incident discovery, if different from time of incident;

(C) descriptive summary of incident;

(D) actions taken; and

(E) actions planned to be taken by the program at the time of the report.

(F) identification of DHS contracts status, if any.

([e]iii) It is the responsibility of the licensee to collect and maintain and submit as requested original witness and participant witness statements and supporting documentation regarding all critical incidents that require individual perspectives to be understood. [~~Pending investigations or those that result in no rule violation findings in regards to the complaints or critical incidents shall be classified as protected and only released in accordance with Utah Code title 63G chapter 2, Utah Government Access and Management Act~~].

(3) Investigative Process.

(a) In-person, or electronic investigations may include, but are not limited to:

(i) a review of on or offsite records;

(ii) interviews of licensee(s), person(s), client(s), or staff;

(iii) the gathering of information from collateral parties; [~~or~~]and

(iv) site inspections.

([~~b~~]c) The Office will prioritize investigations of reports of unlicensed programs, complaints regarding licensed programs, and critical incidents following an assessment of risk to client health and safety as follows:

(i) priority allegations, as administratively identified by the Office as a potential imminent risk to the health and safety of clients, will require initial on-site contact by the Office within three business days. The Office may utilize law enforcement, Child or Adult Protective services, or other protection agencies to meet priority in on-site response;

(ii) all other allegations will require that the Office initiate an investigation within ten business days.

([e]d) Licensees and staff shall cooperate in any investigation.

([~~d~~]e) The Office may report any allegations or evidence of abuse, neglect, exploitation, mistreatment, or fraud to clients, clients' legal guardians, law enforcement, insurance agencies, the insurance department, the Division of Occupational and Professional Licensing, or any other entity determined necessary by the Office.

(f) Pending investigations or those that do not result in a violation finding shall be classified as protected and only released in accordance with Utah Code Title 63G Chapter 2, Utah Government Access and Management Act.

**R501-1-1[~~1~~]0. License Violations.**

(1) When the Office finds evidence of violations of statute or rule, the Office shall do one of the following:

([~~1~~]a) provide written notification of the violation requiring the licensee to correct violation(s) with no formal follow-up; or

([~~2~~]b) provide written notification of violation and request a licensee to submit a corrective action plan in response to a written notification of a violation;

([~~a~~]i) a licensee shall submit a written corrective action plan to the Office within ten calendar days of the request from the Office and the corrective action plan shall include:

([~~b~~]A) a statement of each violation identified by the Office;

([e]B) a detailed description of how the licensee will correct each violation and prevent additional violations;

([~~d~~]C) the date by which the licensee will achieve compliance with administrative rules and statutes; and

([e]D) [~~the signature~~]involvement of program owner(s) and director(s), including each foster parent, if involving a licensed or certified foster home[~~:~~].

([~~i~~]c) [~~t~~]The Office shall review the submitted corrective action plan and[~~:~~]either [

~~(A)~~ ]inform the licensee that the corrective action plan is approved; or [

~~(B)~~ ]inform the licensee that the corrective action plan is not approved and provide explanation;

(i[~~i~~]) the Office may permit a licensee to amend and resubmit its corrective action plan within five additional calendar days[~~;~~].

([~~f~~]d) [~~t~~]The Office shall issue a Notice of Agency Action imposing a penalty for violation(s) if the licensee fails to submit and comply with an approved corrective action plan.

([~~g~~]e) A corrective action plan is not a penalty. Programs have the right to refuse the corrective action plan process and may preserve their appeal rights by requesting a penalty through an Office initiated Notice of Agency Action.

([~~3~~]2) [~~p~~]Provide a written notice of agency action initiating a penalty, as follows:

(a) the Office may place a license on conditional status[~~-~~].

(i) [~~C~~]conditional status allows a program that is in the process of correcting violations to continue operation, subject to conditions established by the Office[~~-~~];

(A) Failure to meet the terms of the conditions, and time frames outlined on the notice, could result in further penalty[~~;~~].

(b) [~~t~~]The Office may suspend a license for up to one year;

(i) a human services program that has had its license suspended is prohibited from accepting new clients, and may only provide the services necessary to maintain client health and safety during their transition; and

(ii) shall have and comply with written policies and procedures to transition clients into equivalent, safe, currently licensed programs or into the custody of their legal guardians[~~;~~].

(c) [~~t~~]The Office may revoke a license;

(i) a human services program that has had its license revoked is prohibited from accepting new clients and may only provide the services necessary to maintain client health and safety during their transition[~~;~~]; and

([~~A~~]ii) shall have and comply with written policies and procedures to transition clients into equivalent, safe, currently licensed program or into the custody of their legal guardians[~~;~~].

([~~B~~]d) Names of licensees and programs who have had their licenses revoked shall be maintained by the Office for a period of five years, and shall not be associated in any way with a licensed program during that five-year period.

([~~d~~]e) A licensee whose license has been suspended or revoked is responsible for the program staffing and health and safety needs of all clients while the suspension or revocation is pending.

([e]f) The Office may place conditions, such as restricted admissions, to be in immediate effect in the Notice of Agency Action, if necessary, to protect the health and safety of clients.

([~~f~~]g) The Office may utilize any other penalties pursuant to 62A-2, Subsections 112, 113 and/or 116.

([~~g~~]h) The Office may consider chronicity, severity, and pervasiveness of violations when determining whether to simply provide notification of violations with no follow-up requirement; or to request a corrective action plan; or to apply a formal penalty to the program.

([~~h~~]i) Repeated violations of the same rule or statute, or failure to comply with conditions of a Notice of Agency Action may elevate the penalty level assessed.

([~~i~~]j) A licensee shall post the Notice of Agency Action on-site, and on the homepage of each of its websites, where it can be easily reviewed by all clients, guardians of clients, and visitors within five business days, and shall remain posted [~~for 90 days~~]until the resolution of the penalty, unless otherwise [~~noted~~]instructed by the Office.

([~~j~~]k) A licensee shall notify all clients, guardians and prospective clients of a Notice of Agency Action issued by the Office within five business days. Prospective and new clients will be notified for as long as the Notice of Agency Action is in effect.

([~~k~~]l) Pending an appeal of a revocation, suspension or conditional license that restricts admissions, licensee shall not accept any new clients as outlined on the Notice of Agency Action, or while an appeal of a penalty is pending without prior written authorization from the Office.

([~~l~~]m) The Office shall electronically post Notices of Agency Action issued to a human services program, on the Office's website, in accordance with 62A-2-106.

([~~m~~]n) Due Process: A Notice of Agency Action shall inform the applicant or licensee of the right to appeal in accordance with Administrative Rule 497-100.

**R501-1-1[~~2~~]1. Licensing Code of Conduct and Client Rights.**

(1) Licensees and staff shall:

(a) [~~accurately~~]transparently represent services, fees, and policies and procedures to clients, guardians, prospective clients, and the public;

(b) disclose any potential or existing conflicts of interest to the Office;

(c) comply with all federal, state, and local laws that govern the program;

(d) report all criminal activity;

(i) significant criminal activity and medical emergencies shall be immediately reported to the appropriate emergency services agency per 62A-2-106-2;

([~~b~~]e) [~~create, maintain, and~~ ]comply with a written policy that addresses the appropriate treatment of clients, to include the rights of clients as outlined in this [~~s~~]Section;

([e]f) not abuse, neglect, harm, exploit, mistreat, or act in a way that compromises the health and safety of clients through acts or omissions, by encouraging others to act, or by failing to deter others from acting;

([~~d~~]g) not use or permit the use of corporal punishment and shall only utilize restraint as [~~described in R501-2~~] defined in this Chapter and outlined in applicable Human Service Rules when an individual's behavior presents imminent danger to self or others;

([e]h) maintain the health and safety of clients in all program services and activities, whether on or offsite;

(i) provide services and supervision that is commensurate with the skills, abilities, behaviors, and needs of each client;

(j) not serve clients outside the program's scope of services;

([~~f~~]k) not commit fraud;

([~~g~~]l) provide an insurer the licensee's records related to any services or supplies billed, upon request by an insurer or the Office;

(m) not charge clients for any fees or expenses that were not previously disclosed to the client;

(n) accept fees only for the services or expenses the provider is willing and able to provide;

(o) not handle the major personal business affairs of a client, without request in writing by the client or legal representative;

([~~h~~]p) require that any licensee or staff member who is aware of, or suspects abuse, neglect, mistreatment, fraud, or exploitation shall ensure that a report is made to the Office and applicable investigative agencies as outlined in R501-1-10-2, and in compliance with mandatory reporting laws, including 62A-4a-403 and 62A-3-305;

(i) any licensee or staff member who is aware of, or suspects a violation of this [~~r~~]Rule or any governing local ordinance or state or federal law, shall ensure that a report is made to the Office of Licensing [~~at 801-538-4242~~]via email at: licensingconcerns@utah.gov, or directly to the licensor of the specific program or site[~~; and~~].

[~~(j) provide services and supervision that is commensurate with the skills, abilities, behaviors, and needs of each client.~~]

(2) Clients have the right to:

(a) be treated with dignity;

(b) be free from potential harm or acts of violence;

(c) be free from discrimination;

(d) be free from abuse, neglect, mistreatment, exploitation, and fraud;

(e) privacy of current and closed records;

(f) communicate and visit with family, attorney, clergy, physician, counselor, or case manager, unless therapeutically contraindicated or court restricted;

(g) be informed of agency policies and procedures that affect client or guardian's ability to make informed decisions regarding client care, to include:

(i) program expectations, requirements, mandatory or voluntary aspects of the program;

(ii) consequences for non-compliance;

(iii) reasons for involuntary termination from the program and criteria for re-admission;

(iv) program service fees and billing; and

(v) safety and characteristics of the physical environment where services will be provided.

(3) [e]Clients shall be informed of these rights and an acknowledgment [~~copy signed~~ ]by the client or guardian shall be maintained in the client file.

(4) [~~l~~]Licensees shall train all staff annually on agency policies and procedures, Licensing rules, and the Licensing Code of Conduct.

(i) [~~A document~~] verif[~~ying~~]ication this training shall be [~~signed and~~] dated and acknowledged by [~~the trainer and~~] each staff member[ ~~and maintained in the staff personnel file~~].

**R501-1-1[~~3~~]2. Compliance.**

(1) A licensee that is in operation on the effective date of this [~~r~~]Rule shall be given 60 days to achieve compliance with this [~~r~~]Rule.

**KEY: licensing, human services**
**Date of Enactment or Last Substantive Amendment: [~~January 17~~], 2017**
**Notice of Continuation: October 18, 2012**
**Authorizing, and Implemented or Interpreted Law: 62A-2-101 et seq.**

# Human Services, Administration, Administrative Services, Licensing
# R501-12
# Foster Care Services

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42217
FILED: 10/13/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is to comply with changes made by H.B. 101, H.B. 185, and S.B. 85 from the 2017 General Session that affected foster care licensing rule.

SUMMARY OF THE RULE OR CHANGE: This rule is being updated to reflect the legislative changes made in H.B. 101, H.B. 185, and S.B. 85 (2017) regarding the definition of foster care, capacity limits in foster care, statutory requirements of home study evaluations, clarification on who can do adoptive home studies, and the use of incidental care for foster care providers. In addition, this rule adds the requirement of a standardized form for inspecting certified foster homes, and includes a requirement that some be unannounced. Some definitions that no longer applied to rule were removed. Also removed were some signature requirements to simplify paperwork processing and the dates of background screenings and how they align with license dates were clarified.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-2-101 et seq.

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This rule changes the work of the Office of Licensing so minimally that it cannot be quantified. It is mostly clarifications and does not change the work for any state entity.
♦ LOCAL GOVERNMENTS: Local governments are not affected by the rules governing foster homes.
♦ SMALL BUSINESSES: There are 54 affected child placing foster agencies in the state that certify foster homes. This rule is the standard for those foster homes. This rule will affect them to the extent that they will be required to make a yearly unannounced visit, whereas before the visit could be announced. Theoretically this could mean they show up when no one is there and have to make a second attempt. However, it is also possible that it does not increase their workload at all. It should be noted that most child placing foster agencies already have contracts with DHS/DCFS that require quarterly visits which exceed this rule requirement. Child placing foster agencies frequently have staff visiting certified foster homes and likely can incorporate this unannounced requirement quite easily. This rule was provided in advance to those affected and no concerns were raised regarding this requirement.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No other entities are affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is not anticipated that there are compliance costs associated with this rule except for possibly in some circumstances having to make a follow up visit if the family is not there when the child placing foster agency shows up unannounced. It should be noted that most child placing foster agencies already have contracts with DHS/DCFS that require quarterly visits which exceed this rule requirement. Child placing foster agencies frequently have staff visiting certified foster homes and likely can incorporate this unannounced requirement quite easily.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that the rule change will result in no or very minimal financial impact for small businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Diane Moore by phone at 801-538-4235, by FAX at 801-538-4553, or by Internet E-mail at dmoore@utah.gov
♦ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov
♦ Samantha Hanson by phone at 801-538-4041, or by Internet E-mail at samanthahanson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Diane Moore, Director

**R501. Human Services, Administration, Administrative Services, Licensing.**
**R501-12. Foster Care Services.**
**R501-12-1. Authority.**

This Rule is authorized by Sections 62A-2-101 et seq.

**R501-12-2. Purpose Statement.**

(1) This Rule establishes standards for the licensure of foster parents for children in the custody of DHS, inclusive of its Divisions.

(2) This Rule establishes standards that must be utilized by child-placing foster agencies for the certification of foster parents to provide care for foster children.

(3) This Rule establishes compliance standards for licensed and certified foster parents.

**R501-12-3. Definitions.**

As used in this Rule:

[~~(1) "Abuse" includes but is not limited to:~~

~~(a) actual, attempted, or threatened non-accidental harm, to the physical, psychological, or emotional health of a child;~~

~~(b) the use of confinement, physical restraint, medication, or isolation that causes or may cause harm to a child;~~

~~(c) the deprivation of treatment, food, or hydration to a child;~~

~~(d) causing physical injury or pain, including but not limited to bleeding, bruising, swelling, dislocation, contusion, laceration, burning, bone fracture, bodily damage, or death;~~

~~(e) corporal punishment, including but not limited to hitting or slapping;~~

~~(f) domestic violence related abuse;~~

~~(g) sexual abuse or sexual exploitation; or~~

~~(h) severe emotional abuse, severe physical abuse, or emotional or psychological abuse, as these terms are defined in section 62A-4a-101.~~

~~]~~([~~2~~]1) "Agency" means a child-placing foster agency licensed by the DHS Office of Licensing to certify foster parents.

[~~(3) "Chemical restraint" means any drug or substance used to control a child's behavior or movement that is not prescribed and monitored by the child's personal physician.~~

~~]~~([~~4~~]2) "Child" means a person under 18 years of age or a person under 21 years of age who remains subject to the continuing jurisdiction of the [~~Utah~~ ]Juvenile Court.

([~~5~~]3) "Child [~~c~~]Care" is defined in Section 26-39-102.

([~~6~~]4) "DCFS" means the DHS Division of Child and Family Services.

([~~7~~]5) "DHS" means the Utah Department of Human Services.

([~~8~~]6) "Direct [~~a~~]Access" is defined in section 62A-2-101.

([~~9~~]7) "DJJS" means the DHS Division of Juvenile Justice Services.

([~~10~~]8) "Foster [~~c~~]Care" means the temporary provision of family based care for a foster child by a foster parent.

([~~11~~]9) "Foster [~~p~~]Parent" means a substitute parent licensed by the DHS Office of Licensing or certified by a licensed child-placing foster agency, and includes the spouse of the primary applicant. Foster parents may also be referred to by other titles, including but not limited to proctor foster parents, professional foster parents, resource families, or kinship caregivers.

(1[~~2~~]0) "Hazardous [~~m~~]Material" means any substance that if ingested, inhaled, ignited, used, or touched may cause significant injury, illness, or death. These substances include but are not limited to:

(a) pesticides;
(b) gasoline;
(c) bleach, including bleach based cleansers;
(d) compressed air
(e) ammonia, including ammonia based cleansers;
(f) chemical drain openers;
(g) hair relaxers/permanents;
(h) kerosene;
(i) spray paint;
(j) paint thinner;
(k) automotive fluids;
(l) toxic glues (excludes non-toxic glues);
(m) oven cleaners;
(n) matches/lighters/lighter fluid;
(o) cleaning aerosols;
(p) medications; and
(q) ultra and concentrated detergent capsules.

(1[~~3~~]1) "Home [~~s~~]Study" [~~means the written~~]is the same as a pre-placement adoptive evaluation as outlined in 78B-6-128 and is the written assessment of an applicant's ability to:

(a) comply with all applicable statutes and administrative rules related to providing foster care;

(b) meet the physical and emotional needs of a child in foster care; and

(c) actively engage in achieving the custodial agency's identified outcomes for foster children.

(1[~~4~~]2) "Human [~~s~~]Services [~~p~~]Program" is defined in Section 62A-2-101.

(13) "Incidental Care" is defined in 62A-2-120.

(a) Foster parents shall utilize reasonable and prudent judgment in selecting a provider of incidental care of a foster child;

(b) incidental care is permitted only in DHS licensed homes, not those certified by child placing agencies.

[~~(15) "Maltreatment" includes but is not limited to group punishments for the misbehavior of individuals; disrespecting, bullying, provoking, intimidating, or agitating a child; violating the child's rights as described in R501-12-13; unreasonably withholding emotional response or stimulation; or the actual, attempted, or threatened denial of access to the child's foster home for any purpose unrelated to safety.~~

~~(16) "Mechanical restraint" means any device used to control or restrict a child's free movement, including but not limited to a locked door that the child cannot open, a locked window that the child cannot open, handcuffs, belts, straps, ties, or restraint jackets. Mechanical Restraints do not include clothing or safety devices used for their intended purposes, such as belts and seatbelts.~~

~~]~~(1[~~7~~]4) "Medication" means any over-the-counter or prescription drug, vitamin, or supplement in any form.

[~~(18) "Neglect" includes but is not limited to actual, attempted, or threatened failure to provide sufficient nutrition, hydration, sleep, clothing, bedding, shelter, medical services, dental services, educational services, supervision, or the care or treatment prescribed by the child's service or treatment plan.~~

~~(19) "Passive physical restraint" means non-violent holding techniques that temporarily restrict a child's free movement, and are~~

~~used solely to prevent the child from harming any person, animal, or property, or to allow the child to regain physical or emotional control.~~

~~————~~]([~~20~~]15) "Poverty Guidelines" means the current US Department of Health and Human Services listing of poverty levels as determined by the number of members of a family (see http://www.direct.ed.gov/RepayCalc/poverty.html).

([~~21~~]16) "Reside" [~~Anyone~~] means living in the home for any cumulative thirty days of the past 12 months.

([~~22~~]17) "Respite [e]Care" means the short term provision of family based care for a foster child by [~~one~~] a foster parent in order to provide relief to another [~~foster~~] parent.

~~[(23) "Restraint" means the use of physical force or a mechanical device to restrict a child's freedom of movement or a child's normal access to his or her body, and includes the use of a drug or substance that is not prescribed by the child's physician, and is used to control the child's behavior or restrict the child's freedom of movement.~~

~~————(24) "Sexual abuse" includes but is not limited to actual, attempted, or threatened sexual contact with a child, or a sexual offense described in Title 76 Chapter 5, Offenses Against the Person.~~

~~————(25) "Sexual exploitation" includes but is not limited to employing, using, persuading, inducing, enticing, or coercing a child to pose in the nude, to observe or participate in sexual acts, or to engage in any sexual or simulated sexual conduct.~~

~~————~~]([~~26~~]18) "Siblings" means children with a common parent or grandparent, regardless of whether their legal relationship has been severed, including biological siblings, half-siblings, step-siblings, adopted siblings, and cousins.

([~~27~~]19) "Sick" means to have a fever, to be experiencing ongoing or severe diarrhea, unexplained lethargy, respiratory distress, ongoing or severe vomiting, or pain or other symptoms that are ongoing or severe enough to impair a child's ability to participate in normal activity.

**R501-12-4. Initial, Renewal, and Reapplication Process.**

(1) Initial Application for Licensure or Certification: An individual or legally married couple age 21 or over may apply to be a foster parent. The applicant shall provide:

(a) Application Forms: A completed Office of Licensing or Agency foster care application that lists each member of the applicant's household must be submitted, including [~~the following documents signed by the applicant/s~~]acknowledgment of:

(i) responsibility to maintain all current and past clients' [~~a~~] confidentiality [~~agreement~~];

(ii) [~~a DHS~~] Office of Licensing Provider Code of Conduct [~~signature form~~]; and

(iii) a verification that the applicant[~~/~~](s) have read and understand R501-12 Foster Care Services;

(b) Background Screening: a completed background screening application for each member of the household who is 18 years of age or older, including any supplemental documentation that the application requires;

(c) Financial Viability: a written statement of household income and expenses, together with consecutive current pay stubs or income tax forms;

(i) The Office of Licensing or Agency may consider poverty guidelines when evaluating the dependence of a foster parent on foster payments for their own expenses.

(ii) The Office of Licensing or Agency may require supporting documentation of household income and expenses in order to verify the foster parent will not be dependent on foster care reimbursement for their own expenses.

(d) Training:

(i) Verification of successful completion of agency approved pre-service training by each applicant within the past 24 months, and

(ii) Verification of current CPR/first aid training for each prospective foster parent. Examples of accepted training include but are not limited to: Heart Savers, American Red Cross, and American Heart Association Friends and Family.

(2) Medical Assessment:

(a) Each applicant shall authorize their current licensed physician, physician's assistant or nurse practitioner to complete and send a signed medical reference report directly to the Office of Licensing or Agency. Medical reference reports must assess the current ability of the individual to be a foster parent.

(b) A professional mental health examination of a prospective or current foster parent may be required by the Office of Licensing or the Agency if there are concerns regarding the individual's mental status which may impair functioning as a foster parent. These concerns may be based upon any information gathered during the licensing/certifying and monitoring process.

(i) The type of professional mental health examination required shall be determined by the Office of Licensing or Agency based on the nature of the presenting concerns.

(ii) Determination of need and type of examination will be made collaboratively involving the licensor, Agency or Office of Licensing administration, and clinical staff from within the Department of Human Services or Agency.

(iii) The prospective or current foster parent shall authorize the release of examination information to the Office of Licensing or Agency, including a signed report that assesses the ability of the individual to parent vulnerable children full time as a foster parent.

(c) Medical and mental health examinations shall be paid for by the prospective or current foster parent.

(d) The Agency or the Office of Licensing may, in the exercise of their professional judgment, deny or revoke an application or license if a medical reference report or other examination reveals reasonable concerns regarding an applicant's ability to provide foster care services, or if the required examination is not completed and provided to the Agency of the Office of Licensing.

(3) References:

(a) At the time of initial application, the applicant[~~/~~](s) shall submit the names, mailing address, email addresses, and phone numbers of no more than four individuals who will be contacted by the agency or the Office of Licensing and asked to provide a reference letter. These individuals shall be knowledgeable regarding the ability of the applicant[~~/~~](s) to provide a safe environment and to nurture foster children. No more than one reference may be a relative of the applicant. Only the four original reference individuals submitted will be considered.

(b) A minimum of three out of the four individuals must submit reference letters directly to the Agency or the Office of Licensing. A minimum of three reference letters received must be acceptable to the Agency or the Office of Licensing.

(c) The Agency or the Office of Licensing may, in the exercise of their professional judgment, deny an application if a reference reveals reasonable concerns regarding an applicant's ability to provide foster care services.

(4) Background Screening:

(a) Each applicant and all persons 18 years of age or older residing in the home shall submit a background screening application as part of the initial application. A background screening application is also required at the point any new individual over the age of 18 moves into the home. A foster parent shall not be licensed or certified unless the background screening applications of all persons 18 years of age or older who reside in the home are approved by the Office of Licensing in compliance with Section 62A-2-120 and R501-14.

(b) A background screening approval shall not be transferred from one Agency to another Agency.

(c) A foster parent shall not permit any [~~adult~~]person without an Office approved background screening clearance [~~in the foster parent's home~~] to have unsupervised direct access to a foster child unless:[ ~~the adult's background screening application is approved by the Office of Licensing.~~]

(i) the person is a provider of "Incidental Care" as defined in 62A-2-120 and 501-12-3-15;

(ii) the person's access is driven by child-centered normalcy needs that are guided by reasonable and prudent parenting as described in 62A-4a-211 through 212 and is not a foster parent-centered delegation of parental responsibility.

(d) A foster parent shall immediately notify the Office of Licensing or Agency if any person in the home is charged with or under investigation for any criminal offense or allegation of abuse, neglect, or exploitation of any child or vulnerable adult.

(e) Pursuant to section 62A-4a-1003(2)[~~.~~], the Office of Licensing shall review and evaluate information from the Division of Child and Family Services Management Information System for the purpose of licensing and for the purpose of monitoring all individuals who reside in the foster parents' home. When, in the professional judgment of the Office of Licensing, a supported or substantiated finding against any individual who resides in the foster parents' home may pose a risk of harm to a foster child, the Office of Licensing may issue a safety plan or a sanction on the license of the foster parent or Agency.

(5) Home Study:

(a) The Office of Licensing or Agency is not required to perform a home study until after the background screening applications of all persons 18 years of age or older who reside in the home are approved.

(b) A narrative home study shall be completed by an adoption service provider as described in 78B-6-128(2)(c) and may be used for adoptive purposes.[~~Licensing Specialist in the Office of Licensing or a licensed social worker or mental health worker (SSW or higher) licensed by the State of Utah.~~]

(c) The home study shall include, but not be limited to:

(i) background and current information of each caregiver, including but not limited to information regarding family of origin, discipline used by parents, family history or presence of abuse or neglect, use of substances, education, employment, relationship with extended family, mental and physical health history based on doctor's examination completed within two years, stress reduction techniques, values, and interests;

(ii) marital relationship information, including but not limited to areas of conflict, communication, how problems are resolved, and how responsibilities are shared;

(iii) family demographical information, including but not limited to ages, ethnicity, languages spoken, dates of birth, gender, relationships, and history of adoption;

(iv) family characteristics including but not limited to functioning, cohesion, interests, work/life balance, family activities, ethnicity, culture, and values;

(v) child care and supervision arrangements;

(vi) written description of in-person interviews conducted with the applicants, applicants' children, and others residing in the home;

(vii) written description of the physical characteristics of the home, including neighborhood and school information, sufficient space and facilities to meet the needs of children and ensure their basic health and safety;

(viii) motivation for doing foster care, including assessment of interest in adoption vs. foster care only;

([~~vii~~]ix) assessment of understanding and expectations of children in foster care;

([~~i~~]x) previous experience caring for children;

(xi) current and planned methods of discipline, use of privileges, family rules;

(xii) previous experience with children with special needs or trauma histories;

(xiii) description of the reference response regarding the character and suitability of the applicants;

(xi[~~i~~]v) assessment of informal and formal supports;

(x[~~iii~~]v) assessment of willingness and ability to access support and resources;

(x[~~i~~]vi) finances, including bankruptcies;

(xvii) applicant strengths and weaknesses;

(xviii) applicant history of any and all previous applications, home studies, or licenses/certifications related to providing foster care;

(x[~~vi~~]ix) assessment of ability to actively engage in achieving the custodial agency's identified outcomes for foster children; and

(x[~~viii~~]x) recommendations for the applicant's suitability for placement of children, to include: child matching, capacity, training, and support needs[~~.~~]; and

(x[~~i~~]xi) query results of the home address on the Utah Sex Offender Registry and address how potential threats will be mitigated.

(6) Foster Parent Annual Renewal Application: A foster parent who wishes to remain authorized to provide foster care services shall submit renewal paper work at least 30 days and no longer than 90 days prior to license or certification expiration. Background screening approvals and renewal activities have to be completed prior to license expiration. Foster parent shall provide or otherwise submit to the following annually:

(a) [~~Signed r~~]Renewal application[~~,~~]which addresses all updates and changes to the initial application. Requirements to include: [~~including a signed~~]

(i) acknowledgment responsibility to maintain confidentiality for current and past clients; [~~agreement, a signed DHS~~]

(ii) acknowledgement of Office of Licensing Provider Code of Conduct; [~~signature form, and a signed~~]

(iii) verification that the applicant[~~/~~](s) have read and understand R501-12 Foster Care Services[~~-~~];

(iv) health statement including new medical reference form if there has been significant health changes over the past year;

(v) proof of current CPR/first aid certification;

(vi) background screening applications for each adult 18 years of age or older residing in the home or any substitute care providers not identified as incidental caregivers.[

~~(b) Health Statement: Each foster parent shall submit a personal health status statement together with their renewal application; including new medical references if there have been changes to a foster parent's health status over the past year.~~][

~~(c) Background Screening: Each foster parent and all persons 18 years of age or older residing in the home shall submit a background screening application with each renewal application. A background screening application is also required at the point any new individual over the age of 18 moves into in the home.~~] A foster parent shall not be licensed or certified unless the background screening applications of all persons 18 years of age or older who reside in the home are approved by the Office of Licensing in compliance with Section 62A-2-120 and R501-14[~~-~~];

([~~d~~]vii) [~~F~~]financial [~~Viability: a written~~] statement [~~of~~] outlining changes to household income, job status, and expenses, including any foreclosures and/or bankruptcies. [~~together with consecutive current pay stubs or income tax forms.~~]

([~~i~~]A) The Office of Licensing or Agency may consider poverty guidelines when evaluating the dependence of a foster parent on foster payments for their own expenses.

([~~ii~~]B) The Office of Licensing or [~~a~~]Agency may require supporting documentation of household income and expenses in order to verify the foster parent will not be dependent on foster care reimbursement for their own expenses.

[~~(c) Proof of current CPR/first aid certification.~~]

([~~f~~]b) The home study shall be updated in writing annually after a home visit and safety inspection and shall be completed by an adoptions service provider as described in 78B-6-128(2)(c) as a means to assess[~~Licensing Specialist in the Office of Licensing or a licensed social worker or mental health worker (SSW or higher) licensed by the State of Utah. Updates should address all changes to the required home study information outlined in this rule, and an assessment of~~] the family's experience over the past year as a foster [~~parent.~~]family and shall include:

(i) any changes to required home study information; and

(ii) interviews with any members of the home.

(7) Reapplication: A previously licensed or certified foster home is subject to the same requirements as an initial application, with the following exceptions:

(a) Each applicant shall disclose all previous foster care licenses and certifications, including those outside the State of Utah.

(b) Previously licensed homes shall request a written reference from the DCFS region, or out-of-state equivalent, where they last held a foster care license to be sent directly to the Office of Licensing or Agency. Previously certified homes shall request a written reference letter from the last agency where they were certified, and every agency they have been certified by within the past 3 years, to be sent directly to the Office of Licensing or Agency.

(c) Each applicant shall sign releases of information for any agency where they previously provided certified or licensed foster care.

(d) Reapplication of previously licensed or certified homes may utilize an update of the previous home study as long as the home study was created by the same agency currently relicensing or recertifying the home.

(e) If 12 months or less since lapse of any license or certification, non-agency references will be waived.

(f) If 12 months or less since lapse of any license or certification, physician's statement shall be waived. Personal Health statement is still required.

(g) If 24 months or less since lapse of any license or certification, initial training requirements will be waived as long as there is not a change in licensing/certifying agency. A change in agency requires new initial training.

(8) Approval or Denial:

(a) The decision to approve or deny the applicant to provide foster services shall be made on the basis of facts, health and safety factors, and the professional judgment of the Agency or the Office of Licensing.

(b) No person may be denied a foster care license or certification on the basis of the religion, race, color, or national origin of any individual.

([e]c) The approval of a license or certification is not a guarantee that a foster child will be placed or retained in the foster parent's home.

([~~f~~]d) Foster parents shall not be licensed or certified to provide foster or respite care services in the same home in which they are providing child care or another licensed or certified Department of Health or Department of [~~h~~]Human [~~s~~]Services program.

([~~g~~]e) In order to promote health and safety, the Office of Licensing or Agency may issue a license or certification that includes additional restrictions unique to the circumstances of the license.

([~~h~~]f) If a license or certification is denied, an applicant may not reapply for a minimum of 90 days from the date of denial.

(9) Initial license expiration dates must coincide with background screening clearance dates by:

(i) allowing the applicants to resubmit clearances in order to receive a full year's license or;

(ii) setting the initial license expiration date no more than one year from the date of the earliest initial completed background clearance.

**R501-12-5. Foster Parent Requirements.**

(1) Foster parents shall:

(a) be in good health and emotionally stable;

(b) be able to provide for the physical, social, mental health, and emotional needs of the foster child;

(c) be responsible persons who are 21 years of age or older;

(d) provide documentation of legal residential status;

(e) have the ability to help the foster child thrive;

(f) not be dependent on foster care reimbursement for their own expenses, outside of those expenses directly associated with providing foster care services;[~~ and~~]

(g) provide updated medical, social, financial, or other family information when requested by the Office of Licensing or Agency[~~-~~];

(h) follow all federal, state and local laws and ordinances; and

(i) not engage in conduct that poses a substantial risk of harm to any person or that is illegal or grounds for denying a license under 62A-2-112.

(2) DHS employees shall not be licensed or certified as foster parents for children in the custody of their respective Divisions, unless they qualify as [~~kinship~~]a "relative" [~~providers for~~]to the child in accordance with Utah Code Ann. Section 78A-6-307. An employee may provide foster services for children in the custody of a different Division only with the prior written approval of both Divisions' Directors in accordance with DHS conflict of interest policy.

[~~(3) Agency owners, directors, managers, and members of the governing body shall not be certified to provide foster care services for children placed with or by the Agency.~~

]([~~4~~]3) Foster parents shall cooperate with the Office of Licensing, Agency, courts, and law enforcement officials.

([~~5~~]4) Each foster parent shall read, [~~sign~~]acknowledge, and comply with the [~~DHS~~]Office of Licensing Provider Code of Conduct.

(a) A foster parent shall not abuse, neglect, or maltreat a child through any act or omission.

(b) A foster parent shall not encourage or fail to deter the acts or omissions of another that abuse, neglect, or maltreat a child.

([~~6~~]5) No more than two children under the age of two, including children who are members of the household and foster children, shall reside in a foster home.

([~~7~~]6) No more than two non-ambulatory children, including children who are members of the household and foster children, shall reside in a foster home.

([~~8~~]7) Except as provided by Section 62A-2-[~~101(17)~~]116.5 and R501-12-5-[~~9~~]8, no more than four foster children shall reside in a licensed foster home and no more than three children shall reside in a certified foster home.

(i) The capacity limits of the foster care licenses may be exceeded under the conditions outlined in 62A-2-116.5 as long as the Office of Licensing determines that the foster home will remain in compliance with foster care rules in regards to each child.

([~~9~~]8) Foster parents may provide respite care in their home as long as they remain in compliance with licensing rules in regards to each child placed for foster and respite care. Foster parents may provide respite care when the additional foster child(ren) exceed their licensed capacity only as follows:

(a) Respite care is limited to a maximum of 10 days within any 30 day period.

(i) For foster children who are not siblings, each day of respite for each individual child counts as one day of respite care.

(ii) For foster children who are siblings, each day of respite for a sibling group receiving respite in the same foster home at the same time counts as one day of respite care.

(b) The foster home must have no licensing sanctions currently imposed, including corrective action plans or conditional licenses.

(c) Total number of foster and respite children in a home at one time shall not exceed six unless all but one or two of the children are part of a single sibling group.

([~~10~~]9) A foster parent shall report all major changes or events to the Office of Licensing or Agency within [~~48 hours~~] one business day.[~~The Office of Licensing or Agency shall evaluate major changes to determine whether the foster parent remains able to provide foster care services.~~]

(a) A major change in the lives of foster parents includes, but is not limited to:

([~~a~~]i) the death or serious illness of a member of the foster parent's household;

([~~b~~]ii) change in marital status;

([e]iii) loss of employment;

([~~d~~]iv) change in household composition, such as the birth or adoption of a child, addition of household members, or tenants; [~~or~~]

([e]v) allegations of abuse or neglect of any child or vulnerable adult against any member of the foster parent's household[~~.~~]; or

(vi) anything defined as a "critical incident" in R501-1.

(10) The Office of Licensing or Agency may evaluate major changes to determine necessary actions which may include an update to the home study; implementation of a safety plan; amendments to the license certification; request for new references or examinations; or agency action in the form of a penalty.

(11) A foster parent shall report any potential change in address in advance to the[~~ir licensor~~]Office or [~~a~~]Agency.

(a) Licenses and certifications are site specific.

(b) An adjoining dwelling with a separate address that is not accessible from the foster home is not considered part of the foster home site.

(c) A foster child shall not be moved into a home that is not licensed or certified to provide foster care except as allowed in R501-1 provisions for relocation of a license.

(d) Foster providers must reside at the license location.

(e) In the event of a separation or divorce, a provider who no longer resides at the licensed location shall be removed from the license certificate and must apply for a separate initial license and meet all licensing requirements in the new residence in order to become licensed at the new location.

(i) The provider remaining in the home shall demonstrate the ability to continue to meet the financial and all other foster care licensure requirements and an update to the home study shall be completed.

**R501-12-6. Physical Aspects of Home.**

(1) All indoor and outdoor areas of the home shall be maintained to ensure a safe physical environment.

(2) The home shall be free from health and fire hazards.

(3) The home shall have a working smoke detector and a working carbon monoxide detector on each separated level.

(4) The home shall have at least one approved, fully charged fire extinguisher readily accessible to the main living area. An approved fire extinguisher shall be a minimum of 2A:10BC five point, rated multi-purpose, dry chemical fire extinguisher.

(5) Each bathroom shall have a lock sufficient to preserve the privacy of the occupant.

(6) The home shall have sufficient bedroom space to provide for the following:

(a) a bedroom shall not be shared by children of the opposite sex unless each child sharing the room is under two years of age;

(b) a foster parent's bedroom may only be shared with foster children who are under the age of two years;

(c) a foster parent's bedroom shall not be considered in calculating the allowable bedroom space for foster children;

(d) a foster child shall not share a bedroom with other adults in the home;

(e) each child in foster care must have an individual bed/crib, mattress, and linens that meet the child's needs and are comparable to other similarly utilized sleeping accommodations in the household;

(f) a minimum of 40 square feet per child, excluding adjoining bathrooms and storage space;

(g) no more than four children are housed in a single bedroom that houses at least one foster child;

(h) bedrooms used for foster children shall be comparable to other similarly utilized bedrooms in the home, including but not limited to access, location, space, finishings, and furnishings; and

(i) bedrooms used by foster children shall have a source of natural light and shall be equipped with a screened window that opens and provides egress to the outdoors.

(7) Closet or dresser space shall be provided within the bedroom for the foster child's personal possessions and for a reasonable degree of privacy.

(8) The home shall have space or access to common areas for recreational activities.

(9) Foster parents shall offer nutritious, balanced meals that meet each foster child's individual needs.

(10) The home shall be maintained at a reasonable temperature when occupied by a foster child. The age and needs of the child and other residents may be considered. Generally, reasonable temperatures range between 65-82 degrees Fahrenheit.

(11) The home shall have a working refrigerator, cooking appliances, and functional indoor plumbing.

(12) Hazards on the property shall be abated. These areas include but are not limited to fall hazards of 3 feet or greater (steep grades, cliffs, open pits, window wells, stairwells, elevated porches, retaining walls, etc), drowning hazards (swimming pools, hot tubs, water features, ponds or streams, etc), burn hazards (fireplaces, candles, radiators, water, etc), unstable heavy items (televisions, bookshelves, etc), high voltage boosters, or dangerous traffic conditions. These hazards shall be mitigated through the use of protective hardware, fences, banisters, railings, grates, natural barriers, or other licensor approved methods.

(13) The home and its contents shall be maintained in a clean and safe condition. Food, clothing, supplies, furniture, and equipment shall be of sufficient quantity, variety, and quality to meet the foster child(ren)'s needs.

(14) Exits: There shall be at least two exits on each accessible floor of the home. Each exit shall be accessible and adequately sized for emergency personnel. Multiple-level homes shall have a functional, automatic fire suppression system or an escape ladder, stairway, or other exterior egress to ground level accessible from each of the upper levels.

(15) Foster parents shall have and use child safety devices appropriate to the needs of the foster child, including but not limited to safety gates and electrical outlet covers.

(16) Home address is clearly visible and location is accessible.

(17) Water and sewage disposal systems other than public systems must be approved by the appropriate authorities.

(18) Swimming pools will be secured in order to prevent unsupervised access and comply with applicable community ordinances.

(19) Foster providers with placements made in the home shall ensure that all physical aspects of the home outlined in this section are compliant at all times.

(20) Foster providers with no placements made in the home shall demonstrate the ability to comply upon request.

**R501-12-7. Safety.**

(1) A foster parent shall not smoke any substance in the foster home or when a foster child is present. All smoking materials shall be inaccessible to foster children.

(2) Foster parents shall provide training to children regarding response to fire warnings and other instructions for life safety upon the initial placement of a child and annually thereafter. This includes an evacuation plan that also anticipates the evacuation of a child who is non-ambulatory or who has a disability.

(3) The home shall have a telephone on-site during all times that a foster child is present. This may be a land line or a mobile phone, but must be able to receive and make calls and be recognized by the 911 system. Telephone numbers for emergency assistance and the address of the home shall be posted next to the telephone or in a central location visible to the child.

(4) The home shall have a fully supplied first aid kit such as recommended by the American Red Cross.

(5) Foster parents shall inform the Office of Licensing or the Agency if they possess or use a firearm or other weapon.

(6) Firearms, ammunition, and other weapons shall be inaccessible to children. Foster parents shall not provide a weapon to a child or permit a child to possess a weapon except as outlined in Sections 76-10-509 through 76-10-509.7.

(a) Foster parents do not have the authority of a parent or guardian under Section 76-10-509.

(b) Firearms may be stored together with ammunition only in a locked container commercially manufactured for the secure storage of firearms.

(c) Firearms not stored in a locked container commercially manufactured for the secure storage of firearms shall be unloaded and securely locked. Ammunition for these firearms shall be kept securely locked in a separate location.

(i) The locked storage for firearms and ammunition shall not be accessible through the same keys or combinations.

(ii) Keys and combinations utilized to open locked storage for firearms and ammunition shall not be accessible to a foster child.

(d) Firearms may be stored in display cases only if unloaded and rendered inoperable through the effective use of trigger locks, bolts removed, or other disabling methods.

(e) This does not restrict an individual's rights regarding concealed weapons permits pursuant to UC 53-5-704.

(7) Foster parents who have alcoholic beverages in their home shall ensure that the beverages are closely monitored and inaccessible to children at all times.

(8) Hazardous materials shall be stored securely and remain locked when not in active use, and closely monitored while in active use.

(i) Hazardous materials shall be stored in the manufacturer's original packaging together with the manufacturer's directions and warnings; or

(ii) a container that complies with the manufacturer's directions and warnings and is clearly labeled with the contents, manufacturer's directions and warnings.

(9) Flammable substances, including but not limited to gasoline and kerosene, shall be locked in a ventilated storage area separate from living areas. This requirement does not include substances contained within the storage tanks of equipment, including but not limited to automobiles, lawnmowers, ATV's, boats and snow blowers.

(10) General, common use, household items (excluding those identified as hazardous materials) shall be stored responsibly in consideration of the age, behavior, history, and cognitive and physical ability of each foster child in the home. The foster parent is responsible for consulting with the caseworker and child and family team regarding individual restrictions. General, common use, household items include, but are not limited to the following:

(a) oral hygiene products;

(b) hair and cosmetic products;

(c) facial and skin hygiene products;

(d) cutlery;

(e) laundry and dish detergent (excluding concentrated pods);

(f) cleaning wipes;

(g) rubbing alcohol;

(h) nail polish remover;

(i) laundry stain remover;

(j) propane attached to a grill;

(k) air fresheners and deodorizers; and

(l) spray furniture polish.

(11) Foster parents shall comply with all laws regarding the care and number of animals on their property.

(12) Foster parents shall ensure that the foster child has the safety equipment, supervision, and training necessary for the child to safely participate in an activity that has an inherent risk of bodily harm, injury, or death.

(a) These activities include but are not limited to participation in rock climbing, swimming, hunting, target practice, camping, hiking, use of recreational vehicles, and sports.

(b) Every precaution must be taken to participate in the respective activity as safely as possible. This includes, but is not limited to: wearing DOT/Snell approved helmets when riding off-highway vehicles (OHV), completing OHV education, personal watercraft or boating education, wearing Coast Guard approved lifejackets, and completing hunter's education.

(c) Foster parents shall follow any applicable statute pertaining to minors operating OHV's, personal watercraft, boats, and firearms.

(d) Foster parents shall not permit a foster child any access to firearms without first obtaining the written approval of the child's caseworker.

(13) Foster parents shall comply with any written safety plan required by the Office of Licensing or Agency which establishes additional safety requirements to protect the child from hazardous conditions on the foster parent's property. A safety plan shall not waive any requirement of this R501-12.

(14) Verification of compliance with the Utah Department of Health's recommended immunization schedules shall be provided for each individual residing in the home who is not a foster child.

(a) Recommended influenza immunizations are optional unless a foster child in the home has an immunocompromised condition.

(b) If compliance of all residents in the home cannot be verified, the license shall be restricted to only placements of children who are over the age of 2 months and who are immunized in accordance with the Utah Department of Health's recommendations for their age.

(i) Foster parents must disclose if any individual residing in the home is not in compliance with the Utah Department of Health's recommended immunization schedules to the child placing agency prior to accepting a placement.

(ii) Newborn infants must reach the required age and receive their first dose of required vaccinations to be considered appropriately immunized for their age.

(15) Foster parents shall not accept the placement of a child into their home in violation of any license conditions.

**R501-12-8. Emergency Plans.**

(1) Foster parents shall have a written plan of action for emergencies and disaster to include the following:

(a) evacuation with a pre-arranged site for relocation;

(b) transportation and relocation of foster children when necessary;

(c) supervision of foster children after evacuation or relocation; and

(d) notification of appropriate authorities.

(2) Foster parents shall have a written plan for medical emergencies, including arrangements for medical transportation, treatment and care.

(3) Foster parents shall immediately report any serious illness, injury, or death of a foster child to the appropriate Division or Agency and the Office of Licensing.

**R501-12-9. Infectious Disease.**

(1) In the event of an infectious or communicable disease outbreak, foster parents shall follow specific instructions given by the local health department.

**R501-12-10. Medication and Medical Emergencies.**

(1) Foster parents shall ensure that prescribed medication is administered according to the written directions of the foster child's health provider.

(a) Foster parents shall ensure that the foster child actually consumes the medication.

(b) Foster parents shall report any severe or unexpected side effects or reactions to the foster child's health provider.

(2) Medication shall only be given to the foster child for whom it was prescribed.

(3) Medication shall not be discontinued without the approval of the foster child's health provider.

(4) Non-prescription medications may be administered by foster parents according to manufacturer's instructions unless otherwise directed by the child's health provider.

(5) Medications shall not be administered or carried by the foster child unless approved in writing by the child's health provider.

(6) Medication shall not be used for behavior management or restraint unless prescribed in writing by the foster child's health provider and after notification to the Division or Agency worker.

(7) Medication shall remain locked at all times they are not in immediate, active use.

(a) Foster parents shall not leave medications in active use unattended.

(b) If a foster child requires immediate access to the child's medication, including but not limited to a child with asthma or diabetes, foster parents may carry a single dose of medication for active use on the foster parent's person.

(8) Medications shall remain in the original pharmacy or manufacturer's packaging.

(a) Foster parents shall not repackage medications or divide doses into alternative containers.

(b) Foster parents should partner with the pharmacy regarding any needed divisions of medication.

(9) Foster parents shall promptly take a foster child who has a medical emergency, who is sick, or who is injured, for an assessment by a medical practitioner.

(10) Foster parents shall comply with the treatment orders of the foster child's health provider.

(11) When a foster child is no longer placed in the foster parent's home, all unused medications shall be transferred to the caseworker or Agency.

**R501-12-11. Transportation.**

(1) Drivers of vehicles carrying foster child[~~/~~](ren) shall have a valid, current driver's license and valid, current vehicle insurance, and comply with all traffic regulations.

(2) Transportation of foster children shall be provided in an enclosed, registered vehicle that has functional seatbelts. Foster parents shall ensure that foster children properly utilize seatbelts and other safety equipment, including age and size appropriate car/booster seats. Recreational vehicles, including motorcycles, shall not be used for transportation.

(3) Emergency contact information, including but not limited to caseworker and [~~a~~]Agency information, shall be provided and accessible in each vehicle used to transport foster children.

(4) Each vehicle shall be equipped with a first aid kit.

**R501-12-12. Behavior Management.**

(1) Foster parents shall provide supervision appropriate to the age and needs of each foster child.

(2) Foster parents shall not use, nor permit the use of corporal punishment including but not limited to physical, mechanical, or chemical restraint, physical force, infliction of bodily harm or pain, deprivation of meals, rest or visits with family, or humiliating or frightening methods to discipline, coerce, punish, or retaliate against a child.

(3) Foster parents shall only use behavior management techniques appropriate for the child's age, behavior, needs, developmental level, and past experiences.

(4) Foster parents shall use the least restrictive method of behavior management available to control a situation.

(5) Foster parents shall only use behavior management techniques that are positive, consistent, and that promote self-control, self-esteem, and independence.

(6) Foster parents shall not use physical work assignments or activities that inflict pain as behavior management techniques. A physical work assignment or activity that results in minor sore muscles does not violate this subsection.

(7) Foster parents shall not abuse, threaten, ridicule, intimidate, or degrade a child.

(8) Foster parents shall not deny a child medical care, nutrition, hydration, clothing, bedding, sleep, or toilet and bathing facilities.

(9) Passive physical restraint shall be applied only by individuals who are trained in accordance with the non-violent intervention strategies of a state, regional, or nationally recognized behavior management program. Documentation of passive physical restraint training certification shall be submitted to the Office of Licensing or Agency with the initial and each renewal application.

**R501-12-13. Child's Rights in Foster Care.**

(1) Foster parents shall not violate a foster child's right to:

(a) eat nutritious meals with the family;

(b) eat the same food as the family, except when the child is provided with alternative food ordered by the child's physician;

(c) participate in family and school activities;

(d) privacy, including but not limited to maintaining the confidentiality of information about the child and not retaining copies of the child's records once the child is no longer placed there;

(e) be informed of the child's responsibilities, including household tasks, privileges, and rules of conduct;

(f) be protected from discrimination based upon the child's race, color, national origin, culture, religion, sex, sexual orientation, age, political affiliation, or disability;

(g) be protected from harm or acts of violence, including but not limited to protection from physical, verbal, sexual, or emotional abuse, neglect, maltreatment, exploitation, or inhumane treatment;

(h) be treated with courtesy and dignity, including but not limited to reasonable personal privacy and self-expression;

(i) communicate with and visit the child's family, attorney, physician, and clergy, except as restricted by court order;

(j) have clean clothes and personal hygiene needs met;

(k) participate in their own cultural traditions; and

(l) receive prompt medical care when sick or injured.

(m) be free from media content that is likely harmful considering the child's age, behavior, needs, developmental level, and past experiences.

**R501-12-14. Additional Child Placing Agency Considerations.**

(1) The Agency shall comply with all Office of Licensing rules that relate to their Child Placing Foster license.

(2) The Agency shall comply with Background Screening Rules, R501-14.

(3) The Agency shall recruit, train, certify, and supervise foster parents.

(4) The Agency shall not certify a home which is licensed or certified or applying to be licensed or certified with any other Agency.

(5) Agency owners, directors, managers, and members of the governing body shall not be certified to provide foster care services for children placed with or by the Agency.

([~~4~~]6) The Agency shall verify completion of all of a foster parent's training requirements, including but not limited to CPR/First Aid training and training regarding the requirements of R501-12, prior to issuing an initial or renewal certification and prior to placing a foster child in the home.

([~~5~~]7) The Agency shall train each foster parent regarding the Agency's policies and procedures prior to placing a foster child in the home.

([~~6~~]8) The Agency shall provide the Department with identifying information of all certified foster homes via the DHS/DCFS Provider website located on the Human Services DHS/DCFS Employee website and shall report their list of homes annually and upon request.

([~~7~~]9) The Agency shall maintain documentation of the initial and annual home studies of the foster parent's home.

([~~8~~]10) The Agency [~~shall~~] must have a [~~signed~~] written agreement [~~or contract~~] with [~~each~~] the foster parent(s) which includes: [~~that clarifies each party's~~]

(a) the expectations[~~, obligations~~] and responsibilities of the Agency, staff, foster parents and limitations of authority; [~~, including but not limited to~~]

(b) the services to be provided to and by the foster parent[~~;~~];

(c) the provision of medical, remedial, treatment, and other specialized services to the child[~~;~~]; [~~limitations of authority; and~~]

(d) the financial arrangements for children placed in the home;[~~.~~]

(e) the authority foster parents can exercise over children placed in the home; and

(f) actions which require staff or DHS authorizations.

([~~9~~]11) The Agency shall monitor and keep detailed documentation regarding foster parents' compliance with R501-12[~~;~~].

(12) The Agency shall document all announced and unannounced visits to the home, including an initial safety inspection and a minimum of one unannounced [~~visit to the foster home~~] safety inspection annually [~~for the purposes of safety and compliance assessment annually~~ ]in addition to any [~~initial and renewal~~]announced or unannounced visits to the home.

(a) Each safety inspection completed by the Agency shall be documented on the DHS Home Inspection Checklist, or a similar form that contains all of the DHS form contents.

(b) The Agency shall coordinate with the Office when checklist items are not compliant to determine which actions should be taken.

(c) The Agency shall maintain all completed checklists and compliance monitoring documentation in the provider files.

(1[~~0~~]3) The Agency shall investigate all complaints and alleged violations of this rule. The Agency shall provide documentation to the Office of Licensing of any investigations into complaints and alleged violations of R501-12.

(1[~~1~~]4) The Agency shall provide written notification to each foster parent that informs the foster parent of the rights and responsibilities assumed by a foster parent who signs as the responsible adult for a foster child to receive a driver license, as described in Section 53-3-211. The Agency shall maintain documentation in the foster parent's file, signed and dated by the foster parent, acknowledging receipt of a copy of this written notification.

(1[~~2~~]5) The Agency shall have and comply with written policies and procedures regarding the denial, suspension, and revocation of a foster parent's certification to provide foster care services, which must include written notification of the foster parent's appeal process.

(1[~~3~~]6) The Agency shall provide documentation to the Office of Licensing and DCFS of any denial, suspension, revocation or other agency-initiated termination of a foster parent's certification. Documentation shall be provided within two weeks of the action.

(1[~~4~~]7) The Agency shall not grant any variance to this R501-12 or any other regulation without the prior written consent of the Director of the Office of Licensing.

(1[~~5~~]8) The Agency shall certify foster parent[~~/~~](s) for a specific time period that does not exceed one year prior to placing any foster children in the home. Documentation of certification dates shall be made available to the Office of Licensing as requested.

[~~(16) The Agency must have a written agreement with the foster parent/s which includes the expectations and responsibilities of the agency, staff, foster parents; the services to be provided; the financial arrangements for children placed in the home; the authority foster parents can exercise on children placed in the home; and actions which require staff authorizations.~~

~~]~~(1[~~7~~]9) The Agency shall provide ongoing supervision of certified foster parents to ensure the quality of care they provide.

([~~18~~]20) The Agency shall participate with the child's legal guardian and the foster home to obtain, coordinate, and supervise care and services necessary to meet the needs of each child in their care.

**R501-12-15. Additional DCFS Kinship and Specified Home Licensure Considerations.**

(1) An applicant may be licensed for the placement of a specific foster child or sibling group.

(2) The home study shall be conducted by an approved DCFS kinship home study specialist or by the Office of Licensing.

(3) A minimum of two reference letters received must be acceptable to the Agency or the Office of Licensing.

(4) The home study safety inspection and background screening approvals shall be successfully completed prior to the placement of the child in the home.

(5) The Office shall grant a kinship/specific probationary license upon receipt and approval of a completed kinship/specific packet submitted by DCFS.

(a) The kinship/specific probationary license shall be issued for no more than five months until full compliance can be achieved in order to receive an initial license for the remainder of the licensing year.

(b) An initial license may be issued at any time that compliance with probationary terms is met.

(c) A probationary license whose terms are not met prior to the expiration of that license shall be extended in corrective or penalty status.

(d) Initial license expiration dates shall be determined per R501-12-4-9.

([~~5~~]6) A kinship[ ~~or~~ ]/specific home license may not be utilized for the placement of any foster child other than the child designated on the license, and may not be utilized for respite care.

([~~6~~]7) If a kinship[ ~~or~~ ]/specific home desires to provide general foster care services, they will close their specific license and submit to the requirements of a general foster care license.

([~~7~~]8) The Office of Licensing recognizes the importance of preserving family and cultural connections for children in foster care. In accordance with 62A-2-117.5 and the Indian Child Welfare Act, the Office of Licensing may issue a waiver of any rule in regards to a kinship/specific home that does not impact the health and safety of the specific child or sibling group. This requires prior written approval by the Director of the Office of Licensing.

[~~**R501-12-16. Special Considerations for Siblings.**~~

~~(1) Except as described below, a sibling group may not be placed in a foster home that already has more than one foster child placed in the home when the addition of the sibling group would exceed four foster children in a licensed foster home or exceed three foster children in a certified foster home~~

~~(a) The sibling(s) of a child already living in a foster home may be placed in the foster home for the purpose of reuniting the siblings, even if the addition of the sibling or sibling group would exceed four or more foster children in a licensed foster home or three or more foster children in a certified foster home.~~

~~(b) A foster home may provide for a sibling or a sibling group beyond the allowable four foster child limit for licensed foster care and three foster care limit for certified foster care only when they remain in compliance with licensing rules in regards to each child.~~

]

**R501-12-1[~~7~~]6. Compliance.**

Any active license on the effective date of this rule shall be given 30 days to achieve compliance with this rule with the exception of R501-12-7(14) which will be given 60 days to achieve compliance.

**KEY: licensing, human services, foster care, certified foster care**
**Date of Enactment or Last Substantive Amendment: [~~October 23, 2015~~]2017**
**Notice of Continuation: October 18, 2012**
**Authorizing, and Implemented or Interpreted Law: 62A-2-101 et seq.**

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# Human Services, Administration, Administrative Services, Licensing
# R501-14
# Human Service Program Background Screening

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42233
FILED: 10/16/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to conform to legislative changes due to H.B. 185, from the 2017 General Session, and clarify processes.

SUMMARY OF THE RULE OR CHANGE: This rule clarifies processing of the new background screening exemption found in Subsection 62A-2-120(13). It also defines related terminology. It eliminates the expiration date of a screening and instead creates circumstances which result in a lapsed screening. It adds more flexibility for those from foreign countries to clear a background screening; clarifies that juveniles can only submit fingerprints within 30 days of their 18th birthday; expands the types of crimes that pass a background screening check without being reviewed by a full committee; clarifies the information that an applicant may want to submit to the committee for review of their background history; allows the grandfathering of those with checks prior to 09/01/2015 who are not on the FBI Rap Back system to extend when they go on Rap Back from 2017 to 2018.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-2-120

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: It is not anticipated that any of these changes will impact the state budget. The clarifications in this rule have virtually no impact to the workload.
♦ LOCAL GOVERNMENTS: After analysis, this rule will have no impact on local governments. None of these processes increase costs for those accessing the background checks. It does delay some background screening costs for local governments who run checks through the office until FY2019. However, this is neither a cost or savings. They can still choose to run them earlier.
♦ SMALL BUSINESSES: After analysis, this rule will have no impact on small businesses. None of these processes increase costs for those accessing the background checks. It does delay some background screening costs for small businesses who run checks through the office until FY2019. However, this is neither a cost or savings. They can still choose to run them earlier.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: After analysis, this rule will have no impact on other persons. None of these processes increase costs for those accessing the background checks. It does delay some background screening costs for other persons who run checks through the office until FY2019. However, this is neither a cost or savings. They can still choose to run them earlier.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no increased costs for affected persons. The clarifications in this rule do not increase costs to processing background screenings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is estimated, after analysis, to have no fiscal impact for businesses who license and/or run background screenings through the office.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov
♦ Samantha Hanson by phone at 801-538-4041, or by Internet E-mail at samanthahanson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Diane Moore, Director

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**R501. Human Services, Administration, Administrative Services, Licensing.**
**R501-14. Human Service Program Background Screening.**
**R501-14-1. Authority and Purpose.**

(1) This Rule is authorized by Sections 62A-2-106, 62A-2-120, 62A-2-121, and 62A-2-122.

(2) This Rule clarifies the standards for approving, denying, or revoking an applicant's background screening.

**R501-14-2. Definitions.**

(1) "Abuse" is defined in Sections 78A-6-105 and 62A-3-301, and may include "[~~s~~]Severe [~~a~~]Abuse", "[~~s~~]Severe [~~n~~]Neglect", and "[~~s~~]Sexual [~~a~~]Abuse", as these terms are defined in Sections 78A-6-105 and 62A-3-301.

(2) "Adult-only Substance Use Disorder Program" is a program serving substance use disorder related clients that has declared to the Office of Licensing that they do not serve the following:

(a) clients under the age of 18; or

(b) those with any serious mental illness or cognitive impairments.

([~~2~~]3) "Applicant" means a person whose identifying information is submitted to the Office under Sections 62A-2-120, 62A-3-104.3, 62A-5-103.5, 78B-6-128, and 78B-6-113. Applicant includes the legal guardian of an individual described in Section 62A-2-120-1.a.

([~~3~~]4) "Background Screening Agent" means the applicable licensing specialist, human services program, Area Agency on Aging (for Personal Care Attendant applicants only), and adoption service provider, an attorney representing a prospective adoptive parent as defined in Section 78B-6-103(4), or DHS Division or Office. The background screening agents are the point of contact with the Office for the purpose of background screening.

([~~4~~]5) "BCI" means the Bureau of Criminal Identification, and is the designated state agency of the Division of Criminal Investigation and Technical Services Division, within the Department of Public Safety, responsible to maintain criminal records in the State of Utah.

([~~5~~]6) "Child" is defined in Section 62A-2-101.

([~~6~~]7) "Child Placing" is defined in Section 62A-2-101.

([~~7~~]8) "Comprehensive Review Committee" means the [~~C~~]committee appointed to conduct reviews in accordance with Section 62A-2-120.

([~~8~~]9) "DAAS Statewide Database" is the Division of Aging and Adult Services database created by Section 62A-3-311.1 to maintain reports of vulnerable adult abuse, neglect, or exploitation.

([~~9~~]10) "Direct Access" is defined in Section 62A-2-101.

(1[~~0~~]1) "Direct Service Worker" is defined in Section 62A-5-101.

(1[~~1~~]2) "Directly Supervised" is defined in 62A-2-101.

[~~(12) "Expiration date" is 14 months from the approval date of the current screening application. A background screening approval that has expired is void.~~

]](13) "FBI Rap Back System" is defined in Section 53-10-108.

(14) "Fingerprints" means an individual's fingerprints as copied electronically through a fingerprint scanning device or on two ten-print fingerprint cards by a law enforcement agency, an agency approved by the BCI, or [~~B~~]background [~~S~~]screening [~~A~~]agent.

(15) "Foster Home" is defined in Section 62A-2-101.

(16) "Human Services Program" is defined in Section 62A-2-101.

(17) "Licensee" is defined in Section 62A-2-101.

(18) "Licensing Information System" is created by Section 62A-4a-1006, as a sub-part of the Division of Child and Family Services' Management Information System created by Section 62A-4a-1003.

(19) "Neglect" may include "[~~s~~]Severe [~~n~~]Neglect", as these terms are defined in Sections 78A-6-105 and 62A-3-301.

(20) "Office" [~~means the Office of Licensing within the Utah Department of Human Services~~]is defined in Section 62A-2-101(27).

(21) "Personal Care Attendant" is defined in Section 62A-3-101.

(22) "Personal Identifying Information" is defined in Section 62A-2-120, and shall include:

(a) a current, valid state driver's license or state identification card bearing the applicant's photo, current name, and address;

(b) any current, valid government-issued identification card bearing the applicant's name and photo, including passports, military identification and foreign government identification cards; or

(c) other records specifically requested in writing by the Office.

(23) "Substance Abuse Treatment Program" is defined in Section 62A-2-101.

(24) "Substantiated" is defined in Section 62A-4a-101.

(25) "Supported" is defined in Sections 62A-3-301 and 62A-4a-101.

(26) "Vulnerable Adult" is defined in Section 62A-2-101.

**R501-14-3. Initial Background Screening Procedure.**

(1) An applicant for initial background screening shall legibly complete, date and sign a background screening application and consent on a form provided by the Office.

(2) An applicant shall disclose all criminal charges, including pending charges, and all supported or substantiated findings of abuse, neglect or exploitation on the background screening application.

(3) The applicant may provide disclosure statements and related documents as direct attachments to the application or directly attached in a sealed envelope. If the applicant submits a sealed

envelope, the [~~B~~]background [~~S~~]screening [~~A~~]agent shall forward it unopened.

([~~3~~]4) An applicant must present valid government-issued identification[~~, including but not limited to a state issued driver license, state ID or passport~~].

([~~4~~]5) An applicant who presents only a foreign country identification card may be required to[~~shall~~] submit an original or [~~certified~~]official copy of a government issued criminal history report from that country.

([~~5~~]6) The background screening application, personal identifying information, including fingerprints, and applicable fee shall be submitted to the [~~B~~]background [~~S~~]screening [~~A~~]agent. The [~~B~~]background [~~S~~]screening [A]agent shall:

(a) inspect the applicant's government-issued identification card and determine that it does not appear to have been forged or altered;

(b) review for completeness and accuracy and sign the application; and

(c) forward the background screening application, and applicable fee to the Office background screening unit.

(d) The background screening agent may withdraw a background screening application at any point in the process.

**R501-14-4. Renewal Background Screening Procedure.**

(1) An applicant for background screening renewal shall legibly complete, date and sign a background screening application and consent on a form provided by the Office.

(2) An applicant shall disclose all criminal charges, including pending charges, and all supported or substantiated findings of abuse, neglect or exploitation on the background screening application. The applicant may provide disclosure statements and related documents as direct attachments to the application or directly attached in a sealed envelope. If the applicant submits a sealed envelope, the [~~B~~]background [~~S~~]screening [~~A~~]agent shall forward it unopened.

(3) The background screening application and personal identifying information shall be submitted to the [~~B~~]background [~~S~~]screening [~~A~~]agent.

(a) Notwithstanding R501-14-4(3), an applicant for a background screening renewal who is not currently enrolled in the FBI Rap Back System is not required to submit fingerprints for a FBI Rap Back System search and applicable FBI Rap Back System fees unless:

(i) the applicant's most current background screening has [~~expired~~]lapsed as described in part 7 of this Section;

(ii) the human services program or [~~B~~]background [~~S~~]screening [~~A~~]agent with which the applicant is associated requires a FBI Rap Back System search;

(iii) the applicant wishes to provide services with [~~another~~]an additional licensee and has not submitted fingerprints for a FBI Rap Back System search and applicable FBI Rap Back System fees;[

~~(iv) the applicant does not present a current, valid identification card issued by the State of Utah;~~] or

(iv) the renewal application is submitted on or after July 1, 201[~~7~~]8 and the applicant is not already enrolled in the FBI Rap Back System.

(4) A [~~licensed human services program or department contractor~~]background screening agent wishing to submit background screening renewal applications for multiple applicants may submit a summary log of the renewing applicants in lieu of individuals' applications.

(a) A summary log may only be used for applicants:

(i) who are enrolled in the FBI Rap Back System with the Office;

(ii) with a current[~~, non-expired~~] approval;

(iii) whose name and address have not changed since their last background screening approval;

(iv) who have not had any of the following since their last background screening approval:

(A) criminal arrests or charges;

(B) supported or substantiated findings of abuse, neglect or exploitation; or

(C) any pending or unresolved criminal issues.

(b) Summary logs shall contain:

(i) applicant full legal name,

(ii) applicant date of birth,

(iii) the last four numbers of each applicant's social security number;

(iv) program name; and

(v) name of program representative completing summary form.

(c) A [~~B~~]background [~~S~~]screening [~~A~~]agent [~~program~~] choosing to submit a summary log of the renewing applicants in lieu of individuals' applications shall maintain current documentation signed by each applicant, in which they attest to the accuracy of the information described in R501-14-4(4)(a) and (b).

(5) An application shall be submitted each time an applicant may have direct access to a child or vulnerable adult at any human services program other than the program identified on the initial application.

(6) The [~~B~~]background [~~S~~]screening [~~A~~]agent shall:

(a) inspect the applicant's government-issued identification card and make a determination as to whether or not it appears to have been forged or altered; and

(b) review for completeness and accuracy and sign the application.[~~; and~~]

[~~(c) forward the background screening application to the Office background screening unit within 30 calendar days after the applicant completes and signs the application and no later than 15 calendar days preceding the background screening expiration date.~~

]](7) Renewal applications from background screening agent and applicant shall be submitted to the Office no later than one year from the date of their most recent background screening approval. A screening that has lapsed for 30 days beyond that time is void and a new initial application must be submitted.

**R501-14-5. General Background Screening Procedure.**

(1) An application that is illegible, incomplete, unsigned, undated, or lacks a signed consent or required identifying information, may be returned to the individual who submitted it without further action.

(a) Personal identifying information submitted pursuant to Sections 62A-2-120, 62A-3-104.3, 62A-5-103.5, 78B-6-113, and 78B-6-128 shall be used to perform a search in accordance with Sections 62A-2-120(3) and (13).

(2) Except as permitted by Section 62A-2-120(9), an applicant for an initial background screening shall submit an application no later than two weeks from becoming associated with the

licensee and shall be directly supervised in regards [~~have no direct access~~] to a child or vulnerable adult prior to receiving written confirmation of background screening approval from the Office.

(a) Except as permitted by Section 62A-2-120(9), an applicant seeking background screening renewal shall submit renewal application within one year of the previous clearance date.[~~have no direct access to a child or vulnerable adult after the background screening expiration date and~~]

(b) If the screening approval lapses beyond 30 days, the applicant shall be directly supervised in regard to direct access of a child or vulnerable adult prior to receiving written confirmation of background screening approval from the Office.

[~~(3) The Office may defer action on an application for up to 30 calendar days until the applicant submits all additional information required by the Office.~~

~~(a) The Office may deny an application in the event that an applicant fails to provide all additional information required by the Office.~~

~~]~~([~~b~~]c) An applicant whose background screening has been denied shall have no further supervised or unsupervised direct access to clients unless the Office approves a subsequent application.

[~~(4) The Office may provide written communication notifying the program that the applicant must:~~

~~(a) submit fingerprints for a FBI Rap Back System check within 15 calendar days of a letter of notification; and/or~~

~~(b) obtain and submit a certified copy of the applicant's criminal history or records from local, state, federal, or foreign officials within 30 calendar days of a letter of notification.~~

~~(5) Upon notification from the Office as described in R501-14-5(4), the Background Screening Agent shall provide the applicant with a copy of all written communication from the Office within five calendar days after the date it is received.~~

~~(6) If the Office sends an applicant a sealed letter in care of or via the Background Screening Agent, the letter shall be provided to the applicant unopened.~~

~~]~~([~~7~~]3) The applicant or background screening agent shall promptly notify the Office of any change of address while the application remains pending.

([~~8~~]4) A [~~B~~]background [~~S~~]screening [~~A~~]agent may roll fingerprints of applicants for submission to the Office only after it has received and applied training in the proper methods of taking fingerprints.

(a) The [~~B~~]background [S]screening [~~A~~]agent shall verify the identity of the applicant via government-issued identification card at the time that fingerprints are taken.

(b) In the event that 10% or more of the fingerprints submitted by a [~~B~~]background [~~S~~]screening [~~A~~]agent are rejected for quality purposes, the Office may thereafter require that a program utilize law enforcement or BCI to roll prints.

[~~(c) An applicant or Background Screening Agent is not required, but may opt to, submit fingerprints for minors.~~](c) A minor applicant that submitted a youth application with no fingerprint cards and is not currently on the FBI Rap Back System must submit fingerprints within 30 days prior to the minor's 18th birthday.

**R501-14-6. Background Screening Fees.**

(1) The applicant and [~~B~~]background [~~S~~]screening [~~A~~]agent are responsible for ensuring the accuracy of information submitted with fee payments.

(2) Fees shall only be made by cashiers' check, corporate check, money order, or internal DHS transfer. Personal checks and credit or debit card payments shall not be accepted.

(3) A [~~B~~]background [~~S~~]screening [~~A~~]agent may choose to submit one payment for any number of applicants.

(4) Fees are not refundable or transferable for any reason.

**R501-14-7. [~~Results of Screening.~~]Application Processing and Results.**

(1) The Office shall approve an application for background screening in accordance with Section 62A-2-120(7).

(a) The Office shall notify the applicant or the [~~B~~]background [~~S~~]screening [~~A~~]agent or contractor when an applicant's background screening application is approved.

(i) Upon receiving notice from the Office, the [~~B~~]background [~~S~~]screening [~~A~~]agent shall provide notice of approval to the applicant as required under Section 62A-2-120 (12)(a)(i).

(b) The approval granted by the Office shall be valid [~~for a period not to exceed 14 months from the date of approval~~]until a renewal approval is issued or the prior approval lapses.

(c) An approval granted by the Office shall not be transferable, except as provided in R501-14-11.

(2) The Office may conditionally approve an application for background screening in accordance with Section 62A-2-120(8).

(a) Conditional approvals are prohibited for initial applicants who are residents of child placing foster or adoption homes.

(b) A [~~program~~]background screening agent seeking the conditional approval of an applicant shall not request conditional approval unless 10 business days have passed after the applicant's background screening application is received by the Office without receiving notification of the approval or denial of the application.

(c) A written request for conditional approval shall include the applicant's full name, the last four digits of the applicant's social security number, and the date the application was submitted to the Office.

(d) Upon receipt of a written request for conditional approval that complies with R501-14-7(2)(b), the Office shall make a conditional determination within three business days.

(e) Conditional approvals shall have expiration dates not to exceed 60 days.

([e]f) If the Office does not provide a standard approval before the expiration date of the conditional approval, the applicant shall be directly supervised until such an approval is granted[~~have no unsupervised direct access~~].

([~~f~~]g) The Office may revoke the conditional approval prior to the expiration date.

(3) The Office shall deny an application for background screening in accordance with Section 62A-2-120.

(4) An applicant whose background screening has been denied shall have no further supervised or unsupervised direct access.

(5) The Office shall refer an application to the [~~C~~]comprehensive [~~R~~]review [~~C~~]committee in accordance with Section 62A-2-120(6).

(a) Per Section 62A-2-120 (6)(a)(ii), all misdemeanor convictions except those listed in R501-14-7(5)(b), within the five years prior to submission of the application to the Office shall be reviewed by the [~~C~~]comprehensive [~~R~~]review [~~C~~]committee.

(b) The following misdemeanors will not be reviewed except as described in (xiv) as listed below:

(i) violation of local ordinances related to animal licenses, littering, dogs at large, noise, yard sales, land uses, storm water, utilities, business licenses, zoning, building, construction and park/access hours;

(ii) all misdemeanors listed in 41-6a except:

(A) part 4 accident responsibility Sections 401.3, 401.5 and 401.7;

(B) part 5 driving under the influence;

(C) part 17 miscellaneous rules Section 1716 if charged as a misdemeanor B and Section 1717;

(D) part 18 Section 1803[~~motor vehicle safety belt usage act~~];

(iii) all misdemeanors listed in 76-10-2, 76-10 part 1 Section 105, 76-10-21 and 76-10-27;

(iv) Failure to Appear: A misdemeanor charge under 77-7-22;

(v) Unauthorized Hunting of Protected Wildlife: A misdemeanor resulting from unauthorized hunting under 23-20-3;

(vi) Fishing Licenses: A misdemeanor resulting from a failure to have the appropriate fishing license under 23-19-1;

(vii) Boating Safety: A misdemeanor resulting from a failure to comply with the boating safety requirements outlined in 73-18-8;

(viii) Business License: A misdemeanor resulting from failure to have a business license as required under 76-8-410;

([~~xiv~~]ix) all juvenile misdemeanors except those listed in 62A-2-120(5)(a) unless there is a pattern of at least three or more similar offenses within the five years prior to the submission of the application.

(c) The Office shall refer an applicant to the [~~C~~]comprehensive [~~R~~]review [~~C~~]committee upon learning of a potentially disqualifying offense or finding described in Section 62A-2-120(6)(a) not previously considered by the [~~C~~]comprehensive [~~R~~]review [~~C~~]committee.

[~~(d) If an offense requires committee review, the Comprehensive Review Committee may review all convictions related to the applicant's criminal history.~~](6) The Office may provide the status of an application to the sponsoring background screening agent, but shall not share any specific criminal history information.

**R501-14-8. Comprehensive Review Committee.**

(1) The Director of the following Department of Human Services divisions and offices shall appoint one member and one alternate to serve on the [~~C~~]comprehensive [~~R~~]review [~~C~~]committee:

(a) the Executive Director's Office;

(b) the Division of Aging and Adult Services;

(c) the Division of Child and Family Services;

(d) the Division of Juvenile Justice Services;

(e) the Division of Services for People with Disabilities;

(f) the Division of Substance Abuse and Mental Health; and

(g) the Office of Licensing.

(2) Comprehensive [~~R~~]review [~~C~~]committee members and alternates shall be professional staff persons who are familiar with the programs they represent.

(3) The appointed Office member shall chair the [~~C~~]comprehensive [~~R~~]review [~~C~~]eommittee as a non-voting member.

(4) Four voting members shall constitute a quorum, not including the representatives from the Office of Licensing.

(5) The [~~C~~]comprehensive [~~R~~]review [~~C~~]committee shall conduct a comprehensive review of an applicant's background screening application, criminal history records, outstanding warrants for any offenses that require a committee review, abuse, neglect or exploitation records, and related circumstances, in accordance with Section 62A-2-120(6).

**R501-14-9. Comprehensive Review Investigation.**

(1) The [~~C~~]comprehensive [~~R~~]review [~~C~~]committee shall not review [~~deny~~] a background screening application without the Office first sending the applicant a written notice that:

(a) the Office is investigating the applicant's criminal history or findings of abuse, neglect or exploitation;

(b) the applicant is encouraged to submit any written statements or records that the comprehensive review committee needs to make a determination of risk of harm including but not limited to: [~~applicant wants the Comprehensive Review Committee to consider;~~]

(i) original police reports;

(ii) investigatory and charging documents;

(iii) proof of any compliance with court orders;

(iv) any evidence of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(v) personal statements;

(vi) reference letters specific to the potential risk of harm and;

(vii) any other information that specifically addresses the criteria established in Section 62A-2-120(6)(b);

(c) the [~~C~~]comprehensive [~~R~~]review [~~C~~]committee evaluates information using the criteria established by Section 62A-2-120(6)(b)[~~, and the applicant may specifically address these issues~~]; and

(d) submissions must be received within 15 calendar days of the written notice unless an extension has been requested by the background screening agent or applicant and granted by the Office.

(2)[~~(a)~~] The Office shall gather information described in Section 62A-2-120(6)(b) from the applicant and provide available information to the [~~C~~]comprehensive [~~R~~]review [~~C~~]committee.

([~~b~~]3) The Office may request additional information from any available source, including the applicant, victims, witnesses, investigators, the criminal justice system, law enforcement agencies, the courts and any others it deems necessary for the comprehensive evaluation of an application.

([~~i~~]4) A denied application may be re-submitted to the Office after 6 months or upon substantial change to circumstances[~~The Office may defer action on an application for up to 30 calendar days until the applicant submits all additional information required by the Office~~].[

~~(ii) The Office may deny an application in the event that an applicant fails to provide all additional information required by the Office.~~

~~(iii) An applicant whose background screening has been denied shall have no supervised or unsupervised direct access unless the Office approves a subsequent application by the individual.~~]

**R501-14-10. Comprehensive Review Determination.**

(1) The [~~C~~]comprehensive [~~R~~]review [~~C~~]committee shall only consider applications and information presented by the Office. The [~~C~~]comprehensive [~~R~~]review [~~C~~]committee shall evaluate the

applications and information provided to the committee [~~by~~] through the Office [~~and any information provided by the applicant~~].

(a) A background screening approval may be transferred to other human service programs, therefore the [~~C~~]comprehensive [~~R~~]review [~~C~~]committee shall evaluate whether direct access should be authorized for all types of programs.

(2) Each application that goes to the [~~C~~]comprehensive [~~R~~]review [~~C~~]committee requires individual review by the [~~C~~]comprehensive [~~R~~]review [~~C~~]committee.

(3) The [~~C~~]comprehensive [~~R~~]review [~~C~~]committee shall recommend approval of the background screening of an applicant only after a simple majority of the voting members of the [~~C~~]comprehensive [~~R~~]review [~~C~~]committee determines that approval will not likely create a risk of harm to a child or vulnerable adult.

(4) The [~~C~~]comprehensive [~~R~~]review [~~C~~]committee shall recommend denial of the background screening of an applicant when it finds that approval will likely create a risk of harm to a child or vulnerable adult.

(5) If the applicant fails to provide additional information requested by the Office, the comprehensive review committee may consider and weigh those omissions in the evaluation of the risk of harm to clients.

([~~5~~]6) The Office shall make the final determination to approve or deny the [~~applicant's background screening~~] application after considering the comprehensive review committee's [~~in accordance with the~~] recommendation [~~of the Comprehensive Review Committee, except as described below:~~

~~(a) Within 10 days, a Comprehensive Review Committee member or the Office may request an additional Committee review based on the need for additional information, legal review or clarification of statutes, rules or procedures.~~

~~(b) Following a subsequent Committee review, the Office shall:~~

~~(i) approve or deny the applicant's background screening application in accordance with the recommendation of the Comprehensive Review Committee, and~~

~~(ii) send written notification to the applicant or Background Screening Agent~~].

([~~6~~]7) An applicant whose background screening has been denied shall have no further supervised or unsupervised direct access.

**R501-14-11 Background Screening Approval Transfer or Concurrent Use.**

(1) An applicant is eligible to have their current background screening approval shared with or transferred to another human services program only if the applicant is currently enrolled in the FBI Rap Back System and the screening was run under the same statutory authority as the original screening.

(2) An applicant who wishes to have their current background screening shared with or transferred to another human services program shall complete a background screening application and identify the name of the original program.

(3) An applicant shall [~~not have unsupervised direct access~~] be directly supervised until the program receives written confirmation from the Office that the background screening is current and valid.

(4) A background screening approval that has been transferred or shared shall have the same expiration date as the original approval.

**R501-14-12. Post-Approval Responsibilities.**

(1) An applicant and [~~B~~]background [~~S~~]screening [~~A~~]agent shall immediately notify the Office if the applicant is charged with any felony, misdemeanor, or infraction, or [~~listed~~] has a new finding in the Licensing Information System, juvenile court records, or the DAAS Statewide Database after a background screening application is approved.

[~~(a) An applicant who is associated with a licensee or department contractor shall immediately notify the licensee or department contractor if the applicant is charged with any felony, misdemeanor, or infraction, or listed in the Licensing Information System, juvenile court records, or the DAAS Statewide Database.~~

~~~~](2) An applicant who has received an approved background screening shall resubmit an application and personal identifying information to the Office within ten calendar days after being charged with any felony, misdemeanor, or infraction, or being listed in the Licensing Information System, the DAAS Statewide Database, or juvenile court records.

(3) An applicant who has been charged with any felony, misdemeanor, or infraction listed in Section 62A-2-120(5)(a) or [~~listed~~]has a new finding in the Licensing Information System or the DAAS Statewide Database, [~~or juvenile court records,~~] after a background screening application is approved shall [~~have no unsupervised direct access to a child or vulnerable adult~~]be directly supervised until after an application and personal identifying information have been resubmitted to the Office and a current background screening approval is received from the Office.

(4) An applicant charged with an offense for which there is no final disposition and no [~~C~~]comprehensive [~~R~~]review [~~C~~]committee denial, shall inform the Office of the current status of each case every 90 days.

(a) The Office shall determine whether the pending charge could require a denial or committee review, and if so, notify the applicant to submit an official[~~certified~~] copy of judicial documentation that indicates the current status of the case at least once every 3 months or until final disposition, whichever comes first.

(b) An applicant shall submit an official [~~certified~~ ]copy of judicial documentation that indicates the current status of the case at least once every 3 months or until final disposition, whichever comes first.

(5) The Office may revoke the background screening approval of an applicant who:

(a) has been charged with any felony, misdemeanor, or infraction or is listed in the Licensing Information System, the DAAS Statewide Database, or juvenile court records; and fails to provide required current status information as described in (4) of this Rule or;

(b) has been convicted of any felony, misdemeanor or infraction listed in 62A-2-120(5) after a background screening approval had already been granted by the Office while charges were pending.

(6) The Office shall process identifying information received pursuant to R501-14-12(2) in accordance with R501-14.

(7) A [~~B~~]background [~~S~~]screening [~~A~~]agent shall notify the Office when an applicant is no longer associated with the program so that the Office may terminate the FBI Rap Back subscription [~~no later than five months from the date of termination~~].[

~~(a) The Office shall verify that the applicant is not associated with another program, and notify BCI within two years of the date that the applicant is no longer associated with any licensee.~~]
~~~~

**R501-14-13. Confidentiality.**

(1) The Office may disclose criminal background screening information, including information acknowledging the existence or non-existence of a criminal history, only to the [~~A~~]applicant [~~and the Background Screening Agent, and~~] in accordance with the Government Records Access and Management Act, Section 63G-2-101, et seq.

(2) Except as described in R501-14-11 and below, background screening information may not be transferred or shared between human service programs.

(a) A licensed child-placing adoption agency may provide the approval granted by the Office to the person who is the subject of the approval, another licensed child-placing agency, or the attorney for the adoptive parents, in accordance with Section 53-10-108(4).

**R501-14-14. Retention of Background Screening Information.**

(1) A human services program or department contractor shall retain the background screening information of all associated individuals for a minimum of eight years after the termination of the individual's association with the program.

**R501-14-15. Expungement.**

(1) An applicant whose background screening application has been denied due to the applicant's criminal record may submit a new application with an official [~~certified~~] copy of an Order of Expungement.

**R501-14-16. Administrative Hearing.**

(1) A Notice of Agency Action that denies the applicant's background screening application or revokes the applicant's background screening approval shall inform the applicant of the right to appeal in accordance with Administrative Rule R497-100 and Section 63G-4-101, et seq.

**R501-14-17. Exemption.**

(1) Section 62A-2-120(13) provides an exemption for substance abuse programs providing services to adults only. In order to claim this exemption, an applicant, human services program, or department contractor may request this exemption on a form provided by the Office, and demonstrate that they meet exemption criteria. Final determination shall be made by the Office.

(2) The substance abuse program exemption limits the exemption with regard to program directors and members. Ownership and management of a human services program, as included in the definition of member, for purposes of this rule means a person or entity who alone or in conjunction with other persons or entities has a majority voice in the decision-making and administration of the program.

**KEY: licensing, background screening, fingerprinting, human services**
**Date of Enactment or Last Substantive Amendment: [~~March 21~~], 2017**
**Notice of Continuation: September 29, 2015**
**Authorizing, and Implemented or Interpreted Law: 62A-2-108 et seq.**

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# Human Services, Administration, Administrative Services, Licensing
# R501-18
## Recovery Residence Services

### NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42234
FILED: 10/16/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes are recommended by a statewide collaborative stakeholder group, including multiple recovery residence licensees, in response to efforts to ensure that the rules governing this service setting are correctly calibrated.

SUMMARY OF THE RULE OR CHANGE: This rule change eliminates the staffing differentiation between Recovery Residences that have seven or more clients and those with six or fewer. In effect, this eliminates the option of client/managers and only allows non-client managers. This is in order to ensure similar services and protections for all populations and is a recommendation made from the programs themselves. This change has little potential impact since no licenses have ever been granted for a program with six or fewer clients. Thus, all licenses in the past three years have always had non-client managers. Since the license's inception in 2014, all granted licenses have had seven or more clients at each site. In addition, this rule clarifies what is expected for program staff site visits including daily contact requirements. These requirements were already in the rule, but are being merely clarified. This addition was again program driven as a minimum standard to ensure safe sober environments. The rule amendments also, for safety reasons, clarify that these settings are not be used for those actively abusing substances and that these are not clinical treatment settings. It also clarifies fire safety requirements if a fire clearance is not required by local authorities and clarifies that clients can choose to share their own food without meeting health food handler's requirements. The rule was reorganized for clarity without substantial changes in most areas.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-2-101

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: It is not anticipated that the state budget will be affected. Licensing activities and workload remain unchanged by these clarifications.
♦ LOCAL GOVERNMENTS: No local governments are involved in recovery residence licensing.
♦ SMALL BUSINESSES: This rule is not expected to have fiscal impact on small businesses. These clarifications

primarily are meant to memorialize how the rule is being complied with already by both programs and their assigned licensors. It is more clear for more consistent compliance. If anything, it is likely these clarifications will reduce the workload for recovery residences. These amendments would have had an impact on smaller recovery residences using client managers, but none of those have existed since the rule's inception and no one in the recovery community anticipates any in the future.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No other persons are affected by this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is not anticipated that recovery residences will incur compliance costs from these rule amendments but they may enjoy minimal savings. Fire safety could theoretically cost a bit more due to the clarifications, but also allow an alternative to municipal fire safety clearance that is more likely to save than cost the provider while still ensuring minimum fire safety standards. On the whole, this rule is more clear, but more flexible for providers than their compliance under the former rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Upon analysis, this rule results in no fiscal impact for businesses.

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

HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov

♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov

♦ Samantha Hanson by phone at 801-538-4041, or by Internet E-mail at samanthahanson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Diane Moore, Director

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**R501. Human Services, Administration, Administrative Services, Licensing.**

**R501-18. Recovery Residence Services.**

**R501-18-1. Authority.**

This Rule is authorized by Section 62A-2-101 et seq.

**R501-18-2. Purpose.**

This rule establishes:

(1) basic health and safety standards for recovery residences; and

(2) minimum administration [~~and financial~~] requirements.

**R501-18-3. Definitions.**

(1) "Currently Enrolled Client" is an individual who is a participatory resident of the sober living environment of a recovery residence and is also referred to as "Client" in this chapter.

(2) "Manager" is an individual designated in-writing by the director to oversee the day-to-day supervision of staff and clients as well as the overall operation of the facility. The manager or substitute manager cannot be a currently enrolled client.

([~~1~~]3) "Recovery [~~r~~]Residence" is as defined in Subsection 62A-2-101(22) and includes a variety of sober living settings.[

~~(2) "SUD" means Substance Use Disorder.~~]

**R501-18-4. Legal Requirements.**

(1) A recovery residence shall comply with this R501-18 and:

(a) R501-1, General Provisions;

(b) R501-2, Core Rules;

(c) R501-14 by either:

(i) participating in the background clearances for all staff; or

(ii) obtaining an approval by the Office of Licensing for an exemption as outlined in R501-14.

([e]d) all applicable local, state, and federal laws.

(2) [~~Prior to offering any residential treatment services, a~~]A recovery residence wishing to offer clinical treatment services, shall comply with R501-19 and obtain a residential treatment license. No clinical treatment shall occur at a recovery residence site.

(3) [~~A recovery residence shall comply with the Americans with Disabilities Act.~~]A recovery residence wishing to offer social detoxification services shall comply with R501-11 and obtain a social detoxification license prior to offering any social detoxification services onsite. No services shall be provided to those in active withdrawl at a recovery residence site.

(4) A recovery residence shall only serve adults.

**R501-18-5. Administration.**

(1) The recovery residence shall ensure that clients receive supportive services from a person associated with the licensee or from a licensed professional. Supportive services include but are not limited to:

(a) vocational services;

(b) peer support;

(c) skills training;or

(d) community resource referral.

(2) A list of current clients shall be maintained on-site at all times and available to the Department of Human Services Office of Licensing upon request.

**R501-18-6. Staffing.**

(1) The [~~recovery residence~~]program shall [~~have an identified recovery residence director(s)who shall have at least one of the following:~~

~~(a) a minimum of two years of documented administrative experience in recovery residence;~~

~~(b) a minimum of two years documented substance use disorder treatment;~~

~~(c) a minimum of two year documented recovery support services; or~~

~~(d) minimum Utah licensure as a substance use disorder counselor, licensed clinical social worker or equivalent.~~]employ, contract with, or otherwise provide as needed, referral information for client access to the following:

(a) Physician

(b) Psychiatrist

(c) Mental health therapist (LCMHT); or

(d) Substance use disorder counselor (SUDSC).

(2) The recovery residence shall have an identified recovery residence director(s) who shall have:

(a) Utah licensure, in good standing, as a substance use disorder counselor, licensed clinical social worker or equivalent; or

(b) a minimum of 2 years experience in one of the following:

(i) administration of a recovery residence;

(ii) substance use disorder treatment education; or

(iii) recovery/support services education.

([~~2~~]3) The director's responsibilities that shall not be delegated include:

(a) monitoring all aspects of the program and operation of the facility;

([~~a~~]b) policy and procedure development, implementation, compliance and oversight per R501-2 Core Rule requirements and to also include:[~~;~~]

(i) clearly defining responsibilities of the director, manager, and staff of the program;

([~~b~~]c) [~~quality assurance plan implementation~~]supervision, training and oversight of staff;

[~~(c) training curriculum;~~

~~(d) supervision of staff;~~

~~~~]([~~e~~]d) overs[~~ight~~]eeing [~~of~~]all client activities[~~;~~].

[~~(f) ensure continual compliance with local, state and federal laws;~~

~~(g) notify the Office of Licensing 30 days prior to changes in program administration or purpose;~~

~~(h) ensure that the program is fiscally sound;~~

~~(i) ensure program maintains the staffing ratios outlined in program policy and procedure;~~

~~(j) ensure that the program has general liability insurance, professional liability insurance, vehicle insurance, and fire insurance; and~~

~~(k) monitoring all aspects of the program as outlined in the quality assurance plan.~~

~~~~]([~~2~~]4) The recovery residence director may manage directly or employ a manager as defined in this chapter, [~~who may be a client,~~] to work under the supervision of the director.[~~The manager may be responsible for the day-to-day staff, volunteer, and client supervision and operation of the facility. The responsibilities of the manager shall be clearly defined in the recovery residence policies and procedures. Whenever the manager is on leave (vacation, sick, etc.), the director shall designate a substitute to assume managerial responsibility. The recovery residence director, whether physically present or not, shares responsibility for the acts and omissions of the manager.~~]

(a) The director shall perform the manager's duties when the manager is on scheduled or unscheduled leave unless the manager designates a manager-substitute.

([~~3~~]5) The director is responsible for maintaining the following documentation for self and all direct service staff: [~~recovery residence shall provide each director, recovery residence manager, substitute, and staff, including clients serving in those capacities, with a minimum of:~~]

(a) 40 hours of training completed prior to working with clients and ongoing training sufficient to maintain proficiency in the topics of:

(i) [~~Training topics shall include: SUD curriculum;~~]recovery services in substance use disorder settings;

(ii) peer support[~~;~~];

(iii) emergency overdose [~~response;~~];

(iv) recognition [~~of~~] and response to [~~drug~~]substance -related activities[~~;~~]; and

(v) current certification[~~ed~~] in [~~f~~]First [~~a~~]Aid and CPR[~~;~~].

(b) documented training [~~prior to working with clients that includes, but is not limited to: how to comply with Core and Recovery Residence Rules, program policies and procedures, ethics, conflicts of interest, and case management;~~]regarding compliance with current licensing rules to include:

(i) R501-1, General Provisions;

(A) including the annual required Licensing Code of Conduct; and

(B) Client Rights;

(ii) R501-2, Core Rules;

(iii) R501-18 Recovery Residence rules; and

(iv) all current program policies and procedures.

[~~(c) ongoing training to maintain proficiency in the above topics.~~

~~(4) A recovery residence with 6 or fewer licensed client capacity:~~

~~(a) shall have a recovery residence manager(s), who may be a client, and substitute(s), who may be a client, approved in writing by the recovery residence director;~~

~~~~]([~~b~~]6) The recovery residence shall have a [~~residence~~] director[~~;~~]or manager [~~or substitute~~]conduct on-site visits daily [~~a minimum of 5 days per week~~] in order to ensure client[~~assess~~] safety and support clients.[~~These visits shall be scheduled and documented;~~]

(a) Site visits shall be documented per-site, not per-client;

[~~(c) shall have a residence director, manager or substitute have daily client contact with each admitted client. These contacts shall be documented;~~

~~~~](b) site visits shall assess and document the following:

(i) general safety;

(ii) general cleanliness;

(iii) verification that only admitted residents reside or stay overnight at the residence;

(iv) no presence of alcohol or substances of abuse unless lawfully prescribed; and

(v) medications in locked storage.

(7) The director or manager shall have documented face-to-face or telephone daily contact with each admitted client.

([~~d~~]8) [~~t~~]The recovery residence director shall ensure [~~that the recovery residence director or a manager, substitute, or staff maintains~~]administrative on-call availability at all times and remain[~~s~~] able to respond to the recovery residence staff and the Office of Licensing immediately by phone, [~~and remains able to respond in person at the recovery~~]or at the residence in-person within one hour.

[~~(5) A recovery residence with 7 or more licensed client capacity:~~

~~(a) shall have a recovery residence manager(s), who may not be a client, and substitute(s), who may not be a client, approved in writing by the recovery residence director;~~

~~]~~(b) shall have a residence director, manager or substitute on-site a minimum of 7 days per week in order to assess safety and support clients. These visits shall be scheduled and documented;

~~(c) shall have a residence director, manager or substitute have daily client contact with each admitted client. These contacts shall be documented;~~

~~(d) the recovery residence director shall ensure that the recovery residence director or a manager, substitute, or staff maintains on-call availability at all times, and remains able to respond to the recovery residence and the Office of Licensing immediately by phone, and remains able to respond in person at the recovery residence within one hour.~~

~~(6) The recovery residence shall determine and comply with a written policy which clearly defines the minimum staff-to-client ratios and levels of supervision of clients by the person(s) associated with the licensee.~~

~~(7) The recovery residence shall have a written:~~

~~(a) emergency plan posted and available to clients;~~

~~(b) grievance procedure posted and available to clients.~~

~~(8) A recovery residence which utilizes non-client volunteers shall provide training and evaluation of non-client volunteers. Non-client volunteers providing care without paid staff present shall have direct communication access to the recovery residence manager or recovery residence director at all times. Non-client volunteers shall be trained in recovery residence policies and procedures, objectives, and scope of service. All volunteers will be supervised by the recovery residence director who is responsible for their conduct.~~

~~(9) Professional Staff shall include the following individuals who are either employed, under contract or are otherwise available for referral to the clients of the recovery residence:~~

~~(a) a licensed physician; and/or~~

~~(b) a licensed psychiatrist; and/or~~

~~(c) a licensed mental health therapist; and/or~~

~~(d) a licensed substance use disorder counselor (SUDC).~~]

**R501-18-7. Direct Service.**

(1) This subsection supersedes Core Rules, Section R501-2-5. The recovery residence client records shall contain the following:

(a) name, address, telephone number, email;

(b) admission date;

(c) emergency contact information with names, address, email, and telephone numbers;

(d) all information that could affect the health, safety or well-being of the client to include:

(i) medications;

(ii) allergies;

(iii) chronic conditions; or

(iv) communicable diseases;

([~~d~~]e) [~~an~~] intake [~~application and assessment~~]documentation indicating that the client meets the admission criteria, including the following:

(i) not currently using or withdrawing from alcohol or substances of abuse; and

(ii) not presenting with a current clinical assessment that contraindicates this level of care.

([e]f) individual recovery plan, including the signature and title of the [~~persons~~]program representative preparing the recovery plan and the signature of the client; the recovery plan shall include the following:

([~~f~~]i) documentation of all services provided by the program, including a disclosure that no clinical treatment services occur on-site at the recovery residence; and[~~, including the signature and title of the persons providing recovery residence services;~~]

([~~g~~]ii) documentation of all referred supportive services, not directly associated with the recovery residence site.[~~;~~]

([~~h~~]g) the signed written lease agreement for the recovery residence, if required;

([~~i~~]h) a signed agreement indication that the client was notified in writing prior to admission regarding: [~~crisis intervention reports;~~

~~(j) the recovery residence's client recovery plan shall offer and document individualized and supportive services;~~

~~(k) treatment is not a required component of a recovery residence. However, off-site treatment referrals shall be made available upon request. On-site treatment and other services must first be licensed in accordance with applicable Office of Licensing categorical rules;~~

~~(l) clients will be notified prior to admission regarding their responsibilities related to the transportation and location of off-site services.~~]

(i) program and client responsibilities related to transportation to and location of off-site services;

(ii) program and client responsibilities related to the provision of toiletries, bedding and linens, laundry and other household items;

(iii) program and client responsibilities related to shopping, provision of food and preparation of meals;

(iv) fee disclosures included Medicaid number, insurance information and identification of any other entities who may be billed for the client's services;

(v) rules of the program;

(vi) client rights

(vii) grievance and complaint policy;

(viii) critical incident reports involving the client; and

(iv) discharge documentation.

**R501-18-8. [~~Physical Environment~~]Building and Grounds.**

(1) The recovery residence shall ensure that building and grounds are safe and well-maintained. Furnishings, finishings, fixtures, equipment, appliances and utilities are operational and in

good condition.[~~provide written documentation of compliance with the following:~~

~~(a) local zoning ordinances;~~

~~(b) local business license requirements;~~

~~(c) local building codes;~~

~~(d) local fire safety regulations;~~

~~(e) local health codes; and~~

~~(f) local approval from the appropriate government agency for new program services or increased client capacity.~~

~~(2) Building and Grounds:~~

~~(a) the recovery residence shall ensure that the appearance, safety and cleanliness of the building and grounds are maintained.~~

**~~R501-18-9. Physical Facility.~~**

~~(1) Live-in staff, who may be a client, shall have a separate sleeping area with a private bathroom.~~

~~]~~(2) The recovery residence shall[~~ have a designated secure location that serves as an administrative office for records, secretarial work, and bookkeeping if such work is done onsite.~~

~~(3) Bathrooms~~]:

(a) [~~the recovery residence shall~~]have locking bathroom[~~s~~] capability sufficient to preserve the privacy of the occupant[~~-~~]; [~~Clients shall have~~]

(b) provide access to a toilet, [~~lavatory~~] sink, and a tub or shower; as follows per the International Building Code:[~~-~~]

(i) maintain a client to toilet ratio of 1:10, and

(ii) maintain a client to tub/shower ratio of 1:8.[~~ These shall be maintained in good operating order and in a clean and safe condition;~~

~~(b) client to bathroom ratios shall comply with the residential international building code, as administered by the local government authority;~~

~~(c) each bathroom shall be maintained in good operating order;~~]

([~~d~~]c) [~~there shall be~~]provide a mirror[~~s~~] secured to [~~the~~]a wall[~~s~~] at convenient height[~~s~~];

([~~e~~]d) ensure that each bathroom [~~shall be~~]is ventilated by [~~mechanical means or equipped with~~ ]a screened window that opens, a working fan or heating/air conditioning duct that circulates air;

[~~(f) clients will be notified prior to admission regarding their responsibilities related to the provision of toiletries.~~

~~(4) Sleeping Accommodations:~~

~~]~~([~~a~~]e) provide a minimum of 60 square feet per client [~~shall be provided~~] in a multiple occupant bedroom and 80 square feet in a single occupant bedroom. Storage space shall not be counted;

([~~b~~]f) ensure that sleeping areas shall have a source of natural light, and shall be ventilated by [~~mechanical means or equipped with~~ ]a screened window that opens, a working fan, or heating/air conditioning duct that circulates air;

([~~e~~]g) ensure that each client is provided with a solidly constructed bed, [~~none of which shall be portable, shall be solidly constructed~~]box spring and mattress that is maintained and provides for client comfort and is commensurate with all other client beds in the residence;

([~~d~~]h) [~~sleeping quarters serving~~]ensure that male and female [~~clients~~]bedrooms are [~~shall be structurally~~] separated within the residence either by floors, walls or [~~and have~~] locking [~~bedroom~~ ] doors;. If locking doors are used, a policy must identify the use of locks to delineate separation;

([~~e~~]i) ensure that clients shall be allowed to decorate and personalize bedrooms with respect for other clients and property;

([~~f~~]j) if a fire clearance is not required or provided from the local fire authority:

(i) a bedroom on the ground floor shall have a minimum of one window that may be used to evacuate the room in case of fire;

([~~g~~]ii) a bedroom that is not on the ground floor (this includes basements) shall have a minimum of two exits, at least one of which shall exit directly to outside the building that may be used to evacuate the room in case of fire;

[~~(h) furniture and residence equipment shall be of sufficient quantity and quality to meet recovery residence and client needs;~~

~~(i) all furniture and residence equipment shall be maintained in a clean and safe condition;~~

~~(j) clients will be notified prior to admission regarding their responsibilities related to the provision of bedding and linens.~~

~~(5) Weapons Safety:~~

~~(a) all facilities shall have and comply with a written weapons policy.~~

~~(6) Laundry Service:~~

~~]~~([~~a~~]k) the recovery residences shall provide either equipment or reasonable access to equipment for washing and drying of linens and clothing;

[~~(b) laundry appliances shall be maintained in good operating order and in a clean and safe condition.~~](l) provide storage commensurate with the clients' assessed ability to safely access hazardous chemicals, materials and aerosols, including but not limited to:

(i) poisonous substances;

(ii) explosive or flammable substances;

(iii) bleach; and

(iv) cleaning supplies;

(m) maintain hazardous chemicals, materials, and aerosols in their original packaging and follow the manufacturer's instructions printed on the label.

(n) maintain a sober environment free from non-prescribed substances and alcohol.

**R501-18-[~~10~~]9. Food Service.**

(1) Meals may be catered, prepared by staff or prepared by clients [~~at the recovery residence or meals may be catered~~].

(2) The recovery residence shall have at least one kitchen.

([~~2~~]3) If the recovery residence [~~provides~~] allows staff or clients to prepare food for clients, it shall comply with food service requirements as follows:

(a) [~~current weekly menu shall be posted in the kitchen and the office;~~

~~(b) the staff or clients responsible for food service shall maintain~~] develop and follow a food service policy to address:

(i) how [ ~~a current list of clients with~~] special [~~nutritional~~] dietary needs and food allergies will be tracked and accommodated;[~~, shall provide food that meets those needs, and record in the client's service record information relating to special nutritional needs.~~

~~(3) The recovery residence shall have one or more kitchens, which shall have clean and safe operational equipment in sufficient quantity for the preparation, storage, serving, and clean-up of all meals.~~

~~(4) The recovery residence shall have dining space/s large enough to provide seating for all clients. The dining space shall be maintained in a clean and safe condition.~~

~~(5) When meals consumed by clients are prepared by staff or other clients, the recovery residence shall have and comply with a written policy that complies with all minimum requirements of the local Health Department.~~

~~(6) Clients will be notified prior to admission regarding their responsibilities related to the provision or preparation of food.~~]

(ii) how safe food preparation and cleanup will be ensured;

(b) document compliance with, or exemption from, requirements of the local health department to include:

(i) health inspections and clearances; and

(ii) food handler's permits for anyone preparing food for anyone other than self;

(c) food of sufficient nutrition and variety shall be provided;

(d) menus shall be available upon request; and

(e) this does not prohibit clients from preparing their own food and choosing to share with other clients.

(4) The recovery residence shall provide enough seating at tables or tray tables to accommodate all clients simultaneously.

**R501-18-1[~~1~~]0. Medical Standards.**

(1) The recovery residence shall not admit anyone who is currently in an intoxicated state or withdrawing from alcohol or drugs or otherwise unable to understand terms and consent to reside in the recovery residence [~~experiencing convulsions, in shock, delirium tremens, in a coma or unconscious~~].

([~~2~~]2) Before admission or employment, clients and staff shall be screened for Tuberculosis by a questionnaire approved by the local health department[-]; if further screening is indicated, clients and staff will:

(a) follow appropriate protocol according to the local health department;

(b) provide proof of negative test results for Tuberculosis; and

(c) test annually or more frequently as required.

[~~(3) All clients and staff shall provide current proof of negative test results for Tuberculosis and shall be tested annually or more frequently when directed by the local health department.~~

~~]~~([~~4~~]3) A recovery residence that manages clients' medications shall keep all prescription and non-prescription medications in locked storage that is not accessible by clients when not in active use.

[~~(5) Each recovery residence shall have and comply with a written policy and procedure regarding the safe storage and disposal of medications.~~

~~]~~([~~6~~]4) A recovery residence shall ensure that clients who manage their own medications keep all prescription and non-prescription medications in individually accessed locked storage [~~when not in active use, using individual locked storage~~] that is not accessible [~~by any~~]to other clients when not in active use [~~other than the client who owns the medication. Clients will be notified prior to admission regarding their responsibilities related to the provision of locked storage for personal medications~~].

([~~7~~]5) Non-prescription and prescription medications shall be stored in their original manufacturer's packaging together with manufacturer/pharmacy[~~'s~~] directions and warnings.

[~~(8) Prescription medications shall be stored in their original pharmacy packaging together with the pharmacy label, directions and warnings.~~](6) Naloxone shall be safely maintained and available onsite, and staff and clients shall be trained in its proper use.

[**~~R501-18-12. Hazardous Chemicals and Materials.~~**

~~(1) The recovery residence shall provide safe storage for hazardous chemicals, materials, and aerosols, including but not limited to poisonous substances, explosive or flammable substances, bleach, and cleaning supplies. The recovery residence shall maintain hazardous chemicals, materials, and aerosols in their original packaging and follow the manufacturer's instructions printed on the label.~~]

**KEY: licensing, human services, recovery residence**
**Date of Enactment or Last Substantive Amendment: [~~December 22, 2014~~]2017**
**Authorizing, and Implemented or Interpreted Law: 62A-2-101; 62A-2-106**

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# Human Services, Child And Family Services
# R512-308
# Out-of-Home Services, Guardianship Services and Placements

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42207
FILED: 10/13/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule amendment is to bring the rule in line with current statute and practice.

SUMMARY OF THE RULE OR CHANGE: The content of the amendment is to make technical changes to the rule to bring it in-line with current law and practice.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-102 and Section 62A-4a-105 and Section 78A-6-105

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There will be no cost or savings to the state budget because these proposed changes do not increase workload that would require additional staff or additional funding.
♦ LOCAL GOVERNMENTS: Local governments have no responsibility for the services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.

♦ SMALL BUSINESSES: Small businesses have no responsibility for the services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no expected fiscal impact for "persons other than small businesses, businesses, or local government entities" because funding requests for services offered by Child and Family Services come out of already-existing budgets.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons associated with implementing the changes to this rule because these changes are not fiscal in nature.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule revision will not result in a fiscal impact to businesses because the revisions to this rule are to bring it in line with current statute and practice.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Tonya Myrup, Acting Director

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**R512. Human Services, Child and Family Services.**
**R512-308. Out-of-Home Services, Guardianship Services and Placements.**
**R512-308-1. Purpose and Authority.**

(1) The purpose of this rule is to define guardianship services and placements. Guardianship services and placements provide a permanent, safe living arrangement for a child in the court-ordered custody of Child and Family Services or Department of Human Services when it is not appropriate for the child to return home, adoption has been ruled out as a permanency goal, and continuing agency custody is not in the child's best interest.

(2) Guardianship services are authorized by Section 62A-4a-105.

(3) This rule is authorized by Section 62A-4a-102.

**R512-308-2. Definitions.**

(1) "Child and Family Services" means the Division of Child and Family Services.

(2) "Child and Family Team" has the same meaning as defined in Rule R512-301.

(3) "Guardianship" has the same meaning as defined in Section 78A-6-105.

**R512-308-3. General Guardianship Qualifying Factors.**

(1) Guardianship services refer to services provided to both relatives and non-relatives who are seeking legal guardianship. All of the following factors must be met in order to qualify for guardianship services.

(a) The child cannot safely return home. This requirement is met if the court determines that reunification with the child's parents is not possible or appropriate and the Child and Family Team and regional screening committee agree that adoption is not an appropriate plan for the child.

(b) The parent and child have a significant bond but the parent is unable to provide ongoing care for the child, such as an emotional, mental, or physical disability, and the child's current caregiver has committed to raising the child to the age of majority and to facilitate visitation with the parent.

(c) The prospective guardian must:

(i) Be able to maintain a stable relationship with the child;

(ii) Have a strong commitment to providing a safe and stable home for the child on a long-term basis;

(iii) Have a means of financial support;

(iv) Have connections to community resources to assist with the care of the child; and

(v) Be able to care for the child without Child and Family Services supervision.

(d) The child has no ongoing care or financial needs beyond basic maintenance and does not require the services of a case manager.

(e) There are compelling reasons why the child cannot be adopted, such as when the child's tribe has exclusive jurisdiction or the tribe has chosen to intervene in the adoption proceedings. Under the Indian Child Welfare Act (ICWA), 25 USC Section 1911, a tribe has the right to determine the child's permanency. For this reason, the tribe has the authority to approve guardianship with the current caregiver.

**R512-308-4. Non-Relative Qualifying Factors.**

(1) In addition to general qualifying factors in R512-308-3, all of the following factors apply to non-relatives who are seeking legal guardianship. In order for guardianship to be awarded:

(a) The prospective guardian is a licensed out-of-home care provider.

(b) The child has lived for at least six months in the home of the prospective guardian. The region director or designee may waive the six-month placement requirement for sibling groups if at least one sibling has been in the home for six months and meets all other eligibility criteria.

(c) A Child and Family Team has reviewed the home study and assessed the placement and found that continuation with the caregiver is in the child's best interest and supports the safety, permanency, and well-being of the child.

(d) Child and Family Services has no concerns with the care the child has received in the home.

(e) Child and Family Services has observed that the child has a stable and positive relationship with the prospective guardian.

**R512-308-5. Relative Qualifying Factors.**

(1) In addition to general qualifying factors found in R512-308-3, all of the following factors apply for relatives to seek legal guardianship:

(a) The child's prospective guardian is a relative to the child who meets the relationship requirements of the Department of Workforce Services Specified Relative Program, as outlined in R986-200-214, which currently includes:

(i) Grandparents;

(ii) Brothers and sisters;

(iii) Stepbrothers and stepsisters;

(iv) Aunts and uncles;

(v) First cousins;

(vi) First cousins once removed;

(vii) Nephews and nieces;

(viii) People of prior generations as designated by the prefix grand, great, great-great, or great-great-great;

(ix) Brothers and sisters by legal adoption;

(x) The spouse of any person listed above;

(xi) The former spouse of any person listed above;

(xii) Individuals who can prove they met one of the above-mentioned relationships via a blood relationship even though the legal relationship has been terminated;

(xiii) Former stepparents;

(xiv) A Native American adult who has a Native American child placed in or living in that adult's home, and both the child and the adult are members of, or eligible for membership in, a federally-recognized tribe; and

(xv) An adult of the same ethnicity, culture, country of origin, religion, language, and/or nationality as the refugee/asylee child in his or her care.

(b) The child's needs may be met without continued Child and Family Services funding.

**R512-308-6. Guardianship Subsidy Availability, Scope, Duration.**

(1) Guardianship subsidies are available to meet the needs for children in out-of-home care:

(a) For whom guardianship has been determined as the most appropriate primary goal.

(b) Who do not otherwise have adequate resources available for his or her care and maintenance.

(c) Who meet the qualifying factors described in R512-308-3 and also either R512-308-4 or R512-308-5.

(i) For prospective guardians who are also relatives of the child, the caseworker must be provided with a copy of a denial letter or other written proof obtained from the Department of Workforce Services verifying that the prospective guardian does not meet the requirements for the Specified Relative Grant.

(d) In order to be considered for a guardianship subsidy, the prospective guardian must be a licensed out-of-home care provider and demonstrate that they cannot qualify for a Specified Relative Grant through the Department of Workforce Services as outlined in R512-308-6.

(2) The request for the guardianship subsidy shall be reviewed by the regional guardianship screening committee and regional administration. The regional guardianship subsidy screening committee shall determine if the request is approved or denied.

(3) A prospective guardian shall not receive both the Specified Relative Grant and the guardianship subsidy. If a prospective guardian is found to be receiving both a Specified Relative Grant and guardianship subsidy for the same child, the caseworker will notify the Department of Workforce Services and appropriate actions may be taken by the Department of Workforce Services for repayment.

(4) Guardianship subsidies are available through the month in which the child reaches age 18 years.

(5) Each region may establish a limit to the number of eligible children who may receive guardianship subsidies.

(6) Guardianship subsidies are subject to the availability of state funds designated for this purpose.

**R512-308-7. Regional Guardianship Subsidy Screening Committee.**

(1) Each region shall establish at least one regional guardianship subsidy screening committee. This committee may be combined with another appropriate committee, such as the adoption subsidy committee or placement committee.

(2) The regional guardianship subsidy screening committee shall be comprised of at least five members. A minimum of three members must be present for making decisions regarding a guardianship subsidy. Decisions shall be made by consensus.

(3) The regional guardianship subsidy screening committee is responsible to:

(a) Verify that a child qualifies for a guardianship subsidy.

(b) Approve the level of need and amount of monthly subsidy for initial requests, changes, and renewals.

(c) Document the committee's decisions.

(d) Inform guardians of available supportive services to prevent disruptions and preserve permanency.

**R512-308-8. Determining Guardianship Subsidy Amounts.**

(1) The regional guardianship subsidy screening committee will determine the subsidy amount by considering the special needs of the child and the circumstances of the guardian family. The subsidy amount shall not exceed the amounts specified in this section. The caseworker presents to the committee information regarding the special needs of the child, the guardian family's income and expenses, and/or the guardian family's special circumstances.

(2) All of the following factors must be considered when determining the amount of the monthly subsidy to be granted:

(a) All sources of financial support for the child, including Supplemental Security Income, Social Security benefits, and other benefits. The regional guardianship subsidy committee may require verification of financial support.

(i) If a child is receiving benefit income and the income can continue after guardianship is granted, this amount will be deducted from the guardianship subsidy amount.

(ii) The guardianship subsidy should not replace other available income, such as Supplemental Security Income or Social Security Benefits.

(3) A guardianship subsidy will not exceed the amounts indicated below, and may be less based upon the ongoing needs of the child and the needs of the guardian family.

(a) Guardianship I: Guardianship I is for a child who may have mild to moderate medical needs, psychological, emotional, or behavioral problems, and who requires parental supervision and care. The amount of guardianship subsidy for a child whose needs are within Guardianship I may be any amount up to the lowest Foster Care Level 1 (FC1) rate that was in effect at the time the child exited custody. The age of the child is not considered when determining the amount of the guardianship subsidy.

(b) Guardianship II: Guardianship II is for a child who may be physically disabled, developmentally delayed, medically needy or medically fragile, or have a serious emotional disorder. The amount of the guardianship II subsidy may range from the lowest FC1 rate to the lowest Foster Care Level 2 (FC2) rate that was in effect at the time the child exited custody. The age of the child is not considered when determining the amount of the guardianship subsidy.

(4) Children who were placed in Foster Care Level II or higher (FC3, group homes, residential facilities, etc.) at the time of exit are considered for the Guardianship II rate.

(5) Guardianship subsidies may not exceed the Guardianship II rate.

(6) Funds for guardianship subsidies are funded with state general funds. A region has the discretion to limit the number of guardianship subsidies or reduce guardianship subsidy rates based on the availability of funds.

(7) The process for changing the amount of the guardianship subsidy is as follows:

(a) The amount of a guardianship subsidy awarded does not automatically increase when there is an out-of-home care rate change or as the child ages.

(b) A guardian may request a guardianship subsidy review when seeking an increase in the guardianship subsidy amount, not to exceed the maximum amount allowable for the child's level of need. The guardian must complete the form designated by Child and Family Services and provide documentation to justify the request.

(c) The request must be reviewed and approved by the regional guardianship subsidy screening committee. If approved, a new Guardian Subsidy Agreement will be completed.

(d) Child and Family Services may reduce a guardianship subsidy rate due to inadequate state general funds. Child and Family Services must provide written notice of agency action by certified mail at least 30 days in advance if a guardianship subsidy rate is going to be reduced.

**R512-308-9. Guardianship Subsidy Agreement.**

(1) A Guardianship Subsidy Agreement specifies the terms for financial support for the child's basic needs and may be for a duration of no longer than three years.

(2) A guardianship subsidy worker will complete the Guardianship Subsidy Agreement.

(3) The effective date of the initial agreement is the date of the court order granting guardianship.

(4) A Guardianship Subsidy Agreement must:

(a) Be signed by the guardian and a Child and Family Services designee prior to any payments being made;

(b) Identify the reason a subsidy is needed;

(c) List the amount of the monthly payment;

(d) Identify dates the agreement is in effect;

(e) Identify responsibilities of the guardian;

(f) Identify under what circumstances the agreement may be amended or terminated and the time period for reviews;

(g) Include a provision for a reduction or termination in the amount of the guardianship subsidy in the event a legislative or executive branch action affects Child and Family Services' budget or expenditure authority, making it necessary for Child and Family Services to reduce or terminate guardianship subsidies, or if a regional office determines that reduction is necessary due to regional budget constraints;

(h) Include a provision for assignment of benefits to the Office of Recovery Services in accordance with the Office of Recovery Services requirements; and

(i) Include a provision for correction of any under or overpayment that was made in error or that was incorrectly paid to the guardian by the Department of Human Services or Child and Family Services.

**R512-308-10. Notification Regarding Changes.**

(1) The Guardianship Subsidy Agreement shall also include provisions for the guardian to notify Child and Family Services if:

(a) There is no longer a need for a guardianship subsidy.

(b) The guardian is no longer legally responsible for the support of the child.

(c) The guardian is no longer providing any financial support for the child or is providing reduced financial support for the child.

(d) The child no longer resides with the guardian.

(e) The guardian has a change in address.

(f) The child has run away.

(g) The guardian is planning to move out of the state of Utah.

**R512-308-11. Reviews and Renewals**

(1) Reviews:

(a) A guardianship subsidy worker will review each Guardianship Subsidy Agreement annually. The family situation, child's needs, and amount of the guardianship subsidy payment may be considered.

(b) Prior to review, the guardian must complete the form designated by Child and Family Services for Guardianship Subsidy Recertification in order to verify that the guardian continues to support the child. If the form is not received after adequate notice, the guardianship subsidy may be delayed or terminated.

(2) Renewals:

(a) In order for guardianship assistance payments to continue, this agreement shall be renewed at intervals of up to three years until the child's 18th birthday.

(b) Written notification of the need to renew the agreement shall be provided to the guardians no less than 60 days prior to the next renewal date. Child and Family Services shall supply the guardian with the appropriate forms for renewal.

(c) Child and Family Services and the guardian may negotiate the terms of a new agreement at any time. In order to be effective, all new agreements shall be in writing, on a form designated by Child and Family Services, and signed by the parties. Oral modifications or agreements shall neither bind the Department of Human Services or Child and Family Services nor the guardian.

**R512-308-12. Appeals/Fair Hearings.**

(1) When a decision is made to deny, reduce, or terminate a guardianship subsidy, Child and Family Services shall send by certified mail a written Notice of Agency Action. The notice shall also include information about how to request a fair hearing.

**R512-308-13. Termination.**

(1) A Guardianship Subsidy Agreement will be terminated if any of the following circumstances occur:

(a) The terms of the agreement are concluded.

(b) The guardian requests termination.

(c) The child reaches age 18 years.

(d) The child dies.

(e) The guardian parent dies or, in a two-parent family, if both guardian parents die.

(f) The guardian parents' legal responsibility for the child ceases.

(g) Child and Family Services determines that the child is no longer receiving financial support from the guardian parent.

(h) The child marries.

(i) The child enters the military.

(j) The child is adopted.

(k) The child is placed in out-of-home care.

(2) The Department of Human Services or Child and Family Services determines that funding restrictions prevent continuation of subsidies for all guardians.

(3) A Guardianship Subsidy Agreement will be suspended and reviewed for possible termination if any of the following circumstances occur:

(a) The child is incarcerated for more than 30 days.

(b) The child is out of the home for more than a 30-day period or is no longer living in the home.

(c) The guardian fails to complete the renewed Guardianship Subsidy Agreement within five working days of the renewal date.

(d) There is a supported finding of child abuse or neglect against the guardian.

(4) The decision to terminate or suspend a guardianship subsidy payment shall be made by the regional guardianship subsidy screening committee.

[~~(1) The purpose of this rule is to define guardianship services and placements. Guardianship services and placements provide a permanent, safe living arrangement for a child in the court-ordered custody of Child and Family Services or Department of Human Services when it is not appropriate for the child to return home or be adopted, and continuing agency custody is not in the child's best interest.~~

~~(2) Guardianship services are authorized by Section 62A-4a-105.~~

~~(3) This rule is authorized by Section 62A-4a-102.~~

**~~R512-308-2. Definitions.~~**

~~(1) "Child and Family Services" means the Division of Child and Family Services.~~

~~(2) "Child and Family Team" has the same meaning as defined in Rule R512-301.~~

~~(3) "Guardianship" has the same meaning as defined in Section 78A-6-105.~~

**~~R512-308-3. General Guardianship Qualifying Factors.~~**

~~(1) General qualifying factors apply for both relative and non-relative guardianship, and all factors must be met.~~

~~(a) The child cannot safely return home. This requirement is met if the court determines that reunification with the child's parents is not possible or appropriate and the Child and Family Team and regional screening committee agree that adoption is not an appropriate plan for the child.~~

~~(b) The parent and child have a significant bond but the parent is unable to provide ongoing care for the child, such as an emotional, mental, or physical disability, and the child's current caregiver has committed to raising the child to the age of majority and to facilitate visitation with the parent.~~

~~(c) The prospective guardian must:~~

~~(i) Be able to maintain a stable relationship with the child;~~

~~(ii) Have a strong commitment to providing a safe and stable home for the child on a long-term basis;~~

~~(iii) Have a means of financial support and connections to community resources; and~~

~~(iv) Be able to care for the child without Child and Family Services supervision.~~

~~(d) The child has no ongoing care or financial needs beyond basic maintenance and does not require the services of a case manager.~~

~~(e) There are compelling reasons why the child cannot be adopted, such as when the child's tribe has exclusive jurisdiction or the tribe has chosen to intervene in the adoption proceedings. Under the Indian Child Welfare Act (ICWA), 25 USC Section 1911, a tribe has the right to determine the child's permanency. For this reason, the tribe has the authority to approve guardianship with the current caregiver.~~

**~~R512-308-4. Non-Relative Qualifying Factors.~~**

~~(1) In addition to general qualifying factors in R512-308-3, all of the following factors apply to non-relative guardianship and must be met.~~

~~(a) The child is in the legal custody of Child and Family Services and has been in custody for at least 12 consecutive months. If this is a sibling group, at least one child must have been in custody for 12 consecutive months.~~

~~(b) The prospective guardian is a licensed out-of-home care provider.~~

~~(c) The child has lived for at least six months in the home of the prospective guardian. The region director or designee may waive the six-month placement requirement for sibling groups if at least one sibling has been in the home for six months and meets all other eligibility criteria.~~

~~(d) A Child and Family Team has formally assessed the placement and found that continuation with the caregiver is in the child's best interest and supports the safety, permanency, and well-being of the child.~~

~~(e) Child and Family Services has no concerns with the care the child has received in the home.~~

~~(f) The child has a stable and positive relationship with the prospective guardian.~~

~~(g) The child has reached the age of 12 years. The region director or designee may waive the age requirement for members of a sibling group placed with a non-relative if at least one sibling is 12 years of age or older and meets all other guardianship criteria and adoption is not the best permanency option for the younger children.~~

**R512-308-5. Relative Qualifying Factors.**

(1) In addition to general qualifying factors found in R512-308-3, all of the following factors apply for relative guardianship and must be met.

(a) The child's prospective guardian is a relative to the child who meets the relationship requirements of the Department of Workforce Services Specified Relative Program, which currently includes:

(i) Grandfather or grandmother;

(ii) Brother or sister;

(iii) Uncle or aunt;

(iv) First cousin;

(v) First cousin once removed (a first cousin's child);

(vi) Nephew or niece;

(vii) Persons of preceding generations as designated by prefixes of grand, great, great great, or great great great;

(viii) Spouses of any relative mentioned above even if the marriage has been terminated;

(ix) Persons that meet any of the above-mentioned relationships by means of a step relationship; or

(x) Relatives that meet one of these relationships by legal adoption.

(b) If not licensed as an out-of-home care provider, the relative has completed kinship screening, including a home study and background checks, in accordance with Kinship Practice Guidelines.

(c) The child's needs may be met without continued Child and Family Services funding. In order to be considered for a guardianship subsidy, the prospective relative guardian must be a licensed out-of-home care provider and demonstrate that they cannot qualify for a Specified Relative Grant through the Department of Workforce Services as outlined in R512-308-6.

**R512-308-6. Guardianship Subsidy Availability, Scope, Duration.**

(1) Guardianship subsidies are available to meet the care and maintenance needs for children in out-of-home care:

(a) For whom guardianship has been determined as the most appropriate primary goal.

(b) Who do not otherwise have adequate resources available for their care and maintenance.

(c) Who meet the qualifying factors described in R512-308-4 Non-Relative Qualifying Factors and who cannot qualify to receive a Specified Relative Grant from the Department of Workforce Services.

(i) The caseworker must be provided with a copy of a denial letter from the Department of Workforce Services or written proof that the relationship requirements do not apply, such as through relevant birth certificates.

(ii) Approval from the regional guardianship screening committee and regional administration is required in making this determination.

(2) If a prospective guardian is found to be receiving both a Specified Relative Grant and guardianship subsidy for the same child, the caseworker will notify the Department of Workforce Services and appropriate actions may be taken for repayment.

(3) Guardianship subsidies are available through the month in which the child reaches age 18 years.

(4) Each region may establish a limit to the number of eligible children who may receive guardianship subsidies.

(5) Guardianship subsidies are subject to the availability of state funds designated for this purpose.

**R512-308-7. Regional Guardianship Subsidy Screening Committee.**

(1) Each region shall establish at least one regional guardianship subsidy screening committee. This committee may be combined with another appropriate committee, such as the adoption subsidy committee or placement committee.

(2) The regional guardianship subsidy screening committee shall be comprised of at least five members. A minimum of three members must be present for making decisions regarding a guardianship subsidy. Decisions shall be made by consensus.

(3) The regional guardianship subsidy screening committee is responsible to:

(a) Verify that a child qualifies for a guardianship subsidy.

(b) Approve the level of need and amount of monthly subsidy for initial requests, changes, and renewals.

(c) Document the committee's decisions.

(d) Coordinate supportive services to prevent disruptions and preserve permanency.

**R512-308-8. Determining Guardianship Subsidy Amounts.**

(1) The regional guardianship subsidy screening committee will determine the subsidy amount by considering the special needs of the child and the circumstances of the guardian family. The caseworker presents to the committee information regarding the special needs of the child, the guardian family's income and expenses, and/or the guardian family's special circumstances.

(2) All of the following factors must be considered when determining the amount of the monthly subsidy to be granted:

(a) All sources of financial support for the child including Supplemental Security Income, Social Security benefits, and other benefits. The regional guardianship subsidy committee may require verification of financial support.

(i) If a child is receiving benefit income and the income can continue after guardianship is granted, this amount will be deducted from the guardianship subsidy amount.

(ii) The guardianship subsidy should not replace other available income, such as Supplemental Security Income.

(3) A guardianship subsidy will not exceed the levels indicated in Level I and Level II below, and may be less based upon the ongoing needs of the child and the needs of the guardian family.

(a) Guardianship Level I (Basic): Guardianship Level I is for a child who may have mild to moderate medical needs, psychological, emotional, or behavioral problems, and who requires parental supervision and care. The amount of guardianship subsidy for a child whose needs are within Level I may be any amount up to the lowest basic out-of-home care rate.

(b) Guardianship Level II (Specialized): Guardianship Level II is for a child who may be physically disabled, developmentally delayed, medically needy or medically fragile, or have a serious emotional disorder. The amount of the guardianship subsidy may range from the lowest basic out-of-home care rate to the lowest specialized out-of-home care rate.

(4) Children who are receiving the structured out-of-home care rate in out-of-home care or who are in a group or residential setting are considered for the Guardianship Level II rate.

(5) Guardianship subsidies may not exceed the Guardianship Level II rate.

(6) Guardianship subsidies are funded with state general funds within regional out-of-home care budgets. A region has the

discretion to limit the number of guardianship subsidies or reduce guardianship subsidy rates based on the availability of funds.

(7) Changing the amount of the guardianship subsidy.

(a) The amount of a guardianship subsidy does not automatically increase when there is an out-of-home care rate change or as the child ages.

(b) A guardian may request a guardianship subsidy review when seeking an increase in the guardianship subsidy amount, not to exceed the maximum amount allowable for the child's level of need. The guardian must complete the Request for Subsidy Increase Form to provide documentation to justify the request.

(c) The request must be reviewed and approved by the regional guardianship subsidy screening committee. If approved, a new Guardian Subsidy Agreement will be completed.

(d) Child and Family Services must provide written notice of agency action by certified mail at least 30 days in advance if a guardianship subsidy rate is going to be reduced.

**R512-308-9. Guardianship Subsidy Agreement.**

(1) A Guardianship Subsidy Agreement specifies the terms for financial support for the child's basic needs.

(2) A guardianship subsidy worker will complete the Guardianship Subsidy Agreement.

(3) The effective date of the initial agreement is the date of the court order granting guardianship.

(4) A Guardianship Subsidy Agreement must:

(a) Be signed by the guardian and Child and Family Services prior to any payments being made.

(b) Identify the reason a subsidy is needed.

(c) List the amount of the monthly payment.

(d) Identify dates the agreement is in effect.

(e) Identify responsibilities of the guardian.

(f) Identify under what circumstances the agreement may be amended or terminated and the time period for agreement reviews.

(g) Include a provision for a reduction or termination in the amount of the guardianship subsidy in the event a legislative or executive branch action affects Child and Family Services' budget or expenditure authority, making it necessary for Child and Family Services to reduce or terminate guardianship subsidies or if a regional office determines that reduction is necessary due to regional budget constraints.

(h) Include a provision for assignment of benefits to the Office of Recovery Services in accordance with the Office of Recovery Services requirements.

(i) Include a provision for re-payment of any financial entitlement made by the Department of Human Services or Child and Family Services to the guardian that was incorrectly paid.

**R512-308-10. Notification Regarding Changes.**

(1) The guardian must notify Child and Family Services if:

(a) There is no longer a need for a guardianship subsidy.

(b) The guardian is no longer legally responsible for the support of the child.

(c) The guardian is no longer providing any financial support to the child or is providing reduced financial support for the child.

(d) The child no longer resides with the guardian.

(e) The guardian has a change in address.

(f) The child has run away.

(g) The guardian is planning to move out-of-state.

**R512-308-11. Reviews, Renewals, and Recertifications.**

(1) Reviews:

(a) A guardianship subsidy worker will review each Guardianship Subsidy Agreement annually. The family situation, child's needs, and amount of the guardianship subsidy payment may be considered.

(b) Prior to review, the guardian must complete the Guardianship Subsidy Recertification form provided by Child and Family Services to verify that the guardian continues to support the child. If the Guardianship Subsidy Recertification form is not received after adequate notice, the guardianship subsidy may be delayed or face possible termination.

(2) Renewals:

(a) In order for guardianship assistance payments to continue, this agreement shall be renewed at intervals of up to three years until the child's 18th birthday.

(b) The Department of Human Services or Child and Family Services shall provide written notification to the guardians before the next renewal date and shall supply the guardian with the appropriate forms.

(c) The Department of Human Services or Child and Family Services and the guardian may negotiate the terms of a new agreement at any time. In order to be effective, all new agreements shall be in writing, on a form approved by the Department of Human Services or Child and Family Services, and signed by the parties. Oral modifications or agreements shall bind the Department of Human Services or Child and Family Services and the guardian.

(3) Recertification:

(a) In order for guardianship assistance payments to continue, the guardian must recertify annually by completing and submitting the Annual Guardianship Assistance Recertification form to the Department of Human Services or Child and Family Services.

**R512-308-12. Appeals/Fair Hearings.**

(1) When a decision is made to deny, reduce, or terminate a guardianship subsidy, Child and Family Services shall send by certified mail a written Notice of Agency Action. The notice shall also include information about how to request a fair hearing.

**R512-308-13. Termination.**

(1) A Guardianship Subsidy Agreement will be terminated if any of the following circumstances occur:

(a) The terms of the agreement are concluded.

(b) The guardian requests termination.

(c) The child reaches age 18 years.

(d) The child dies.

(e) The guardian parent dies or, in a two parent family, if both guardian parents die.

(f) The guardian parents' legal responsibility for the child ceases.

(g) The Department of Human Services or Child and Family Services determines that the child is no longer receiving financial support from the guardian parent.

(h) The child marries.

(i) The child enters the military.

(j) The child is adopted.

(k) The child is placed in out-of-home care.

~~(l) The Department of Human Services or Child and Family Services determines that funding restrictions prevent continuation of subsidies for all guardians.~~

~~(2) A guardianship subsidy payment may be terminated or suspended, as appropriate, if any of the following occur. The decision to terminate or suspend must be made by the regional guardianship subsidy screening committee.~~

~~(a) The child is incarcerated for more than 30 days.~~

~~(b) The child is out of the home for more than a 30-day period or is no longer living in the home.~~

~~(c) The guardian fails to return the annual Guardianship Subsidy Recertification form or to complete the renewed Guardianship Subsidy Agreement within five working days of the renewal date.~~

~~(d) There is a supported finding of child abuse or neglect against the guardian.~~

**KEY: out-of-home care, guardianship**
**Date of Enactment or Last Substantive Amendment: [~~December 22, 2010~~]2017**
**Notice of Continuation: July 22, 2015**
**Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 78A-6-105**]

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# Human Services, Substance Abuse And Mental Health
# R523-16
# Certification of Essential Treatment Examiners and Case Managers

## NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 42206
FILED: 10/13/2017

## RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to implement the process for Essential Treatment Examiners to attain certification from the Division of Substance Abuse and Mental Health (DSAMH).

SUMMARY OF THE RULE OR CHANGE: This rule: 1) describes who is eligible to be an Essential Treatment Examiner; 2) establishes a certification process for Essential Treatment Examiners; 3) requires applicants to meet minimum standards of skill, knowledge, and understanding in order to be certified; 4) requires applicants to attend classes developed by DSAMH to receive a certification; 5) establishes a process to have certain Division sponsored training requirements waived if the applicant can show competence through previous training and experience; and 6) requires that compensation for an essential treatment examination be negotiated between the petitioner and the Essential Treatment Examiner.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-15-105(6)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This rule will incur costs to the state budget. DSAMH currently provides a training and certification process for mental health designated examiners, all costs and time estimates for this rule are based on the designated examiner certification program, because of the similarities in the two types of certification processes. The associated costs will include: DSAMH will have to develop a form (onetime cost) and application review and processing procedure (ongoing cost) for this certification. It is anticipated that the form will take 1 hour to develop, with a financial cost of an average of $40.48 (including benefits) per hour based on the level and salary of employee who would complete this task for a minimum total cost of $40.48. The rule requires the Director or designee to review the application, and the Director to make a determination if certain training can be waived based on the applicants' past experience and training. The time needed to review applications is not estimable nor is the time needed to review a waiver. Financial costs would be a minimum total cost of $40.48 per hour for most application reviews based on the designee who will be reviewing most of the applications. The reviewing and making a determination on applications seeking waivers will be a minimum cost of $83.84 per hour based on the Directors compensation salary including benefits. A total financial cost cannot be estimated, because there is no way of knowing how many applications will be submitted or how many will request a waiver. The time it takes to convert the current designated examiner curriculum to meet the needs of the essential treatment examiner certification process. This is a one-time cost to DSAMH. The curriculum used for designated examiners provides learners with an understanding of courtroom policies, procedures and etiquette, along with the elements of civil commitment law. It is anticipated the courtroom training will remain the same, but DSAMH will need to design a segment in the training that discusses the four criteria of an essential treatment determination, in that the assessed individual: 1) suffers from substance use, 2) can reasonably benefit from treatment, 3) is likely to substantially benefit from a less-restrictive treatment, and 4) presents a serious harm to self or to others. DSAMH estimates this task will take eight plus hours to complete. The financial cost of developing this trained can be set at an average of $40.48 (including benefits) per hour based on the level and salary of the employee who would complete this task for a minimum total cost of $323.84. The time it will take to provide training and issue certifications to applicants. This is an intermittent cost that will be based on the number applicants who apply and are not trained in the elements of the Essential Treatment Act, or court room procedures and testifying as an expert in a court proceeding. DSAMH anticipates this training will be offered as needed and the total time cost will be 8 hours per training. The costs of training materials that is estimated at $2,000 per year which includes possible break food items and copy materials. The costs associated with compensating trainers. DSAMH

submits this cost based on the current average income of DSAMH staff qualified to provide the essential treatment examiner training at an average of $40.48 (including benefits) with a total cost of $323.84 per training.
♦ LOCAL GOVERNMENTS: No costs are associated with this rule for local governments. Certification is based on an individual's desire to become certified .
♦ SMALL BUSINESSES: No costs are associated with this rule for small businesses. Certification is based on an individual's desire to become certified.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The affected persons and numbers of licenses in Utah associated with this rule are: 1) Clinical Mental Health Counselor: 1,253; 2) Licensed Clinical Social Worker: 3,773; and 3) total number of affected persons is 5,026, per the number of licenses in August 2017 as reported by the Division of Occupational Licensing (DOPL). This rule will create a time cost to affected persons. DSAMH anticipates that the certification process could take up to 6 hours of the applicant's time based on that individual's qualification. This will include submitting an application, signing up for training and participating in training. This rule creates financial costs to affected persons. This rule restricts an inestimable number of the potential affected persons because it requires five-year experience in treating and diagnosing substance use disorders. This means that those without the experience could be denied access to the funds available for providing essential treatment assessments for up to a maximum of five years, or until they acquire the experience needed to become certified. This experience requirement will not be waived. The loss of potential income for the 6 hours that the applicants will need to dedicate to the certification process. DSAMH is unable to quantify this cost because the values of individual applicants' time in financial compensation are as varied as the potential number of actual applicants. This rule creates an inestimable financial benefit to affected persons. Those who apply and have the required experience had the potential of eventually being certified, are then able to seek opportunities to provide essential treatment assessment based on whatever compensation rate they negotiate with potential consumers of that service.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Both a time and possible financial cost for individuals who apply to be a certified Essential Treatment Examiner and are not familiar with the elements of being an expert witness in court, and/or the criteria for essential treatment interventions. Time cost could be six or more hours to apply, receive training, and drive to and from the trainings. The monetary cost would be travel to and from the trainings and personal salary costs for the six hours needed to apply and complete the training. All of these costs are inestimable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to small or large businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Dunford by phone at 801-538-4181, by FAX at 801-538-4696, or by Internet E-mail at tdunford@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Doug Thomas, Director

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**R523. Human Services, Substance Abuse and Mental Health.**
**R523-16. Certification of Essential Treatment Examiners and Case Managers.**
**R523-16-1. Authority.**
(1) This rule is authorized by Utah Code 62A-15-105(6) and directs The Division of Substance Abuse and Mental Health (DSAMH) to make rules approving the form and content of substance abuse treatment.

**R523-16-2. Purpose.**
(1) The purpose of this rule is to:
(a) immediately and effectively achieve and implement the Legislative intent achieved in the Essential Treatment and Intervention Act as set forth in Utah Code 62A-15-1201 et seq.; and
(b) provide the supporting process for essential treatment examiners to qualify and provide certification from DSAMH to the Court as required in the Act.

**R523-16-3. Essential Treatment Examiners Certification.**
(1) An "Essential Treatment Examiner" is:
(a) a licensed physician, preferably a psychiatrist; or
(b) a licensed mental health professional designated by DSAMH as specially qualified by experience and training who:
(i) has at least five years experience in the treatment of substance use disorders, and
(ii) holds a current Designated Examiner certification; or
(c) between June 1, 2017 and June 30, 2019, is a licensed mental health professional designated by DSAMH as specially qualified by experience and training who:
(i) has at least five years experience in the treatment of substance use disorders, and
(ii) has made application with DSAMH and is approved to be an essential treatment examiner.
(2) DSAMH shall certify that an essential treatment examiner is qualified by training and experience in the diagnosis of substance use disorders. All licensed physicians are presumed to have the qualification necessary to be an Essential Treatment Examiner;

therefore, this category of professional need not make an application to DSAMH. Certification for non-licensed physicians shall require at least five years experience in the treatment of substance use disorders, and successful completion of any training provided by DSAMH for the purpose of certifying essential treatment examiners.

(a) application for certification shall be achieved by the applicant making a written request through a DSAMH approved form, to DSAMH for consideration. Upon receipt of a written application, the Director or designee shall initiate a review and examination of the applicant's qualifications.

(b) the applicant must meet the following minimum standards in order to be certified:

(i) be a licensed mental health professional, per Utah Code 58-60-405, that holds a current Designated Examiner certification; or

(ii) be a licensed mental health professional, per Utah Code 58-60-405, that has expressed an interest in becoming an essential treatment examiner by making application with DSAMH;

(iii) be a resident of the State of Utah;

(iv) demonstrate a complete and thorough understanding of substance use disorders, as determined by training and experience;

(v) exhibit a fundamental and working knowledge of the purpose and requirements of the Essential Treatment Act and role of the certified examiner as approved by the court by demonstrating a thorough understanding of the conditions, which must be met to warrant a district court to order an individual to undergo essential treatment for a substance use disorder, as determined by training, experience and written examination;

(vii) be able to demonstrate a general knowledge of the court process including commitment hearings, and be able to provide the court with a thorough and complete oral and written evaluation that addresses the standards and questions set forth in the law, as determined by experience, training and written examination;

(viii) shall attend any required training for certification as an essential treatment examiner as provided by DSAMH and pass the exam at the completion of the training with a minimum of 70% correct;

(d) DSAMH Director or designee shall determine if experience and qualifications are satisfactory to meet the required standards.

(e) DSAMH Director shall determine if there are any training requirements that may be waived due to prior experience and training and which may qualify as an exception of any of the above requirements; and

(f) upon satisfactory completion of the requirements outlined in R523-16-3(2), DSAMH Director or designee shall certify the qualifications of the applicant, make record of such certification, and issue a certificate to the applicant reflecting their status as an approved essential treatment examiner and authorizing such privileges and responsibilities as prescribed by law.

**R523-16-4. Essential Treatment Examiners Fees and Compensation for Services.**

(1) All fees, compensations and payments for services rendered during an essential treatment examination shall be negotiated between the petitioner and the essential treatment examiner.

**KEY: essential treatment examiners, involuntary commitment, substance use**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 62A-15-105; 62A-15-1202(1)**

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# Insurance, Administration
# R590-151
# Records Access Rule

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42211
FILED: 10/13/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being amended to remove outdated submission directions, to supply updated submission directions, and to make editorial corrections.

SUMMARY OF THE RULE OR CHANGE: The change primarily removes outdated submission requirements that direct requesters to send submissions to a former Utah Insurance Department employee, and replaces them with a direction to file Government Records Access and Management Act (GRAMA) requests through the state's Open Record Portal. It also removes the Enforcement Date section and makes a number of small editorial corrections.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63A-12-104(2) and Subsection 63G-2-204(2)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The amendment to the rule merely designates a new method for the Department to collect and track GRAMA requests. Use of the Open Record Portal will allow the Department to track GRAMA requests more efficiently and should result in requesters receiving their records in a more timely manner. However, the new method will not increase or decrease the amount of staff time required to research and complete a records request.

♦ LOCAL GOVERNMENTS: There will be no cost or savings to local governments. The amendment governs the relationship between the Department and the GRAMA-filing public.

♦ SMALL BUSINESSES: There will be no cost or savings to small businesses. The amendment governs the relationship between the Department and the GRAMA-filing public.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will be no cost or savings to any other persons. The amendment merely designates a new method for the Department to collect and track GRAMA requests. Use of the Open Record Portal will allow the Department to track GRAMA requests more efficiently and should result in requesters receiving their records in a more timely manner.

There is no cost to file requests through the Open Record Portal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any affected persons. The amendment merely designates a new method for the Department to collect and track GRAMA requests. Use of the Open Record Portal will allow the Department to track GRAMA requests more efficiently and should result in requesters receiving their records in a more timely manner. There is no cost to filing requests through the Open Record Portal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule change will not result in a fiscal impact to businesses.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Steve Gooch, Information Specialist

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**R590. Insurance, Administration.**
**R590-151. Records Access Rule.**
**R590-151-1. Authority.**

This rule is adopted pursuant to the provisions of Chapter 2, Title 63G, the Government Records Access and Management Act (GRAMA), specifically Subsections 63G-2-204(2), and 63A-12-104(2).

**R590-151-2. Purposes.**

The purposes of this rule are to define how record requests are to be made to the Insurance Department[~~, to designate the person who shall fulfill various functions pursuant to the requirements of GRAMA,~~] and to define how an individual may contest the accuracy and completeness of records concerning that individual which are maintained by the department.

**R590-151-3. Rule.**

(1) Making a Request for Access to Records.

(a) All record requests made under the provisions of GRAMA shall[~~:~~

~~(i)~~ ] be made in writing[~~, email, or facsimile;~~

~~(ii) comply with the requirements of Subsection 63G-2-204(1); and~~

~~(iii) indicate in the subject line "GRAMA REQUEST"; and~~

~~(iv) be directed;~~

~~(A) in writing to the Records Officer, Utah Department of Insurance, State Office Building, Room 3110, Salt Lake City, Utah, 84114;~~

~~(B) via email to mdyerabb@utah.gov; or~~

~~(C) or via facsimile to the attention of Records Officer at (801)538-3829~~] by completing the online Request Form available through Utah's Open Record Portal at https://openrecords.utah.gov.

(b) The department's response may be delayed if a submitted request [~~does not comply with the requirements of Subsection (1)~~]is incomplete.

([~~2~~]2) The department may, at its discretion, waive the requirement for a written request if the records requested are public and readily accessible, or for other good cause shown.

([~~2~~]3) Appeals From Initial Decisions.[

~~]~~ All appeals from an initial decision by the department, which denies access to a record, shall be addressed to the insurance commissioner and shall conform to the requirements of Section 63G-2-401. The authority to order disclosure or nondisclosure is delegated to the head of the division which maintains the record or to any other person the commissioner may designate from time to time.

([~~3~~]4) Contesting Accuracy or Completeness of a Record.

(a) Any request pursuant to Subsection 63G-2-603(2) shall be directed to the records officer.

(b) Consideration of the request shall be conducted as an informal adjudicative proceeding unless converted to a formal adjudicative proceeding by the presiding officer.

(c) A request to amend findings of fact in any administrative proceeding where the time for appeal has expired shall be denied. These types of records shall be maintained in their original form to protect the public interest and the integrity of the Administrative Records. Section 63G-2-603, may not apply.

**R590-151-4. [~~Enforcement Date.~~**

~~The commissioner shall begin enforcing the revised provisions of this rule on the effective date.~~

**~~R590-151-5.~~ ]Severability.**

If any provision or clause of this rule or the application of it to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provision of this rule are declared to be severable.

**KEY: insurance records access**
**Date of Enactment or Last Substantive Amendment: [~~October 3, 2012~~]2017**
**Notice of Continuation: July 12, 2012**
**Authorizing, and Implemented or Interpreted Law: 63G-2-204; 63A-12-104**

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# Insurance, Administration
# R590-157-4
## Stamping Fee Amounts

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 42213
FILED: 10/13/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to fund technology improvements that will promote efficiencies between the Surplus Line Association and the surplus line producers and agencies. The Surplus Line Association acts as the agent for the Utah Insurance Commissioner pursuant to Section R590-157-5.

SUMMARY OF THE RULE OR CHANGE: The change increases the surplus line stamping fee to 0.18 of 1% from its current level of 0.15 of 1%.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-15-103 and Section 31A-2-201 and Section 31A-3-303

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There will be an approximate aggregate increase of $78,600 to the state budget as a result of this fee increase. These funds will be used to pay for technology improvements at the Surplus Line Association, which acts as the agent for the Utah Insurance Commissioner pursuant to Section R590-157-5.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local governments. This rule governs transactions that involve the state, the Surplus Line Association, and surplus line producers and agencies that operate within the state.
♦ SMALL BUSINESSES: After researching the businesses that have insurance policies through non-admitted insurers, it was concluded that 90% of those businesses are small businesses and will be affected. This rule change will result in an average increase per policy of $3.26. This figure will be explained further in the Department head's comments below.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This fee change impacts all businesses that have insurance through non-admitted insurers. The approximate aggregate increase that comes as a result of the fee will be $78,600, which breaks down to an average increase per policy of $3.26.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This fee change impacts all businesses that have insurance through non-admitted insurers. The approximate average increase per policy is $3.26.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I. WHETHER A FISCAL IMPACT TO BUSINESS IS EXPECTED AS A RESULT OF THE PROPOSED RULE AND, IF SO, A DESCRIPTION OF WHY: Businesses that have insurance through non-admitted insurers will be impacted. The approximate average increase per policy is $3.26. II. AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: In 2016, 24,128 surplus line policies were issued in Utah, and that number is expected to remain roughly flat. It is assumed that each policy corresponds to one business in the state. III. AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: Of the businesses stated above, approximately 90% are small businesses. This means that approximately 21,715 small businesses will be impacted. IV. A DESCRIPTION OF THE SOURCES OF COST OR SAVINGS AS WELL AS THE EXPECTED NET SAVINGS OR COST TO BUSINESS ESTABLISHMENTS AND SMALL BUSINESS ESTABLISHMENTS AS A RESULT OF THE PROPOSED RULE OVER A ONE-YEAR PERIOD, IDENTIFYING ONE-TIME AND ONGOING COSTS: In 2016, the surplus line market included 24,128 issued policies with a total premium of $262 million. At the current stamping fee of 0.15 of 1%, the annual aggregate stamping fee cost is $393,000 ($262M x . 0015). Increasing the surplus line stamping fee to 0.18 of 1% will result in an annual aggregate cost of $471,600 ($262M x . 0018). This corresponds to an annual aggregate cost increase to all businesses of approximately $78,600 ($471,600 to $393,000) and an annual aggregate cost increase to small businesses of approximately $70,740 (90% of $78,600). The average annual increase per policy, whether business or small business, will be $3.26 ($78,600 / 24,128). There are no one-time costs as a result of this rule change. V. DEPARTMENT HEAD'S COMMENTS ON THE ANALYSIS: This analysis represents the best analysis possible using data and resources from both the Utah Insurance Department and the Surplus Line Association.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Steve Gooch, Information Specialist

**R590. Insurance, Administration.**
**R590-157. Surplus Lines Insurance Premium Tax and Stamping Fee.**
**R590-157-4. Stamping Fee Amounts.**

A. The surplus lines stamping fee is [~~.15~~].18 of 1% of the policy premium payable for the examination of a surplus lines transaction as required in Subsection 31A-15-103(11)(d).

B. Late surplus lines stamping fee payments may be subject to late fees of 25% of the stamping fee due plus 1 1/2% per month from the time of default until full payment of the fee.

C. A courtesy filing fee is not included as surplus lines premium for the purpose of computing taxes and stamping fees.

**KEY: insurance fee, taxes**
**Date of Enactment or Last Substantive Amendment: [~~November 18, 2008~~]2017**
**Notice of Continuation: January 7, 2013**
**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-3-303; 31A-15-103**

# Insurance, Administration
# R590-164
# Uniform Health Billing Rule

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42210
FILED: 10/13/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being changed to align the language with current standards and to provide a new billing standard for benefits that are now required by law for services to autistic children. It adopts standards that are currently in use, and that were implemented as a result of S.B. 57 which was passed during the 2014 General Session.

SUMMARY OF THE RULE OR CHANGE: The rule changes include the removal of standards that are no longer applicable or have newer versions, the addition of one new standard, and the updating of outdated language.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-22-614.5

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The changes govern the relationship between insurers and providers, and have no bearing on the state.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local governments. The changes govern the relationship between insurers and providers, and have no bearing on local governments.
♦ SMALL BUSINESSES: Small businesses, specifically the 163 licensed psychologists in Utah with the Behavior Analyst specialty, will see an overall savings of 79% or approximately $1.44 per claim. Because the Insurance Department cannot know the volume of claims that each of these psychologists submit within a year, the aggregate savings is impossible to determine.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Other persons, specifically the 9 health insurers offering comprehensive health insurance coverage in Utah, will see an overall savings of 79% or approximately $0.20 per claim. Because the Insurance Department cannot know the volume of claims that each of these insurers submit within a year, the aggregate savings is impossible to determine.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons, rather these changes significantly reduce the financial and resource costs of processing payment claims. It is important to note that this standard is currently in use by all affected businesses as a result of S.B. 57 (2014).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I. WHETHER A FISCAL IMPACT TO BUSINESS IS EXPECTED AS A RESULT OF THE PROPOSED RULE AND, IF SO, A DESCRIPTION OF WHY: These changes will significantly reduce the financial and resource burden of processing payment claims by healthcare payers and providers in Utah. The rule formally adopts the ABA Billing Standard, which substitutes cheaper electronic filing in place of costlier paper claim filing. It is important to note that this standard is currently in use by all affected businesses as a result of S.B. 57 which was passed during the 2014 General Legislative Session. II. AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: According to data gathered by the Utah Insurance Department and the Division of Occupational and Professional Licensing (DOPL), there are 172 businesses that will be impacted in Utah. Of these, the majority are small businesses (see III, below). The remaining 9 are health insurers. III. AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: According to DOPL, there are 163 licensed psychologists with the Behavior Analyst specialty in Utah. These providers are all small businesses and will see significant savings as a result of the rule change. IV. A DESCRIPTION OF THE SOURCES OF COST OR SAVINGS AS WELL AS THE EXPECTED NET SAVINGS OR COST TO BUSINESS ESTABLISHMENTS AND SMALL BUSINESS ESTABLISHMENTS AS A RESULT OF THE PROPOSED RULE OVER A ONE-YEAR PERIOD, IDENTIFYING ONE-TIME AND ONGOING COSTS: The ABA Billing Standard is a newly required benefit that is expected to result in significant savings for payers and providers. The Insurance Department knows that implementing the ABA Billing standard will result

in an overall savings of $2.03 per claim. While the standard is too new to know the exact breakdown specific to payers and providers, the Department can extrapolate using the data that is known. Currently, a paper claim costs payers $0.74 and providers $1.84 per claim, for a total of $2.58 per claim. Using the ABA Billing Standard decreases the cost per claim to $0.54, which is approximately 21% the cost of the paper claim. Under the ABA Billing Standard, payer costs will be roughly $0.14 while provider costs will be roughly $0.40 per claim. These are all ongoing costs per claim, there are no one-time costs. V. DEPARTMENT HEAD'S COMMENTS ON THE ANALYSIS: The above analysis represents the Insurance Department's best analysis of the fiscal impact of this rule change. It is important to note that this standard is currently in use by all affected businesses as a result of S.B. 57 (2014). This amendment is being done to formally codify the standard.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Steve Gooch, Information Specialist

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**R590. Insurance, Administration.**
**R590-164. Uniform Health Billing Rule.**
**R590-164-1. Authority.**

This rule is promulgated by the Insurance Commissioner pursuant to Subsection 31A-22-614.5 which authorizes the commissioner to adopt uniform claim forms, billing codes, and compatible systems of electronic billing.

**R590-164-2. Purpose.**

The purpose of this rule is to designate uniform claim forms, billing codes and compatible electronic data interchange standards for use by health payers and providers.

**R590-164-3. Applicability and Scope.**

(1) This rule applies to health claims, health encounters, and electronic data interchange between payers and providers.

(2) Except as otherwise specifically provided, the requirements of this rule apply to payers and providers.

(3) This rule does not prohibit a payer from requesting additional information required to determine eligibility of the claim under the terms of the policy or certificate issued to the claimant.

(4) This rule does not prohibit a payer or provider from using alternative forms or procedures specified in a written contract between the payer and provider.

(5) This rule does not exempt a payer or provider from data reporting requirements under state or federal law or regulation.

**R590-164-4. Definitions.**

As used in this rule:

(1) Uniform Claim Forms are defined as:

(a) "UB-04" means the health insurance claim form maintained by NUBC for use by institutional care providers.

(b) "Form CMS 1500" means the health insurance claim form maintained by NUCC for use by health care providers.

(c) "J400" means the uniform dental claim form approved by the American Dental Association for use by dentists.

(d) "NCPDP" means the National Council for Prescription Drug Program's Claim Form or its electronic counterpart.

(2) Uniform Claim Codes are defined as:

(a) "ASA Codes" means the codes contained in the ASA Relative Value Guide developed and maintained by the American Society of Anesthesiologists to describe anesthesia services and related modifiers.

(b) "CDT Codes" means the current dental terminology prescribed by the American Dental Association.

(c) "CPT Codes" means the current physicians procedural terminology, published by the American Medical Association.

(d) "DRG Codes" means Diagnosis Related Group codes. DRG's are universal grouping that are used to clarify the type of inpatient care received. The DRG code, along with a diagnosis code and the length of the inpatient stay, are used to determine payment and reimbursement for claims.

(e) "HCPCS" means HCFA's Common Procedure Coding System, a coding system that describes products, supplies, procedures and health professional services and includes, the American Medical Association's (AMA's) Physician Current Procedural Terminology, codes, alphanumeric codes, and related modifiers. This includes:

(i) "HCPCS Level 1 Codes" which are the AMA's CPT codes and modifiers for professional services and procedures.

(ii) "HCPCS Level 2 Codes" which are national alphanumeric codes and modifiers for health care products and supplies, as well as some codes for professional services not included in the AMA's CPT codes.

(f) "ICDCM Codes" means the diagnosis and procedure codes in the International Classification of Diseases, clinical modifications published by the U.S. Department of Health and Human Services.

(g) "NDC" means the National Drug Codes of the Food and Drug Administration.

(h) "UB04 Rate Codes" means the code structure and instructions established for use by the National Uniform Billing Committee.

(3) "Electronic Data Interchange Standard" means the:

(a) ASC X12N standard format developed by the Accredited Standards Committee X12N Insurance Subcommittee of the American National Standards Institute and the ASC X12N

implementation guides as modified by the Utah Health Information Network (UHIN) Standards Committee;

(b) other standards developed by the UHIN Standards Committee at the request of the commissioner; and

(c) as adopted by the commissioner by rule.

(4) "HPID" means Health Plan Identifier. HPID is the national unique health plan identifier assigned to identify individual health plans.

(5) "NPI" means National Provider Identifier. A NPI is a unique ten digit identification number required by HIPAA for all health care providers in th3e United States. Providers must use their NPI to identify themselves in all HIPAA transactions.

(6) "Payer" means an insurer or third party administrator that pays for, or reimburses for the costs of health care expense.

(7) "Provider" means any person, partnership, association, corporation or other facility or institution that renders or causes to be rendered health care or professional services, and officers, employees or agents of any of the above acting in the course and scope of their employment.

(8) "UHIN Standards Committee" means the Standards Committee of the Utah Health Information Network.

(9) "CMS" means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services. CMS replaced HCFA.

(10) "HIPAA" means the federal Health Insurance Portability and Accountability Act.

(11) "NUBC" means the National Uniform Billing Committee.

(12) "NUCC" means the National Uniform Claim Committee.

**R590-164-5. Paper Claim Transactions.**

Payers shall accept and may require the applicable uniform claim forms completed with the uniform claim codes.

**R590-164-6. Electronic Data Interchange Transactions.**

(1) The commissioner shall use the UHIN Standards Committee to develop electronic data interchange standards for use by payers and providers transacting health insurance business electronically. In developing standards for the commissioner, the UHIN Standards Committee shall consult with national standard setting entities including but not limited to Centers for Medicare and Medicaid Services (CMS), the National Uniform Claim Form Committee, ASC X12, NCPDP, and the National Uniform Billing Committee.

(2) Standards developed and adopted by the UHIN Standards Committee shall not be required for use by payers and providers, until adopted by the commissioner by rule.

(3) Payers shall accept the applicable electronic data if transmitted in accordance with the adopted electronic data interchange standard. Payers may reject electronic data if not transmitted in accordance with the adopted electronic data interchange standard.

(4) The following HIPAA+ electronic data interchange standards developed and adopted by the UHIN Standards Committee and adopted by the commissioner are hereby incorporated by reference with this rule and are available for public inspection at the department during normal business hours or at www.insurance.utah.gov.

(a) "999 Implementation Acknowledgement For Health Care Insurance v[~~4.0~~]3.4." Purpose: To detail the standard transaction for the reporting of transmission receipt and transaction or functional group X12 and implementation guide error. This standard adopts the use of the ASC X12 999 transaction.

(b) "Administrative Transaction Acknowledgements Standard v[~~4.0~~]3.1." Purpose: To create a process for acknowledging all electronic transactions between trading partners based on the communication, syntax semantic and business process specifications.

(c) "Anesthesia Standard v3.1." Purpose: to standardize the transmission of anesthesia data for health care services. This standard does not alter any contractual agreement between providers and payers.

(d) "Applied Behavioral Analysis, ABA, Billing Standard V3.0." Purpose: To provide detail of the billing for the transmission of ABA services.

(e) "Benefits and Enrollment Standard v3.1." Purpose: To detail the standard transactions for the transmission of health care benefits enrollment and maintenance.

([e]f) "Claim Acknowledgement Standard v3.2." Purpose: To provide a standardized claim acknowledgement in response to a claim submission. This transaction is used to report on the status of a claim/encounter at the pre-adjudication processing stage, for example, before the payer is legally required to keep a history of the claim or encounter.

([~~f~~]g) "Claim Status Inquiry and Response Standard v3.2." Purpose: To detail the standard transactions for the transmission of health care claim status inquiries and response[~~ after January 1, 2012~~]. The transaction is intended to allow the provider to reduce the need for claim follow-up and facilitate the correction of claims.

[~~(g) "CMS 1500 Paper Claim Form Box 17, 17A and 17B Standard v3.2." Purpose: To establish a standard approach to reporting referring provider name and identifier number on the claim form. This standard also provides the cross walk to the ASCX12 837 Professional Claim version 005010x222A1.~~]

(h) "CMS 1500 Paper Claim Form Standard v3.3." Purpose: To clearly describe the standard use of each Box, for print images, and its crosswalk to the HIPAA 837 005010X222A1 Professional implementation guide.

(i) "Coordination of Benefits Standard v3.[~~1~~]2." Purpose: To streamline the coordination of benefits process between payers and providers or payer to payers. The standard is to define the data to be exchanged for coordination of benefits and to increase effective communications.

(j) [~~"Dental Claim Billing Standard -- J400 v3.1." Purpose: To deseribe the standard use of each item number, for print images, and its crosswalk to the HIPAA 837 005010X0224A1 dental implementation guide. This standards adopts the ADA dental Claim Form J400.~~

~~(k)~~ ]"Dental Claim Billing Standard -- [~~J340 v3.2~~]J430 v3.2" Purpose: To describe the standard use of each item number, for print images, and its crosswalk to the HIPAA 837 005010x02241A1 dental implementation guide. This standard adopts the ADA dental Claim Form J340.

([~~l~~]k) "Electronic Remittance Advice Standard v3.5." Purpose: To detail the standard [~~transaction for the reporting of transmission receipt and transaction or functional group X12 and implementation guide errors. This standard adopts the use of the ASC X12 999 transaction~~]transactions for the transmission of health care remittance advices.

([~~m~~]l) "Eligibility Inquiry and Response Standard v3.2." Purpose: To detail the standard transactions for the transmission of health care eligibility inquiries and responses.

([~~n~~]m) "Health Care Claim Encounter Standard v3.2." Purpose: To detail the standard transactions for the transmission of health care claims and encounters and associated transactions.

([~~o~~]n) "Health Identification Card Standard v1.2." Purpose: To standardize the patient health identification card information. This identification card addresses the human-readable appearance and machine-readable information used by the healthcare industry to obtain eligibility.

([~~p~~]o) "Health Plan Identifier, HPID, and Other Entity Identifier, OEID, Standard v1.1." Purpose: The purpose of the standard is to inform providers of the HIPD and OEID and their usage within the administrative transactions.

([~~q~~]p) "Home Health Standard v3.0." Purpose: To provide a uniform standard of billing for home health care claims and encounters.

([~~r~~]q) ICD-10 Standard v1.2. Purpose: To create the business requirement for payers and providers to implement the International Classification of Diseases 10th Revisions, ICD-10, within the administrative transaction.

([~~s~~]r) "Individual Name Standard v2.0." Purpose: To provide guidance for entering names into provider, payer or sponsor systems for patients, enrollees, as well as all other people associated with these records.

~~[(t) "Medicaid Enrollment Implementation Guide v3.0." Purpose: This standard establishes the use of the ASC X12 834 enrollment transaction for Medicaid enrollments.~~

~~(u) "Metabolic Dietary Products Standard v3.0." Purpose: To provide a uniform standard for billing of metabolic dietary products for those providers and payers using the UB04, the CMS-1500, the NCPDP, or an electronic equivalent.~~

~~(v)~~](s) "National Provider Identifier Standard v3.0." Purpose: To inform providers of the national provider identifier requirements and the usage within the transactions.

([~~w~~]t) "Pain Management Standard v3.1." Purpose: To provide a uniform method of submitting pain management claims, encounters, pre-authorizations, and notifications.

([~~x~~]u) "Patient Identification Number Standard v3.0." Purpose: To describe the standard for the patient identification number.

([~~y~~]v) "Premium Payment Standard v3.0." Purpose: To detail the standard transactions for the transmission of premium payments.

([~~z~~]w) "Prior Authorization/Referral Standard v3.0." Purpose: To provide general recommendations to payers and providers about handling electronic prior authorization and referrals.

([~~aa~~]x) "Required Unknown Values Standard v3.0." Purpose: To provide guidance for the use of common data values that can be used within the HIPAA transactions when a required data element is not known by the provider, payer or sponsor for patients, enrollees, as well as all other people associated with these transactions. These data values should only be used when the data is truly not available or known. These values should not to be used to replace known data.

([~~ab~~]y) "Telehealth Standard v3.1." Purpose: To provide a uniform standard of billing for health care claims and encounters delivered via telehealth.

([~~ac~~]z) "Transparency Administration Performance Standard v1.2," Purpose: To establish performance measures that report the average telephone answer time and claim turnaround time.

([~~ad~~]aa) "Transparency Denial Standard v1.[~~2~~]3." Purpose: To establish performance measures that report the number and cost of an insurer's denied health claims and to provide guidance pertaining to the reporting method and timeline.

([~~ae~~]ab) "UB04 Form Locator Elements Standard v3.0." Purpose: To clearly describe the use of each form locator in the UB04 claim billing form and its crosswalk to the HIPAA 837 005010X223A2 institutional implementation guide.

**R590-164-7. Enforcement Date.**

The commissioner will begin to enforce the revised provisions of this rule April 1, 2018.

**R590-164-8. Separability.**

If any provision of this rule or the application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances may not be affected.

**KEY: insurance law**
**Date of Enactment or Last Substantive Amendment: [~~February 23, 2016~~]2017**
**Notice of Continuation: March 10, 2015**
**Authorizing, and Implemented or Interpreted Law: 31A-22-614.5**

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# Insurance, Administration
# R590-225
# Submission of Property and Casualty Rate and Form Filings

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42215
FILED: 10/13/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being changed because insurer rate filings have evolved to include increasingly complicated algorithms for rates. The Department of Insurance (Department) does not have the budget for a property and casualty actuary to certify that filings are not excessive, inadequate, or unfairly discriminatory. To give the state confidence that filings meet those criteria, the Department worked with the industry to find a solution. The rule represents that solution, and is approved by both the Department and industry.

SUMMARY OF THE RULE OR CHANGE: This rule gives property and casualty insurance filers instructions on how to file rate and form filings with the Department. The main change to the rule specifies that an actuary must certify that

private passenger auto, homeowners, and workers' compensation rates are not excessive, inadequate, or unfairly discriminatory. Other changes remove outdated sections, add clarifying comment, and make minor editorial corrections.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-19a-203 and Section 31A-2-201.1 and Subsection 31A-2-201(3) and Subsection 31A-2-202(2)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The rule requires that insurers submit certifications by actuaries, but such submissions will likely be electronic and will not require storage or any other costs.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local governments because provisions of the rule only apply to insurers.
♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses because provisions of the rule only apply to insurers, none of which are small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There may be a small cost for insurers if they do not already utilize the services of an actuary. In these cases, insurers would need to contract with an actuary to certify their rate filings. The Department has no way of knowing what the costs of such contracts would be, because such matters are negotiated between the actuary and the client.

COMPLIANCE COSTS FOR AFFECTED PERSONS: All insurers in Utah are currently required by Section 31A-19a-201 to file rates that are not excessive, inadequate, or unfairly discriminatory, and most currently use the services of an actuary to develop the rates used. Those that do not currently use the services of an actuary would have to negotiate a contract for services. Because such negotiations are solely between actuary and client, the Department would have no way of determining what the fiscal impact would be.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I. WHETHER A FISCAL IMPACT TO BUSINESS IS EXPECTED AS A RESULT OF THE PROPOSED RULE AND, IF SO, A DESCRIPTION OF WHY: All insurers in Utah are currently required by Section 31A-19a-201 to file rates that are not excessive, inadequate, or unfairly discriminatory, and most currently use the services of an actuary to develop the rates used. Those that do not currently use the services of an actuary would have to negotiate a contract for services. Because such negotiations are solely between actuary and client, the Department would have no way of determining what the fiscal impact would be. II. AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: There are currently 1,289 licensed property and casualty insurance companies doing business in Utah. While this rule covers all property and casualty insurers, the requirement for the actuarial certification will only apply to those insurers that offer private passenger auto, homeowners, and workers' compensation. There are currently 625 insurers that have the authorized line of auto liability, 767 with the authorized line of property, and 563 with the authorized line of worker compensation. III. AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: No small businesses in Utah will be impacted. Aside from one local company, all insurers that operate in Utah are national firms that would be comfortably classified as large employers. While not as large as the national companies, even the single local insurer would be classed as a mid-to-large employer. IV. A DESCRIPTION OF THE SOURCES OF COST OR SAVINGS AS WELL AS THE EXPECTED NET SAVINGS OR COST TO BUSINESS ESTABLISHMENTS AND SMALL BUSINESS ESTABLISHMENTS AS A RESULT OF THE PROPOSED RULE OVER A ONE-YEAR PERIOD, IDENTIFYING ONE-TIME AND ONGOING COSTS: The cost incurred as a result of the the proposed rule will be the fee paid to an actuary for their services in certifying a company's rates. Because most insurers already utilize the services of an actuary, the department believes the effect of this rule will not be widespread. The Department has no way of determining the one-time and ongoing costs that result from the rule because insurers will negotiate the price with their actuary, and such costs will necessarily vary. V. DEPARTMENT HEAD'S COMMENTS ON THE ANALYSIS: The above analysis represents the Insurance Department's best analysis of the fiscal impact of this rule change. Most insurers use the services of an actuary, so the effects of the rule will be minimal. In some cases, insurers may need to negotiate a price with an actuary for their services. In these cases, the Department expects that the insurers will attempt to get the best price possible in an attempt to keep their costs low.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 11/15/2017 10:00 AM, State Office Building, 450 N State Street, Room 3112,Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Steve Gooch, Information Specialist

**R590. Insurance, Administration.**
**R590-225. Submission of Property and Casualty Rate and Form Filings.**
**R590-225-1. Authority.**

This rule is promulgated by the insurance commissioner pursuant to [~~Subsections 31A-2-201(3), ~~]Sections 31A-2-201.1[~~,~~]and 31A-19a-203, and Subsections 31A-2-201(3) and 31A-2-202(2)[~~, and 31A-19a-203~~].

**R590-225-2. Purpose and Scope.**

(1) The purpose of this rule is to set forth procedures for submitting:

(a) property and casualty and title form filings required by Section 31A-21-201;

(b) property and casualty and title rates, and supplementary information under Section 31A-19a-203;

(c) service contract form filings required by Subsection 31A-6a-103(2)[~~(a)~~]; and

(d) bail bond form filings required by Section[~~s~~] 31A-35-607 and Rule R590-196.

(e) guaranteed asset protection waiver filings required by Sections 31A-6b-202[~~(b)~~] and 31A-6b-203.

(2) This rule applies to all lines of property and casualty insurance, including title insurance, bail bond, service contracts, and guaranteed asset protection waivers.

**R590-225-3. Documents Incorporated by Reference.**

(1) The department requires that the documents described in this rule shall be used for all filings.

(a) Actual copies may be used or you may adapt them to your word processing system.

(b) If adapted, the content, size, font, and format must be similar.

(2) The following filing [~~documents~~ ]are hereby incorporated by reference and are available on the department's web site, http://www.insurance.utah.gov.

(a) "NAIC Uniform Property and Casualty Transmittal Document", dated January 1, [~~2009~~]2017;

[~~(b) "NAIC Property and Casualty Transmittal Document (Instructions)", dated January 1, 2009;~~

~~———]~~([e]b) "NAIC Uniform Property and Casualty Coding Matrix", dated January 1, [~~2009~~]2017;

([~~d~~]c) "Utah Insurer Loss Cost Multiplier and Expense Constant Supplement Filing Forms", dated[~~ October 2003~~] April 2017; and

([e]d) "Utah Workers Compensation Insurer Loss Cost Multiplier Filing Form", dated[~~ October 2003~~] April 2017.

**R590-225-4. Definitions.**

In addition to the definitions in Sections 31A-1-301 and 31A-19a-102, the following definitions shall apply for the purpose of this rule:

(1) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

(2) "Electronic Filing" means a:

(a) filing submitted via the Internet by using the System for Electronic Rate and Form Filings, SERFF, or

(b) filing submitted via an email system.

(3) "File And Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(4) "File Before Use" means a filing can be used, sold, or offered for sale after it has been filed with the department and a stated period of time has elapsed from the date filed.

(5) "Filer" means a person who submits a filing.

(6) "Filing Objection Letter" means a letter issued by the commissioner when a review has determined the filing fails to comply with Utah law and rules. The filing objection letter may, in addition to requiring correction of non-compliant items, request clarification or additional information pertaining to the filing.

(7) "Letter of authorization" means a letter signed by an officer of the licensee on whose behalf the filing is submitted that designates filing authority to the filer.

(8) "Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.

(9) "Rejected" means a filing is:

(a) not submitted in accordance with applicable laws and rules;

(b) returned to the filer by the department with the reasons for rejection; and

(c) not considered filed with the department.

(10) "Type of Insurance" means a specific line of property and casualty insurance including general liability, commercial property, workers compensation, automobile, homeowners, title, bail bond, service contracts, and guaranteed asset protection waivers.

(11) "Use And File" means a filing can be used, sold, or offered for sale if it is filed within a stated period of time after its initial use.

(12) "Utah Filed Date" means the date provided to a filer by the Utah Insurance Department that indicates a filing has been accepted.

**R590-225-5. General Filing Information.**

(1) Each filing submitted must be accurate, consistent, complete, and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) Licensee and filer are responsible for assuring that a filing is in compliance with Utah laws and rules. A filing not in compliance with Utah laws and rules is subject to regulatory action under Section 31A-2-308.

(3) Rates, supplementary information, and forms applying to a specific program or product may be submitted as one filing.

(4) A filing that does not comply with this rule will be rejected and returned to the filer. A rejected filing:

(a) is not considered filed with the department;

(b) must be submitted as a new filing;

(c) will not be reopened for purposes of resubmission.

(5) A prior filing will not be researched to determine the purpose of the current filing.

(6) The department does not review or proofread every filing.

(a) A filing may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

(iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is not in compliance with Utah laws and rules, A Filing Objection Letter or an Order To Prohibit Use will be issued to the filer. The commissioner may require the licensee to disclose deficiencies in forms or rating practices to affected consumers.

(7) Filing correction:

(a) [~~Filing corrections are considered informational~~]If the filing is in an open status, corrections can be made at any time.

(b) [~~Filing corrections must be submitted within 15 days of the date the original filing was submitted to the department. The filer must reference the original filing.~~

~~(c) A~~]If the filing is in a closed status, a new filing is required[~~ if a filing correction is made more than 15 days after the date the original filing was submitted to the department~~]. The filer must reference the original filing in the filing description.

(8) If responding to a Response to Filing Objection Letter or an Order to Prohibit Use, refer to [~~section~~ ]R590-225-[~~12~~]13 for instructions.

(9) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information. A filing that is withdrawn may no longer be used.

**R590-225-6. Filing Submission Requirements.**

(1) All filings must be submitted as an electronic filing.

(a) All filers must use SERFF to submit a filing.

(b) EXCEPTION: bail bond agencies, service contract providers, and guaranteed asset protection providers may choose to use email instead of SERFF to submit a filing.

(2) All rate filings for private passenger auto, homeowners, or workers compensation type of insurance must include a certification signed by a qualified actuary stating that the rates are not inadequate, excessive, or unfairly discriminatory as required by Subsection 31A-19a-201(1).

(3) A filing must be submitted by market type and type of insurance, not by annual statement line number.

([~~3~~]4) A filing may not include more than one type of insurance, unless the filing is a commercial or personal inter-line form filing. The inter-line use of a form must be explained in the Filing Description.

([~~4~~]5) A filer may submit a filing for more than one insurer if all applicable companies are listed.

([~~5~~]6) SERFF Filing.

(a) Filing Description. Do not submit a cover letter. On the General Information tab, complete the Filing Description Section with the following information, presented in the order shown below.

(i) Certification.

(A) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(B) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-225 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

(D) A certification that is false may subject the licensee to administrative action.

(ii) Provide a description of the filing including:

(A) the intent of the filing; and

(B) the purpose of each document within the filing.

(iii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and previous filing's Utah Filed Date;

(C) includes forms for informational purposes; if so, provide the Utah Filed Date; or

(D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.

(iv) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(b) Letter of Authorization.

(i) When the filer is not the licensee, a letter of authorization from the licensee must be attached to the Supporting Documentation tab.

(ii) The licensee remains responsible for the filing being in compliance with Utah laws and rules.

(c) Items being submitted for filing.

(i) All forms must be attached to the Form Schedule tab.

(ii) All rates and supplementary rating information must be attached to the Rate/Rule Schedule tab.

(iii) The actuarial certification required by R590-225-6(2) must be attached to the supporting documentation tab.

(d) Refer to each applicable section of this rule for additional procedures on how to submit forms, rates, and supplementary information.

([~~6~~]7) A complete EMAIL filing consists of the following when submitted by a bail bond agent, a service contract provider, or a guaranteed asset protection provider:

(a) The title of the EMAIL must display the company name only.

(b) Transmittal. The NAIC Uniform Property and Casualty Transmittal Document, as provided in [~~section~~ ]R590-225-3(2), must be properly completed.

(i) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

(A) "NAIC Coding Matrix;"

(B) "NAIC Instruction Sheet;" and

(C) "Utah Property and Casualty Content Standards."

(ii) Do not submit the documents described in (A), (B), and (C) with the filing.

(c) Filing Description.[~~ Filing Description.~~] Do not submit a cover letter. In section 21 of the transmittal, complete the Filing Description with the following information, presented in the order shown below.

(i) Certification.

(A) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(B) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-

225 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

(D) A certification that is false may subject the licensee to administrative action.

(ii) Provide a description of the filing including:

(A) the intent of the filing; and

(B) the purpose of each document within the filing.

(iii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and previous filing's Utah Filed Date;

(C) includes forms for informational purposes; if so, provide the Utah Filed Date; or

(iv) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(d) Letter of Authorization.

(i) When the filer is not the licensee, a letter of authorization from the licensee must be attached to the supplementary documentation tab.

(ii) The licensee remains responsible for the filing being in compliance with Utah laws and rules.

(e) Refer to each applicable [S]section of this rule for additional procedures on how to submit forms, rates, and supplementary information.

(f) Items being submitted for filing. [-]Any items submitted for filing must be submitted in PDF format.

**R590-225-7. Procedures for Form Filings.**

(1) Forms in general:

(a) Forms are "File And Use" filings. EXCEPTION: service contracts, bail bonds, and guaranteed asset protection waivers are "File Before Use".

(b) Each form must be identified by a unique form number. The form number may not be variable.

(c) A form must be in final printed form[ ~~or printer's proof format~~]. A draft may not be submitted.

(2) If you have authorized a Rate Service Organization (RSO) to make form filings on your behalf, no filing by you is required if you implement the filings as submitted by the RSO.

(a) A filing is required if you delay the effective date, non-adopt or alter the filing in any way.

(b) Your filing must be received by the department before the RSO effective date.

(c) We do not require that you attach copies of the RSO's forms when you reference a filing.

(3) If you have NOT authorized an RSO to file forms on your behalf, you must include, in your filing a letter stating your intent to adopt any RSO forms for your use.

(a) Copies of the RSO forms are not required.

(b) Your filing must include a complete list of the RSO forms you intend to adopt by form number, title/name and filing identification number of the RSO.

(4) A "Me Too" filing, referencing a filing submitted by another insurer, bail bond agency, or service contract provider is not permitted.

(5) If a previously filed Utah amendatory endorsement will be used in connection with the form being filed, explain this in the Filing Description section of the transmittal form and include a copy with the filing.

(6) If the filing is for more than one insurer and all insurers included in the filing have submitted a transmittal:

(a) only one copy of each form is required;

(b) If the name of each respective company or unique insurer logo is printed on each separate set of the form, then a separate form must be filed for each insurer.

(7) Since a form may be used once it is "Filed" and must be "Filed" before it can be used, sold or offered for sale, you do not need to re-file or notify the department if the implementation date of the original filing changes.

**R590-225-8. Procedures for Rate and Supplementary Information Filings.**

(1) Rates and supplementary information in general.

(a) Rates and supplementary information are "Use And File" filings. EXCEPTION: title and workers compensation rates and supplementary information are "File Before Use" filings.

(b) Service contract providers, bail bond agencies, and guaranteed asset protection providers are exempt from this section.

(c) All rate filings for private passenger auto, homeowners, or workers compensation type of insurance must include a certification signed by a qualified actuary stating that the rates are not inadequate, excessive, or unfairly discriminatory as required by Subsection 31A-19a-201(1).

(2) If you have authorized a Rate Service Organization (RSO) to make a prospective loss cost, supplementary information filing, or both, on your behalf, no filing by you is required if you implement the filing as submitted by the RSO.

(a) A filing is required if you delay the effective date, non-adopt, or alter the filing in any way.

(b) Any such filing must be received by the department within 30 days of the effective date established by the RSO.

(c) We do not require that you attach copies of the RSO's manual pages when you reference an RSO filing.

(3) If you have NOT authorized an RSO to file the prospective loss cost, supplementary rating information, or both, on your behalf

(a) you must include in your filing a letter stating your intent to adopt the RSO prospective loss cost, supplementary rating information filing, or both.

(b) You must file copies of any manual pages as if they were your own and provide your actuarial justification.

(4) A "Me Too" filing, referencing a filing submitted by another licensee, is not permitted.

(5) If the filing is for more than one insurer and all insurers included in the filing have submitted a transmittal and the supporting data and manual pages are identical for each insurer included in the filing, only one copy of the supporting data and manual pages are required to be submitted.

(6) Rate and supplementary information filings must be supported and justified by each insurer.

(a) Justification must include:

(i) submission of all factors used in determining initial supplementary information and rates or changes in existing supplementary information and rates; and

(ii) a complete explanation as to the extent to which each factor has been used.

(b) Underwriting criteria are not required unless they directly affect the rating of the policy.

(c) Underwriting criteria used to differentiate between rating tiers is required.

(7) When submitting a filing for any kind of rating plan, rating modification plan, or credit and debit plan, an insurer must include in the filing:

(a) a statement identifying the arithmetic process to be used and whether factors will be added or multiplied when applying them to base rates; and

(b) justification for the method used.

(c) A filing will be rejected as incomplete if it fails to specifically provide this information.

(8) Utah and countrywide statistical data for the latest three years available must be submitted with each filing.

(a) This data should include earned premiums, incurred losses, loss ratios, establishment of expense factors, and expected loss ratios.

(b) Calculations involved in establishing rates from loss experience are to be exhibited including the establishment of trend factors, loss development factors, etc.

(c) If any of the above information is not available, a detailed explanation of why must be provided with the filing.

(9) [~~Rate deviation, p~~]Prospective loss cost[;] and loss cost multiplier.

(a)[~~In the past, a rate deviation filing was common.~~

~~(i) A rate deviation consisted of a modification, usually a percentage decrease or increase, to a RSO manual rate or supplementary information.~~

~~(ii) The justification was that an individual insurer could demonstrate experience, expense and profit factors different from the average experience, expense and profit contemplated in the RSO's manual rate.~~

~~(b) With the promulgation of a prospective loss cost, rate deviation ceased to exist.~~

~~(i) There are no longer manual rates from which to deviate.~~

~~(ii) Once an insurer has filed to implement the RSO prospective loss cost for a given line, company deviations previously filed became null and void.~~

~~(iii) A filing of a straight percentage deviation is no longer applicable.~~

~~(c)~~] Loss cost multiplier.

(i) An individual insurer adjustment to the RSO prospective loss cost must be made as part of the calculation of the loss cost multiplier and must be included in the "Utah Insurer Loss Cost Multiplier Filing Forms."

(ii) This form allows for the inclusion of an individual insurer modification of the RSO prospective loss cost.

(10) Procedures for Reference Filings to Advisory Prospective Loss Cost.

(a) An RSO does not usually file an advisory rate that contains provisions for expenses, other than loss adjustment expenses.

(i) An RSO develops and files with the commissioner a "Reference Filing" containing advisory prospective loss cost and supporting actuarial and statistical data.

(ii) Each insurer must individually determine the rates it will file and the effective date of any rate changes.

(b) If an insurer that is a member, subscriber or service purchaser of any RSO determines to use the prospective loss cost in an RSO Reference Filing in support of its own filing, the insurer must make a filing using the "Utah Insurer Loss Cost Multiplier Filing Forms."

(c) The insurer's filed rates are the combination of the RSO's prospective loss cost and the loss cost multiplier contained in the "Utah Insurer Loss Cost Multiplier Filing Forms."

(d) An insurer may file a modification of the prospective loss cost in the RSO Reference Filing based on its own anticipated experience.

(e) Actuarial justification is required for a modification, upwards or downwards, of the prospective loss cost in the Reference Filing.

(f) An insurer may request to have its loss cost adjustments remain on file and reference all subsequent RSO prospective loss cost Reference Filings.

(i) Upon receipt of subsequent RSO Reference Filings, the insurer's filed rates are the combination of the RSO's prospective loss cost and the loss cost adjustments contained in the "Utah Insurer Loss Cost Multiplier Filing Forms" on file with the commissioner, and will be effective on the effective date of the prospective loss cost.

(ii) The insurer need not file anything further with the commissioner.

(g) If the filer wants to have its filed loss cost adjustments remain on file with the commissioner, but intends to delay, modify, or not adopt a particular RSO's Reference Filing, the filer must make an appropriate filing with the commissioner.

(h) An insurer's filed loss cost adjustments will remain in effect until the filer withdraws them or files a revised "Utah Insurer Loss Cost Multiplier Filing Form."

(i) A filer may file such other information the filer deems relevant.

(j) If an insurer wishes to use minimum premiums, it must file the minimum premiums it proposes to use.

(11) Supplementary Rate Information.

(a) The RSO files with the commissioner RSO filings containing a revision of rules, relativities and supplementary rate information. These RSO filings include:

(i) policy-writing rules;

(ii) rating plans;

(iii) classification codes and descriptions; and

(iv) territory codes, descriptions, and rules, which include factors or relativities such as, increased limits factors, classification relativities or similar factors.

(b) These filings are made by the RSO on behalf of those insurers that have authorized the RSO to file rules, relativities and supplementary rating information on their behalf.

(c) An RSO may print and distribute a manual of rules, relativities and supplementary rating information.

(d) If an insurer has authorized an RSO to file on its behalf and the insurer decides to use the revisions and effective date then the insurer does NOT file anything with the commissioner.

(e) If an insurer has authorized an RSO to file on its behalf and the insurer decides to use the revisions as filed, BUT with a different effective date, then the insurer must notify the commissioner of the insurer's effective date within 30 days after the RSO's effective date.

(f) If an insurer has authorized an RSO to file on its behalf, but the insurer decides not to use the revision, then the insurer must notify the commissioner within 30-days after the RSO's effective date.

(g) If an insurer has authorized an RSO to file on its behalf, but the insurer decides to use the revision with modification, then within 30-days of the RSO's effective date the insurer must file the modification specifying the basis for the modification and the insurer's effective date.

(12) Consent-to-rate Filing.

(a) Subsection 31A-19a-203(6) allows an insurer to file a written application for a particular risk stating the insurer's reasons for using a higher rate than that otherwise applicable to a risk.

(b) The Filing Description must indicate that it is a consent-to-rate filing, show the filed rate, the proposed rate, and the reasons for the difference.

(13) Individual Risk Filing.

(a) R590-127, "Rate Filing Exemptions", provides for those circumstances when an Individual Risk filing is permitted.

(b) An individual risk filing must be filed with the commissioner.

(i) The filing shall consist of a copy of the Declarations Page, copies of any pertinent coverage forms and rating schedules, and premium development.

(ii) The Filing Description must indicate that it is an individual risk filing, and contain the underwriter's explanation for the filing.

(14) Information Regarding Dividend Plan.

(a) Sections 31A-19a-210 and 31A-21-310 allow for dividend distributions.

(b) A plan or schedule for the distribution of a dividend developed AFTER THE INCEPTION of a policy is NOT considered a rating plan and does not have to be filed according to the provisions of this rule.

(c) A plan or schedule for the distribution of a dividend applicable to an insurance policy FROM ITS INCEPTION are required to be filed pursuant to Section 31A-21-310.

(15) The Utah Insurance Code allows tiered rating plans within one insurer or insurer group with common ownership.

(a) A filing must show that the tiers are based on mutually exclusive underwriting rules, which are based on clear, objective criteria that would lead to a logical distinguishing of potential risk.

(b) A filing must provide supporting information that shows a clear distinction between the expected losses and expenses for each tier.

(c) If an insurer group is using a tiered rating structure, the group of insurers cannot all file the same loss cost multiplier and then file standard percentage deviations.

(i) A difference must be demonstrated in the loss cost multiplier formula, either as a modification of the RSO prospective loss cost or in the insurer expense factor.

(ii) An individual insurer adjustment or modification must be supported by actuarial data which establishes a reasonable standard for measuring probable insurer variations in historical or prospective experience, underwriting standards, expense and profit factors.

**R590-225-9. Additional Procedures for Workers Compensation Rate Filings.**

The following are additional procedures for workers' compensation rate filings:

(1) All rate filings for workers compensation must include a certification signed by a qualified actuary stating that the rates are not inadequate, excessive, or unfairly discriminatory as required by Subsection 31A-19a-201(1).

(2) Rates and supplementary information must be filed 30 days before they can be used.

([~~2~~]3)(a) Each insurer must individually determine the rates it will file.

(b) Filed rates.

(i) An insurer's workers' compensation filed rates are the combination of the most current prospective loss cost filed by the designated rate service organization and the insurers loss cost adjustment, known as the loss cost multiplier (LCM), as calculated and filed using the "Utah Worker's Compensation Insurer Loss Cost Multiplier Filing Form."

(ii) Each insurer must implement the designated rate service organization's current prospective loss cost on the effective date assigned by the designated rate service organization. INSURERS MAY NOT DEFER NOR DELAY ADOPTION.

(iii) An insurer's filed loss cost multiplier will remain in effect until the insurer withdraws it or files a new loss cost multiplier.

(iv) Upon receipt of subsequent designated rate service organization reference filings, the insurer's filed rates are the combination of the designated RSO's prospective loss cost and the loss cost multiplier contained in the insurer's most current "Utah Loss Cost Multiplier Filing Form" on file with the department.

([~~3~~]4) An insurer may file a modification to the designated rate service organization prospective loss cost in the subject reference filing based on its own anticipated experience. Supporting documentation will be required for any modifications, upwards or downwards, of the designated rate service organization prospective loss cost.

([~~4~~]5) An insurer may vary expense loads by individual classification or grouping. An insurer may use variable or fixed expense loads or a combination of these to establish its expense loadings. However, an insurer is required to file data in accordance with the uniform statistical plan filed by the designated rate service organization.

([~~5~~]6) When submitting a filing for a workers compensation rating plan, a rating modification plan, or a credit and debit plan, an insurer must include in the filing the following or it will be rejected as incomplete:

(a) a statement identifying the arithmetic process to be used and whether factors will be added or multiplied when applying them to base rates; and

(b) justification for the method used.

([~~6~~]7) To the extent that an insurer's rates are determined solely by applying its loss cost multiplier, as presented in the "Utah Worker's Compensation Insurer Loss Cost Multiplier Filing Forms" to the prospective loss cost contained in a designated rate service organization reference filing and printed in the designated rate service organization's rating manual, the insurer need not develop or file its rate pages with the commissioner. If an insurer chooses to print and distribute rate pages for its own use, based solely upon the application of its filed loss cost multiplier, the insurer need not file those pages with the insurance commissioner.

**R590-225-10. Additional Procedures for Title Rate Filings.**

(1) Title rate and a supplementary information filing are "File Before Use" filings. Rates and supplementary information shall be filed with the commissioner 30 days prior to use.

(2) Each change or amendment to any schedule of rates shall state the effective date of the change or amendment, which may not be less than 30 days after the date of filing. Any change or amendment remains in force for a period of at least 90 days from its effective date.

(3) Supplementary information and rate filings must be supported and justified by each insurer. Justification must include submission of all factors used in determining initial supplementary information and rates or changes in existing supplementary information and rates along with a complete explanation as to the extent to which each factor has been used.

(4) Rates that vary by risk classification such as extended coverage or standard coverage, and all discount factors, such as refinance, subdivision, or construction for purpose of resale discounts, must be supported by differences in expected losses or expenses.

(5) No rate may be filed or used which would require the title insurer or any title agency or producer to operate at less than the cost of doing business or adequately underwriting the title insurance policies.

**R590-225-11. Classification of Documents.**

(1) The Department will not classify as protected, certain information in property and casualty rate filings unless these procedures are complied with.

(2) [~~Utah Code Ann. ~~]Section 31A-19a-204 requires rates, and supplementary rate information to be open for public inspection. Supporting information in a rate filing is not designated under [~~Utah Code Ann. ~~]Section 31A-19a-204 as public information, however, under the Government Records Access and Management Act (GRAMA) supporting information in a rate filing would be considered open for public inspection unless it is classified as private, controlled, or protected. Under GRAMA the Department may classify certain information in a record as private, controlled, or protected. It is clear that the only category applicable to rate, rule and form filings other than as a public record is as a protected record. If a record is classified as protected, the Department may not disclose the information in the record to third persons specifically and to the public generally.

(3) The only information the Department may classify as protected, absent clear documentation otherwise, in accordance with [~~Utah Code Ann. ~~]Section 63G-2-305 [~~is~~ ]are the following items:

(a) Information deemed to be trade secret. Trade secret means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(b) "Commercial Information and non-individual financial information obtained from a person which:"

(i) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future ; and

(ii) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access.

(4) The person submitting the information under[ ~~either section~~] R590-225-11(3)(a)[ ~~and~~] or (b) above and claiming that such is or should be protected has provided the governmental entity with the information in [~~Utah Code Ann. ~~]Subsection 63G-2-309(1)(a)(i).

(5) The department will handle supporting information a filer submits as part of a rate filing in the following manner:

(a) The filer will need to request which specific document the filer believes qualifies under GRAMA Subsection 63G-2-305(1) or (2) or both when the filing is submitted; and

(b) the document must include a written statement of reasons supporting the request that the information should be classified as protected.

(c) If the filer does not request the information in the document to be classified as protected, the document will be classified as public.

(d) The Department will not automatically classify any document in a filing as protected.

(e) The Department will not re-open a filing to permit a company to request protected classification of previously filed documents.

(6) Once the filing has been received, the Department will review the documents the filer has requested to be classified as protected to see if it meets the requirements of [~~Utah Code Ann. ~~]Subsection 63G-2-305(1) or (2).

(a) If all the information in the document meets the requirements for being classified as protected and the required statement is included, the document will be classified as protected, and the information will not be available to the public or third parties.

(b) If all the information in the document does not meet the requirements for being classified as protected, the Department will notify the filer of the denial, the reasons therefore, and of the filer's right under GRAMA to appeal the denial. The filer will have 30 days to appeal the denial as allowed by [~~Utah Code Ann. ~~]Section 63G-2-401. [-]Despite the denial of classifying the information as protected, the Department, pursuant to GRAMA, will nonetheless treat the information as if it had been classified as protected until:

(i) the filer has notified the Department that the filer withdraws the request for designation as protected; or

(ii) the 30 day time limit for an appeal to the Commissioner has expired; or

(iii) the filer has exhausted all appeals under GRAMA and the documentation has been found to be a public document.

(c) If the filer combines in the same document, information it wishes to be classified as protected with information that is public, the document will be classified as public.

(7) Filings submitted that show a pattern of requesting non-qualifying items as a protected document may be considered a violation of this rule. This would include putting both protected and public information in one document.

**R590-225-12. Correspondence, and Status Checks.**

(1) Correspondence. When corresponding with the department, provide sufficient information to identify the original filing:

(a) type of insurance;

(b) date of filing; and

(c) Submission method, SERFF, or email; and

(d) tracking number

(2) Status Checks.

(a) A complete filing is usually processed within 45 days of receipt.

(b) A filer can request the status of its filing 60 days after the date of submission. A response will not be provided to a status request prior to 60 days.

**R590-225-13. Responses.**

(1) Response to a Filing Objection Letter. When responding to a Filing Objection letter a filer must:

(a) provide an explanation identifying all changes made;

(b) include an underline and strikeout version for each revised document;

(c) a final version of revised documents that incorporates all changes; and

(d) for filings submitted in SERFF, attach the documents described in [~~Subsections~~]R590-225-12(1)(b) and (c) to the appropriate Form Schedule or Rate/Rule Schedule tabs.

(3) Response to an Order to Prohibit Use.

(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.

(b) Use of the filing must be discontinued not later than the date specified in the Order.

(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.

(d) A new filing is required if the licensee chooses to make the requested changes addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.

**R590-225-14. Penalties.**

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R590-225-15. Enforcement Date.**

The commissioner will begin enforcing the revised provisions of this rule 15 days from the effective date of this rule.

**R590-225-16. Severability.**

If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: property casualty insurance filing**
**Date of Enactment or Last Substantive Amendment: [~~September 10, 2012~~]2017**
**Notice of Continuation: February 20, 2014**
**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202; 31A-19a-203**

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# Insurance, Administration
# R590-256
# Health Benefit Plan Internet Portal Solvency Rating

## NOTICE OF PROPOSED RULE

(Repeal)
DAR FILE NO.: 42212
FILED: 10/13/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2017 General Session, the Legislature passed H.B. 336 which repealed Subsection 31A-22-613.5(3). That statute was the enabling language for the rule.

SUMMARY OF THE RULE OR CHANGE: The rule is being repealed in its entirety to comply with H.B. 336 (2017).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 31A-22-635(7) and Title 63G, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The same process was previously used by the Insurance Department and the Department will continue to use it for other regulatory purposes.

♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local governments. The same process was previously used by the Insurance Department and the Department will continue to use it for other regulatory purposes.

♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. The same process was previously used by the Insurance Department and the Department will continue to use it for other regulatory purposes.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to any other persons. The same process was previously used by the Insurance Department and the Department will continue to use it for other regulatory purposes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost for any affected persons. The repeal of the rule requires no compliance of any sort by any persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule change will not result in a fiscal impact to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Steve Gooch, Information Specialist

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**R590. Insurance, Administration.**
**[~~R590-256. Health Benefit Plan Internet Portal Solvency Rating.~~**
**~~R590-256-1. Authority.~~**
~~This rule is promulgated by the Insurance Department pursuant to Utah Code Sections:~~
~~(1) 63G, Chapter 3, Utah Administrative Rule Making Act; and~~
~~(2) 31A-22-635(7) which requires the Insurance Department to establish a methodology establishing a calendar year solvency rating to be posted on the internet portal.~~

**~~R590-256-2. Purpose and Scope.~~**
~~(1) The purpose of this rule is to establish the methodology for determining the solvency rating for each insurer who posts a health benefit plan on the Internet portal.~~
~~(2) The scope of this rule applies only to insurers who post a health benefit plan on the internet portal.~~

**~~R590-256-3. Definitions.~~**
~~In addition to the definitions in Sections 31A-1-301 and 31A-17-601, the following definitions shall apply for the purpose of this rule:~~
~~(1) "Insurer" means an insurer who posts a health benefit plan on the Internet portal under 63M-1-2504(2)(a).~~

**~~R590-256-4. Solvency Rating Methodology.~~**
~~(1) An insurer's solvency rating shall fall within one of three tiers:~~
~~(a) Solvent;~~
~~(b) Hazardous; or~~
~~(c) Insolvent.~~
~~(2) An insurer shall have a solvency rating of solvent if the insurer's annual risk based capital report demonstrates that the insurer is not in an action level event defined under Sections 31A-17-603 to 606.~~
~~(3) An insurer shall have a solvency rating of hazardous if the insurer's annual risk based capital report demonstrates the insurer is in an action level event defined under Sections 31A-17-603 or 604.~~
~~(4) An insurer shall have a solvency rating of insolvent if the insurer's annual risk based capital report demonstrates that the insurer is in an action level event defined under Sections 31A-17-605 or 606.~~

**~~R590-256-5. Enforcement Date.~~**
~~The Commissioner will begin enforcing this rule on the effective date of this rule.~~

**~~R590-256-6. Severability.~~**
~~If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.~~

**~~KEY: insurance internet portal~~**
**~~Date of Enactment or Last Substantive Amendment: March 10, 2010~~**
**~~Notice of Continuation: March 10, 2015~~**
**~~Authorizing, and Implemented or Interpreted Law: 63G-3; 63M-1-2506~~]**

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# Insurance, Administration
# R590-276
## Record Retention for Foreign, Alien, Commercially Domiciled, Foreign Title and Foreign Fraternals

**NOTICE OF PROPOSED RULE**
(New Rule)
DAR FILE NO.: 42214
FILED: 10/13/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to notify insurers of a statute change for the keeping of records for the following types of insurers: foreign, alien, commercially domiciled, foreign title, and foreign fraternal.

SUMMARY OF THE RULE OR CHANGE: The rule notifies foreign, alien, commercially domiciled, and foreign fraternal insurers that they must keep records and reports for three years, plus the current year, for review by the Utah Insurance Department as needed. It also notifies all title insurers, foreign and domestic, that they must keep records for 15 years per Section 31A-20-110.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-201 and Subsection 31A-14-205.5(5)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because the rule only applies to certain classes of insurer.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local governments because the rule only applies to certain classes of insurer.
♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses because the rule only applies to certain classes of insurer, none of which are small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to any other persons. All states require that all insurers in the affected categories, foreign, alien, commercially domiciled, foreign title, and foreign fraternal, keep records for a minimum of three years plus the current year for regulator review. Since insurers are already following the regulations, there will be no additional requirements to comply with, nor any costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any affected persons. All states require that all insurers in the affected categories, foreign, alien, commercially domiciled, foreign title, and foreign fraternal, keep records for a minimum of three years plus the current year for regulator review. Since insurers are already following the regulations, there will be no additional requirements to comply with, nor any costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: Steve Gooch, Information Specialist

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**R590. Insurance, Administration.**
**R590-276. Record Retention for Foreign, Alien, Commercially Domiciled, Foreign Title and Foreign Fraternals.**
**R590-276-1. Authority.**
This rule is promulgated pursuant to Subsections 31A-2-201 and 31A-14-205.5(5)(a), which authorize the commissioner to adopt a rule to specify the length of time a foreign insurer, alien insurer, commercially domiciled insurer, foreign title insurer, or foreign fraternal must keep books and records for purposes of review by the insurance department.

**R590-276-2. Scope.**
This rule applies to all foreign insurers, alien insurers, commercially domiciled insurers, foreign title insurers, and foreign fraternals licensed to do business in Utah.

**R590-276-3. Purpose.**
The purpose of this rule is to notify and clarify to foreign insurers, alien insurers, commercially domiciled insurers, foreign title insurers and foreign fraternals of the record retention requirements for purposes of examination by the Utah Insurance Department.

**R590-276-4. Retention Requirements.**
(1) For all insurers under Subsection 31A-14-101 through Subsection 31A-14-217, except foreign title, the books and record retention requirement is three years plus current year.
(2) For all foreign title insurers, the books and record retention requirement is 15 years per Subsection 31A-20-110(1).
(3) All licensees under this subsection shall make the books and records available during normal business hours.
(4) Nothing in this section prohibits electronically stored books and records.

**R590-276-5. Enforcement Date.**
The commissioner will begin enforcing the provision of this rule 45 days from the rule's effective date.

**R590-276-6. Severability.**
If any provision of this rule or its application to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.

**KEY: insurance, record retention**
**Date of Enactment or Last Substantive Amendment: December 8, 2017**
**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-14-205.5(5)(a)**

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# Judicial Performance Evaluation Commission, Administration
# R597-3
# Judicial Performance Evaluations

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 42186
FILED: 10/03/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to establish criteria, training requirements, and processes for the judicial performance evaluations.

SUMMARY OF THE RULE OR CHANGE: Subsection R597-3-3(vi) was removed which addresses courtroom observations.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 78A, Chapter 12

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no anticipated costs or savings to the state budget as a result of the change. The change only removes "convicted felons" from persons that shall be excluded from eligibility as courtroom observers.
♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local governments as a result of the change. The change only removes "convicted felons" from persons that shall be excluded from eligibility as courtroom observers.
♦ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses as a result of the change. The change only removes "convicted felons" from persons that shall be excluded from eligibility as courtroom observers.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small businesses, businesses, or local governments as a result of the change. The change only removes "convicted felons" from persons that shall be excluded from eligibility as courtroom observers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons as a result of the change. The change only removes "convicted felons" from persons that shall be excluded from eligibility as courtroom observers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts that this change may have on businesses. The change removes "convicted felons" from persons that shall be excluded from eligibility as courtroom observers and does not impact any fiscal matters.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
JUDICIAL PERFORMANCE EVALUATION COMMISSION
ADMINISTRATION
ROOM B-330 SENATE BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jennifer Yim by phone at 801-538-1652, or by Internet E-mail at jyim@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2017

AUTHORIZED BY: John Ashton, Chair

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**R597. Judicial Performance Evaluation Commission, Administration.**
**R597-3. Judicial Performance Evaluations.**
**R597-3-3. Courtroom Observation.**

(1) General Provisions.

(a) Courtroom observations shall be conducted according to the evaluation cycles described in R597-3-1(1) and (2), supra.

(b) The commission shall provide notice to each judge at the beginning of the survey cycle of the courtroom observation process and of the instrument to be used by the observers.

(c) Only the content analysis of the individual courtroom observation reports shall be included in the retention report for each judge.

(2) Courtroom Observers.

(a) Selection of Observers

(i) Courtroom observers shall be volunteers, recruited by the commission through public outreach and advertising.

(ii) Courtroom observers shall be selected by the commission staff, based on written applications and an interview process.

(iii) Courtroom observers, though volunteers, may be eligible to receive compensation in exchange for successful completion of a specified amount of additional courtroom observation work.

(b) Selection Criteria. Observers with a broad and varied range of life experiences shall be sought. The following persons shall be excluded from eligibility as courtroom observers:

(i) persons with a professional involvement with the state court system, the justice courts, or the judge;

(ii) persons with a fiduciary relationship with the judge;

(iii) persons within the third degree of relationship with a state or justice court judge (grandparents, parents or parents-in-law, aunts or uncles, children, nieces and nephews and their spouses);

(iv) persons lacking computer access or basic computer literacy skills;

(v) persons currently involved in litigation in state or justice courts;

[~~(vi) convicted felons;~~

~~————————~~](vi[~~i~~]) persons whose background or experience suggests they may have a bias that would prevent them from objectively serving in the program.

(c) Terms and Conditions of Service

(i) Courtroom observers shall serve at the will of the commission staff.

(ii) Courtroom observers shall not disclose the content of their courtroom evaluations in any form or to any person except as designated by the commission.

(d) Training of Observers

(i) Courtroom observers must satisfactorily complete a training program developed by the commission before engaging in courtroom observation.

(ii) Elements of the training program shall include:

(A) Orientation and overview of the commission process and the courtroom observation program;

(B) Classroom training addressing each level of court;

(C) In-court group observations, with subsequent classroom discussions, for each level of court;

(D) Training on proper use of observation instrument;

(E) Training on confidentiality and non-disclosure issues;

(F) Such other periodic trainings as are necessary for effective observations.

(3) Courtroom Observation Program.

(a) Courtroom Requirements

(i) During each midterm and retention evaluation cycle, a minimum of four different observers shall observe each judge subject to that evaluation cycle.

(ii) Each observer shall observe each judge in person while the judge is in the courtroom and for a minimum of two hours while court is in session. The observations may be completed in one sitting or over several courtroom visits.

(iii) If a judge sits in more than one geographic location at the judge's appointed level or a justice court judge serves in more than one jurisdiction, the judge may be observed in any location or combination of locations in which the judge holds court.

(iv) When the observer completes the observation of a judge, the observer shall complete the observation instrument, which will be electronically transferred to the commission or the third party contractor for processing.

(b) Travel and Reimbursement

(i) All travel must be preapproved by the executive director.

(ii) All per diem and lodging will be reimbursed, when appropriate, in accordance with Utah state travel rules and regulations.

(iii) Travel reimbursement forms shall be submitted on a monthly basis or whenever the observer has accumulated a minimum of 200 miles of travel.

(iv) Travel may be reimbursed only after the observer has satisfactorily completed and successfully submitted the courtroom observation report for which the reimbursement is sought.

(v) Overnight lodging

(A) Overnight lodging is reimbursable when the courtroom is located over 100 miles from home base and court is scheduled to begin before 9:30 a.m., with any exceptions preapproved by commission staff.

(B) Multiple overnight lodging is reimbursable where the commission staff determines it is cost-effective to observe several courtrooms in a single trip.

(vi) Each courtroom observer must provide a social security number or tax identification number to the commission in order to process state reimbursement.

(4) Principles and Standards used to evaluate the behavior observed.

(a) Procedural fairness, which focuses on the treatment judges accord people in their courts, shall be used to evaluate the judicial behavior observed in the courtroom observation program.

(b) To assess a judge's conduct in court with respect to procedural fairness, observers shall respond in narrative form to the following principles and behavioral standards:

(i) Neutrality, including but not limited to:

(A) displaying fairness and impartiality toward all court participants;

(B) acting as a fair and principled decision maker who applies rules consistently across court participants and cases;

(C) explaining transparently and openly how rules are applied and how decisions are reached.

(D) listening carefully and impartially;

(ii) Respect, including but not limited to:

(A) demonstrating courtesy toward attorneys, court staff, and others in the court;

(B) treating all people with dignity;

(C) helping interested parties understand decisions and what the parties must do as a result;

(D) maintaining decorum in the courtroom.

(E) demonstrating adequate preparation to hear scheduled cases;

(F) acting in the interests of the parties, not out of demonstrated personal prejudices;

(G) managing the caseflow efficiently and demonstrating awareness of the effect of delay on court participants;

(H) demonstrating interest in the needs, problems, and concerns of court participants.

(iii) Voice, including but not limited to:

(A) giving parties the opportunity, where appropriate, to give voice to their perspectives or situations and demonstrating that they have been heard;

(B) behaving in a manner that demonstrates full consideration of the case as presented through witnesses, arguments, pleadings, and other documents.

(C) attending, where appropriate, to the participants' comprehension of the proceedings.

(c) Courtroom observers may also be asked questions to help the commission assess the overall performance of the judge with respect to procedural fairness.

**R597-3-4. Minimum Performance Standards.**

(1) In addition to the minimum performance standards specified by statute or administrative rule, the judge shall:

(a) Demonstrate by a preponderance of the evidence, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants.

(b) Meet all performance standards established by the Judicial Council, including but not limited to:

(i) annual judicial education hourly requirement;

(ii) case-under-advisement standard; and

(iii) physical and mental competence to hold office.

(2) No later than October 1st of the year preceding each general election year, the Judicial Council shall certify to the commission whether each judge standing for retention election in the next general election has satisfied its performance standards.

**R597-3-5. Public Comments.**

(1) Persons desiring to comment about a particular judge with whom they have had experience may do so at any time, either by submitting such comments on the commission website or by mailing them to the executive director.

(2) In order for the commission to consider comments in making its retention recommendation on a particular judge, comments about that judge must be received no later than March 1st of the year in which the judge's name appears on the ballot.

(3) Comments received after March 1st of the year in which the judge's name appears on the ballot will be included as part of the judge's mid-term evaluation report in the subsequent evaluation cycle.

(4) Comments received about a judge after the mid-term evaluation cycle ends will be included in the judge's next retention evaluation report.

(5) Persons submitting comments pursuant to this section must include their full name, address, and telephone number with the submission.

**R597-3-6. Judicial Retirements and Resignations.**

(1) For purposes of judicial performance evaluation, the commission shall evaluate each judge until the judge:

(a) provides written notice of resignation or retirement to the Governor;

(b) is removed from office;

(c) otherwise vacates the judicial office; or

(d) fails to properly file for retention.

(2) For judges who provide written notice of resignation or retirement after a retention evaluation has been conducted but before it is distributed, the retention evaluation shall be sent to the Judicial Council.

**R597-3-7. Publication of Retention Reports.**

No later than three months after the filing deadline for a retention election, the commission shall post on its website the retention reports of all judges who have filed for that election.

**R597-3-8. Judicial Written Statements.**

If, pursuant to Utah Code Ann. Subsection 78A-12-206(3), a judge is eligible to provide a written statement to be included in the judge's evaluation report, the statement shall be due to commission staff, in writing, no later than one week after the deadline for the judge to file a declaration of the judge's candidacy in the retention election.

**R597-3-9. Judicial Discipline.**

(1) For the purposes of judicial performance evaluation and pursuant to Utah Code Ann. Section 78A-12-205, the commission shall consider any public sanction of a judge issued by the Supreme Court during the judge's current term, including:

(a) During the judge's midterm and retention evaluation cycles and

(b) After the end of the judge's retention evaluation cycle until the commission votes whether to recommend the judge for retention.

**KEY: judicial performance evaluations, judges, evaluation cycles, surveys**
**Date of Enactment or Last Substantive Amendment: 2017**
**Notice of Continuation: February 17, 2014**
**Authorizing, and Implemented or Interpreted Law: 78A-12**

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# Pardons (Board of), Administration
# R671-205
## Credit for Time Served

### NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42227
FILED: 10/16/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to specify and define how credit for time served may be considered while awaiting trial or conviction prior to commitment at the Utah State Hospital under civil commitment order or any similar order to remain in the facility.

SUMMARY OF THE RULE OR CHANGE: The purpose of this amendment is to specify and define how credit for time served may be considered while awaiting trial or conviction, including time spent in confinement, detention or hospitalization, as well as prior to commitment at the Utah State Hospital under civil commitment order or any similar order to remain in the facility.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art VII Sec 12 and Section 77-27-5 and Section 77-27-7 and Section 77-27-9 and Subsection 77-18-1(11)(a)(iii) and Subsection 77-18-1(12)(e)(iv)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There is no anticipated cost or savings because credit for time served does not have a fiscal impact on the state budget.

♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings because credit for time served does not have a fiscal impact on local governments.

♦ SMALL BUSINESSES: There is no anticipated cost or savings because credit for time served does not have a fiscal impact on small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings because the amended rule of credit for time served does not affect or impact any individual, partnership, corporation, association, governmental entity, or public or private organization.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated cost or savings because the amended rule of credit for time served does not have a fiscal impact on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts of the amended rule of credit for time served on businesses.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/13/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 12/06/2017 08:00 AM, Board of Pardons and Parole, 448 E 6400 S, Room 300, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/20/2017

AUTHORIZED BY: Angela Micklos, Chair

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**R671. Pardons (Board of), Administration.**
**R671-205. Credit for Time Served.**
**R671-205-1. Definitions.**

(1) "Custody", for purposes of this rule, means that a person is held in jail or prison, and includes a person who is:

(a) in the custody of a peace officer pursuant to a lawful arrest;

(b) a minor confined in a facility operated by the Division of Juvenile Justice Services, following conviction as an adult in district court, when the district court obtained jurisdiction over the minor pursuant to Utah Code sections 78A-6-701, 78A-6-702, or 78A-6-703; or

(c) committed to the Department of Corrections, but who is housed at the Utah State Hospital or other medical facility.

(2)(a) "Sentence", for purposes of this rule, means a judgment, sentence, or commitment issued by a district court pursuant to Utah Code Section 77-18-1 for a criminal conviction and over which the Board has prison release jurisdiction.

(b) When a person is sentenced to prison after being convicted in multiple counts in the same criminal case, or after being convicted in multiple cases, credit for time served will be calculated separately for each sentence.

**R671-205-2. Credit for Time Served.**

(1) Credit for time served shall be granted by the Board against an offender's prison sentence for time an offender actually served in custody if, prior to being sentenced to prison, the offender was held in custody in connection with the specific sentence:

(a) while awaiting trial, conviction, or imposition of the sentence, including any time spent in confinement, detention, or hospitalization in the custody of the Department of Human Services or the Utah State Hospital awaiting competency evaluation or restoration;

(b) while on probation and awaiting a hearing or decision regarding probation violation allegations;

(c) as a condition of probation following the imposition of a suspended prison sentence, if the offender is later committed to prison on or after October 1, 2015;

(d) as a sanction for a violation of probation, following the revocation and re-start or re-imposition of probation, if the offender is later committed to prison on or after October 1, 2015;

(e) as a response to a violation of probation, pursuant to the AP &[~~and~~] P Response and Incentive Matrix, if the offender is later committed to prison on or after October 1, 2015.

(f) that is reversed, vacated, or otherwise set aside, if a subsequent prison sentence is imposed for the same criminal conduct;

(g) at the Utah State Hospital following a "guilty and mentally ill" conviction; or

(h) outside the State of Utah based solely on a Utah warrant issued in connection with the sentence under Board jurisdiction.

(2) The Board may, in its discretion, grant credit for time served in other, extraordinary circumstances.

**R671-205-3. Exclusions.**

Credit for time served may not be granted for any period of custody served:

(1) for an arrest, pre-trial detention, probation, commitment, case, conviction, or sentence over which the Board has no jurisdiction;

(2) at the Utah State Hospital or comparable non-prison, psychiatric facility while an offender, prior to commitment to prison[~~: (a) is undergoing pre-trial competency proceedings or investigations; or (b) has been committed to a facility for competency restoration following a judicial finding of incompetence;~~]is under a civil commitment order or other similar order to remain in the facility;

[~~(3)~~] in a medical or other treatment facility while under court supervision;

[~~(4)~~](3) under home-confinement, house arrest, in a community correctional center, or in any other treatment facility while under court supervision; or

[~~(5)~~](4) for an arrest, pre-trial detention, probation, commitment, or sentence while under the jurisdiction of the federal government.

**R671-205-4. Concurrent and Consecutive Sentencing.**

(1) If an offender is committed to prison for more than one sentence, credit for time served shall be calculated for each sentence separately.

(2) If an offender is committed to prison to serve consecutive sentences, only the credit for time served attributable to the consecutive sentence shall be granted against that sentence, and the consecutive sentence shall begin only following the expiration of all prior sentences.

(3) If an offender is serving one or more prison sentences, and a subsequent prison sentence is imposed concurrently, credit for time served shall begin on the date the subsequent prison sentence is imposed.

(4) If an offender is serving one or more prison sentences, and a subsequent prison sentence is imposed consecutively, credit for time served may not be granted toward the consecutive sentence, and the consecutive sentence shall begin only following the expiration of all prior sentences.

**R671-205-5. Verification of Time Served Required.**

(1) The Board shall only grant credit for time served if the time in custody is documented in official records of the court and facility of custody.

(2) If an offender desires credit in addition to that granted by the Board, the offender bears the burden to petition for, and provide copies of records supporting, the additional credit.

**KEY: credit for time served, prison release, parole**
**Date of Enactment or Last Substantive Amendment: [~~August 11, 2015~~]2017**
**Notice of Continuation: January 30, 2017**
**Authorizing, and Implemented or Interpreted Law: Art. VII Sec. 12; 77-18-1(11)(a)(iii); 77-18-1(12)(e)(iv); 77-27-5; 77-27-7; 77-27-9**

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# Pardons (Board of), Administration
# R671-304
## Hearing Record

### NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42231
FILED: 10/16/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to specify and define a record and its retention period, and how a record may be obtained.

SUMMARY OF THE RULE OR CHANGE: A record is an electronic audio record of all in-person, video, or telephone hearings. This change adds that pursuant to Section 77-27-8, a certified shorthand recorder records and transcribes proceedings of any death penalty commutation hearing. This adds that a retention copy shall be maintained by the Board for seven years, instead of five. Additions also include that any magnetic, analog, or other non-digital hearing record prior to 01/01/2009 shall only be maintained for ten years from the date of hearing. More additions define that an offender and the public may request a copy of the record, which requires the record be copied to an electronic or digital medium for a fee. If an offender affirms by affidavit indigent, the Board may furnish a copy at no cost to the offender.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-1 et seq. and Section 77-27-8 and Subsection 63G-3-201(3) and Subsection 77-27-9(4)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings because the hearing record does not have a fiscal impact on the state budget.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings because the hearing record does not have a fiscal impact on local governments.
♦ SMALL BUSINESSES: There is no anticipated cost or savings because the hearing record does not have a fiscal impact on small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings because the change does not affect or impact any individual, partnership, corporation, association, governmental entity, or public or private organization.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated cost or savings because the change does not have a fiscal impact on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts of the change on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/13/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 12/06/2017 08:00 PM, Board of Pardons and Parole, 448 E 6400 S, Room 300, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/20/2017

AUTHORIZED BY: Angela Micklos, Chair

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**R671. Pardons (Board of), Administration.**
**R671-304. Hearing Record.**
**R671-304-1. Hearing Record.**

(a) An electronic audio record shall be made of all in-person, video, or telephonic hearings held by the Board of Pardons and Parole (Board).[ ~~The Board will cause a record to be made of all public hearings and dispositions~~].

(b) Pursuant to Utah Code Ann. Section 77-27-8, a certified shorthand reporter shall record and transcribe the proceedings of any death penalty commutation hearing held by the Board.

[

~~**R671-304-2. Procedure.**~~

~~A record will be made of all board hearings pursuant to UCA 77-27-8 (1).~~]

(c) The electronic record made pursuant to this Rule shall [~~will~~] be [~~kept at~~] maintained by the Board [~~of Pardons and Parole offices~~] for 7 [~~five (5)~~] years.

(d) Any magnetic, analog, or other non-digital hearing record made prior to January 1, 2009 shall only be maintained for ten years from the date of the hearing.

Upon written request, a copy of the recording may be provided to an offender or any member of the public.

If the request for the recording requires that the record be copied to an electronic or digital medium, the Board shall charge a fee, approved by the Legislature, for the copy[~~purchased~~].

When an offender affirms by affidavit that he or she is unable to pay for a copy of the recording, the Board may furnish a copy of the record, at no fee, to the offender.

**KEY: government hearings**
**Date of Enactment or Last Substantive Amendment: [~~October 4, 2012~~]2017**
**Notice of Continuation: January 31, 2012**
**Authorizing, and Implemented or Interpreted Law: 63G-3-201(3); 77-27-1 et seq.; 77-27-8; 77-27-9(4)(a)**

**End of the Notices of Proposed Rules Section**

# NOTICES OF
# CHANGES IN PROPOSED RULES

After an agency has published a **Proposed Rule** in the *Utah State Bulletin*, it may receive comment that requires the **Proposed Rule** to be altered before it goes into effect. A **Change in Proposed Rule** allows an agency to respond to comments it receives.

As with a **Proposed Rule**, a **Change in Proposed Rule** is preceded by a **Rule Analysis**. This analysis provides summary information about the **Change in Proposed Rule** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **Change in Proposed Rule**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **Changes in Proposed Rules** published in this issue of the *Utah State Bulletin* ends December 1, 2017.

Following the **Rule Analysis**, the text of the **Change in Proposed Rule** is usually printed. The text shows only those changes made since the **Proposed Rule** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them ([~~example~~]). A row of dots in the text between paragraphs (**. . . . . .**) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **Change in Proposed Rule** is too long to print, the Office of Administrative Rules may include only the **Rule Analysis**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through March 1, 2018, an agency may notify the Office of Administrative Rules that it wants to make the **Change in Proposed Rule** effective. When an agency submits a **Notice of Effective Date** for a **Change in Proposed Rule**, the **Proposed Rule** as amended by the **Change in Proposed Rule** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **Change in Proposed Rule**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **Change in Proposed Rule** in response to additional comments received. If the Office of Administrative Rules does not receive a **Notice of Effective Date** or another **Change in Proposed Rule** by the end of the 120-day period after publication, the **Change in Proposed Rule** filing, along with its associated **Proposed Rule**, lapses.

**Changes in Proposed Rules** are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

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

# Environmental Quality, Air Quality
# R307-101-2
# Definitions

## NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41814
FILED: 10/05/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is being done to add "pound/pound" which was left out of the definition of "VOC content" when it was originally proposed.

SUMMARY OF THE RULE OR CHANGE: The change adds "pound/pound" as a unit that can be used to calculate VOC content. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 91. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of this change because the change does not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of this change because the change does not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: No cost or savings is expected for small businesses as a result of this change. The change is merely including a unit that can be used to calculate VOC content.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by this change because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of this change. The change, adding "pound/pound" to the definition of VOC content, does not result in additional compliance costs because requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact is expected as a result of this change. The change is just including a unit that can be used to calculate VOC content. The requirements of the rule otherwise remain unchanged.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-101. General Requirements.**
**R307-101-2. Definitions.**

Except where specified in individual rules, definitions in R307-101-2 are applicable to all rules adopted by the Air Quality Board.

. . . . . .

"Coating" means a material that can be applied to a substrate and which cures to form a continuous solid film for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealants, adhesives, caulks, maskants, inks, and temporary protective coatings.

. . . . . .

"Composite vapor pressure" means the sum of the partial pressures of the compounds defined as VOCs.

. . . . . .

"VOC content" means the weight of VOC per volume of material and is calculated by the following equation in gram/liter (or alternately in pound/gallon, or pound/pound):
Grams of VOC per Liter of Material= Ws - Ww - Wes
Vm

Where:
Ws = weight of volatile organic compounds
Ww = weight of water
Wes = weight of exempt compounds
Vm = volume of material

**KEY: air pollution, definitions**
**Date of Enactment or Last Substantive Amendment: 2017**
**Notice of Continuation: May 8, 2014**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

# Environmental Quality, Air Quality
# R307-304
# Solvent Cleaning

## NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41809
FILED: 10/05/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule changes are being proposed in response to comments received during the public comment period. The amendments to this rule strengthen the area source coating rules. These amendments will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: Several changes were made throughout Rule R307-304 as a result of public comments. These changes include: adding an exemption for materials for solvent cleaning operations to the compliance schedule, adding exemptions for solvent cleaning in laboratory tests, analysis, research, and development projects as well as cleaning of solar cells, laser hardware, scientific instruments, and high-precision optics, clarifying definition for solvent cleaning; and adding VOC limits for advanced composites manufacturing and baby and child care diapers manufacturing. (EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 98. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of these changes because the changes do not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of these changes because the changes do not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: The extension of the exemptions may lead to a savings to small businesses; however, it is difficult to determine the amount of the savings to be realized. The other changes would not result in additional costs.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by these changes because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of these changes. The changes: added an exemption for materials for solvent cleaning operations to the compliance schedule; added exemptions for solvent cleaning in laboratory tests, analysis, research, and development projects, as well as cleaning of solar cells, laser hardware, scientific instruments, and high-precision optics; and clarified the definition for solvent cleaning do not result in additional compliance costs because requirements of the rule otherwise remain unchanged. The change to add VOC limits for advanced composites manufacturing and baby and child care diapers manufacturing are to provide clarification that these industries are also regulated and were included in the original rule cost analysis.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The extension of the exemptions may lead to a savings for businesses; however, it is difficult to determine the amount of the savings to be realized. The other changes will have no fiscal impact on any businesses because the changes do not modify any of the existing requirements within the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

**R307. Environmental Quality, Air Quality.**
**R307-304. Solvent Cleaning.**
**R307-304-1. Purpose.**

The purpose of R307-304 is to limit volatile organic compound (VOC) emissions from solvent cleaning operations.

**R307-304-2. Applicability.**

(1) R307-304 applies to solvent cleaning operations within Box Elder, Cache, Davis, Salt Lake, Tooele, Utah or Weber counties.

(2) Before September 1, 2018, R307-304 applies to an owner or operator using 720 gallons or more a year of VOC containing solvent products, minus exempt materials, for solvent cleaning operations.

(3) Effective September 1, 2018, R307-304 shall apply to an owner or operator using 55 gallons or more a year of VOC containing solvent products, minus exempt materials, for solvent cleaning operations.

**R307-304-3. Exemptions.**

(1) The requirements of R307-304 do not apply to the operations that are [~~regulated~~]subject to [~~under~~ ]R307-342 through R307-347 and R307-349 through R307-355.

(2) Shipbuilding and repair and fiberglass boat manufacturing materials.

(3) Operations that are exclusively covered by Department of Defense military technical data and performed by a Department of Defense contractor and/or on site at installations owned and/or operated by the United States Armed Forces are exempt from the requirements of R307-304.

(4) Janitorial cleaning.

(5) Graffiti removal.

(6) [~~Waste solvent from analytical laboratories.~~]Solvent cleaning in laboratory tests and analysis and research and development projects.

(7) Cleaning with aerosol products[~~ not greater than 16 fluid ounces~~].

(8) Cleaning solvents that are defined as a consumer product in R307-357 are exempt from R307-304 and are regulated under the requirements in R307-357.

(9) Cleaning of solar cells, laser hardware, scientific instruments, and high-precision optics.

**R307-304-4. Definitions.**

The following additional definitions apply to R307-304:

"Solvent cleaning" means operations performed using a liquid that contains any VOC, or combination of VOCs, which is used to clean parts, tools, machinery, equipment and work areas. Cleaning operations include, but are not limited to, spraying, wiping, flushing, and purging. Solvent cleaning does not include degreasing operations subject to R307-335.

"Janitorial cleaning" means the cleaning of building floors, ceilings, walls, windows, doors, stairs, bathrooms, office surfaces and equipment.

**R307-304-5. VOC Content Limits.**

(1) No person shall use solvent products with a VOC content greater than the amounts specified in Table 1, unless the owner or operator uses an add-on control device as specified in R307-304-7 or the alternative method in R307-304-5(2).

TABLE 1

Solvent Cleaning VOC Limits (excluding water and exempt solvents from the definition of volatile organic compounds found in R307-101-2)

| Solvent Cleaning Category | VOC Limit (lb/gal) | (g/L) |
|---|---|---|
| Coatings, adhesives and ink manufacturing | 4.2 | 500 |
| Electronic parts and components | 4.2 | 500 |
| Medical devices and pharmaceutical | | |
| Tools, equipment and machinery | 6.7 | 800 |
| General surface cleaning | 5.0 | 600 |
| Screening printing operations | 4.2 | 500 |
| Semiconductor tools, maintenance | | |
| and equipment cleaning | 6.7 | 800 |
| Advanced composites manufacturing | 6.7 | 800 |
| Baby and child care diapers manufacturing | 5.0 | 500 |

(2) As an alternative to the limits in Table 1 and for all general miscellaneous cleaning operations, a person may use a cleaning material with a VOC composite vapor pressure no greater than 8 mm Hg at 20 degrees Celsius.

**R307-304-6. Work Practices.**

An owner or operator shall store used applicators and shop towels in closed fireproof containers.

**R307-304-7. Add-on Emission Control Systems Operations.**

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on control system in accordance with the manufacturer recommendations and maintain an overall capture and control efficiency of at least 85%. The overall capture and control efficiency shall be determined using EPA approved methods, as follows:

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-304-8. Recordkeeping.**

(1) The owner or operator shall maintain records of the following:

(a) The VOC content or composite vapor pressure of the solvent product applied and

(b) If an add-on control device is used, key system parameters necessary to ensure compliance with R307-304-7.

(i) Key system parameters must include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters must be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for 2 years.

(3) Records shall be made available to the director upon request.

**KEY: air pollution, solvent cleaning, solvent use**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

# Environmental Quality, Air Quality
# R307-343
# Wood Furniture Manufacturing Operations

## NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41824
FILED: 10/05/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule changes are being proposed in response to comments received during the public comment period. The amendments to this rule strengthen the area source coating rules. These amendments will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: Two changes were made in Rule R307-343 as a result of public comments. These changes include adding a compliance schedule for affected sources and extending the exemption for canned aerosol products used exclusively for touch-up or repair. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 103. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of these changes because the changes do not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of these changes because the changes do not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: The extension of the exemption for canned aerosol products used exclusively for touch-up or repair may lead to a nominal savings for small businesses; however, it is difficult to determine the amount of the savings that would be realized.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by these changes because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of these changes. The changes, the added compliance schedule for affected sources and extending the exemption for canned aerosol products used exclusively for touch-up or repair, do not result in additional compliance costs because the requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The extension of the exemption for canned aerosol products used exclusively for touch-up or repair may lead to a nominal savings for small businesses; however, it is difficult to determine the amount of the savings that would be realized.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-343. Wood Furniture Manufacturing Operations.**
**R307-343-1. Purpose.**

The purpose of R307-343 is to limit volatile organic compound (VOC) emissions from wood furniture manufacturing operations.

**R307-343-2. Applicability.**

[~~R307-343 applies to wood furniture manufacturing operations, including related cleaning activities, that use a combined 20 gallons or more of coating products and associated solvents per year and are located in Box Elder, Cache, Davis, Salt Lake, Utah, Tooele, or Weber counties.~~](1) R307-343 applies to wood furniture manufacturing coating operations located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

(2) Before September 1, 2018, R307-343 applies to wood furniture manufacturing operations that have the potential to emit 2.7 tons per year or more of VOC, including related cleaning activities.

(3) Effective September 1, 2018, R307-343 shall apply to wood furniture manufacturing operations that use a combined 20 gallons or more of coating products and associated solvents per year.

**R307-343-3. Definitions.**

The following additional definitions apply to R307-343:

"As applied" means the volatile organic compound and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.

"Control system" means the combination of capture and control devices used to reduce emissions to the atmosphere.

"Conventional Air Spray" means a spray coating method in which the coating is atomized by mixing it with compressed air at an air pressure greater than ten pounds per square inch (gauge) at the point of atomization. Airless, air assisted airless spray technologies, and electrostatic spray technology are not considered conventional air spray.

"Finishing material" means a coating used in the wood furniture industry, including basecoats, stains, washcoats, sealers, and topcoats.

"Finishing Operation" means those activities in which a finishing material is applied to a substrate and is subsequently air-dried, cured in an oven, or cured by radiation.

"Sealer" means a finishing material used to seal the pores of a wood substrate before additional coats of finishing material are applied. A washcoat used to optimize aesthetics is not a sealer.

"Solids" means the part of the coating that remains after the coating is dried or cured; solids content is determined using data from EPA Method 24.

"Stain" means any color coat having a solids content by weight of no more than 8.0% that is applied in single or multiple coats directly to the substrate, including nongrain raising stains, equalizer stains, sap stains, body stains, no-wipe stains, penetrating stains, and toners.

"Topcoat" means the last film-building finishing material applied in a finishing system. Non-permanent final finishes are not topcoats.

"Touch-up and Repair" means the application of finishing materials to cover minor finishing imperfections.

"Washcoat" means a transparent special purpose coating having a solids content by weight of 12.0% or less that is applied over initial stains to protect and control color and to stiffen the wood fibers in order to aid sanding.

"Washoff operations" means those operations in which organic solvent is used to remove coating from a substrate.

"Wood furniture" means any product made of wood that is manufactured under any of the following standard industrial classification codes: 2434, 2511, 2512, 2517, 2519, 2521, 2531, 2541, 2599, or 5712. This includes wood products such as rattan or wicker and engineered wood products such as particleboard.

"Wood furniture manufacturing operations" means the finishing, cleaning, and washoff operations associated with the production of wood furniture or wood furniture components.

**R307-343-4. VOC Content Limits.**

(1) No owner or operator shall apply coatings with a VOC content in excess of the amounts specified in Table 1, unless the owner or operator uses an add-on control device as specified in R307-343-6.

Table 1

WOOD MANUFACTURING COATING LIMITS
(values in pounds VOC per gallon of coating, minus water and exempt solvents (compounds not classified as VOC as defined in R307-101-2), as applied)

| Coating Category | VOC Content Limit (lb/gal) |
|---|---|
| Topcoat | 0.4 |
| Single component, non-catalyzed sealer | 0.9 |
| Single component, non-catalyzed topcoat | 0.9 |
| Acid -- cured single and 2 component sealer | 1.2 |
| Acid -- cured single and 2 component topcoat | 1.0 |
| 2 component polyurethane topcoat | 1.0 |
| 2 component polyurethane sealer | 1.0 |
| Cobalt peroxide cured polyester sealer/topcoat | 1.0 |
| Formaldehyde free acid catalyzed sealer/topcoat | 1.0 |
| Strippable spray booth coatings | 0.8 |

(2) The limits in Table 1 do not apply to canned aerosol coating products[~~ less than 22 fl. oz. (0.66 liter) capacity and~~] used exclusively for touch-up or repair.

**R307-343-5. Application Equipment Requirements.**

(1) All coatings shall be applied using equipment having a minimum 65% transfer efficiency, except as allowed under R307-343-5(3) and operated according to the equipment manufacturer specifications. Equipment meeting the transfer efficiency requirement includes:

(a) Brush, dip, or roll coating;

(b) Electrostatic application; and

(c) High volume, low pressure (HVLP) spray equipment.

(2) Other coating application methods that achieve transfer efficiency equivalent to HVLP or electrostatic spray application methods may be used.

(3) Conventional air spray methods may be used under the following circumstances:

(a) To apply finishing materials that have no greater than 1.0 pound of VOC per pound of solids, as applied;

(b) For touch-up and repair under the following circumstances:

(i) The touch-up and repair occurs after completion of the finishing operation; or

(ii) The touch-up and repair occurs after the application of stain and before the application of any other type of finishing material, and the materials used for touch-up and repair are applied from a container that has a volume of no more than 2.0 gallons;

(c) When the spray gun is aimed and operated automatically, not manually;

(d) When the emissions from the finishing application station are directed to a control device as specified in R307-343-6;

(e) When the conventional air gun is used to apply no more than 10% of the total gallons of finishing material used during the calendar year; or

(f) When the conventional air gun is used to apply stain on a part for which it is technically or economically infeasible to use any other spray application technology. The following criteria shall be used, either independently or in combination, to support the affected source's claim of technical or economic infeasibility:

(i) The production speed is too high or the part shape is too complex for one operator to coat the part and the application station is not large enough to accommodate an additional operator; or

(ii) The excessively large vertical spray area of the part makes it difficult to avoid sagging or runs in the stain.

**R307-343-6. Add-on Controls Systems Operations.**

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on emission control system in accordance with the manufacturer recommendations and maintain 85% or greater capture and control efficiency. The overall capture and control efficiency shall be determined using EPA approved methods, as follows.

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-343-7. Work Practices.**

(1) Control techniques and work practices for coatings shall be implemented at all times to reduce VOC emissions. Control techniques and work practices shall include:

(a) Storing all VOC-containing coatings, thinners, and coating-related waste materials in closed containers;

(b) Ensuring that mixing and storage containers used for VOC-containing coatings, thinners, and coating-related waste material are kept closed at all times except when depositing or removing these materials;

(c) Minimizing spills of VOC-containing coatings, thinners, and coating-related waste materials; and

(d) Conveying VOC-containing coatings, thinners, and coating-related waste materials from one location to another in closed containers or pipes.

(2) The work practices for cleaning materials shall be implemented at all times to reduce VOC emissions. The work practices shall include:

(a) Storing all VOC-containing cleaning materials and used shop towels in closed containers;

(b) Ensuring that storage containers used for VOC-containing cleaning materials are kept closed at all times except when depositing or removing these materials;

(c) Minimizing spills of VOC-containing cleaning materials;

(d) Conveying VOC-containing cleaning materials from one location to another in closed containers or pipes; and

(e) Minimizing VOC emissions from cleaning of application, storage, mixing, and conveying equipment by ensuring that equipment cleaning is performed without atomizing the cleaning solvent and all spent solvent is captured in closed containers.

(3) Solvent cleaning operations shall be performed using cleaning materials having a VOC composite vapor pressure no greater than 1 mm Hg or less at 20 degrees Celsius, unless an add-on control device is used as specified in R307-343-6.

**R307-343-8. Recordkeeping.**

(1) The owner or operator shall maintain records of the following:

(a) Records that demonstrate compliance with R307-343. Records must include, but are not limited to, inventory and product data sheets of all coatings and solvents subject to R307-343.

(b) If an add-on control device is used, records of key system parameters necessary to ensure compliance with R307-343-6.

(i) Key system parameters shall include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters shall be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for a minimum of 2 years.

(3) Records shall be made available to the director upon request.

**KEY: air pollution, wood furniture, coatings**
**Date of Enactment or Last Substantive Amendment: 2017**
**Notice of Continuation: February 1, 2012**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a); 19-2-104(3)(e)**

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# Environmental Quality, Air Quality
# R307-344
## Paper, Film, and Foil Coatings

### NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41816
FILED: 10/05/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule change is being proposed in response to comments received during the public comment period. The amendment to this rule strengthens the area source coating rules. This amendment will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: A compliance schedule for affected sources was added to Rule R307-344 as a result of public comments. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 108. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of this change because the change does not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of this change because the change does not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: This change does not result in additional costs or savings because the change simply provides a compliance schedule for affected sources and does not change any requirements for small business.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by this change because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of this change. The change is adding a compliance schedule for affected sources; it is not changing any requirements for those that the rule regulates.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The change to the proposal will have no fiscal impact on any businesses because the change does not modify any of the existing requirements within the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-344. Paper, Film, and Foil Coatings.**
**R307-344-1. Purpose.**

The purpose of this rule is to limit volatile organic compound (VOC) emissions from paper, film, and foil coating operations.

**R307-344-2. Applicability.**

[~~R307-344 applies to paper, film, and foil coating operations and related cleaning activities that use a combined 20 gallons or more of coating products and associated solvents per year and are located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.~~]

(1) R307-344 applies to paper, film, and foil coating operations located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

(2) Before September 1, 2018, R307-344 applies to a paper, film and foil coating operations that have the potential to emit 2.7 tons per year or more of VOC, including related cleaning activities.

(3) Effective September 1, 2018, R307-344 shall apply to a paper, film and foil coating operations that use a combined 20 gallons or more of coating products and associated solvents per year.

**R307-344-3. Definitions.**

The following additional definitions apply to R307-344:

"As applied" means the VOC and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.

"Film coating" means any coating applied in a web coating process on any film substrate other than paper or fabric, including, but not limited to, typewriter ribbons, photographic film, magnetic tape, and metal foil gift wrap.

"Foil coating" means a coating applied in a web coating process on any foil substrate other than paper or fabric, including, but not limited to, typewriter ribbons, photographic film, magnetic tape, and metal foil gift wrap, but excluding coatings applied to packaging used exclusively for food and health care products for human and animal consumption.

"Paper coating" means uniform distribution of coatings put on paper, film, foils and pressure sensitive tapes regardless of substrate. Related web coating processes on plastic film and decorative coatings on metal foil are included in this definition. Paper coating covers saturation operations as well as coating operations.

"Saturation" means dipping the web into a bath.

"Web" means a continuous sheet of substrate.

**R307-344-4. VOC Content Limits.**

No owner or operator shall apply coatings with a VOC content greater than the amounts specified in Table 1, unless the owner or operator uses an add-on control device as specified in R307-344-6.

TABLE 1

Paper, Film, and Foil Coating Limitations
(values in pounds VOC per pound of coating, minus water and exempt solvents (compounds not classified as VOC as defined in R307-101-2), as applied)

| Coating Category | VOC Content Limits (lb/lb) |
|---|---|
| Paper, film and foil | 0.08 |
| Pressure sensitive tape and label | 0.067 |

**R307-344-5. Work Practices.**

(1) Control techniques and work practices are to be implemented at all times to reduce VOC emissions. Control techniques and work practices include:

(a) Using covered containers for solvent wiping cloths;

(b) Using collection hoods for areas where solvent is used for cleanup;

(c) Minimizing spills of VOC-containing cleaning materials;

(d) Conveying VOC-containing materials from one location to another in closed containers or pipes; and

(e) Cleaning spray guns in enclosed systems

(2) No person shall apply coatings unless these materials are applied with equipment operated according to the manufacturer's specifications, and by the use of one of the following methods:

(a) Flow coater;

(b) Roll coater;

(c) Dip coater;

(d) Foam coater;

(e) Die coater;

(f) Hand application methods;

(g) High-volume, low pressure (HVLP) spray; or

(h) Other application method capable of achieving 65% or greater transfer efficiency, as certified by the manufacturer.

(3) Solvent cleaning operations shall be performed using cleaning materials having a VOC composite vapor pressure no greater than 1 mm Hg at 20 degrees Celsius, unless an add-on control device is used as specified in R307-344-6.

**R307-344-6. Add-On Controls Systems Operations.**

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on emission control system in accordance with the manufacturer recommendations and maintain 90% or greater capture and control efficiency. The overall capture and control efficiency shall be determined using EPA approved methods, as follows.

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-344-7. Recordkeeping.**

(1) The owner or operator shall maintain records of the following:

(a) Records that demonstrate compliance with R307-344. Records shall include, but are not limited to, inventory and product data sheets of all coatings and solvents subject to R307-344.

(b) If an add-on control device is used, records of key system parameters necessary to ensure compliance with R307-344-6.

(i) Key system parameters shall include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters shall be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for a minimum of 2 years.

(3) Records shall be made available to the director upon request.

**KEY: VOC emission, paper coating, film coating, foil coating**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-345
# Fabric and Vinyl Coatings

## NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41817
FILED: 10/05/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule changes are being proposed in response to comments received during the public comment period. The amendments to this rule strengthen the area source coating rules. These amendments will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: Several changes were made throughout Rule R307-345 as a result of public comments. These changes include adding a compliance schedule for affected sources, adding a definition, and adding clarifying language throughout the rule. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 111.

Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of these changes because the changes do not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of these changes because the changes do not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: These changes would not result in additional costs or savings because the changes do not change the way the rule impacts the small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by these changes because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of these changes. The changes (the added compliance schedule for affected sources, added definition, and clarifying language throughout the rule) do not result in additional compliance costs because requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no added compliance costs because of these changes. The changes (the added compliance schedule for affected sources, the added definition, and the added clarifying language) do not result in additional compliance costs because requirements of the rule otherwise remain unchanged.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-345. Fabric and Vinyl Coatings.**
**R307-345-1. Purpose.**

The purpose of this rule is to limit volatile organic compound (VOC) emissions from fabric and vinyl coating operations.

**R307-345-2. Applicability.**

(1) R307-345 applies to fabric and vinyl coating operations [~~and related cleaning activities that use a combined 20 gallons or more of coating products and associated solvents per year and are~~ ]located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

(2) Before September 1, 2018, R307-345 applies to fabric and vinyl coating operations that have the potential to emit 2.7 tons per year or more of VOC, including related cleaning activities.

(3) Effective September 1, 2018, R307-345 shall apply to fabric and vinyl coating operations that use a combined 20 gallons or more of coating products and associated solvents per year.

**R307-345-3. Definitions.**

The following additional definitions apply to R307-345:

"As applied" means the VOC and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.

"Fabric coating" means the coating or saturation of a textile substrate with a knife, roll or rotogravure coater to impart characteristics that are not initially present, such as strength, stability, water or acid repellency, or appearance. Fabric coatings can include, but are not limited to, industrial and electrical tapes, tie cord, utility meter seals, imitation leathers, tarpaulins, shoe material, and upholstery fabrics.

"Knife coating" means the application of a coating material to a substrate by means of drawing the substrate beneath a blade that spreads the coating evenly over the width of the substrate.

"Roller coating" the coating material is applied to the moving fabric, in a direction opposite to the movement of the substrate, by hard rubber or steel rolls.

"Rotogravure coating" means the application of a uniform layer of material across the entire width of the web to substrate by means of a roll coating technique in which the pattern to be applied is etched on the coating roll. The coating material is picked up in these recessed areas and is transferred to the substrate.

"Vinyl coating" means applying a decorative or protective top coat, or printing on vinyl coated fabric or vinyl sheets.

**R307-345-4. VOC Content Limits.**

(1) No owner or operator shall apply fabric or vinyl coatings with a VOC content greater than 2.2 pounds of VOC per gallon of coating, minus water and exempt solvents (compounds not classified as VOC as defined in R307-101-2), as applied, unless the owner or operator uses an add-on device as specified in R307-345-6.

(2) Organosol and plastisol coatings shall not be used to bubble emissions from vinyl printing and top coating.

**R307-345-5. Work Practices.**

(1) Control techniques and work practices are to be implemented at all times to reduce VOC emissions. Control techniques and work practices include:

(a) Covered containers for solvent wiping cloths;

(b) Collection hoods for areas where solvent is used for cleanup;

(c) Covered mixing tanks; and

(d) Covered hoods and oven routed to add-on control devices, which may include, but are not limited to, after burners, thermal incinerators, catalytic oxidation, or carbon adsorption.

(2) No person shall apply any coating unless the coating application method achieves a demonstrated 65% transfer efficiency.

The following applications achieve a minimum of 65% transfer efficiency and must be operated in accordance with the manufacturers specifications:

(a) Foam coat;

(b) Flow coat;

(c) Roll coat;

(d) Dip coat;

(e) Die coat;

(e) High-volume, low-pressure (HVLP) spray;

(f) Hand application methods; or

(g) Other application method capable of achieving 65% or greater transfer efficiency, as certified by the manufacturer.

(3) Solvent cleaning operations shall be performed using cleaning materials having a VOC composite vapor pressure no greater than 1 mm Hg at 20 degrees Celsius, unless an add-on control device is used as specified in R307-345-6.

**R307-345-6. Add-On Controls Systems Operations.**

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on emission control system in accordance with the manufacturer recommendations and maintain 90% or greater capture and control efficiency. The overall capture and control efficiency shall be determined using EPA approved methods, as follows.

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-345-7. Recordkeeping.**

(1) The owner or operator shall maintain records of the following:

(a) Records that demonstrate compliance with R307-345. Records shall include, but are not limited to, inventory and product data sheets of all coatings and solvents subject to R307-345.

(b) If an add-on control device is used, records of key system parameters necessary to ensure compliance with R307-345-6.

(i) Key system parameters shall include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters shall be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for a minimum of 2 years.

(3) Records shall be made available to the director upon request.

**KEY: air pollution, emission controls, fabric coating, vinyl coating**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-346
# Metal Furniture Surface Coatings

## NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41818
FILED: 10/05/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule change is being proposed in response to comments received during the public comment period. The amendment to this rule strengthens the area source coating rules. This amendment will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: A compliance schedule for affected sources was added to Rule R307-346 as a result of public comments. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 114. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of this change because the changes does not change the way the rule impacts the state.

♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of this change because the change does not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: This change would not result in additional costs or savings because the change does not change the way the rule impacts small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by this change because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of this change. The change, the added compliance schedule for affected sources, did not result in additional compliance costs because requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The change to the proposal will have no fiscal impact on any businesses because the changes do not modify any of the existing requirements within the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-346. Metal Furniture Surface Coatings.**
**R307-346-1. Purpose.**

The purpose of this rule is to limit volatile organic compound (VOC) emissions from metal furniture surface coating operations in application areas, flash-off areas, and ovens of metal furniture coating lines involved in prime and top-coat or single coat operations.

**R307-346-2. Applicability.**

~~[R307-346 applies to metal furniture surface coating operations and related cleaning activities that use a combined 20 gallons or more of coating products and associated solvents per year and are located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.~~](1) R307-346 applies to metal furniture surface coating operations located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

(2) Before September 1, 2018, R307-346 applies to metal furniture surface coating operations that have the potential to emit 2.7 tons per year or more of VOC, including related cleaning activities.

(3) Effective September 1, 2018, R307-346 shall apply to metal furniture surface coating operations that use a combined 20 gallons or more of coating products and associated solvents per year.

**R307-346-3. Exemptions.**

(1) The requirements of R307-346 do not apply to the following:
(a) Stencil coatings;
(b) Safety-indicating coatings;
(c) Solid-film lubricants;
(d) Electrical-insulating and thermal-conducting coatings;
(e) Touch-up and repair coatings; or
(f) Coating applications utilizing hand-held aerosol cans.

**R307-346-4. Definitions.**

The following additional definitions apply to R307-346:

"Air dried coating" means coatings that are dried by the use of air or a forced warm air at temperatures up to 194 degrees Fahrenheit.

"Application area" means the area where the coating is applied by spraying, dipping, or flow coating techniques.

"As applied" means the VOC and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.

"Baked coating" means a coating that is cured at a temperature at or above 194 degrees Fahrenheit.

"Extreme performance coatings" means coatings designed for harsh exposure or extreme environmental conditions.

"Metal furniture surface coating" means the surface coating of any furniture made of metal or any metal part that will be assembled with other metal, wood fabric, plastic, or glass parts to form a furniture piece.

**R307-346-5. VOC Content Limits.**

No owner or operator shall apply coatings with a VOC content greater than the amounts specified in Table 1, unless the owner or operator uses an add-on control device as specified in R307-346-7.

TABLE 1

METAL FURNITURE SURFACE COATING VOC LIMITS
(values in pounds of VOC per gallon of coating, minus water and exempt solvents (compounds not classified as VOC as defined in R307-101-2), as applied)

| Coating Category | VOC Content Limits (lb/gal) Baked | Air Dried |
|---|---|---|
| General, One Component | 2.3 | 2.3 |
| General, Multi-Component | 2.3 | 2.8 |
| Extreme High Gloss | 3.0 | 2.8 |
| Extreme Performance | 3.0 | 3.5 |
| Heat Resistant | 3.0 | 3.5 |
| Metallic | 3.5 | 3.5 |
| Pretreatment Coatings | 3.5 | 3.5 |
| Solar Absorbent | 3.0 | 3.5 |

**R307-346-6. Work Practices.**

(1) The owner or operator shall:

(a) Store all VOC-containing coatings, thinners, and cleaning materials in closed containers;

(b) Minimize spills of VOC-containing coatings, thinners, and cleaning materials;

(c) Clean up spills immediately;

(d) Convey any coatings, thinners, and cleaning materials in closed containers or pipes;

(e) Close mixing vessels that contain VOC coatings and other materials except when specifically in use; and

(f) Minimize usage of solvents during cleaning of storage, mixing, and conveying equipment.

(2) No person shall apply any coating unless the coating application method achieves a demonstrated 65% transfer efficiency.

The following applications achieve a minimum of 65% transfer efficiency and shall be operated in accordance with the manufacturers specifications:

(a) Electrostatic application;

(b) Electrodeposition;

(c) Brush coat;

(d) Flow coat;

(e) Roll coat;

(f) Dip coat;

(g) Continuous coating;

(h) High-volume, low-pressure (HVLP) spray; or

(i) Other application method capable of achieving 65% or greater transfer efficiency, as certified by the manufacturer.

(3) Solvent cleaning operations shall be performed using cleaning materials having a VOC composite vapor pressure no greater than 1 mm Hg at 20 degrees Celsius, unless an add-on control device is used as specified in R307-346-7.

**R307-346-7. Add-On Controls Systems Operations.**

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on emission control system in accordance with the manufacturer recommendations and maintain 90% or greater capture and control efficiency. Determination of overall capture and control efficiency shall be determined using EPA approved methods, as follows.

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-346-8. Recordkeeping.**

(1) The owner or operator shall maintain records of the following:

(a) Records that demonstrate compliance with R307-346. Records shall include, but are not limited to, inventory and product data sheets of all coatings and solvents subject to R307-346.

(b) If an add-on control device is used, records of key system parameters necessary to ensure compliance with R307-346-7.

(i) Key system parameters shall include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters shall be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for a minimum of 2 years.

(3) Records shall be made available to the director upon request.

**KEY: air pollution, emission controls, surface coating, metal furniture**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-347
# Large Appliance Surface Coatings

## NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41819
FILED: 10/05/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule change is being proposed in response to comments received during the public comment period. The amendment to this rule strengthens the area source coating rules. This amendment will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: A compliance schedule for affected sources was added to Rule R307-347 as a result of public comments. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 118. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of this change because the change does not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of this change because the change does not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: This change would not result in additional costs or savings because the change does not change the way the rule impacts the small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by this change because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of this change. The change, the added compliance schedule for affected sources, did not result in additional compliance costs because requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The change to the proposal will have no fiscal impact on any businesses because the change does not modify any of the existing requirements within the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-347. Large Appliance Surface Coatings.**
**R307-347-1. Purpose.**

The purpose of this rule is to reduce volatile organic compound (VOC) emissions from large appliance surface coating operations.

**R307-347-2. Applicability.**

[~~(1) R307-347 applies to large appliance surface coating operations and related cleaning activities that use a combined 20 gallons or more of coating products and associated solvents per year and are located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.~~](1) R307-347 applies to large appliance surface coating operations located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

(2) Before September 1, 2018, R307-347 applies to large appliance surface coating operations that have the potential to emit 2.7 tons per year or more of VOC, including related cleaning activities.

(3) Effective September 1, 2018, R307-347 shall apply to large appliance surface coating operations that use a combined 20 gallons or more of coating products and associated solvents per year.

**R307-347-3. Exemptions.**

(1) The requirements of R307-347 do not apply to the following:
(a) Stencil coatings;
(b) Safety-indicating coatings;
(c) Solid-film lubricants;
(d) Electric-insulating and thermal-conducting coatings;
(e) Touch-up and repair coatings; or
(f) Coating applications utilizing hand-held aerosol cans.

**R307-347-4. Definitions.**

The following additional definitions apply to R307-347:

"Air dried coating" means coatings that are dried by the use of air or a forced warm air at temperatures up to 194 degrees Fahrenheit.

"As applied" means the VOC and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.

"Baked coating" means a coating that is cured at a temperature at or above 198 degrees Fahrenheit.

"Extreme performance coatings" means coatings designed for harsh exposure or extreme environmental conditions.

"Large appliance" means doors, cases, lids, panels, and interior support parts of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners, and other similar products.

**R307-347-5. VOC Content Limits.**

No owner or operator shall apply coatings with a VOC content greater than the amounts specified in Table 1, unless the owner or operator uses an add-on control device as specified in R307-347-7.

TABLE 1

Large Appliance Surface Coating Limitations
(values in pounds VOC per gallon of coating, minus water and exempt solvents(compounds not classified as VOC as defined in R307-101-2), as applied)

| Coating Category | VOC Content Limits (lb/gal) | |
|---|---|---|
| | Baked | Air Dried |
| General, one component | 2.3 | 2.3 |
| General, multi-component | 2.3 | 2.8 |
| Extreme high gloss | 3.0 | 2.8 |
| Extreme performance | 3.0 | 3.5 |
| Heat resistance | 3.0 | 3.5 |
| Solar absorbent | 3.0 | 3.5 |
| Metallic | 3.5 | 3.5 |
| Pretreatment coatings | 3.5 | 3.5 |

**R307-347-6. Work Practices.**

(1) The owner or operator shall:

(a) Store all VOC-containing coatings, thinners, and cleaning materials in closed containers;

(b) Minimize spills of VOC-containing coatings, thinners, and cleaning materials;

(c) Clean up spills immediately;

(d) Convey any coatings, thinners, and cleaning materials in closed containers or pipes;

(e) Close mixing vessels that contain VOC coatings and other materials except when specifically in use; and

(f) Minimize usage of solvents during cleaning of storage, mixing, and conveying equipment.

(2) No person shall apply any coating unless the coating application method achieves a 65% or greater transfer efficiency. The following applications achieve a minimum of 65% transfer efficiency and shall be operated in accordance with the manufacturers specifications:

(a) Electrostatic application;

(b) Electrodeposition;

(c) Brush coat;

(d) Flow coat;

(e) Roll coat;

(f) Dip coat;

(g) High-volume, low-pressure (HVLP) spray; or

(h) Other application method capable of achieving 65% or greater transfer efficiency, as certified by the manufacturer.

(3) Solvent cleaning operations shall be performed using cleaning materials having a VOC composite vapor pressure no greater than 1 mm Hg at 20 degrees Celsius, unless an add-on control device is used as specified in R307-347-7.

**R307-347-7. Add-On Controls Systems Operations.**

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on emission control system in accordance with the manufacturer recommendations and maintain 90% or greater capture and control efficiency. The overall capture and control efficiency shall be determined using EPA approved methods, as follows.

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-347-8. Recordkeeping.**

(1) The owner or operator shall maintain records of the following:

(a) Records that demonstrate compliance with R307-347. Records shall include, but are not limited to, inventory and product data sheets of all coatings and solvents subject to R307-347.

(b) If an add-on control device is used, records of key system parameters necessary to ensure compliance with R307-347-7.

(i) Key system parameters shall include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters shall be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for a minimum of 2 years.

(3) Records shall be made available to the director upon request.

**KEY: air pollution, emission controls, large appliances, surface coating[s]**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-348
## Magnet Wire Coatings

### NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41826
FILED: 10/05/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule changes are being proposed in response to comments received during the public comment period. The amendments to this rule strengthen the area source coating rules. These amendments will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: Two changes were made in Rule R307-348 as a result of public comments. These changes include adding clarification that operations covered by Department of Defense military technical data and performed by the United States Armed Forces are exempt from Rule R307-348; and adding work practice for solvent cleaning operations. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 121. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of these changes because the changes do not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of these changes because the changes do not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: These changes would not result in additional costs or savings to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by these changes because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of these changes. The changes, the exemption for operations covered by Department of Defense military technical data and performed by the United States Armed Forces, and work practice for solvent cleaning operations, do not result in additional compliance costs because the requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes will have no fiscal impact on any businesses because the changes do not modify any of the existing requirements within in the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-348. Magnet Wire Coatings.**
**R307-348-1. Purpose.**

The purpose of this rule is to limit volatile organic compound (VOC) emissions from magnet wire coating operations.

**R307-348-2. Applicability.**

R307-348 applies to sources that emit 2 tons per year or more of VOC emissions, including related cleaning activities, that are located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah or Weber counties. Operations that are exclusively covered by Department of Defense military technical data and performed by the United States Armed Forces are exempt from the requirements of R307-348.

**R307-348-3. Definitions.**

The following additional definition applies to R307-348:

"Magnet wire coating" means the process of applying coating of electrical insulating varnish or enamel to aluminum or copper wire for use in electrical machinery.

**R307-348-4. VOC Content Limit.**

No owner or operator shall apply coatings with a VOC content greater than 200 grams VOC per liter (1.7 pounds per gallon), excluding water, and exempt solvents (compounds not classified as VOCs as defined in R307-101-2), unless the owner or operator uses an add-on control device as specified in R307-348-6.

**R307-348-5. Work Practices.**

(1) The owner or operator shall:

(a) Store all VOC-containing coatings and cleaning materials in closed containers;

(b) Minimize spills of VOC-containing coatings and cleaning materials;

(c) Clean up spills immediately;

(d) Convey any coatings, thinners, and cleaning materials in closed containers or pipes;

(e) Close mixing vessels that contain VOC coatings and other materials except when specifically in use; and

(f) Minimize usage of solvents during cleaning of storage, mixing, and conveying equipment.

(2) Solvent cleaning operations shall be performed using cleaning materials having a VOC composite vapor pressure no greater than 1 mm Hg at 20 degrees Celsius, unless an add-on control device is used as specified in R307-348-6.

**R307-348-6. Add-On Control Systems Operations.**

(1) If an add-on control system is used it must be installed, operated, and maintained in accordance with manufacturer recommendations.

(a) An add-on control device must have a 90% or greater capture and control efficiency rating. Efficiency must be determined using EPA approved methods as follows:

(i) Capture efficiency must be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 C.F.R. Parts 51, Appendix M, Methods 204-204F, as applicable.

(ii) Control efficiency must be determined using test methods in Appendices A-1, A-6, and A-7 to 40 C.F.R. Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(iii) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-348-7. Recordkeeping.**

(1) The owner or operator shall maintain records of the following:

(a) Records that demonstrate compliance with R307-348. Records must include, but are not limited to, inventory and product data sheets of all coatings and solvents subject to R307-348.

(b) If an add-on control device is used, records of key system parameters necessary to ensure compliance with R307-348-6.

(i) Key system parameters include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters must be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records must be maintained for a minimum of 2 years.

(3) Records must be made available to the director upon request.

**KEY: air pollution, emission controls, surface coating[s], magnet wires**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-349
## Flat Wood Panel Coatings

**NOTICE OF CHANGE IN PROPOSED RULE**
DAR FILE NO.: 41820
FILED: 10/05/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule change is being proposed in response to comments received during the public comment period. The amendment to this rule strengthens the area source coating rules. This amendment will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: A compliance schedule for affected sources was added to Rule R307-349 as a result of public comments. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 123. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of this change because the change does not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of this change because the change does not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: This change does not result in additional costs or savings because the change did not change the way the rule impacts small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by this change because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of this change. The change, the added compliance schedule for affected sources, did not result in additional compliance costs because requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The change to the proposal will have no fiscal impact on any businesses because the change does not modify any of the existing requirements within the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-349. Flat Wood Paneling Coatings.**
**R307-349-1. Purpose.**

The purpose of R307-349 is to limit volatile organic compound (VOC) emissions from flat wood paneling coating sources.

**R307-349-2. Applicability.**

[~~R307-349 applies to flat wood panel coating operations and related cleaning activities that use a combined 20 gallons or more of coating products and associated solvents per year and are located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.~~]

(1) R307-349 applies to flat wood paneling coating operations located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

(2) Before September 1, 2018, R307-349 applies to flat wood paneling coating operations that have the potential to emit 2.7 tons per year or more of VOC, including related cleaning activities.

(3) Effective September 1, 2018, R307-349 shall apply to flat wood paneling coating operations that use a combined 20 gallons or more of coating products and associated solvents per year.

**R307-349-3. Definitions.**

The following additional definitions apply to R307-349:

"As applied" means the VOC and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.

"Finishing material" means a coating used in the flat wood panel industry, including basecoats, stains, washcoats, sealers, and topcoats.

"Flat wood paneling" means wood paneling products that are any decorative interior, exterior or tileboard (class I hardboard) panel to which a protective, decorative, or functional material or layer has been applied.

"Strippable booth coating" means a coating that is applied to a booth wall to provide a protective film to receive overspray during finishing and that is subsequently peeled and disposed. Strippable booth coatings are intended to reduce or eliminate the need to use organic solvents to clean booth walls.

**R307-349-4. VOC Content Limit.**

(1) No owner or operator shall apply coatings with a VOC content greater than 2.1 pounds of VOC per gallon, excluding water and exempt solvents (compounds not classified as VOC as defined in R307-101-2), unless an add-on control device is used as specified in R307-349-6.

(2) No owner or operator shall use a strippable booth coating with a VOC content greater than 3.8 pounds VOC per gallon, excluding water and exempt solvents (compounds that are not defined as VOC), unless an add-on control device is used as specified in R307-349-6.

**R307-349-5. Work Practice.**

(1) The owner or operator shall:

(a) Store all VOC-containing coatings, thinners, and cleaning materials in closed containers;

(b) Minimize spills of VOC-containing coatings, thinners, and cleaning materials;

(c) Clean up spills immediately;

(d) Convey any coatings, thinners, and cleaning materials in closed containers or pipes;

(e) Close mixing vessels that contain VOC coatings and other materials except when specifically in use; and

(f) Minimize usage of solvents during cleaning of storage, mixing, and conveying of equipment.

(2) No person shall apply any coating unless the coating application method achieves a demonstrated 65% transfer efficiency.

The following applications achieve a minimum of 65% transfer efficiency and shall be operated in accordance with the manufacturers specifications:

(a) Paint brush;

(b) Flow coat;

(c) Roll coat;

(d) Dip coat;

(e) Detailing or touch-up guns;

(e) High-volume, low-pressure (HVLP) spray;

(f) Hand application methods; or

(g) Other application method capable of achieving 65% or greater transfer efficiency, as certified by the manufacturer.

(3) No owner or operator shall perform solvent cleaning operations using materials with a VOC composite vapor pressure greater than 1 mm Hg at 20 degrees Celsius, unless an add-on control device is used as specified in R307-349-6.

**R307-349-6. Add-On Controls Systems Operations.**

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on emission control system in accordance with the manufacturer recommendations and maintain 90% or greater capture and control efficiency. The overall capture and control efficiency shall be determined using EPA approved methods, as follows.

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-349-7. Recordkeeping.**

(1) The owner or operator shall maintain records of the following:

(a) Records that demonstrate compliance with R307-349. Records shall include, but are not limited to, inventory and product data sheets of all coatings and solvents subject to R307-349.

(b) If an add-on control device is used, records of key system parameters necessary to ensure compliance with R307-349-6.

(i) Key system parameters shall include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters shall be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for a minimum of 2 years.

(3) Records shall be made available to the director upon request.

**KEY: air pollution, emission controls, flat wood paneling, coatings**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1) (a)**

# Environmental Quality, Air Quality
# R307-350
# Miscellaneous Metal Parts and Products Coatings

**NOTICE OF CHANGE IN PROPOSED RULE**
DAR FILE NO.: 41821
FILED: 10/05/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule changes are being proposed in response to comments received during the public comment period. The amendments to this rule strengthen the area source coating rules. These amendments will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: Several changes were made throughout Rule R307-350 as a result of public comments. These changes include adding a compliance schedule for affected sources, adding definitions, adding an exemption for medical devices, and adding clarifying language throughout the rule. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 126. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of these changes because the changes do not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of these changes because the changes do not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: The extension of the exemption for medical devices may lead to savings for small businesses; however, it is difficult to determine the amount of the savings to be realized. The other changes would not result in additional costs because the changes simply clarify the purpose of the rule.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by these changes because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of these changes. The changes (the added compliance schedule for affected sources, added definitions, added exemption for medical devices, and added clarifying language) do not result in additional compliance costs because the requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The extension of the exemption for medical devices may lead to savings for businesses; however, it is difficult to determine the amount of the savings to be realized. The other changes will have no fiscal impact on any businesses because the changes do not modify any of the existing requirements within the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-350. Miscellaneous Metal Parts and Products Coatings.**
**R307-350-1. Purpose.**

The purpose of R307-350 is to limit volatile organic compound (VOC) emissions from miscellaneous metal parts and products coating operations.

**R307-350-2. Applicability.**

[~~(1) R307-350 applies to miscellaneous metal parts and products coating operations and related cleaning activities that use a combined 20 gallons or more of coating products and associated solvents per year and are located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.~~](1) R307-350 applies to miscellaneous metal parts and products coating operations located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

(2) Before September 1, 2018, R307-350 applies to miscellaneous metal parts and products coating operations that have the potential to emit 2.7 tons per year or more of VOC, including related cleaning activities.

(3) Effective September 1, 2018, R307-350 shall apply to miscellaneous metal parts and products coating operations that use a combined 20 gallons or more of coating products and associated solvents per year.

([~~2~~]4) R307-350 applies to, but is not limited to, the following:

(a) Large farm machinery (harvesting, fertilizing, planting, tractors, combines, etc.);

(b) Small farm machinery (lawn and garden tractors, lawn mowers, rototillers, etc.)

(c) Small appliance (fans, mixers, blenders, crock pots, vacuum cleaners, etc.);

(d) Commercial machinery (computers, typewriters, calculators, vending machines, etc.);

(e) Industrial machinery (pumps, compressors, conveyor components, fans, blowers, transformers, etc.);

(f) Fabricated metal products (metal covered doors, frames, trailer frames, etc.); and

(g) Any other industrial category that coats metal parts or products under the standard Industrial Classification Code of major group 33 (primary metal industries), major group 34 (fabricated metal products), major group 35 (nonelectric machinery), major group 36 (electrical machinery), major group 37 (transportation equipment) major group 38 (miscellaneous instruments), and major group 39 (miscellaneous manufacturing industries).

**R307-350-3. Exemptions.**

(1) The requirements of R307-350 do not apply to the following:

(a) The surface coating of automobiles [~~regulated under R307-354~~]subject to R307-354 and light-duty trucks;

(b) Flat metal sheets and strips in the form of rolls or coils;

(c) Surface coating of aerospace vehicles and components [~~regulated under R307-355~~]subject to R307-355;

(d) The exterior of marine vessels;

(e) Customized top coating of automobiles and trucks if production is less than 35 vehicles per day;

(f) Military munitions manufactured by or for the Armed Forces of the United States;

(g) Operations that are exclusively covered by Department of Defense military technical data and performed by a Department of Defense contractor and/or on site at installations owned and/or operated by the United States Armed Forces; [~~or~~]

(h) Stripping of cured coatings and adhesives;

(i) Canned aerosol coating products [~~up to 22 fl. oz. used exclusively for touch-up and repairs.~~];

(j) Research and development, quality control, or performance testing activities; or

(k) The provisions of R307-350 shall not apply to coating products on medical devices up to 800 pounds of VOC per year.

(2) The requirements of R307-350-5 do not apply to the following:

(a) Stencil and hand lettering coatings;

(b) Safety-indicating coatings;

(c) Solid-film lubricants;

(d) Electric-insulating and thermal-conducting coatings;

(e) Magnetic data storage disk coatings; or

(f) Plastic extruded onto metal parts to form a coating.

(3) The requirements of R307-350-6 do not apply to the following:

(a) Touch-up coatings;

(b) Repair coatings; or

(c) Textured finishes.

**R307-350-4. Definitions.**

The following additional definitions apply to R307-350:

"Aerospace vehicles and components" [~~means any fabricated part, processed part, assembly of parts, or completed unit, with the exception of electronic components, of any aircraft including but not limited to airplanes, helicopters, missiles, rockets and space vehicles.~~]is defined in R307-355.

"Air dried coating" means coatings that are dried by the use of air or forced warm air at temperatures up to 194 degrees Fahrenheit.

"As applied" means the VOC and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.

"Baked coating" means coatings that are cured at a temperature at or above 194 degrees Fahrenheit.

"Camouflage coating" means coatings that are used, principally by the military, to conceal equipment from detection.

"Cured coating or adhesive" means a coating or adhesive, which is dry to the touch.

"Department of Defense military technical data" means a specification that specifies design requirements, such as materials to be used, how a requirement is to be achieved, or how an item is to be fabricated or constructed.

"Dip coating" means a method of applying coatings to a substrate by submersion into and removal from a coating bath.

"Electric-insulating varnish" means a non-convertible-type coating applied to electric motors, components of electric motors, or power transformers, to provide electrical, mechanical, and environmental protection or resistance.

"Electric-insulating and thermal-conducting" means a coating that is characterized as having an electrical insulation of at least 1000 volts DC per mil on a flat test plate and an average thermal conductivity of at least 0.27 BTU per hour-foot-degree-Fahrenheit.

"Electrostatic application" means a method of applying coating particles or coating droplets to a grounded substrate by electrically charging them.

"Etching filler" mean a coating that contains less than 23% solids by weight and at least 0.5% acid by weight, and is used instead of applying a pretreatment coating followed by a primer.

"Extreme high-gloss coating" means a coating which, when tested by the American Society for Testing Material (ASTM) Test Method D-523 adopted in 1980, shows a reflectance of 75 or more on a 60 degree meter.

"Extreme performance coatings" means coatings designed for harsh exposure or extreme environmental conditions.

"Flow coat" means a non-atomized technique of applying coatings to a substrate with a fluid nozzle in a fan pattern with no air supplied to the nozzle.

"Hand lettering" means an application method utilizing small paint markers, paint brush, or other similar appliance that is administered by hand application equipment to add identification letters, numbers, or markings on a substrate.

"Heat-resistant coating" means a coating that must withstand a temperature of at least 400 degrees Fahrenheit during normal use.

"High-performance architectural coating" means a coating used to protect architectural subsections and which meets the requirements of the Architectural Aluminum Manufacturer Association's publication number AAMA 605.2-1980.

"High-temperature coating" means a coating that is certified to withstand a temperature of 1,000 degrees Fahrenheit for 24 hours.

"High-volume, low-pressure (HVLP) spray" means a coating application system which is designed to be operated and which is operated between 0.1 and 10 pounds per square inch gauge (psig) air pressure, measured dynamically at the center of the air cap and the air horns.

"Magnetic data storage disk coating" means a coating used on a metal disk which stores data magnetically.

"Medical device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar article including any component or accessory, that is intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment, or prevention of disease, or is intended to affect the structure or any function of the body. For the purpose of this rule, a medical device shall also include associated manufacturing or assembly apparatus.

"Metallic coating" means a coating which contains more than 5 grams of metal particles per liter of coating, as applied.

"Military specification coating" means a coating applied to metal parts and products and which has a formulation approved by a United States military agency for use on military equipment.

"Mold-seal coating" means the initial coating applied to a new mold or repaired mold to provide a smooth surface which, when coated with a mold release coating, prevents products from sticking to the mold.

"Multi-component coating" means a coating requiring the addition of a separate reactive resin, commonly known as a catalyst or hardener, before application to form an acceptable dry film.

"One-component coating" means a coating that is ready for application as it comes out of its container to form an acceptable dry film. A thinner, necessary to reduce the viscosity of the coating, is not considered a component.

"Pan backing coating" means a coating applied to the surface of pots, pans, or other cooking implements that are exposed directly to a flame or other heating elements.

"Prefabricated architectural component coatings" means coatings applied to metal parts and products that are to be used as an architectural structure or their appurtenances including, but not limited to, hand railings, cabinets, bathroom and kitchen fixtures, fences, rain-gutters and down-spouts, window screens, lamp-posts, heating and air conditioning equipment, other mechanical equipment, and large fixed stationary tools.

"Pretreatment coating" means a coating which contains no more than 12% solids by weight, and at least 0.5% acid, by weight, is used to provide surface etching, and is applied directly to metal surfaces to provide corrosion resistance, adhesion, and ease of stripping.

"Primer" means a coating applied to a surface to provide a firm bond between the substrate and subsequent coats.

"Repair coating" means a coating used to recoat portions of a part or product which has sustained mechanical damage to the coating.

"Safety-indicating coating" means a coating which changes physical characteristics, such as color, to indicate unsafe condition.

"Silicone release coating" means any coating which contains silicone resin and is intended to prevent food from sticking to metal surfaces.

"Solar-absorbent coating" means a coating which has as its prime purpose the absorption of solar radiation.

"Solid-film lubricant" means a very thin coating consisting of a binder system containing as its chief pigment material one or more of molybdenum disulfide, graphite, polytetrafluoroethylene (PTEF) or other solids that act as a dry lubricant between faying surfaces.

"Stencil [~~and hand lettering~~ ]coating" means an ink or a coating which is rolled or brushed onto a template or stamp in order to add identifying letters, [~~or~~] numbers, or markings to metal parts and products.

"Textured finish" means a rough surface produced by spraying and splattering large drops of coating onto a previously applied coating. The coatings used to form the appearance of the textured finish are referred to as textured coatings.

"Repair and touch-up coating" means a coating used to cover minor coating imperfections appearing after the main coating operation.

"Vacuum-metalizing coating" means the undercoat applied to the substrate on which the metal is deposited or the overcoat applied directly to a metal film.

**R307-350-5. VOC Content Limits.**

(1) No owner or operator shall apply coatings with a VOC content greater than the amounts specified in Table 1, unless the owner or operator uses an add-on control device as specified in R307-350-8.

TABLE 1

METAL PARTS AND PRODUCTS VOC CONTENT LIMITS
(values in pounds of VOC per gallon of coating, minus water and exempt solvents (compounds not classified as VOC as defined in R307-101-2), as applied)

| Coating Category | VOC Content Limits (lb/gal) Air Dried | Baked |
|---|---|---|
| General One Component | 2.8 | 2.3 |
| General Multi Component | 2.8 | 2.3 |
| Camouflage | 3.5 | 3.5 |
| Electric-Insulating varnish | 3.5 | 3.5 |
| Etching Filler | 3.5 | 3.5 |
| Extreme High-Gloss | 3.5 | 3.0 |
| Extreme Performance | 3.5 | 3.0 |
| Heat-Resistant | 3.5 | 3.0 |
| High-Performance architectural | 6.2 | 6.2 |
| High-Temperature | 3.5 | 3.5 |
| Metallic | 3.5 | 3.5 |
| Military Specification | 2.8 | 2.3 |
| Mold-Seal | 3.5 | 3.5 |
| Pan Backing | 3.5 | 3.5 |
| Prefabricated Architectural Multi-Component | 3.5 | 2.3 |
| Prefabricated Architectural One-Component | 3.5 | 2.3 |
| Pretreatment Coatings | 3.5 | 3.5 |
| Repair and Touch Up | 3.5 | 3.0 |
| Silicone Release | 3.5 | 3.5 |
| Solar-Absorbent | 3.5 | 3.0 |
| Vacuum-Metalizing | 3.5 | 3.5 |

| | | |
|---|---|---|
| Drum Coating, New, Exterior | 2.8 | 2.8 |
| Drum Coating, New, Interior | 3.5 | 3.5 |
| Drum Coating, Reconditioned, Exterior | 3.5 | 3.5 |
| Drum Coating, Reconditioned, Interior | 4.2 | 4.2 |

(2) If more than one content limit indicated in this section applies to a specific coating, then the most stringent content limit shall apply.

**R307-350-6. Application Methods.**

No owner or operator shall apply VOC containing coatings to metal parts and products unless the coating is applied with equipment operated according to the equipment manufacturer specifications, and by the use of one of the following methods:

(1) Electrostatic application;

(2) Flow coat;

(3) Dip/electrodeposition coat;

(4) Roll coat;

(5) Hand Application Methods;

(6) High-volume, low-pressure (HVLP) spray; or

(7) Another application method capable of achieving 65% or greater transfer efficiency equivalent or better to HVLP spray, as certified by the manufacturer.

**R307-350-7. Work Practices.**

(1) Control techniques and work practices shall be implemented at all times to reduce VOC emissions. Control techniques and work practices shall include:

(a) Storing all VOC-containing coatings, thinners, and coating-related waste materials in closed containers, containers with activated carbon or other control method approved by the EPA Administrator;

(b) Ensuring that mixing and storage containers used for VOC-containing coatings, thinners, and coating-related waste material are kept closed at all times except when depositing or removing these materials, unless a container has activated carbon or other control method approved by the EPA Administrator;

(c) Minimizing spills of VOC-containing coatings, thinners, and coating-related waste materials; and

(d) Conveying VOC-containing coatings, thinners, and coating-related waste materials from one location to another in closed containers, containers with activated carbon or other control method approved by the EPA Administrator, or pipes; and

(e) Minimizing VOC emission from cleaning of application, storage, mixing, and conveying equipment by ensuring that equipment cleaning is performed without atomizing the cleaning solvent and all spent solvent is captured in closed containers.

(2) Solvent cleaning operations shall be performed using cleaning materials having a VOC composite vapor pressure no greater than 1 mm Hg at 20 degrees Celsius, unless an add-on control device is used as specified in R307-350-8.

**R307-350-8. Add-On Controls Systems Operations.**

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on emission control system in accordance with the manufacturer recommendations and maintain 90% or greater capture and control efficiency. The overall capture and control efficiency shall be determined using EPA approved methods, as follows.

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-350-9. Recordkeeping.**

(1) The owner or operator shall maintain records of the following:

(a) Records that demonstrate compliance with R307-350. Records shall include, but are not limited to, inventory and product data sheets of all coatings and solvents subject to R307-350.

(b) If an add-on control device is used, records of key system parameters necessary to ensure compliance with R307-350-8.

(i) Key system parameters shall include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters shall be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for a minimum of 2 years.

(3) Records shall be made available to the director upon request.

**KEY: air pollution, emission controls, coatings, miscellaneous metal parts**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-351
## Graphic Arts

### NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41825
FILED: 10/05/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule changes are being proposed in response to comments received during the public comment period. The amendments to this rule strengthen the area source coating rules. These amendments will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: Several changes were made throughout Rule R307-351 as a result of public comments. These changes include adding a compliance schedule for affected sources, adding a definition for medical device, adding an exemption for medical devices and their packaging, and adding clarifying language throughout the rule. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 132. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of these changes because the changes do not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of these changes because the changes do not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: The extension of the exemption for medical devices and their packaging may lead to savings for small businesses; however, it is difficult to determine the amount of the savings to be realized. The other changes would not result in additional costs.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by these changes because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of these changes. The changes, the added compliance schedule for affected sources, added definition for medical device, added exemption for medical devices and their packaging, and clarifying language, do not result in additional compliance costs because the requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The extension of the exemption for medical devices and their packaging may lead to savings for businesses; however, it is difficult to determine the amount of the savings to be realized. The other changes will have no fiscal impact on any businesses because the changes do not modify any of the existing requirements within the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-351. Graphic Arts.**
**R307-351-1. Purpose.**

The purpose of R307-351 is to limit volatile organic compound (VOC) emissions from graphic arts printing operations.

**R307-351-2. Applicability.**

[~~R307-351 applies to graphic arts printing operations that use a combined 450 gallons or more of all VOC-containing materials per year and are located in Box Elder, Cache, Davis, Salt Lake, Utah, Tooele, or Weber counties.~~](1) R307-351 applies to graphic arts printing operations located in Box Elder, Cache, Davis, Salt Lake, Utah, Tooele and Weber counties.

(2) Before September 1, 2018, R307-351 applies to graphic arts printing operations that emit 2.7 tons or greater per year of VOC emissions.

(3) Effective September 1, 2018, R307-351 shall apply to graphic arts printing operations that use a combined 450 gallons or more of all VOC-containing materials per year.

**R307-351-3. Exemptions.**

(1) The provisions of R307-351 shall not apply to graphic arts materials that have a VOC content of less than 25 g/L , minus water and exempt VOCs, as applied.

(2) A graphic arts printing operation may use up to 55 gallons of cleaning materials per year that do not comply with the VOC composite vapor pressure requirement or the VOC content requirement in R307-351-5(4).

(3) The provisions of R307-351 shall not apply to medical devices and their packaging.

**R307-351-4. Definitions.**

The following additional definitions apply to R307-351:

"Alcohol" means any of the following compounds, when used as a fountain solution additive for offset lithographic printing: ethanol, n-propanol, and isopropanol.

"Alcohol Substitute" means a non-alcohol additive that contains VOCs and is used in the fountain solution.

"Cleaning materials and solutions" means a liquid solvent or solution used to clean the operating surfaces of a printing press and its parts. Cleaning materials and solutions include, but are not limited to blanket wash, roller wash, metering roller cleaner, plate cleaner, impression cylinder washes, rubber rejuvenators, and other cleaners

used for cleaning a press, press parts, or to remove dried ink or coating from areas around the press.

"Blanket" means a synthetic rubber material that is wrapped around a cylinder used in offset lithography to transfer or "offset" an image from an image carrier.

"Control system" means the combination of capture and control devices used to reduce emissions to the atmosphere.

"Flexographic printing" means the application of words, designs, and pictures to substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

"Fountain solution" means a mixture of water and other volatile and non-volatile chemicals and additives that wets the non-image area of a lithographic printing plate so that the ink is maintained within the image areas.

"Graphic arts materials" means any inks, coatings, or adhesives, including added thinners or retarders, used in printing or related coating or laminating processes.

"Graphic arts printing" means the application of words and images using the offset lithographic, letterpress, rotogravure, or flexographic printing process.

"Heatset" means an offset lithographic printing or letterpress printing operation in which the ink solvents are vaporized by passing the printed surface through a dryer.

"Letterpress printing" means a method where the image area is raised relative to the non-image area and the ink is transferred to the substrate directly from the image surface.

"Non-heatset", also called coldset, means an offset lithographic printing or letterpress printing operation in which the ink dries by oxidation and/or absorption into the substrate without use of heat from dryers. For the purposes of this rule, use of an infrared heater or printing conducted using ultraviolet-cured or electron beam-cured inks is considered non-heatset.

"Medical device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar article including any component or accessory, that is intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment, or prevention of disease, or is intended to affect the structure or any function of the body. For the purpose of this rule, a medical device shall also include associated manufacturing or assembly apparatus.

"Offset lithographic printing" means a plane-o-graphic method in which the image and non-image areas are on the same plane and the ink is offset from a plate to a rubber blanket, and then from the blanket to the substrate.

"Printing operation" means the application of words, designs, or pictures on a substrate. All units in a machine which have both coating and printing units shall be considered as performing a printing operation.

"Rotogravure printing" means the application of words, designs, and pictures to a substrate by means of a roll printing technique that involves a recessed image area in the form of cells.

"Web" means a continuous roll of substrate.

**R307-351-5. VOC Content Limits.**

(1) No owner or operator shall apply graphic arts materials with a VOC content greater than the amounts specified in Table 1 or Table 2, unless the owner or operator uses an add-on control device as specified in R307-351-6.

TABLE 1

VOC Limits
(values in gram of VOC per liter, minus water and exempt solvents (compounds not classified as VOC as defined in R307-101-2)

| Graphic Art Material | VOC Limit (g/L) |
|---|---|
| Adhesive | 150 |
| Coating | 300 |
| Flexographic Fluorescent Ink | 300 |
| Flexographic Ink-Non-Porous Substrate | 300 |
| Flexographic Ink-Porous Substrate | 225 |
| Gravure Ink | 300 |
| Letterpress Ink | 300 |
| Offset Lithographic Ink | 300 |
| Heatset Web Offset Litographic ink | 300 |
| Heatset Web Offset Lithographic Ink: | |
| Used on Book Presses and Presses Less Than 22 Inches in Diameter | 400 |
| Used on Presses With Potential to Emit Less Than 10 Tons/Year | 400 |

(2) No owner or operator shall apply fountain solution, including additives with a VOC content greater than the amounts specified in Table 2, unless the owner or operator uses an add-on control device as specified in R307-351-6.

TABLE 2

VOC Limits
(values in gram of VOC per liter, minus water and exempt solvents (compounds not classified as VOC as defined in R307-101-2), as applied

| Graphic Art Material | VOC Limit (g/L) |
|---|---|
| Heatset Web-Fed | |
| Alcohol without Refrigerated Chiller | 16 |
| Alcohol with Refrigerated Chiller | 30 |
| Alcohol Substitute | 50 |
| Sheet-Fed | |
| Alcohol without Refrigerated Chiller | 50 |
| Alcohol with Refrigerated Chiller | 85 |
| Alcohol Substitute | 50 |
| Non-Heatset Web-Fed | |
| All Alcohol Substitutes | 50 |

(3) Alcohol containing fountain solutions shall not be used in non-heatset web-fed operations.

(4) Cleaning materials with a VOC composite vapor pressure of less than 10 mm Hg at 68 degrees Fahrenheit or cleaning materials containing less than 50 percent VOC by weight shall be used.

**R307-351-6. Add-on Controls Systems Operations.**

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on emission control system in accordance with the manufacturer recommendations.

(a) Control devices for individual heatset web offset lithographic printing presses and individual heatset web letterpress printing press dryers that were installed prior to January 1, 2017, must maintain a 90% or greater control efficiency. Similar control devices installed after January 1, 2017, must maintain a 95% or greater control efficiency.

(b) Control devices for individual flexographic printing presses and individual rotogravure printing presses shall comply with a 90% or greater overall control efficiency.

(c) As an alternative to the control efficiency, the control device outlet concentration may be reduced to 20 ppmv as hexane on a dry basis to accommodate situations where the inlet VOC concentration is low or there is no identifiable measurable inlet. The control outlet concentration shall be determined using EPA Method 25A.

(d) The capture efficiency of a VOC emission control system's VOC collection device for flexographic and rotogravure presses shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(e) The capture efficiency of a VOC emission control system's VOC collection device for a heatset web offset press shall be determined by demonstrating that the airflow in the dryer is negative to the surrounding pressroom during the initial test using an air flow direction indicator, such as a smoke stick or aluminum ribbons, or differential pressure gauge.

(f) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(g) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-351-7. Work Practices.**

(1) Control techniques and work practices shall be implemented at all times to reduce VOC emissions. Control techniques and work practices include:

(a) Keeping cleaning materials, used shop towels, and solvent wiping cloths in closed containers; and

(b) Minimizing spills of VOC-containing cleaning materials.

**R307-351-8. Recordkeeping.**

(1) The owner or operator shall maintain records of the following:

(a) Records that demonstrate compliance with R307-351. Records must include, but are not limited to, inventory and product data sheets of all graphic arts materials and cleaning solutions subject to R307-351.

(b) If an add-on control device is used, records of key system parameters necessary to ensure compliance with R307-351-6. Key system parameters include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule. Key inspection parameters shall be in accordance with the manufacturer's recommendations, and as required to demonstrate that operations provide continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for a minimum of 2 years.

(3) Records shall be made available to the director upon request.

**KEY: air pollution, graphic arts, VOC, printing operations**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-352
# Metal Container, Closure, and Coil Coatings

## NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41822
FILED: 10/05/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule changes are being proposed in response to comments received during the public comment period. The amendments to this rule strengthen the area source coating rules. These amendments will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: Several changes were made throughout Rule R307-352 as a result of public comments. These changes include adding a compliance schedule for affected sources, adding a definition for Aerosol coating product, and adding an exemption for operations that use aerosol coating products. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 138. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of these changes because the changes do not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of these changes because the changes do not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: The extension of the exemption for aerosol coating product may lead to savings to small businesses; however, it is difficult to determine the amount of

the savings to be realized. The other changes would not result in additional costs or savings because the changes simply clarify the purpose of the rule.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by these changes because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of these changes. The changes (the added compliance schedule for affected sources, added a definition for Aerosol coating product, and added exemption for operations that use aerosol coating products) do not result in additional compliance costs because the requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The new exemption for aerosol coating product may lead to a savings to businesses; however, it is difficult to determine the amount of the savings to be realized. The other changes would not result in additional costs because the changes simply clarify the purpose of the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-352. Metal Container, Closure, and Coil Coatings.**
**R307-352-1. Purpose.**

The purpose of this rule is to reduce volatile organic compound (VOC) emissions from the coating of metal containers, closures and coils in the manufacturing or reconditioning process.

**R307-352-2. Applicability.**

[~~R307-352 applies to metal container, closure and coil coating operations and related cleaning activities that use a combined 20 gallons or more of coating products and associated solvents per year and are located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.~~](1) R307-352 applies to metal containers, closure and coil coating operations located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

(2) Before September 1, 2018, R307-352 applies to metal containers, closure and coil coating operations that have the potential to emit 2.7 tons per year or more of VOC, including related cleaning activities.

(3) Effective September 1, 2018, R307-352 shall apply to metal containers, closure and coil coating operations that use a combined 20 gallons or more of coating products and associated solvents per year.

**R307-352-3. Definitions.**

The following additional definitions apply to R307-352:

"Aerosol coating product" means a pressurized spray system that dispenses product ingredients by means of a propellant or mechanically induced force but does not include pump sprays.

"As applied" means the volatile organic compound and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.

"End sealing compound" means a compound which is coated onto can ends and which functions as a gasket when the end is assembled onto the can.

"Exterior body spray" means a coating sprayed on the exterior of the container body to provide a decorative or protective finish.

"Interior body spray" means a coating sprayed on the interior of the container body to provide a protective film between the product and the can.

"Metal container or closure coating" means any coating applied to either the interior or exterior of formed metal cans, pails, lids or crowns or flat metal sheets which are intended to be formed into cans, pails, lids or crowns.

"Overvarnish" means a coating applied directly over a design coating to reduce the coefficient of friction, to provide gloss, and to protect the finish against abrasion and corrosion.

"Reconditioned" means any metal container which is reused, recycled or remanufactured.

"Three-piece can coating" means a coating sprayed on the exterior and/or interior of a welded, cemented or soldered seam to protect the exposed metal.

"Two-piece can exterior coating" means a coating applied to the exterior bottom end of a can to reduce the coefficient of friction and to provide protection to the metal.

**R307-352-4. VOC Content Limits.**

(1) Operations that use aerosol coating products are exempt.

(2) No owner or operator shall apply coatings with a VOC content greater than the amounts specified in Table 1, unless the owner or operator uses an add-on control device as specified in R307-352-6.

TABLE 1

METAL CONTAINER AND CLOSURE COIL COATING LIMITATIONS
(values in pounds VOC per gallon of coating, minus water and exempt solvents (compounds not classified as VOC as defined in R307-101-2), as applied)

| Coating Category | VOC Content Limits (lb/gal) |
|---|---|
| CANS | |
| Sheet basecoat (interior and exterior) and overvarnish | 1.9 |
| Two-piece can exterior basecoat, overvarnish, and end coating | 2.1 |
| Interior body spray | |
| Two-piece cans | 3.5 |
| Three-piece cans | 3.0 |
| Three-piece can side seam spray | 5.5 |
| End sealing compound: Food cans, non-food cans, and beverage cans | 0.1 |
| Exterior body spray | 3.5 |
| PAILS AND LIDS | |
| Body spray | |
| Reconditioned interior | 4.2 |
| Reconditioned exterior | 3.5 |
| New interior | 3.5 |
| New exterior | 2.8 |
| End sealing compound | 0.5 |
| Inks, all applications | 2.5 |
| Coil | |
| Coil coating | 1.7 |

**R307-352-5. Work Practices.**

(1) The owner or operator shall:

(a) Store all VOC-containing coatings, thinners, and cleaning materials in closed containers;

(b) Minimize spills of VOC-containing coatings, thinners, and cleaning materials;

(c) Clean up spills immediately;

(d) Convey any coatings, thinners, and cleaning materials in closed containers or pipes;

(e) Close mixing vessels that contain VOC coatings and other materials except when specifically in use; and

(f) Minimize usage of solvents during cleaning of storage, mixing, and conveying equipment.

(2) No person shall apply any coating unless the coating application method has a transfer efficiency of at least 65%.

The following applications achieve a minimum of 65% transfer efficiency and shall be operated in accordance with the manufacturers specifications:

(a) Electrostatic application;

(b) Flow coat;

(c) Roll coat;

(d) Dip coat;

(e) High-volume, low-pressure (HVLP) spray;

(f) Hand application methods;

(g) Printing techniques; or

(h) Other application method capable of achieving at least 65% transfer efficiency, as certified by the manufacturer.

(3) Solvent cleaning operations shall be performed using cleaning materials having a VOC composite vapor pressure no greater than 1 mm Hg at 20 degrees Celsius, unless an add-on control device is used as specified in R307-352-6.

**R307-352-6. Add-On Controls Systems Operations.**

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on emission control system in accordance with the manufacturer recommendations and maintain 90% or greater capture and control efficiency. The overall capture and control efficiency shall be determined using EPA approved methods, as follows.

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-352-7. Recordkeeping.**

(1) The owner or operator shall maintain records of the following:

(a) Records that demonstrate compliance with R307-352. Records shall include, but are not limited to, inventory and product data sheets of all coatings and solvents subject to R307-352.

(b) If an add-on control device is used, records of key system parameters necessary to ensure compliance with R307-352-6.

(i) Key system parameters shall include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters shall be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for a minimum of 2 years.

(3) Records shall be made available to the director upon request.

**KEY: air pollution, emission controls, metal containers, coil coatings**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

# Environmental Quality, Air Quality
# R307-353
# Plastic Parts Coatings

**NOTICE OF CHANGE IN PROPOSED RULE**
DAR FILE NO.: 41823
FILED: 10/05/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule changes are being proposed in response to comments received during the public comment period. The amendments to this rule strengthen the area source coating rules. These amendments will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: Several changes were made throughout Rule R307-353 as a result of public comments. These changes include: adding a compliance schedule for affected sources; adding a definition for medical device; adding exemptions for aerospace vehicles and components; coating products on medical devices up to 800 pounds of VOC per year; and research and development, quality control, or performance testing activities. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 142. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of these changes because the changes do not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of these changes because the changes do not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: The new exemptions may lead to savings for small businesses; however, it is difficult to determine the amount of the savings to be realized. The other changes would not result in additional costs.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by these changes because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of these changes. The changes, the added compliance schedule for affected sources; added definition for medical device; added exemptions for aerospace vehicles and components, coating products on medical devices up to 800 pounds of VOC per year; and research and development, quality control, or performance testing activities, do not result in additional compliance costs because the requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The new exemptions may lead to savings for businesses; however, it is difficult to determine the amount of the savings to be realized. The other changes would not result in additional costs because the changes simply clarify the purpose of the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-353. Plastic Parts Coatings.**
**R307-353-1. Purpose.**

The purpose of this rule is to limit volatile organic compound (VOC) emissions from the application of coatings to any plastic product.

**R307-353-2. Applicability.**

[~~R307-353 applies to plastic parts coating operations and related cleaning activities that use a combined 20 gallons or more of coating products and associated solvents per year and are located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.~~]
(1) R307-353 applies to plastic parts coating operations located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

(2) Before September 1, 2018, R307-353 applies to plastic parts coating operations that have the potential to emit 2.7 tons per year or more of VOC, including related cleaning activities.

(3) Effective September 1, 2018, R307-353 shall apply to plastic parts coating operations that use a combined 20 gallons or more of coating products and associated solvents per year.

**R307-353-3. Exemptions.**

(1) The provisions of this rule shall not apply to any of the following:

(a) Stencil coatings;

(b) Safety-indicating coatings;

(c) Electric-insulating and thermal-conducting coatings;

(d) Magnetic data storage disk coatings;

(e) Plastic extruded onto metal parts to form a coating; and

(f) Textured finishes.

(2) If a coating line is subject to the requirements for existing automobile, light-duty truck, and other product and material coatings or for existing metallic surface coating lines, the coating line shall be exempt from this rule.

(3) Canned aerosol coating products up to 22 fl. oz. that are used exclusively for touch-up and repairs.

(4) Aerospace vehicles and components subject to R307-355.

(5) The provisions of R307-353 shall not apply to coating products on medical devices up to 800 pounds of VOC per year.

(6) Research and development, quality control, or performance testing activities.

**R307-353-4. Definitions.**

The following additional definitions apply to R307-353:

"Air dried coating" means coatings that are dried by the use of air or a forced warm air at temperatures up to 194 degrees Fahrenheit.

"As applied" means the volatile organic compound and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.

"Baked coating" means coatings that are cured at a temperature at or above 194 degrees Fahrenheit.

"Electric-insulating and thermal-conducting" means a coating that displays an electrical insulation of at least 1000 volts DC per mil on a flat test plate and an average thermal conductivity of at least 0.27 BTU per hour-foot-degree-Fahrenheit.

"Magnetic data storage disk coating" means a coating used on a metal disk which stores data magnetically.

"Medical device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar article including any component or accessory, that is intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment, or prevention of disease, or is intended to affect the structure or any function of the body. For the purpose of this rule, a medical device shall also include associated manufacturing or assembly apparatus.

"Metallic coating" means a coating which contains more than 5 grams of metal particles per liter of coating as applied.

"Military specification coating" means a coating which has a formulation approved by a United States military agency for use on military equipment.

"Mirror backing" means the coating applied over the silvered surface of a mirror.

"Mold-seal coating" means the initial coating applied to a new mold or a repaired mold to provide a smooth surface which, when coated with a mold release coating, prevents products from sticking to the mold.

"Multi-colored coating" means a coating which exhibits more than one color when applied, and which is packaged in a single container and applied in a single coat.

"Multi-component coating" means a coating requiring the addition of a separate reactive resin, commonly known as a catalyst, before application to form an acceptable dry film.

"One-component coating" means a coating that is ready for application as it comes out of its container to from an acceptable dry film. A thinner necessary to reduce the viscosity is not considered a component.

"Optical coating" means a coating applied to an optical lens.

"Plastic" means a substrate containing one or more resigns that may be solid, porous, flexible, or rigid, and includes fiber reinforced plastic composites.

"Primer" means a coating applied to a surface to provide a firm bond between the substrate and subsequent coats.

"Repair coating" means a coating used to recoat portions of a part or product which has sustained mechanical damage to the coating.

"Roller Coated" means a type of coating application equipment that utilizes a series of mechanical rollers to form a thin coating film on the surface of a roller, which is then applied to a substrate by moving the substrate underneath the roller.

"Safety-indicating coating" means a coating which changes physical characteristics, such as color, to indicate unsafe condition.

"Stencil coating" means an ink or a coating which is rolled or brushed onto a template or stamp in order to add identifying letters or numbers to metal parts and products.

"Textured finish" means a rough surface produced by spraying and splattering large drops of coating onto a previously applied coating. The coatings used to form the appearance of the textured finish are referred to as textured coatings.

"Touch-up coating" means a coating used to cover minor coating imperfections appearing after the main coating operation.

"Topcoat" means the last film-building finishing material applied in a finishing system. Non-permanent final finishes are not topcoats.

**R307-353-5. VOC Content Limits.**

(1) For automobile and truck plastic parts coating lines:

(a) No owner or operator shall apply coatings with a VOC content greater than the amounts specified in Table 1, unless the owner or operator uses an add-on control device as specified in R307-353-8.

(b) For red and black coatings, the content limitation shall be determined by multiplying the appropriate limit in Table 1 by 1.15.

(c) When EPA Method 24 is used to determine the VOC content of a high bake coating, the applicable content limitation shall be determined by adding 0.5 to the appropriate limit in Table 1.

(d) When EPA Method 24 is used to determine the VOC content of an air-dried coating, the applicable content limitation shall be determined by adding 0.1 to the appropriate limit in Table 1.

TABLE 1

AUTOMOBILE AND TRUCK PLASTIC PARTS COATING LINES
(values in pounds of VOC per gallon of coating, minus water and exempt solvents (compounds not classified as VOC as defined in R307-101-2), as applied)

| Coating Category | VOC Content Limits (lb/gal) |
|---|---|
| High bake coating - exterior and interior parts | |
| Prime | |
| Flexible coating | 4.5 |
| Nonflexible coating | 3.5 |
| Topcoat | |
| Basecoat | 4.3 |
| Clearcoat | 4.0 |
| Non-basecoat/clearcoat | 4.3 |
| Air-dried coating - exterior parts | |
| Prime | 4.8 |
| Topcoat | |
| Basecoat | 5.0 |
| Clearcoat | 4.5 |
| Non-basecoat/clearcoat | 5.0 |
| Air-dried coating - interior parts | 5.0 |
| Touch-up and repair | 5.2 |

(2) No owner or operator of a business machine plastic parts coating line shall apply coatings with a VOC content greater than the amounts specified in Table 2, unless the owner or operator uses an add-on control device as specified in R307-353-8.

TABLE 2

BUSINESS MACHINE PLASTIC PARTS COATING LINES
(values in pounds of VOC per gallon of coating, minus water and exempt solvents (compounds not classified as VOC as defined in R307-101-2), as applied)

| Coating Category | VOC Content Limits (lb/gal) |
|---|---|
| Prime | 2.9 |
| Topcoat | 2.9 |
| Texture coat | 2.9 |
| Fog coat | 2.2 |
| Touch-up and repair | 2.9 |

(3) No owner or operator engaged in the other plastic product coating operations listed in Table 3 shall apply coatings with a VOC content greater than the amounts specified in Table 3, unless the owner or operator uses an add-on control device as specified in R307-353-8.

TABLE 3

OTHER PLASTIC PRODUCT COATING CATEGORIES
(values in pounds of VOC per gallon of coating, minus water and exempt solvents (compounds not classified as VOC as defined in R307-101-2), as applied)

| Coating Category | VOC Content Limits (lb/gal) |
|---|---|
| General One-Component | 2.3 |
| General Multi-Component | 3.5 |
| Electric Dissipating Coatings And Shock-Free Coatings | 3.0 |
| Extreme Performance | 3.5 (2-pack coatings) |
| Metallic | 3.5 |
| Military Specification | 2.8 (1 pack) 3.5 (2 pack) |
| Mold-Seal | 6.3 |
| Multi-colored Coatings | 5.7 |
| Optical Coatings | 6.7 |
| Vacuum-Metalizing | 6.7 |
| Mirror Backing | |
| Curtain Coated | 4.2 |
| Roll Coated | 3.6 |

(4) If a part consists of both plastic and metal surfaces, then the coatings applied to the part must comply with the content limits of this rule.

**R307-353-6. Application Methods.**

No person shall apply VOC containing coatings unless the coating is applied with equipment operated according to the manufacturer specifications, and by use of one of the following methods:

(1) Electrostatic application;
(2) Flow coat;
(3) Roller coat;
(4) Dip/electrodeposition coat;
(5) Airless Spray;
(6) High-volume, low-pressure (HVLP) spray; or
(7) Other application method equal to or better than HVLP, as certified by the manufacturer.

**R307-353-7. Work Practices.**

(1) The owner or operator shall:

(a) Store all VOC-containing coatings, thinners, and cleaning materials in closed containers;

(b) Minimize spills of VOC-containing coatings, thinners, and cleaning materials;

(c) Clean up spills immediately;

(d) Convey any coatings, thinners, and cleaning materials in closed containers or pipes;

(e) Close mixing vessels that contain VOC coatings and other materials except when specifically in use; and

(f) Minimize usage of solvents during cleaning of storage, mixing, and conveying equipment.

(2) Solvent cleaning operations shall be performed using cleaning material having a VOC composite vapor pressure no greater than 1 mm Hg at 20 degrees Celsius, unless an add-on control device is used as specified in R307-353-8.

**R307-353-8. Add-On Controls Systems Operations.**

(1) If an add-on control system is used, the owner or operator shall install and maintain in accordance with the manufacturer recommendations and maintain 90% or greater capture and control efficiency. The overall capture and control efficiency shall be determined using EPA approved methods, as follows.

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-353-9. Recordkeeping.**

(1) The owner or operator shall maintain records of the following:

(a) Records that demonstrate compliance with R307-353. Records shall include, but are not limited to, inventory and product data sheets of all coatings and solvents subject to R307-353.

(b) If an add-on control device is used, records of key system parameters necessary to ensure compliance with R307-353-8.

(i) Key system parameters shall include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters shall be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for a minimum of 2 years.

(3) Records shall be made available to the director upon request.

**KEY: air pollution, emission controls, coatings, plastic parts**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-354
# Automotive Refinishing Coatings

## NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41827
FILED: 10/05/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule change is being proposed in response to comments received during the public comment period. The amendment to this rule strengthens the area source coating rules. This amendment will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: A compliance schedule for affected sources was added to Rule R307-354 as a result of public comments. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 146. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of this change because the change does not change the way the rule impacts the state.

♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of this change because the change does not affect the way the rule impacts local governments.

♦ SMALL BUSINESSES: This change does not result in additional costs or savings to small businesses because the change simply adds compliance schedule for affected sources.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by this change because the rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of this change. The change, the added compliance schedule for affected

sources, does not result in additional compliance costs because requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The change to the proposal will have no fiscal impact on any businesses because the change does not modify any of the existing requirements within the rule.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-354. Automotive Refinishing Coatings.**
**R307-354-1. Purpose.**

The purpose of R307-354 is to limit volatile organic compound emissions (VOC) from automotive refinishing sources.

**R307-354-2. Applicability.**

[~~R307-354 applies to automotive refinishing operations and related cleaning activities that use a combined 20 gallons or more of coating products and associated solvents per year and are located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah or Weber counties.~~]
(1) R307-354 applies to automotive refinishing coating operations located in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

(2) Before September 1, 2018, R307-354 applies to an automotive refinishing operations that have the potential to emit 2.7 tons per year or more of VOC, including related cleaning activities.

(3) Effective September 1, 2018, R307-354 shall apply to an automotive refinishing operation that uses a combined 20 gallons or more of coating products and associated solvents per year.

**R307-354-3. Exemptions.**

The requirements of R307-354 shall not apply to any canned aerosol coating products.

**R307-354-4. Definitions.**

The following additional definitions apply to R307-354:

"Adhesion promoter" means a coating which is labeled and formulated to be applied to uncoated plastic surfaces to facilitate bonding of subsequent coatings, and on which, a subsequent coating is applied.

"As applied" means the volatile organic compound and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.

"Automotive" means passenger cars, vans, motorcycles, trucks, buses, golf carts and all other mobile equipment.

"Automotive refinishing" means the process of coating automobiles, after-market automobiles, motorcycles, light and medium-duty trucks and vans that are performed in auto body shops, auto repair shops, production paint shops, new car dealer repair and paint shops, fleet operation repair and paint shops, and any other facility which coats vehicles under the Standard Industrial Classification Code 7532 (Top, Body and Upholstery Repair Shops and Paint Shops). This includes dealer repair of vehicles damaged in transit. It does not include refinishing operations for other types of mobile equipment, such as farm machinery and construction equipment or their parts, including partial body collision repairs, that is subsequent to the original coating applied at an automobile original equipment manufacturing plant.

"Clear coating" means any coating that contains no pigments and is labeled and formulated for application over a color coating or clear coating.

"Color coating" means any pigmented coating, excluding adhesion promoters, primers, and multi-color coatings, that requires a subsequent clear coating and which is applied over a primer, adhesion promoter, or color coating. Color coatings include metallic and iridescent color coatings.

"Enclosed paint gun cleaner" means a cleaner consisting of a closed container with a door or top that can be opened and closed and fitted with cleaning connections. The spray gun is attached to a connection, and solvent is pumped through the gun and onto the exterior of the gun. Cleaning solvent falls back into the cleaner's solvent reservoir for recirculation.

"Metallic/Iridescent color coating" means a coating which contains iridescent particles, composed of either metal as metallic particles or silicon as mica particles, in excess of 0.042 pounds per gallon as applied, where such particles are visible in the dried film.

"Multi-color coating" means a coating which exhibits more than one color when applied, and which is packaged in a single container and applied in a single coat.

"Non-enclosed paint gun cleaner" means cleaner consisting of a basin similar to a sink in which the operator washes the outside of the gun under a solvent stream. The gun cup is filled with recirculated solvent, the gun tip is placed into a canister attached to the basin, and suction draws the solvent from the cup through the gun. The solvent gravitates to the bottom of the basin and drains through a small hole to a reservoir that supplies solvent to the recirculation pump.

"Pretreatment coating" means a coating which contains no more that 16% solids, by weight, and at least 0.5% acid, by weight, is used to provide surface etching, and is applied directly to bare metal surfaces to provide corrosion resistance and promote adhesion for subsequent coatings.

"Primer" means any coating which is labeled and formulated for application to a substrate to provide a bond between the substrate and subsequent coats; corrosion resistance; a smooth substrate surface; or resistance to penetration of subsequent coats, and on which a subsequent coating is applied. Primers may be pigmented.

"Primer sealer" means any coating which is labeled and formulated for application prior to the application of a color coating for

the purpose of color uniformity, or to promote the ability of the underlying coating to resist penetration by the color coating.

"Single-stage coating" means any pigmented coating, excluding primers and multi-color coatings, labeled and formulated for application without a subsequent clear coat. Single-stage coatings include single-stage metallic/iridescent coatings.

"Solids" means the part of the coating that remains after the coating is dried or cured; solids content is determined using data from EPA Method 24.

"Temporary protective coating" means any coating which is labeled and formulated for the purpose of temporarily protecting areas form overspray or mechanical damage.

"Topcoat" means any coating or series of coatings applied over a primer or an existing finish for the purpose of protection or beautification.

"Truck bed liner coating" means any coating, excluding clear, color, multi-color, and single-stage coatings, labeled and formulated for application to a truck bed to protect it from surface abrasion.

"Underbody coating" means any coating labeled and formulated for application to wheel wells, the inside of door panels or fenders, the underside of a trunk or hood, or the underside of a motor vehicle.

"Uniform finish coating" means any coating labeled and formulated for application to the area around a spot repair for the purpose of blending a repaired area's color or clear coat to match the appearance of an adjacent area's existing coating.

**R307-354-5. VOC Content Limits.**

No owner or operator shall apply coatings with a VOC content greater than the amounts specified in Table 1, unless the owner or operator uses an add-on control device as specified in R307-354-7.

TABLE 1

AUTOMOTIVE REFINISHING VOC LIMITS
(values in pounds of VOC per gallon of coating, minus water and exempt solvent (compounds not defined as VOC in R307-101-2), as applied)

| Coating Category | VOC Content Limits (lb/gal) |
|---|---|
| Adhesion Promoter | 4.5 |
| Clear Coating | 2.1 |
| Color Coating | 3.5 |
| Multi-color Coating | 5.7 |
| Pretreatment Coating | 5.5 |
| Primer | 2.1 |
| Primer Sealer | 2.1 |
| Single-stage Coating | 2.8 |
| Temporary Protective Coating | 0.5 |
| Truck Bed Liner Coating | 2.6 |
| Underbody Coating | 3.6 |
| Uniform Finish Coating | 4.5 |
| Any Other Coating Type | 2.1 |

**R307-354-6. Work Practice.**

(1) Control techniques and work practices are to be implemented at all times to reduce VOC emissions. Control techniques and work practices include:

(a) Closed containers shall be used for the disposal of solvent wiping cloths;

(b) Minimizing spills of VOC-containing cleaning materials;

(c) Conveying VOC-containing materials from one location to another in closed containers or pipes; and

(d) Cleaning spray guns in enclosed systems or in a non-enclosed paint gun cleaning process may be used if the vapor pressure of the cleaning solvent (excluding water and solvents exempt from the definition of VOCs) is less than 100 mm Hg at 68 degrees Fahrenheit and the solvent is directed towards a drain that leads directly to an enclosed remote reservoir. Automotive spray gun solvent cleaning materials that are defined as a "consumer product" under R307-357 are exempt from the vapor pressure requirement and are regulated under the requirements in R307-357.

(2) Application equipment requirements:

(a) A person shall not apply any coating to an automotive part or component unless the coating application method achieves a minimum 65% transfer efficiency. The following coating application methods have been demonstrated to achieve a minimum of 65% transfer efficiency:

(i) Brush, dip or roll coating operated in accordance with the manufacturers specifications;

(ii) Electrostatic application equipment operated in accordance with the manufacturers specifications; and

(iii) High Volume, Low Pressure spray equipment operated in accordance with the manufacturers specifications.

(3) Other coating application methods may be used that have been demonstrated to be capable of achieving at least 65% transfer efficiency, as certified by the manufacturer.

**R307-354-7. Add-On Controls Systems Operations.**

(1) If an add-on control system is used, the owner or operator shall install and maintain the add-on emission control system in accordance with the manufacturer recommendations and maintain 90% or greater capture and control efficiency. The overall capture and control efficiency shall be determined using EPA approved methods, as follows.

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-354-8. Recordkeeping.**

(1) The owner or operator shall maintain records of the following:

(a) Records that demonstrate compliance with R307-354. Records shall include, but are not limited to, inventory and product data sheets of all coatings and solvents subject to R307-354.

(b) If an add-on control device is used, records of key system parameters necessary to ensure compliance with R307-354-7.

(i) Key system parameters shall include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters shall be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records must be maintained for a minimum of 2 years.

(3) Records must be made available to the director upon request.

**KEY: air pollution, automotive refinishing, VOC, coatings**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-355
# Aerospace Manufacture and Rework Facilities

## NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 41830
FILED: 10/05/2017

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule changes are being proposed in response to comments received during the public comment period. The amendments to this rule strengthen the area source coating rules. These amendments will help further reduce Volatile Organic Compound (VOC) emissions and will be part of the upcoming Serious PM2.5 State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: Several changes were made throughout Rule R307-355 as a result of public comments. These changes include adding a compliance schedule for affected sources, adding definitions, retaining language that was proposed to be removed, and adding clarifying language throughout the rule. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2017, issue of the Utah State Bulletin, on page 150. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings to the state budget as a result of these changes because the changes do not change the way the rule impacts the state.
♦ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of these changes because the changes do not affect the way the rule impacts local governments.
♦ SMALL BUSINESSES: There will not be a fiscal impact on small businesses because the Division of Air Quality (DAQ) could not identify a single small business that meets the applicability threshold of the rule.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by these changes because the rule does not apple to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of these changes. The changes, the added compliance schedule for affected sources, added definitions, retained language that was proposed to be removed, and added clarifying language, do not result in additional compliance costs because the requirements of the rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes will have no fiscal impact on any businesses because the changes do not modify any of the existing requirements within in the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2017

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**
**R307-355. Aerospace Manufacture and Rework Facilities.**
**R307-355-1. Purpose.**

The purpose of R307-355 is to limit the emissions of volatile organic compounds (VOCs) from aerospace coatings and adhesives, from organic solvent cleaning, and from the storage and disposal of

solvents and waste solvent materials[ ~~associated with the use of aerospace coatings and adhesives~~].

**R307-355-2. Applicability.**

(1) R307-355 applies to all aerospace manufacture and rework facilities [~~that are~~ ]located in Box Elder, Cache, Davis, Salt Lake, Utah, Tooele or Weber counties [~~and use a combined 55 gallons or more of coating products and associated solvents and adhesives per year~~].

(2) Before February 1, 2018, R307-355 applies to all aerospace manufacture and rework facilities that have the potential to emit 10 tons or more per year of VOCs.

(3) Effective February 2, 2018, R307-355 applies to all aerospace manufacture and rework facilities that use a combined 55 gallons or more of coating products and associated solvents and adhesives per year.

**R307-355-3. Exemptions.**

(1) R307-355 does not apply to the following:

(a) Cleaning and coating activities in research and development, quality control, [~~and~~ ]laboratory testing, and electronic parts and assemblies, except for cleaning and coating of completed assemblies;

(b) Manufacturing or rework operations involving space vehicles;

(c) Rework operations performed on antique aerospace vehicles or components;

(d) Touchup and repair operations;

(e) Hand-held aerosol spray cans[ ~~application~~] up to 24 fluid ounces;

(f) Department of Defense classified coatings;

(g) [~~Coatings or aerosols with s~~]Separate formulations that are used in volumes of less than [~~one l~~]50 gallon per year subject to a maximum exemption of [~~on any day or~~ ]200 gallons in any calendar year; and

(h) Adhesives with separate formulations that are used in volumes of less than 0.5 gallons on any day or 10 gallons in any calendar year.[~~;~~

~~(i) Airbrush application methods for stenciling, lettering, and other identification markings; and~~

~~(j) Any situation that normally requires the use of an airbrush or an extension on the spray gun to properly reach limited access spaces.~~]

**R307-355-4. Definitions.**

The following additional definitions apply to R307-355:

"Ablative coating" means a coating, applied to both new and rework aerospace components, which chars and becomes intumescent when exposed to open flame, such as would occur during the failure of an engine casing. The purpose of the coating is to act as an isolative barrier and protect adjacent metal parts from an open flame.

"Adhesion promoter" means a very thin coating applied to a substrate to promote wetting and form a chemical bond with the subsequently applied material.

"Adhesive bonding primer" means a primer applied in a thin film to aerospace components for the purpose of corrosion inhibition and increased adhesive bond strength by attachment. There are two categories of adhesive bonding primers: primers with a design cure at 250 degrees Fahrenheit or below and primers with a design cure above 250 degrees Fahrenheit.

"Aerospace manufacture and rework facility" means any installation that produces, reworks, or repairs in any amount any commercial, civil, or military aerospace vehicle or component.

"Aerospace vehicle or component" means any fabricated part, processed part, assembly of parts, or completed unit, with the exception of electronic components, of any aircraft including but not limited to airplanes, helicopters, missiles, rockets, and space vehicles. This definition includes integral equipment such as models, mock-ups, prototypes, molds, jigs, and tooling. It also includes auxiliary equipment associated with test, transport and storage that through contamination can compromise aerospace vehicle performance.

"Antique aerospace vehicle or component" means an aircraft or component thereof that was built at least 30 years ago[~~prior to 1970~~] and would not routinely be in commercial or military service in the capacity for which it was designed.

"Bearing coating" means a coating applied to an antifriction bearing, a bearing housing, or the area adjacent to such a bearing in order to facilitate bearing function or to protect base material from excessive wear. A material shall not be classified as a bearing coating if it can also be classified as a dry lubricative material or a solid film lubricant.

"Caulking and smoothing compounds" means semi-solid materials which are applied by hand application methods and are used to aerodynamically smooth exterior vehicle surfaces or fill cavities such as bolt hole accesses. A material shall not be classified as a caulking and smoothing compound if it can also be classified as a sealant.

"Chemical agent-resistant coating" means an exterior topcoat designed to withstand exposure to chemical warfare agents or the decontaminants used on these agents.

"Chemical milling maskants" means a coating that is applied directly to aluminum components to protect surface areas when chemical milling the component with a Type I or Type II etchant. Type I chemical milling maskants are used with a Type I etchant and Type II chemical milling maskants are used with a Type II etchant.

"Clear coating" means a transparent coating usually applied over a colored opaque coating, metallic substrate, or placard to give improved gloss and protection to the color coat. In some cases, a clear coat refers to any transparent coating without regard to substrate.

"Commercial exterior aerodynamic structure primer" means a primer used on aerodynamic components and structures that protrude from the fuselage, such as wings and attached components, control surfaces, horizontal stabilizers, vertical fins, wing-to-body fairings, antennae, and landing gear and doors, for the purpose of extended corrosion protection and enhanced adhesion.

"Compatible substrate primer" means either compatible epoxy primer or adhesive primer. Compatible epoxy primer is primer that is compatible with the filled elastomeric coating and is epoxy based. The compatible substrate primer is an epoxypolyamide primer used to promote adhesion of elastomeric coatings such as impact-resistant coatings. Adhesive primer is a coating that:

(1) inhibits corrosion and serves as a primer applied to bare metal surfaces or prior to adhesive application, or

(2) is applied to surfaces that can be expected to contain fuel. Fuel tank coatings are excluded from this category.

"Corrosion prevention" means a coating that provides corrosion protection by displacing water and penetrating mating surfaces, forming a protective barrier between the metal surface and moisture. Coatings containing oils or waxes are excluded from this category.

"Cryoprotective coating" means a coating that insulates cryogenic or subcooled surfaces to limit propellant boil-off, maintain structural integrity of metallic structures during ascent or re-entry, and prevent ice formation.

"Electric or radiation-effect coating" means a coating or coating system engineered to interact, through absorption or reflection, with specific regions of the electromagnetic energy spectrum, such as the ultraviolet, visible, infrared, or microwave regions. Uses include, but are not limited to, lightning strike protection, electromagnetic pulse (EMP) protection, and radar avoidance. Coatings that have been designated as "classified" by the Department of Defense are exempt.

"Electrostatic discharge and electromagnetic interference (EMI) coating" means a coating applied to space vehicles, missiles, aircraft radomes, and helicopter blades to disperse static energy or reduce electromagnetic interference.

"Elevated-temperature Skydrol-resistant [~~commercial~~] primer" means a primer [~~applied primarily to commercial aircraft (or commercial aircraft adapted for military use)~~ ]that must withstand immersion in phosphate-ester (PE) hydraulic fluid (Skydrol 500b A-9 or equivalent) at the elevated temperature of 150 degrees Fahrenheit for 1,000 hours.

"Epoxy polyamide topcoat" means a coating used where harder films are required or in some areas where engraving is accomplished in camouflage colors.

"Fire-resistant (interior) coating" means for civilian aircraft, fire-resistant interior coatings are used on passenger cabin interior parts that are subject to the FAA fireworthiness requirements. For military aircraft, fire-resistant interior coatings are used on parts that are subject to the flammability requirements of MIL-STD-1630A and MIL-A-87721. For space applications, these coatings are used on parts that are subject to the flammability requirements of SE-R-0006 and SSP 30233.

"Flexible primer" means a primer that meets flexibility requirements such as those needed for adhesive bond primed fastener heads or on surfaces expected to contain fuel. The flexible coating is required because it provides a compatible, flexible substrate over bonded sheet rubber and rubber-type coatings as well as a flexible bridge between the fasteners, skin, and skin-to-skin joints on outer aircraft skins. This flexible bridge allows more topcoat flexibility around fasteners and decreases the chance of the topcoat cracking around the fasteners. The result is better corrosion resistance.

"Flight test coating" means a coating applied to aircraft other than missiles or single-use aircraft prior to flight testing to protect the aircraft from corrosion and to provide required marking during flight test evaluation.

"Fuel tank coating" means a coating applied to fuel tank components for the purpose of corrosion and/or bacterial growth inhibition and to assure sealant adhesion in extreme environmental conditions.

"General aviation" means that segment of civil aviation that encompasses all facets of aviation except air carriers, commuters, and military. General aviation includes charter and corporate-executive transportation, instruction, rental, aerial application, aerial observation, business, pleasure, and other special uses.

"High-temperature coating" means a coating designed to withstand temperatures of more than 350 degrees Fahrenheit.

"Insulation covering" means material that is applied to foam insulation to protect the insulation from mechanical or environmental damage.

"Intermediate release coating" means a thin coating applied beneath topcoats to assist in removing the topcoat in depainting operations and generally to allow the use of less hazardous depainting methods.

"Lacquer" means a clear or pigmented coating formulated with anitrocellulose or synthetic resin to dry by evaporation without a chemical reaction. Lacquers are resoluble in their original solvent.

"Low vapor pressure hydrocarbon-based cleaning solvent" means a cleaning solvent that is composed of a mixture of photochemically reactive hydrocarbons and oxygenated hydrocarbons and has a maximum vapor pressure of 7 mm Hg at 68 degrees Fahrenheit. These cleaners must not contain hazardous air pollutants.

"Maskants" means a coating that is applied directly to aluminum components to protect surface areas when chemical milling the component with a Type I or Type II etchant. Type I chemical milling maskants are used with a Type I etchant and Type II chemical milling maskants are used with a Type II etchant.

"Metalized epoxy coating" means a coating that contains relatively large quantities of metallic pigmentation for appearance and/or added protection.

"Mold release" means a coating applied to a mold surface to prevent the molded piece from sticking to the mold as it is removed.

"Optical anti-reflection coating" means a coating with a low reflectance in the infrared and visible wavelength ranges that is used for antireflection on or near optical and laser hardware.

"Part marking coating" means coatings or inks used to make identifying markings on materials, components, and/or assemblies.
These markings may be either permanent or temporary.

"Pretreatment coating" means an organic coating that contains at least 0.5 percent acids by weight and is applied directly to A-12 metal or composite surfaces to provide surface etching, corrosion resistance, adhesion, and ease of stripping.

"Primer" means the first layer and any subsequent layers of identically formulated coating applied to the surface of an aerospace vehicle or component. Primers are typically used for corrosion prevention, protection from the environment, functional fluid resistance, and adhesion of subsequent coatings. Primers that are defined as specialty coatings are not included under this definition.

"Rain erosion resistant coating" means a coating applied primarily to radomes, canopies, and leading edges of aircraft to provide protection from erosion due to rain, dust, and other airborne particles.

"Rework facility" means any installation that repairs any aerospace vehicle or component.

"Rocket motor nozzle coating" means a catalyzed epoxy coating system used in elevated temperature applications on rocket motor nozzles.

"Scale inhibitor" means a coating that is applied to the surface of a part prior to thermal processing to inhibit the formation of scale.

"Screen print ink" means an ink used in screen printing processes during fabrication of decorative laminates and decals.

"Sealant" means a material used to prevent the intrusion of water, fuel, air, or other liquids or solids from certain areas of aerospace vehicles or components. There are two categories of sealants: extrudable/rollable/brushable sealants and sprayable sealants.

"Silicone insulation material" means an insulating material applied to exterior metal surfaces for protection from high temperatures caused by atmospheric friction or engine exhaust. These materials differ from ablative coatings in that they are not "sacrificial."

"Solid film lubricant" means a dry lubricant coating used to reduce friction between faying metal surfaces. The coating consists of an organic binder system containing one or more of the following substances: molybdenum disulfide, graphite, polytetrafluoroethylene (Teflon PTFE), other types of Teflon, lauric acid, cetyl alcohol, or waxes.

"Space vehicle" means a man-made device, either manned or unmanned, designed for operation beyond earth's atmosphere. This definition includes integral equipment such as models, mock-ups, prototypes, mold, jigs, tooling, hardware jackets and test coupons. Also included, auxiliary equipment associated with test, transport and storage that through contamination can compromise the space vehicle performance.

"Specialized function coating" means a coating that fulfills extremely specific engineering requirements that are limited in application and are characterized by low volume usage. This category excludes coatings covered in other Specialty Coating categories.

"Specialty coating" means a coating that, even though it meets the definition of a primer, topcoat, or self-priming topcoat, has additional performance criteria beyond those of primers, topcoats, and self-priming topcoats for specific applications.

(1) These performance criteria may include, but are not limited to, temperature or fire resistance, substrate compatibility, antireflection, temporary protection or marking, sealing, adhesively joining substrates, or enhanced corrosion protection.

"Temporary protective coating" means a coating applied to provide scratch or corrosion protection during manufacturing, storage, or transportation. Two types include peelable protective coatings and alkaline removable coatings. These materials are not intended to protect against strong acid or alkaline solutions. Coatings that provide this type of protection from chemical processing are not included in this category.

"Thermal control coating" means a coating formulated with specific thermal conductive or radiative properties to permit temperature control of the substrate.

"Topcoat" means a coating that is applied over a primer or component for appearance, identification, camouflage, or protection. Topcoats that are defined as specialty coatings are not included under this definition.

"Wet fastener installation coating" means a primer or sealer applied by dipping, brushing, or daubing to fasteners that are installed before the coating is cured.

"Wing coating" means a corrosion-resistant topcoat that is resilient enough to withstand the flexing of the wings.

**R307-355-5. VOC Content Limits.**

The owner or operator shall not apply coatings to aerospace vehicles or components with a VOC content greater than the amounts specified in Table 1 unless the owner or operator uses an add-on control device as specified in R307-355-9.

T[~~able~~]ABLE 1
(Values in grams of VOC per liter of material, minus water and exempt solvents (compounds not classified as VOC as defined in R307-101-2), as applied)

| Coating type | VOC Content Limit (g/l) |
|---|---|
| Ablative Coating | 600 |
| Adhesion Promoter | 890 |
| Adhesive Bonding Primers: | |
| Cured at 250 deg°F or below | 850 |
| Cured above 250°deg F | 1030 |
| Adhesives: | |
| Commercial Interior Adhesive | 760 |
| Cyanoacrylate Adhesive | 1,020 |
| Fuel Tank Adhesive | 620 |
| Nonstructural Adhesive | 360 |
| Rocket Motor Bonding Adhesive | 890 |
| Rubber-based Adhesive | 850 |
| Structural Autoclavable Adhesive | 60 |
| Structural Nonautoclavable Adhesive | 850 |
| Antichafe Coating | 660 |
| Bearing Coating | 620 |
| Caulking and Smoothing Compounds | 850 |
| Chemical Agent-Resistant Coating | 550 |
| Clear Coating | 720 |
| Commercial Exterior Aerodynamic [~~Structure Primer~~ | ~~650~~] |
| Compatible Substrate Primer | 780 |
| Corrosion Prevention Compound | 710 |
| Cryogenic Flexible Primer | 645 |
| Dry Lubricative Material | 880 |
| Cryoprotective Coating | 600 |
| Electric or Radiation-Effect Coating | 800 |
| Electrostatic Discharge and Electromagnetic Interference (EMI) Coating | 800 |
| Elevated-Temperature Skydrol-Resistant [~~Commercial~~ ]Primer | 740 |
| Epoxy Polyamide Topcoat | 660 |
| Fire-Resistant (interior) Coating | 800 |
| Flexible Primer | 640 |
| Flight-Test Coatings: | |
| Missile or Single Use Aircraft | 420 |
| All Other | 840 |
| Fuel-Tank Coating | 720 |
| General Aviation Rework Primer and Topcoat | 540 |
| High-Temperature Coating | 850 |
| Insulation Covering | 740 |
| Intermediate Release Coating | 750 |
| Lacquer | 830 |
| Maskants: | |
| Bonding Maskant | 1,230 |
| Critical Use and Line Sealer Maskant | 1,020 |
| Seal Coat Maskant | 1,230 |
| Metalized Epoxy Coating | 740 |
| Mold Release | 780 |
| Optical Anti-Reflective Coating | 750 |
| Part Marking Coating | 850 |
| Pretreatment Coating | 780 |
| Primer | 350 |
| Rain Erosion Resistant Coating | 850 |
| Rocket Motor Nozzle Coating | 660 |
| Scale Inhibitor | 880 |
| Screen Print Ink | 840 |

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| Sealants: | |
| Extrudable/Rollable/Brushable Sealant | 280 |
| Sprayable Sealant | 600 |
| Silicone Insulation Material | 850 |
| Solid Film Lubricant | 880 |
| Specialized Function Coating | 890 |
| Temporary Protective Coating | 320 |
| Thermal Control Coating | 800 |
| Topcoat | 420 |
| Type I chemical milling maskant | 622 |
| Type II chemical milling maskants | 160 |
| Wet Fastener Installation Coating | 675 |
| Wing Coating | 850 |

**R307-355-6. Application Method.**

(1) No owner or operator shall apply any coating to aerospace vehicles or components unless one of the following application methods is used:

(a) Electrostatic application;

(b) Flow/curtain coat;

(c) Dip/electrodeposition coat;

(d) Roll coat;

(e) Brush coating;

(f) cotton-tipped swab application;

(g) High-Volume, Low-Pressure (HVLP) Spray;

(h) Hand Application Methods; or

(i) Other coating application methods that achieve emission reductions equivalent to HVLP or electrostatic spray application methods, as determined according to the requirements in 40 CFR 63.750(i).

(2) The following conditions are exempt from R307-355-6(1):

(a) Any situation that normally requires the use of an airbrush or an extension on the spray gun to properly reach limited access spaces.

(b) The application of coatings that contain fillers that adversely affect atomization with HVLP spray guns and that cannot be applied by any of the application methods specified in R307-355-6.

(c) The application of coatings that normally have dried film thickness of less than 0.0013 centimeters (0.0005 inches) and that cannot be applied by any of the application methods specified in R307-355-6.

(d) Airbrush application methods for stenciling, lettering, and other identification markings.

(e) Application of specialty coatings.

**R307-355-7. Work Practices.**

(1) Control techniques and work practices shall be implemented at all times to reduce VOC emissions from coating and solvent cleaning operations on aerospace vehicles or components. Control techniques and work practices shall include, but are not limited to:

(a) Storing all VOC-containing coatings, adhesives, thinners, and coating-related waste materials in closed containers, containers with activated carbon, or other control approved by the EPA Administrator;

(b) Ensuring that mixing and storage containers used for VOC-containing coatings, adhesives, thinners, and coating-related waste material are kept closed at all times except when depositing or removing these materials unless a container has an activated carbon or other control approved by the EPA administrator;

(c) Minimizing spills of VOC-containing coatings, adhesives, thinners, and coating-related waste materials; and

(d) Conveying VOC-containing coatings, adhesives, thinners, and coating-related waste materials from one location to another in closed container, in pipes, containers with activated carbon, or other control approved by the EPA Administrator ~~or pipes~~.

**R307-355-8. Solvent Cleaning.**

(1) Hand-wipe cleaning. Cleaning solvents (excluding water and exempt solvents) used in hand-wipe cleaning operations on aerospace vehicles or components shall meet one of the following requirements:

(a) Have a VOC composite vapor pressure less than or equal to 45 mm Hg at 68 degrees Fahrenheit;

(b) Have an aqueous cleaning solvent in which water is at least 80% of the solvent as applied; or

(c) Have a low vapor pressure hydrocarbon-based cleaning solvent.

(2) The following exemptions apply:

(a) Cleaning during the manufacture, assembly, installation, maintenance, or testing of components of breathing oxygen systems that are exposed to the breathing oxygen.

(b) Cleaning during the manufacture, assembly, installation, maintenance, or testing of parts, subassemblies, or assemblies that are exposed to strong oxidizers or reducers (e.g., nitrogen tetroxide, liquid oxygen, hydrazine).

(c) Cleaning and surface activation prior to adhesive bonding.

(d) Cleaning of electronics parts and assemblies containing electronics parts.

(e) Cleaning of aircraft and ground support equipment fluid systems that are exposed to the fluid, including air-to-air heat exchangers and hydraulic fluid systems.

(f) Cleaning of fuel cells, fuel tanks, and confined spaces.

(g) Surface cleaning of solar cells, coated optics, and thermal control surfaces.

(h) Cleaning during fabrication, assembly, installation, and maintenance of upholstery, curtains, carpet, and other textile materials used on the interior of the aircraft.

(i) Cleaning of metallic and nonmetallic materials used in honeycomb cores during the manufacture or maintenance of these cores, and cleaning of the completed cores used in the manufacture of aerospace vehicles or components.

(j) Cleaning of aircraft transparencies, polycarbonate, or glass substrates.

(k) Cleaning and solvent usage associated with research and development, quality control, or laboratory testing.

(l) Cleaning operations, using nonflammable liquids, conducted within five feet of energized electrical systems.

(3) Flush cleaning. Cleaning solvents used in flush cleaning of aerospace vehicle or component parts, assemblies and coating unit components must be emptied into an enclosed container or collection system that is kept closed when not in use.

(4) Spray gun cleaning. All spray guns used to apply coatings to aerospace vehicle or component shall be cleaned by one or more of the following methods:

(a) Enclosed system that is closed at all times except when inserting or removing the spray gun. If leaks in the system are found,

repairs shall be made as soon as practicable, but no later than 15 days after the leak was found. If the leak is not repaired by the 15th day, the cleaning solvent shall be removed and the enclosed cleaner shall be shut down until the leak is repaired or its use is permanently discontinued.

(b) Nonatomized cleaning.

(i) Spray guns shall be cleaned by placing cleaning solvent in the pressure pot and forcing it through the gun with the atomizing cap in place.

(ii) The cleaning solvent from the spray gun shall be directed into a vat, drum, or other waste container that is closed when not in use.

(c) Disassembled spray gun cleaning.

(i) Spray guns shall be cleaned by disassembling and cleaning the components by hand in a vat, which shall remain closed at all times except when in use.

(ii) Spray gun components shall be soaked in a vat, which shall remain closed during the soaking period and when not inserting or removing components.

(d) Atomizing spray into a waste container that is fitted with a device designed to capture atomized solvent emissions.

(e) Cleaning of the nozzle tips of automated spray equipment systems, except for robotic systems that can be programmed to spray into a closed container, shall be exempt from these requirements.

**R307-355-9. Add-On Controls Systems Operations.**

If an add-on control system is used, the owner or operator shall install and maintain the add-on emission control system in accordance with the manufacturer recommendations and maintain 85[~~90~~]% or greater capture and control efficiency. The overall capture and control efficiency shall be determined using EPA approved methods, as follows.

(a) The capture efficiency of a VOC emission control system's VOC collection device shall be determined according to EPA's "Guidelines for Determining Capture Efficiency," January 9, 1995 and 40 CFR Part 51, Appendix M, Methods 204-204F, as applicable.

(b) The control efficiency of a VOC emission control system's VOC control device shall be determined using test methods in Appendices A-1, A-6, and A-7 to 40 CFR Part 60, for measuring flow rates, total gaseous organic concentrations, or emissions of exempt compounds, as applicable.

(c) An alternative test method may be substituted for the preceding test methods after review and approval by the EPA Administrator.

**R307-355-10. Recordkeeping**

(1) The owner or operator shall maintain records of the following:

(a) Records that demonstrate compliance with R307-355. Records must include, but are not limited to, inventory and product data sheets of all coatings and solvents subject to R307-355.

(b) If an add-on control device is used, records of key system parameters necessary to ensure compliance with R307-355-9.

(i) Key system parameters must include, but are not limited to, temperature, pressure, flow rates, and an inspection schedule.

(ii) Key inspection parameters must be in accordance with the manufacturer's recommendations, and as required to demonstrate operations are providing continuous emission reduction from the source during all periods that the operations cause emissions from the source.

(2) All records shall be maintained for a minimum of 2 years.

(3) Records shall be made available to the director upon request.

**KEY: air pollution, coatings, aerospace**
**Date of Enactment or Last Substantive Amendment: 2017**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

**End of the Notices of Changes in Proposed Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to 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 https://rules.utah.gov/. 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.

## Administrative Services, Administration
## R13-3
## Americans with Disabilities Act Grievance Procedures

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

DAR FILE NO.: 42202
FILED: 10/10/2017

**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 is made under authority of Section 63A-1-105.5 which authorizes the Department of Administrative Services to make rules governing administrative services and the provision and use of administrative services furnished to state agencies and institutions, and Subsection 63G-3-201(3) which requires rulemaking when an agency issues a written interpretation of a state or federal legal mandate. As required by 28 CFR 35.107, the Utah Department of Administrative Services, as a public entity that employs more than 50 persons, adopts and publishes the grievance procedures within this rule for the prompt and equitable resolution of complaints alleging any action prohibited by Title II of the Americans with Disabilities Act (ADA), as amended.

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 from interested persons have been received regarding this rule since it was last reviewed 12/04/2012 (DAR No. 37089).

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required by federal regulation and is necessary to provide for the prompt and equitable resolution of complaints alleging any action prohibited by the ADA and related federal regulations. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
ADMINISTRATION
ROOM 3120 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:
♦ Kenneth Hansen by phone at 801-538-3777, by FAX at 801-538-3844, or by Internet E-mail at khansen@utah.gov

AUTHORIZED BY: Tani Downing, Executive Director

EFFECTIVE: 10/10/2017

## Health, Family Health and Preparedness, Primary Care and Rural Health
## R434-30
## Primary Care Grant Program

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 42205
FILED: 10/12/2017

**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 was enacted to implement Title 26, Chapter 10b, which authorizes the Utah Department of Health (UDOH) to award grants from available state appropriations to entities that provide care to medically underserved populations. The chapter also sets requirements for the content of grant applications and the process, criteria, and permissible scope of the awards.

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 about the rule since the last five-year review.

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 as currently stated, adequately implements it's enabling statutes and the needs of the Primary Care Grant Program and must be continued in order to continue publicizing, reviewing, and awarding primary care grants. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
FAMILY HEALTH AND PREPAREDNESS,
PRIMARY CARE AND RURAL HEALTH
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Matt McCullough by phone at 801-273-6619, or by Internet E-mail at mmccullough@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 10/12/2017

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# Human Services, Administration, Administrative Services, Licensing
# R501-1
## General Provisions for Licensing

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 42189
FILED: 10/04/2017

**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 62A-2-106 directs the Office of Licensing to make rules governing consumer safety, protection, minimum administration, and financial requirements for the agencies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Office of Licensing has not received any written comments during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Sections 62A-2-101 through 62A-2-122 provide for the issuance of a license for human service programs. This rule provides guidance to those programs throughout the process of obtaining licenses, and annually during license renewals. This rule allows the office to enforce and ensure the human service programs are maintaining best practices for consumer safety and protection. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES,
LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov
♦ Samantha Hanson by phone at 801-538-4041, or by Internet E-mail at samanthahanson@utah.gov

AUTHORIZED BY: Diane Moore, Director

EFFECTIVE: 10/04/2017

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# Human Services, Administration, Administrative Services, Licensing
# R501-2
## Core Rules

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 42190
FILED: 10/04/2017

**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 62A-2-106 directs the Office of Licensing to make rules governing consumer safety, protection, minimum administration, and financial requirements for the agencies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Office of Licensing has not received any written comments during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Sections 62A-2-101 through 62A-2-122 provide for the issuance of a license for human service programs. This rule provides guidance to those programs throughout the process of obtaining licenses, and annually during license renewals. This rule allows the office to enforce and ensure the human service programs are maintaining best practices for consumer safety and protection. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov
♦ Samantha Hanson by phone at 801-538-4041, or by Internet E-mail at samanthahanson@utah.gov

AUTHORIZED BY: Diane Moore, Director

EFFECTIVE: 10/04/2017

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# Human Services, Administration, Administrative Services, Licensing
# R501-7
## Child Placing Adoption Agencies

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 42191
FILED: 10/04/2017

**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 62A-2-106 directs the Office of Licensing to make rules governing consumer safety, protection, minimum administration, and financial requirements for the agencies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Office of Licensing has not received any written comments during the past five years

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Sections 62A-2-101 through 62A-2-122 provide for the issuance of a license for human service programs. This rule provides guidance to those programs throughout the process of obtaining licenses, and annually during license renewals. This rule allows the office to enforce and ensure the human service programs are maintaining best practices for consumer safety and protection. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Diane Moore by phone at 801-538-4235, by FAX at 801-538-4553, or by Internet E-mail at dmoore@utah.gov

♦ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov
♦ Samantha Hanson by phone at 801-538-4041, or by Internet E-mail at samanthahanson@utah.gov

AUTHORIZED BY: Diane Moore, Director

EFFECTIVE: 10/04/2017

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# Human Services, Administration, Administrative Services, Licensing
# R501-8
## Outdoor Youth Programs

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 42192
FILED: 10/04/2017

**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 62A-2-106 directs the Office of Licensing to make rules governing consumer safety, protection, minimum administration, and financial requirements for the agencies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Office of Licensing has not received any written comments during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Sections 62A-2-101 through 62A-2-122 provide for the issuance of a license for human service programs. This rule provides guidance to those programs throughout the process of obtaining licenses, and annually during license renewals. This rule allows the office to enforce and ensure the human service programs are maintaining best practices for consumer safety and protection. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov
♦ Samantha Hanson by phone at 801-538-4041, or by Internet E-mail at samanthahanson@utah.gov

AUTHORIZED BY: Diane Moore, Director

EFFECTIVE: 10/04/2017

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# Human Services, Administration, Administrative Services, Licensing
# R501-11
## Social Detoxification Programs

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 42193
FILED: 10/04/2017

**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 62A-2-106 directs the Office of Licensing to make rules governing consumer safety, protection, minimum administration, and financial requirements for the agencies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Office of Licensing has not received any written comments during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Sections 62A-2-101 through 62A-2-122 provide for the issuance of a license for human service programs. This rule provides guidance to those programs throughout the process of obtaining licenses, and annually during license renewals. This rule allows the office to enforce and ensure the human service programs are maintaining best practices for consumer safety and protection. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov
♦ Samantha Hanson by phone at 801-538-4041, or by Internet E-mail at samanthahanson@utah.gov

AUTHORIZED BY: Diane Moore, Director

EFFECTIVE: 10/04/2017

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# Human Services, Administration, Administrative Services, Licensing
# R501-12
## Foster Care Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 42194
FILED: 10/04/2017

**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 62A-2-106 directs the Office of Licensing to make rules governing consumer safety, protection, minimum administration, and financial requirements for the agencies. Additionally, Section 62A-2-101 states foster care services shall be licensed and directs the Office of Licensing to establish the minimum requirements for foster homes and proctor homes for children in the custody of the Human Services Department.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Office of Licensing has not received any written comments during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Sections 62A-2-101 through 62A-2-122 provide for the issuance of a license for human service programs. This rule provides guidance to those programs throughout the process of obtaining licenses, and annually during license renewals. This rule allows the office to enforce and ensure the human service programs are maintaining best practices for consumer safety and protection for children in foster and proctor homes. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov
♦ Samantha Hanson by phone at 801-538-4041, or by Internet E-mail at samanthahanson@utah.gov

AUTHORIZED BY: Diane Moore, Director

EFFECTIVE: 10/04/2017

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# Human Services, Administration, Administrative Services, Licensing
# R501-13
## Adult Day Care

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 42195
FILED: 10/04/2017

**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 62A-2-106 directs the Office of Licensing to make rules governing consumer safety, protection, minimum administration, and financial requirements for the agencies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: The Office of Licensing has not received any written comments during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Sections 62A-2-101 through 62A-2-122 provide for the issuance of a license for human service programs. This rule provides guidance to those programs throughout the process of obtaining licenses, and annually during license renewals. This rule allows the office to enforce and ensure the human service programs are maintaining best practices for consumer safety and protection. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov
♦ Samantha Hanson by phone at 801-538-4041, or by Internet E-mail at samanthahanson@utah.gov

AUTHORIZED BY: Diane Moore, Director

EFFECTIVE: 10/04/2017

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## Human Services, Administration, Administrative Services, Licensing
## **R501-16**
## Intermediate Secure Treatment Programs for Minors

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 42196
FILED: 10/04/2017

**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 62A-2-106 directs the Office of Licensing to make rules governing consumer safety, protection, minimum administration, and financial requirements for the agencies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Office of Licensing has not received any written comments during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Sections 62A-2-101 through 62A-2-122 provide for the issuance of a license for human service programs. This rule provides guidance to those programs throughout the process of obtaining licenses, and annually during license renewals. This rule allows the office to enforce and ensure the human service programs are maintaining best practices for consumer safety and protection. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
195 N 1950 W
FIRST FLOOR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov
♦ Samantha Hanson by phone at 801-538-4041, or by Internet E-mail at samanthahanson@utah.gov

AUTHORIZED BY: Diane Moore, Director

EFFECTIVE: 10/04/2017

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## Insurance, Administration
## **R590-266**
## Utah Essential Health Benefits Package

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 42230
FILED: 10/16/2017

**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: Subsection 31A-30-116(3)(b) requires the Insurance Commissioner to adopt a rule that designates the essential health benefits that shall be included in health care plans in the small employer group and individual markets. NOTE: Section 31A-30-116 was erroneously repealed without replacement during the renumbering from Title 31A, Chapter 30, to Title 31A, Chapter 45, as a result of H.B. 336 during the 2017 General Session. It is proposed to be reenacted in the Insurance Department's cleanup bill for the 2018 General Session.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department of Insurance has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued for Utah to maintain self-governance of its health insurance market. One provision of the Affordable Care Act allows each state to designate the essential health benefits that must be included in the small employer group and individual market health care plans; if the state does not designate such benefits, the federal government will enforce federal standards.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 10/16/2017

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# Labor Commission, Adjudication
# R602-3
## Procedure and Standards for Approval of Assignment of Benefits

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

DAR FILE NO.: 42188
FILED: 10/04/2017

**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: Subsection 34A-1-104(1) and Section 34A-1-304 authorize the Utah Labor Commission (Commission) to adopt rules and conduct adjudicative proceedings relating to the administration of the Utah Workers' Compensation Act. Section 34A-2-422 of the Utah Workers' Compensation Act specifically prohibits any transfer of workers' compensation payment rights unless the proposed transfer is first submitted to and approved by the Commission. Therefore, in order to administer an orderly system of adjudication, it is necessary for the Commission to establish the procedural and substantive requirements for Commission approval of any request for transfer of workers compensation payment rights.

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 during and since the last five-year review of 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: This rule remains necessary to establish the procedural and substantive requirements for Commission approval of any request for transfer of workers' compensation payment rights. Therefore, this rule should be continued.

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

LABOR COMMISSION
ADJUDICATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Christopher Hill by phone at 801-530-6113, by FAX at 801-530-6390, or by Internet E-mail at chill@utah.gov

AUTHORIZED BY: Jaceson Maughan, Commissioner

EFFECTIVE: 10/04/2017

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## NOTICES OF
# FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **Notice of Five-Year Extension** (**Extension**) with the Office. However, if the agency fails to file either the **Five-Year Notice of Review and Statement of Continuation** or the **Extension** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **Notice of Five-Year Expiration** (**Expiration**) to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **Expirations** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

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## Regents (Board of), College of Eastern Utah
## **R767-1**
## Government Records Access and Management Act

**FIVE-YEAR REVIEW EXPIRATION**
DAR FILE NO.: 42187
FILED: 10/03/2017

SUMMARY: The agency no longer exists so the rule expired as of 10/03/2017 and will be removed from the Administrative Code.

EFFECTIVE: 10/03/2017

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**End of the Notices of Notices of Five Year Expirations Section**

# NOTICES OF
# RULE EFFECTIVE DATES

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
Purchasing and General Services
No. 41799 (AMD): R33-26. State Surplus Property
Published: 07/01/2017
Effective: 10/03/2017

Commerce
Occupational and Professional Licensing
No. 41999 (AMD): R156-5a. Podiatric Physician Licensing Act Rule
Published: 09/01/2017
Effective: 10/10/2017

No. 42018 (AMD): R156-11a. Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule
Published: 09/01/2017
Effective: 10/10/2017

Education
Administration
No. 42026 (AMD): R277-113-6. Required LEA Fiscal Policies
Published: 09/01/2017
Effective: 10/10/2017

No. 42028 (AMD): R277-703. Centennial Scholarship for Early Graduation
Published: 09/01/2017
Effective: 10/10/2017

Environmental Quality
Waste Management and Radiation Control, Radiation
No. 41991 (AMD): R313-12. General Provisions
Published: 08/15/2017
Effective: 10/13/2017

No. 41992 (AMD): R313-19. Requirements of General Applicability to Licensing of Radioactive Material
Published: 08/15/2017
Effective: 10/13/2017

No. 41993 (AMD): R313-21. General Licenses
Published: 08/15/2017
Effective: 10/13/2017

No. 41994 (AMD): R313-22. Specific Licenses
Published: 08/15/2017
Effective: 10/13/2017

Governor
Economic Development
No. 42029 (AMD): R357-11. Technology Commercialization and Innovation Program (TCIP)
Published: 09/01/2017
Effective: 10/13/2017

Health
Family Health and Preparedness, Licensing
No. 41969 (AMD): R432-2. General Licensing Provisions
Published: 08/15/2017
Effective: 10/06/2017

No. 41966 (AMD): R432-150. Nursing Care Facility
Published: 08/15/2017
Effective: 10/06/2017

No. 41970 (AMD): R432-270. Assisted Living Facilities
Published: 08/15/2017
Effective: 10/06/2017

No. 41959 (AMD): R432-650. End Stage Renal Disease Facility Rules
Published: 08/15/2017
Effective: 10/06/2017

No. 41965 (AMD): R432-750. Hospice Rule
Published: 08/15/2017
Effective: 10/06/2017

Human Services
Services for People with Disabilities
No. 41802 (AMD): R539-10. Short-Term Limited Waiting List Services
Published: 07/01/2017
Effective: 10/11/2017

Insurance
Administration
No. 41955 (REP): R590-205. Privacy of Consumer Information Compliance Deadline
Published: 08/15/2017
Effective: 10/06/2017

Public Service Commission
Administration
No. 41644 (AMD): R746-360-4. Application of Fund Surcharges to Customer Billings
Published: 06/01/2017
Effective: 10/11/2017

No. 41644 (CPR): R746-360-4. Application of Fund Surcharges to Customer Billings
Published: 09/01/2017
Effective: 10/11/2017

Transportation
Motor Carrier
No. 42010 (AMD): R909-2. Utah Size and Weight Rule
Published: 09/01/2017
Effective: 10/10/2017

Operations, Traffic and Safety
No. 42012 (NEW): R920-30. State Safety Oversight
Published: 09/01/2017
Effective: 10/10/2017

No. 42011 (AMD): R920-50. Ropeway Operation Safety
Published: 09/01/2017
Effective: 10/10/2017

No. 42008 (REP): R920-51. Safety Regulations for Railroads
Published: 09/01/2017
Effective: 10/10/2017

Preconstruction
No. 42009 (AMD): R930-3. Highway Noise Abatement
Published: 09/01/2017
Effective: 10/10/2017

**End of the Notices of Rule Effective Dates Section**

# RULES INDEX
# BY AGENCY (CODE NUMBER)
# AND
# BY KEYWORD (SUBJECT)

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2017 through October 16, 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).

**EDITOR'S NOTE: Due to space constraints, only the Agency Index is included in this Bulletin.**

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 (https://rules.utah.gov/).

# RULES INDEX - BY AGENCY (CODE NUMBER)

**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

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|---|---|---|---|---|---|
| ADMINISTRATIVE SERVICES | | | | | |
| Administration | | | | | |
| R13-3 | Americans with Disabilities Act Grievance Procedures | 42202 | 5YR | 10/10/2017 | Not Printed |
| Debt Collection | | | | | |
| R21-1 | Transfer of Collection Responsibility of State Agencies | 41374 | NSC | 04/10/2017 | Not Printed |
| R21-1 | Transfer of Collection Responsibility of State Agencies | 41743 | 5YR | 06/07/2017 | 2017-13/229 |
| R21-2 | Office of State Debt Collection Administrative Procedures | 41376 | 5YR | 03/17/2017 | 2017-8/59 |
| R21-3 | Debt Collection Through Administrative Offset | 41377 | 5YR | 03/17/2017 | 2017-8/59 |
| Facilities Construction and Management | | | | | |
| 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 |
| R23-3 | Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting for State Owned Facilities | 41578 | AMD | 07/12/2017 | 2017-11/6 |
| R23-3-4 | Authorization of Programs | 41666 | NSC | 07/19/2017 | Not Printed |
| R23-4 | Suspension/Debarment | 42065 | 5YR | 09/07/2017 | 2017-19/115 |
| R23-5 | Contingency Funds | 42066 | 5YR | 09/07/2017 | 2017-19/115 |
| R23-6 | Value Engineering and Life Cycle Costing of State Owned Facilities Rules and Regulations | 42067 | 5YR | 09/07/2017 | 2017-19/116 |
| R23-9 | Cooperation with Local Government Planning | 42068 | 5YR | 09/07/2017 | 2017-19/116 |
| R23-10 | Naming of State Buildings | 42069 | 5YR | 09/07/2017 | 2017-19/117 |
| R23-10 | Naming of State Buildings | 42084 | NSC | 09/20/2017 | Not Printed |
| R23-12 | Building Code Appeals Process | 42064 | 5YR | 09/07/2017 | 2017-19/118 |
| R23-12 | Building Code Appeals Process | 42105 | NSC | 09/29/2017 | Not Printed |
| R23-14 | Management of Roofs on State Buildings | 42070 | 5YR | 09/07/2017 | 2017-19/118 |
| 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 |
| R23-21 | Division of Facilities Construction and Management Lease Procedures | 42071 | 5YR | 09/07/2017 | 2017-19/119 |
| R23-24 | Capital Projects Utilizing Non-appropriated Funds | 42072 | 5YR | 09/07/2017 | 2017-19/119 |
| R23-24 | Capital Projects Utilizing Non-appropriated Funds | 42083 | NSC | 09/29/2017 | Not Printed |
| R23-30 | State Facility Energy Efficiency Fund | 40946 | AMD | 01/20/2017 | 2016-23/11 |

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|---|---|---|---|---|---|
| Finance | | | | | |
| R25-5 | Payment of Per Diem to Boards | 41796 | NSC | 06/29/2017 | Not Printed |
| R25-7 | Travel-Related Reimbursements for State Employees | 41127 | EMR | 01/06/2017 | 2017-3/71 |
| R25-7 | Travel-Related Reimbursements for State Employees | 41147 | AMD | 03/10/2017 | 2017-3/2 |
| R25-7 | Travel-Related Reimbursements for State Employees | 41797 | EMR | 07/01/2017 | 2017-13/221 |
| R25-7 | Travel-Related Reimbursements for State Employees | 41798 | AMD | 08/07/2017 | 2017-13/8 |
| 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 | 2017-6/29 |
| Fleet Operations | | | | | |
| 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 |
| R27-7 | Safety and Loss Prevention of State Vehicles | 41609 | AMD | 07/11/2017 | 2017-11/11 |
| R27-7 | Safety and Loss Prevention of State Vehicles | 42158 | NSC | 10/04/2017 | Not Printed |
| Inspector General of Medicaid Services (Office of) | | | | | |
| R30-1 | Office of Inspector General of Medicaid Services | 41487 | 5YR | 04/21/2017 | 2017-10/163 |
| Purchasing and General Services | | | | | |
| R33-1 | Utah Procurement Rule, General Procurement Provisions | 41534 | AMD | 06/21/2017 | 2017-10/4 |
| R33-4 | Supplemental Procurement Procedures | 41535 | AMD | 06/21/2017 | 2017-10/7 |
| R33-4-101b | Vendors with Exclusive Authorization to Bid | 41292 | NSC | 03/06/2017 | Not Printed |
| R33-5 | Other Standard Procurement Processes | 41536 | AMD | 06/21/2017 | 2017-10/10 |
| R33-5 | Other Standard Procurement Processes | 41665 | NSC | 06/26/2017 | Not Printed |
| R33-6 | Bidding | 41539 | AMD | 06/21/2017 | 2017-10/15 |
| R33-7 | Request for Proposals | 41540 | AMD | 06/21/2017 | 2017-10/18 |
| R33-8 | Exceptions to Standard Procurement Process | 41544 | AMD | 06/21/2017 | 2017-10/27 |
| R33-8-102 | Adding Additional Funds to a Contract | 41023 | AMD | 02/02/2017 | 2016-24/4 |
| R33-9 | Cancellations, Rejections, and Debarment | 41545 | AMD | 06/21/2017 | 2017-10/31 |
| R33-11 | Form of Bonds | 41546 | AMD | 06/21/2017 | 2017-10/35 |
| R33-12 | Terms and Conditions, Contracts, Change Orders and Costs | 41547 | AMD | 06/21/2017 | 2017-10/37 |
| R33-13 | General Construction Provisions | 41548 | AMD | 06/21/2017 | 2017-10/43 |
| R33-15 | Procurement of Design Profession Services | 41549 | AMD | 06/21/2017 | 2017-10/47 |
| R33-16 | Protests | 40898 | AMD | 01/20/2017 | 2016-22/10 |
| R33-16 | Protests | 41550 | AMD | 06/21/2017 | 2017-10/48 |
| R33-17 | Procurement Appeals Board | 41551 | AMD | 06/21/2017 | 2017-10/51 |
| R33-18 | Appeals to Court and Court Proceedings | 41552 | AMD | 06/21/2017 | 2017-10/54 |
| R33-19-101 | Encouraged to Obtain Legal Advice From Legal Counsel | 41553 | AMD | 06/21/2017 | 2017-10/55 |
| R33-21-201e | Division May Charge Administrative Fees on State Cooperative Contracts - Prohibition Against Other Procurement Units Charging Fees on State Contracts | 41554 | AMD | 06/21/2017 | 2017-10/56 |
| R33-25 | Executive Branch Insurance Procurement | 41555 | AMD | 06/21/2017 | 2017-10/57 |
| R33-26 | State Surplus Property | 41799 | AMD | 10/03/2017 | 2017-13/14 |
| Records Committee | | | | | |
| R35-1-2 | Procedures for Appeal Hearings | 41478 | AMD | 06/22/2017 | 2017-9/2 |
| R35-2-2 | Declining Requests for Hearings | 41479 | AMD | 06/22/2017 | 2017-9/4 |
| Risk Management | | | | | |
| R37-1 | Risk Management General Rules | 41601 | 5YR | 05/05/2017 | 2017-11/209 |
| R37-2 | Risk Management State Workers' Compensation Insurance Administration | 41602 | 5YR | 05/05/2017 | 2017-11/210 |
| R37-3 | Risk Management Adjudicative Proceedings | 41603 | 5YR | 05/05/2017 | 2017-11/210 |

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|---|---|---|---|---|---|
| R37-4 | Adjusted Utah Governmental Immunity Act Limitations on Judgments | 41604 | 5YR | 05/05/2017 | 2017-11/211 |
| AGRICULTURE AND FOOD | | | | | |
| Administration | | | | | |
| R51-2 | Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food | 41120 | 5YR | 01/03/2017 | 2017-2/45 |
| Animal Industry | | | | | |
| R58-1 | Admission, Identification, and Inspection of Livestock, Poultry, and Other Animals | 41168 | 5YR | 01/12/2017 | 2017-3/79 |
| R58-1 | Admission, Identification, and Inspection of Livestock, Poultry, and Other Animals | 42154 | NSC | 10/10/2017 | Not Printed |
| 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 |
| R58-11 | Slaughter of Livestock and Poultry | 41372 | NSC | 04/05/2017 | Not Printed |
| R58-11 | Slaughter of Livestock and Poultry | 41467 | NSC | 05/15/2017 | Not Printed |
| R58-18 | Elk Farming | 41162 | 5YR | 01/12/2017 | 2017-3/81 |
| R58-19 | Compliance Procedures | 41194 | 5YR | 01/18/2017 | 2017-4/58 |
| R58-21 | Trichomoniasis | 41471 | AMD | 06/14/2017 | 2017-9/5 |
| 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 |
| Horse Racing Commission (Utah) | | | | | |
| R52-7 | Horse Racing | 41102 | AMD | 03/06/2017 | 2017-1/4 |
| Marketing and Development | | | | | |
| R65-5 | Utah Red Tart and Sour Cherry Marketing Order | 41860 | 5YR | 06/29/2017 | 2017-14/53 |
| R65-11 | Utah Sheep Marketing Order | 41859 | 5YR | 06/29/2017 | 2017-14/53 |
| Plant Industry | | | | | |
| R68-7 | Utah Pesticide Control Rule | 42153 | NSC | 10/10/2017 | Not Printed |
| R68-15 | Quarantine Pertaining to Japanese Beetle, (Popillia Japonica) | 41997 | 5YR | 08/03/2017 | 2017-17/211 |
| R68-15 | Quarantine Pertaining to Japanese Beetle, (Popillia Japonica) | 41998 | NSC | 09/22/2017 | Not Printed |
| R68-19 | Compliance Procedures | 41195 | 5YR | 01/18/2017 | 2017-4/59 |
| R68-23 | Utah Firewood Quarantine | 41675 | NEW | 08/03/2017 | 2017-12/8 |
| Regulatory Services | | | | | |
| R70-101 | Bedding, Upholstered Furniture and Quilted Clothing | 40918 | AMD | 01/26/2017 | 2016-22/12 |
| R70-101 | Bedding, Upholstered Furniture and Quilted Clothing | 41371 | NSC | 04/05/2017 | Not Printed |
| 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 |
| R70-520 | Standard of Identity and Labeling Requirements for Honey | 41861 | 5YR | 06/29/2017 | 2017-14/54 |
| R70-530 | Food Protection | 41344 | 5YR | 03/06/2017 | 2017-7/81 |
| R70-530 | Food Protection | 41370 | NSC | 04/05/2017 | Not Printed |
| 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 |
| R70-960 | Weights and Measures Fee Registration | 42030 | NSC | 09/05/2017 | Not Printed |
| ALCOHOLIC BEVERAGE CONTROL | | | | | |
| Administration | | | | | |
| R81-3-14 | Type 5 Package Agencies | 40922 | AMD | 01/03/2017 | 2016-22/16 |

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|---|---|---|---|---|---|
| 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 | | | | | |
| Administration | | | | | |
| R105-1 | Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services | 40950 | AMD | 01/20/2017 | 2016-23/19 |
| R105-1 | Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services | 41466 | 5YR | 04/10/2017 | 2017-9/41 |
| R105-1-6 | Small Purchases | 41295 | NSC | 03/06/2017 | Not Printed |
| AUDITOR | | | | | |
| Administration | | | | | |
| R123-3 | State Auditor Adjudicative Proceedings | 41764 | 5YR | 06/07/2017 | 2017-13/230 |
| R123-4 | Public Petitions for Declaratory Orders | 41765 | 5YR | 06/07/2017 | 2017-13/230 |
| R123-5 | Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations | 41766 | 5YR | 06/07/2017 | 2017-13/231 |
| CAPITOL PRESERVATION BOARD (STATE) | | | | | |
| Administration | | | | | |
| R131-3 | Use of Magnetometers on Capitol Hill | 41573 | 5YR | 05/02/2017 | 2017-11/211 |
| COMMERCE | | | | | |
| Consumer Protection | | | | | |
| R152-6 | Utah Administrative Procedures Act Rules | 40920 | AMD | 01/09/2017 | 2016-22/21 |
| R152-34 | Postsecondary Proprietary School Act Rules | 41610 | 5YR | 05/08/2017 | 2017-11/212 |
| Corporations and Commercial Code | | | | | |
| R154-1 | Central Filing System for Agriculture Product Liens | 42079 | 5YR | 09/11/2017 | 2017-19/120 |
| Occupational and Professional Licensing | | | | | |
| R156-1 | General Rule of the Division of Occupational and Professional Licensing | 41299 | AMD | 04/11/2017 | 2017-5/8 |
| R156-5a | Podiatric Physician Licensing Act Rule | 41047 | AMD | 02/07/2017 | 2017-1/11 |
| R156-5a | Podiatric Physician Licensing Act Rule | 41999 | AMD | 10/10/2017 | 2017-17/2 |
| R156-11a | Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule | 41198 | 5YR | 01/19/2017 | 2017-4/59 |
| R156-11a | Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule | 41260 | AMD | 03/27/2017 | 2017-4/4 |
| R156-11a | Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule | 42018 | AMD | 10/10/2017 | 2017-17/4 |
| 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 |
| R156-22 | Professional Engineers and Professional Land Surveyors Licensing Act Rule | 41706 | 5YR | 05/30/2017 | 2017-12/35 |
| R156-22 | Professional Engineers and Professional Land Surveyors Licensing Act Rule | 41843 | AMD | 08/21/2017 | 2017-14/7 |
| R156-22-302c | Qualifications for Licensure - Experience Requirements | 41286 | NSC | 03/06/2017 | Not Printed |
| R156-24b-102 | Definitions | 41474 | AMD | 06/08/2017 | 2017-9/8 |
| R156-31b-502 | Unprofessional Conduct | 41308 | NSC | 03/06/2017 | Not Printed |
| 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-301 | Access to Database Information | 41339 | NSC | 04/05/2017 | Not Printed |
| R156-37f-303 | Access to Opioid Prescription Information Via an Electronic Data System | 41265 | NSC | 02/23/2017 | Not Printed |

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| R156-38b | State Construction Registry Rule | 41349 | AMD | 05/08/2017 | 2017-7/4 |
| R156-40 | Recreational Therapy Practice Act Rule | 41705 | AMD | 07/25/2017 | 2017-12/10 |
| R156-42a-304 | Continuing Education | 41473 | AMD | 06/08/2017 | 2017-9/9 |
| R156-44a-601 | Delegation of Nursing Tasks | 41340 | NSC | 04/05/2017 | Not Printed |
| R156-46b-202 | Informal Adjudicative Proceedings | 41169 | AMD | 03/13/2017 | 2017-3/8 |
| R156-46b-202 | Informal Adjudicative Proceedings | 41354 | NSC | 04/05/2017 | Not Printed |
| R156-47b | Massage Therapy Practice Act Rule | 41436 | 5YR | 04/04/2017 | 2017-9/41 |
| R156-55a | Utah Construction Trades Licensing Act Rule | 41348 | AMD | 05/08/2017 | 2017-7/6 |
| R156-55b-102 | Definitions | 41261 | AMD | 03/27/2017 | 2017-4/5 |
| R156-55b-302a | Qualifications for Licensure - Education and Experience Requirements | 41917 | NSC | 08/01/2017 | Not Printed |
| R156-55c | Plumber Licensing Act Rule | 41298 | AMD | 04/10/2017 | 2017-5/12 |
| R156-55c-302a | Qualification for Licensure - Training and Instruction Requirement | 41918 | NSC | 08/01/2017 | 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 |
| R156-76-501 | Administrative Penalties - Unlawful Conduct | 41346 | AMD | 05/08/2017 | 2017-7/14 |
| R156-76-501 | Administrative Penalties - Unlawful Conduct | 41606 | NSC | 05/23/2017 | Not Printed |
| R156-78B | Prelitigation Panel Review Rule | 41146 | 5YR | 01/10/2017 | 2017-3/87 |
| Real Estate | | | | | |
| R162-2c | Utah Residential Mortgage Practices and Licensing Rules | 41618 | AMD | 07/11/2017 | 2017-11/15 |
| R162-2f | Real Estate Licensing and Practices Rules | 40952 | AMD | 01/19/2017 | 2016-23/26 |
| R162-2f | Real Estate Licensing and Practices Rules | 41350 | AMD | 05/10/2017 | 2017-7/15 |
| Securities | | | | | |
| R164-1 | Fraudulent Practices | 41885 | 5YR | 07/03/2017 | 2017-15/27 |
| R164-4 | Licensing Requirements | 41886 | 5YR | 07/03/2017 | 2017-15/27 |
| R164-5 | Broker-Dealer and Investment Adviser Books and Records | 41887 | 5YR | 07/03/2017 | 2017-15/28 |
| R164-6 | Denial, Suspension or Revocation of a License | 41888 | 5YR | 07/03/2017 | 2017-15/28 |
| R164-9 | Registration by Coordination | 41718 | 5YR | 06/02/2017 | 2017-13/231 |
| R164-10 | Registration by Qualification | 41719 | 5YR | 06/02/2017 | 2017-13/232 |
| R164-11 | Registration Statement | 41720 | 5YR | 06/02/2017 | 2017-13/232 |
| R164-12 | Sales Commission | 41721 | 5YR | 06/02/2017 | 2017-13/233 |
| R164-14 | Exemptions | 41722 | 5YR | 06/02/2017 | 2017-13/233 |
| R164-14-2b | Manual Listing Exemption | 41465 | AMD | 06/08/2017 | 2017-9/10 |
| R164-15 | Federal Covered Securities | 41723 | 5YR | 06/02/2017 | 2017-13/233 |
| R164-15-4 | Notice Filings for Offerings Made Under Federal Crowdfunding Provisions | 41470 | AMD | 06/30/2017 | 2017-9/13 |
| R164-18 | Procedures | 41889 | 5YR | 07/03/2017 | 2017-15/29 |
| R164-25 | Record of Registration | 41890 | 5YR | 07/03/2017 | 2017-15/29 |
| R164-26 | Consent to Service of Process | 41726 | 5YR | 06/02/2017 | 2017-13/234 |
| R164-101 | Securities Fraud Reporting Program Act | 41293 | 5YR | 02/07/2017 | 2017-5/63 |
| CORRECTIONS | | | | | |
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| R251-106 | Media Relations | 41338 | 5YR | 03/02/2017 | 2017-7/81 |
| R251-107 | Executions | 41456 | 5YR | 04/06/2017 | 2017-9/42 |
| R251-107 | Executions | 41495 | NSC | 05/15/2017 | Not Printed |
| R251-115 | Contract County Jail Programming Payment | 41988 | EXT | 08/01/2017 | 2017-16/135 |
| R251-305 | Visiting at Community Correctional Centers | 41447 | 5YR | 04/05/2017 | 2017-9/43 |
| R251-305 | Visiting at Community Correctional Centers | 41460 | AMD | 08/15/2017 | 2017-9/14 |
| R251-306 | Sponsors in Community Correctional Centers | 41451 | 5YR | 04/05/2017 | 2017-9/43 |
| R251-401 | Supervision Fees | 41707 | 5YR | 05/31/2017 | 2017-12/36 |
| R251-703 | Vehicle Direction Station | 41450 | 5YR | 04/05/2017 | 2017-9/43 |
| R251-703 | Vehicle Direction Station | 41461 | NSC | 05/15/2017 | Not Printed |
| R251-704 | North Gate | 41449 | 5YR | 04/05/2017 | 2017-9/44 |
| R251-705 | Inmate Mail Procedures | 41448 | 5YR | 04/05/2017 | 2017-9/44 |

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| R251-705 | Inmate Mail Procedures | 41621 | NSC | 05/31/2017 | Not Printed |
| R251-706 | Inmate Visiting | 41457 | 5YR | 04/06/2017 | 2017-9/45 |
| R251-706 | Inmate Visiting | 41500 | AMD | 08/15/2017 | 2017-10/59 |
| R251-707 | Legal Access | 41463 | 5YR | 04/07/2017 | 2017-9/45 |
| R251-707 | Legal Access | 41622 | NSC | 05/31/2017 | Not Printed |
| R251-710 | Search | 41453 | 5YR | 04/05/2017 | 2017-9/46 |
| CRIME VICTIM REPARATIONS | | | | | |
| Administration | | | | | |
| R270-1 | Award and Reparation Standards | 41475 | AMD | 06/07/2017 | 2017-9/16 |
| R270-1-20 | Medical Awards | 41142 | AMD | 03/10/2017 | 2017-3/9 |
| EDUCATION | | | | | |
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| R277-101 | Utah State Board of Education Procedures | 41732 | 5YR | 06/06/2017 | 2017-13/235 |
| R277-101 | Utah State Board of Education Procedures | 41768 | AMD | 08/07/2017 | 2017-13/21 |
| R277-103 | USOE Government Records and Management Act | 41769 | REP | 08/07/2017 | 2017-13/24 |
| R277-106 | Utah Professional Practices Advisory Commission Appointment Process | 41086 | AMD | 02/07/2017 | 2017-1/14 |
| R277-106 | Utah Professional Practices Advisory Commission Appointment Process | 41315 | NSC | 03/06/2017 | Not Printed |
| R277-108 | Annual Assurance of Compliance by Local School Boards | 42087 | 5YR | 09/13/2017 | 2017-19/120 |
| R277-110 | Legislative Supplemental Salary Adjustment | 41932 | 5YR | 07/19/2017 | 2017-16/121 |
| R277-110 | Legislative Supplemental Salary Adjustment | 41971 | AMD | 09/21/2017 | 2017-16/6 |
| R277-111 | Sharing of Curriculum Materials by Public School Educators | 41770 | REP | 08/07/2017 | 2017-13/25 |
| R277-112 | Prohibiting Discrimination in the Public Schools | 41956 | REP | 09/21/2017 | 2017-16/8 |
| R277-113 | LEA Fiscal Policies and Accountability | 41073 | AMD | 02/07/2017 | 2017-1/16 |
| R277-113-6 | Required LEA Fiscal Policies | 42026 | AMD | 10/10/2017 | 2017-17/20 |
| R277-114 | Corrective Action and Withdrawal or Reduction of Program Funds | 41074 | AMD | 02/07/2017 | 2017-1/22 |
| R277-115 | Material Developed with State Public Education Funds | 41771 | REP | 08/07/2017 | 2017-13/27 |
| R277-120 | Licensing of Material Developed with Public Education Funds | 41772 | NEW | 08/07/2017 | 2017-13/28 |
| R277-121 | Board Waiver of Administrative Rules | 41773 | NEW | 08/07/2017 | 2017-13/30 |
| R277-122 | Board of Education Procurement | 41646 | NEW | 07/10/2017 | 2017-11/21 |
| R277-210 | Utah Professional Practices Advisory Commission (UPPAC), Definitions | 41087 | AMD | 02/07/2017 | 2017-1/24 |
| R277-211-6 | Proposed Consent to Discipline | 41088 | AMD | 02/07/2017 | 2017-1/28 |
| R277-211-6 | Proposed Consent to Discipline | 41363 | AMD | 05/10/2017 | 2017-7/18 |
| R277-212 | UPPAC Hearing Procedures and Reports | 41089 | AMD | 02/07/2017 | 2017-1/30 |
| R277-401 | Child Abuse-Neglect Reporting by Education Personnel | 41933 | 5YR | 07/19/2017 | 2017-16/121 |
| R277-401 | Child Abuse-Neglect Reporting by Education Personnel | 41972 | AMD | 09/21/2017 | 2017-16/9 |
| R277-404 | Requirements for Assessments of Student Achievement | 41033 | AMD | 01/24/2017 | 2016-24/7 |
| R277-407 | School Fees | 41934 | 5YR | 07/19/2017 | 2017-16/122 |
| R277-407 | School Fees | 41973 | AMD | 09/21/2017 | 2017-16/11 |
| R277-408 | Grants for Online Testing | 41774 | REP | 08/07/2017 | 2017-13/31 |
| R277-410 | Accreditation of Schools | 41733 | 5YR | 06/06/2017 | 2017-13/235 |
| R277-410 | Accreditation of Schools | 41775 | AMD | 08/07/2017 | 2017-13/33 |
| R277-417 | Prohibiting LEAs and Third Party Providers from Offering Incentives or Reimbursements for Enrollment or Participation | 41188 | AMD | 03/14/2017 | 2017-3/12 |
| R277-419 | Pupil Accounting | 42013 | 5YR | 08/14/2017 | 2017-17/211 |
| R277-420 | Aiding Financially Distressed School Districts | 42088 | 5YR | 09/13/2017 | 2017-19/121 |
| R277-422 | State Supported Voted Local Levy, Board Local Levy and Reading Improvement Program | 42089 | 5YR | 09/13/2017 | 2017-19/121 |
| R277-424 | Indirect Costs for State Programs | 42090 | 5YR | 09/13/2017 | 2017-19/122 |
| R277-425 | Budgeting, Accounting, and Auditing for Utah Local Education Agencies (LEAs) | 41091 | REP | 02/07/2017 | 2017-1/36 |

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| R277-426 | Definition of Private and Non-Profit Schools for Federal Program Services | 42091 | 5YR | 09/13/2017 | 2017-19/122 |
| R277-433 | Disposal of Textbooks in the Public Schools | 41935 | 5YR | 07/19/2017 | 2017-16/122 |
| R277-433 | Disposal of Textbooks in the Public Schools | 41974 | AMD | 09/21/2017 | 2017-16/15 |
| R277-445 | Classifying Small Schools as Necessarily Existent | 41936 | 5YR | 07/19/2017 | 2017-16/123 |
| R277-445 | Classifying Small Schools as Necessarily Existent | 41975 | AMD | 09/21/2017 | 2017-16/16 |
| R277-454 | Construction Management of School Building Projects | 42092 | 5YR | 09/13/2017 | 2017-19/123 |
| R277-460 | Distribution of Substance Abuse Prevention Account | 41734 | 5YR | 06/06/2017 | 2017-13/236 |
| R277-460 | Distribution of Substance Abuse Prevention Account | 41776 | AMD | 08/07/2017 | 2017-13/36 |
| R277-467 | Distribution of Funds Appropriated for Library Media Materials and Electronic Resources | 41777 | REP | 08/07/2017 | 2017-13/38 |
| R277-474 | School Instruction and Human Sexuality | 42093 | 5YR | 09/13/2017 | 2017-19/123 |
| R277-474-3 | General Provisions | 41647 | AMD | 07/10/2017 | 2017-11/23 |
| R277-479 | Charter School Special Education Student Funding Formula | 41360 | 5YR | 03/15/2017 | 2017-7/82 |
| R277-479 | Charter School Special Education Student Funding Formula | 41778 | AMD | 08/07/2017 | 2017-13/39 |
| R277-483 | Persistently Dangerous Schools | 41364 | REP | 05/10/2017 | 2017-7/19 |
| R277-484 | Data Standards | 41735 | 5YR | 06/06/2017 | 2017-13/236 |
| R277-484 | Data Standards | 41779 | AMD | 08/07/2017 | 2017-13/41 |
| R277-485 | Loss of Enrollment | 41736 | 5YR | 06/06/2017 | 2017-13/237 |
| R277-485 | Loss of Enrollment | 41780 | AMD | 08/07/2017 | 2017-13/46 |
| R277-487 | Public School Data Confidentiality and Disclosure | 41648 | AMD | 07/10/2017 | 2017-11/24 |
| R277-488 | Critical Languages Program | 41737 | 5YR | 06/06/2017 | 2017-13/237 |
| R277-488 | Critical Languages Program | 41781 | AMD | 08/07/2017 | 2017-13/47 |
| R277-489 | Early Intervention Program | 41738 | 5YR | 06/06/2017 | 2017-13/238 |
| R277-489 | Early Intervention Program | 41782 | AMD | 08/07/2017 | 2017-13/50 |
| R277-489 | Early Intervention Program | 41976 | AMD | 09/21/2017 | 2017-16/18 |
| R277-493 | Kindergarten Supplemental Enrichment Program | 41783 | NEW | 08/07/2017 | 2017-13/53 |
| R277-496 | K-3 Reading Software Licenses | 41977 | NEW | 09/21/2017 | 2017-16/21 |
| R277-499 | Seal of Biliteracy | 41004 | NEW | 01/10/2017 | 2016-23/30 |
| R277-502 | Educator Licensing and Data Retention | 41937 | 5YR | 07/19/2017 | 2017-16/123 |
| R277-503 | Licensing Routes | 41005 | AMD | 01/10/2017 | 2016-23/31 |
| R277-507 | Driver Education Endorsement | 41006 | AMD | 01/10/2017 | 2016-23/36 |
| R277-507-3 | Endorsement Requirements | 41189 | AMD | 03/14/2017 | 2017-3/14 |
| R277-509 | Licensure of Student Teachers and Interns | 42094 | 5YR | 09/13/2017 | 2017-19/124 |
| R277-512 | Online Licensure | 41007 | AMD | 01/10/2017 | 2016-23/39 |
| R277-514 | Deaf Education in Public Schools | 41784 | NEW | 08/07/2017 | 2017-13/54 |
| R277-515 | Utah Educator Professional Standards | 41979 | AMD | 09/21/2017 | 2017-16/22 |
| R277-516 | Background Check Policies and Required Reports of Arrests for Licensed Educators, Volunteers, Non-licensed Employees, and Charter School Governing Board Members | 41938 | 5YR | 07/19/2017 | 2017-16/124 |
| R277-516 | Background Check Policies and Required Reports of Arrests for Licensed Educators, Volunteers, Non-licensed Employees, and Charter School Governing Board Members | 41983 | AMD | 09/21/2017 | 2017-16/27 |
| R277-517 | LEA Codes of Conduct | 41008 | NEW | 01/10/2017 | 2016-23/41 |
| R277-519 | Educator Inservice Procedures and Credit | 41316 | 5YR | 02/14/2017 | 2017-5/63 |
| R277-519 | Educator Inservice Procedures and Credit | 41318 | AMD | 04/10/2017 | 2017-5/15 |
| R277-520 | Appropriate Licensing and Assignment of Teachers | 41739 | 5YR | 06/06/2017 | 2017-13/238 |
| R277-520 | Appropriate Licensing and Assignment of Teachers | 41785 | AMD | 08/07/2017 | 2017-13/56 |
| R277-521 | National Board Certification Reimbursement | 41075 | NEW | 02/07/2017 | 2017-1/38 |
| R277-522 | Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers | 42095 | 5YR | 09/13/2017 | 2017-19/124 |
| R277-526 | Paraeducator to Teacher Scholarship Program | 41092 | AMD | 02/07/2017 | 2017-1/39 |
| R277-531 | Public Educator Evaluation Requirements (PEER) | 41009 | AMD | 01/10/2017 | 2016-23/43 |

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| R277-531 | Public Educator Evaluation Requirements (PEER) | 41786 | AMD | 08/07/2017 | 2017-13/60 |
| R277-533 | District Educator Evaluation Systems | 41010 | AMD | 01/10/2017 | 2016-23/45 |
| R277-533 | District Educator Evaluation Systems | 41787 | AMD | 08/07/2017 | 2017-13/62 |
| R277-602 | Special Needs Scholarships - Funding and Procedures | 41093 | AMD | 02/07/2017 | 2017-1/41 |
| R277-608 | Prohibition of Corporal Punishment in Utah's Public Schools | 41939 | 5YR | 07/19/2017 | 2017-16/124 |
| R277-608 | Prohibition of Corporal Punishment in Utah's Public Schools | 41980 | AMD | 09/21/2017 | 2017-16/30 |
| R277-609-4 | LEA Responsibilities to Develop Plans | 41788 | AMD | 08/07/2017 | 2017-13/65 |
| R277-612 | Foreign Exchange Students | 41361 | 5YR | 03/15/2017 | 2017-7/82 |
| R277-612 | Foreign Exchange Students | 41365 | AMD | 05/10/2017 | 2017-7/22 |
| R277-615 | Standards and Procedures for Student Searches | 41362 | 5YR | 03/15/2017 | 2017-7/83 |
| R277-615 | Standards and Procedures for Student Searches | 41366 | AMD | 05/10/2017 | 2017-7/24 |
| R277-618 | Educator Peer Assistance and Review Pilot Program (PAR Program) | 41789 | REP | 08/07/2017 | 2017-13/67 |
| R277-700 | The Elementary and Secondary School General Core | 42014 | 5YR | 08/14/2017 | 2017-17/212 |
| R277-702 | Procedures for the Utah High School Completion Diploma | 41186 | 5YR | 01/17/2017 | 2017-3/87 |
| R277-702 | Procedures for the Utah High School Completion Diploma | 41190 | AMD | 03/14/2017 | 2017-3/15 |
| R277-703 | Centennial Scholarship for Early Graduation | 42015 | 5YR | 08/14/2017 | 2017-17/212 |
| R277-703 | Centennial Scholarship for Early Graduation | 42028 | AMD | 10/10/2017 | 2017-17/28 |
| R277-708 | Enhancement for At-Risk Students | 41331 | NSC | 03/14/2017 | Not Printed |
| R277-713 | Concurrent Enrollment of High School Students in College Courses | 41940 | 5YR | 07/19/2017 | 2017-16/125 |
| R277-717 | High School Course Grading Requirements | 41191 | NEW | 03/14/2017 | 2017-3/18 |
| R277-720 | Child Nutrition Programs | 41790 | REP | 08/07/2017 | 2017-13/68 |
| R277-733 | Adult Education Programs | 41740 | 5YR | 06/06/2017 | 2017-13/239 |
| R277-733 | Adult Education Programs | 41791 | AMD | 08/07/2017 | 2017-13/69 |
| R277-735 | Corrections Education Programs | 41741 | 5YR | 06/06/2017 | 2017-13/239 |
| R277-735 | Corrections Education Programs | 41792 | AMD | 08/07/2017 | 2017-13/78 |
| R277-752 | Special Education Intensive Services Fund | 41076 | NEW | 02/07/2017 | 2017-1/45 |
| R277-753 | LEA Reporting Requirements for Section 504 Students | 41793 | NEW | 08/07/2017 | 2017-13/82 |
| R277-800 | Utah Schools for the Deaf and the Blind | 41941 | 5YR | 07/19/2017 | 2017-16/125 |
| R277-800 | Utah Schools for the Deaf and the Blind | 41981 | AMD | 09/21/2017 | 2017-16/32 |
| R277-801 | Services for Students with Sensory Impairments | 41192 | NEW | 03/14/2017 | 2017-3/20 |
| R277-801 | Services for Students with Sensory Impairments | 41982 | AMD | 09/21/2017 | 2017-16/38 |
| R277-911 | Secondary Career and Technical Education | 41742 | 5YR | 06/06/2017 | 2017-13/240 |
| R277-911 | Secondary Career and Technical Education | 41794 | AMD | 08/07/2017 | 2017-13/84 |
| R277-915 | Work-Based Learning Programs for Interns | 41094 | AMD | 02/07/2017 | 2017-1/46 |
| R277-916 | Career and Technical Education Introduction and Work-Based Learning Programs | 41317 | 5YR | 02/14/2017 | 2017-5/64 |
| R277-916 | Career and Technical Education Introduction and Work-Based Learning Programs | 41319 | AMD | 04/10/2017 | 2017-5/17 |
| R277-923 | American Indian and Alaskan Native Education State Plan Pilot Program | 41795 | AMD | 08/07/2017 | 2017-13/89 |
| R277-925 | Effective Teachers in High Poverty Schools Incentive Program | 41978 | NEW | 09/21/2017 | 2017-16/41 |

ENVIRONMENTAL QUALITY

Administration

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| R305-1 | Records Access and Management | 41301 | 5YR | 02/13/2017 | 2017-5/64 |
| R305-7 | Administrative Procedures | 42047 | NSC | 09/05/2017 | Not Printed |

Air Quality

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| R307-101-3 | Version of Code of Federal Regulations Incorporated by Reference | 41355 | AMD | 06/08/2017 | 2017-7/25 |
| R307-105 | General Requirements: Emergency Controls | 41629 | 5YR | 05/15/2017 | 2017-11/212 |

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| R307-110 | General Requirements: State Implementation Plan | 41231 | 5YR | 01/27/2017 | 2017-4/61 |
| R307-120 | General Requirements: Tax Exemption for Air Pollution Control Equipment | 41230 | 5YR | 01/27/2017 | 2017-4/61 |
| R307-122 | General Requirements: Heavy Duty Vehicle Tax Credit | 41626 | AMD | 08/03/2017 | 2017-11/30 |
| R307-125 | Clean Air Retrofit, Replacement, and Off-Road Technology Program | 41099 | AMD | 03/03/2017 | 2017-1/48 |
| R307-130 | General Penalty Policy | 41229 | 5YR | 01/27/2017 | 2017-4/62 |
| R307-135 | Enforcement Response Policy for Asbestos Hazard Emergency Response Act | 41228 | 5YR | 01/27/2017 | 2017-4/62 |
| R307-210 | Stationary Sources | 41356 | AMD | 06/08/2017 | 2017-7/26 |
| R307-214 | National Emission Standards for Hazardous Air Pollutants | 41630 | 5YR | 05/15/2017 | 2017-11/213 |
| R307-214 | National Emission Standards for Hazardous Air Pollutants | 41357 | AMD | 06/08/2017 | 2017-7/27 |
| R307-214 | National Emission Standards for Hazardous Air Pollutants | 42074 | 5YR | 09/08/2017 | 2017-19/125 |
| R307-230 | NOx Emission Limits for Natural Gas-Fired Water Heaters | 41627 | NEW | 08/03/2017 | 2017-11/32 |
| R307-301 | Utah and Weber Counties: Oxygenated Gasoline Program As a Contingency Measure | 41227 | 5YR | 01/27/2017 | 2017-4/63 |
| R307-302 | Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber Counties | 40773 | AMD | 02/01/2017 | 2016-19/38 |
| R307-302 | Solid Fuel Burning Devices | 40773 | CPR | 02/01/2017 | 2017-1/102 |
| R307-309 | Nonattainment and Maintenance Areas for PM10 and PM2.5: Fugitive Emissions and Fugitive Dust | 41628 | AMD | 08/04/2017 | 2017-11/33 |
| R307-320 | Ozone Maintenance Areas and Ogden City: Employer-Based Trip Reduction Program | 41226 | 5YR | 01/27/2017 | 2017-4/64 |
| R307-325 | Ozone Nonattainment and Maintenance Areas: General Requirements | 41225 | 5YR | 01/27/2017 | 2017-4/64 |
| R307-326 | Ozone Nonattainment and Maintenance Areas: Control of Hydrocarbon Emissions in Petroleum Refineries | 41223 | 5YR | 01/27/2017 | 2017-4/65 |
| R307-327 | Ozone Nonattainment and Maintenance Areas: Petroleum Liquid Storage | 41222 | 5YR | 01/27/2017 | 2017-4/65 |
| R307-328 | Gasoline Transfer and Storage | 41221 | 5YR | 01/27/2017 | 2017-4/66 |
| R307-335 | Degreasing and Solvent Cleaning Operations | 41220 | 5YR | 01/27/2017 | 2017-4/66 |
| R307-341 | Ozone Nonattainment and Maintenance Areas: Cutback Asphalt | 41219 | 5YR | 01/27/2017 | 2017-4/67 |
| R307-343 | Emissions Standards for Wood Furniture Manufacturing Operations | 41218 | 5YR | 01/27/2017 | 2017-4/67 |
| R307-401 | Permit: New and Modified Sources | 41631 | 5YR | 05/15/2017 | 2017-11/213 |
| R307-403 | Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas | 41632 | 5YR | 05/15/2017 | 2017-11/214 |
| R307-406 | Visibility | 41634 | 5YR | 05/15/2017 | 2017-11/214 |
| R307-410 | Permits: Emissions Impact Analysis | 41636 | 5YR | 05/15/2017 | 2017-11/215 |
| R307-414 | Permits: Fees for Approval Orders | 41638 | 5YR | 05/15/2017 | 2017-11/216 |
| R307-415 | Permits: Operating Permit Requirements | 41639 | 5YR | 05/15/2017 | 2017-11/216 |
| R307-417 | Permits: Acid Rain Sources | 41640 | 5YR | 05/15/2017 | 2017-11/217 |
| R307-420 | Permits: Ozone Offset Requirements in Davis and Salt Lake Counties | 41641 | 5YR | 05/15/2017 | 2017-11/217 |
| R307-421 | Permits: PM10 Offset Requirements in Salt Lake County and Utah County | 41642 | 5YR | 05/15/2017 | 2017-11/218 |
| R307-424 | Permits: Mercury Requirements for Electric Generating Units | 41432 | EXT | 04/03/2017 | 2017-9/53 |
| R307-424 | Permits: Mercury Requirements for Electric Generating Units | 41643 | 5YR | 05/15/2017 | 2017-11/218 |
| R307-841 | Residential Property and Child-Occupied Facility Renovation | 41100 | AMD | 05/09/2017 | 2017-1/50 |
| R307-841 | Residential Property and Child-Occupied Facility Renovation | 41100 | CPR | 05/09/2017 | 2017-7/68 |
| R307-842 | Lead-Based Paint Activities | 41101 | AMD | 05/09/2017 | 2017-1/53 |
| R307-842 | Lead-Based Paint Activities | 41101 | CPR | 05/09/2017 | 2017-7/70 |

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| Drinking Water | | | | | |
| R309-535-5 | Fluoridation | 40769 | AMD | 03/07/2017 | 2016-19/43 |
| R309-535-5 | Fluoridation | 40769 | CPR | 03/07/2017 | 2016-24/44 |
| Environmental Response and Remediation | | | | | |
| R311-200 | Underground Storage Tanks: Definitions | 41394 | 5YR | 03/27/2017 | 2017-8/60 |
| R311-201 | Underground Storage Tanks: Certification Programs and UST Operator Training | 41395 | 5YR | 03/27/2017 | 2017-8/60 |
| R311-202 | Federal Underground Storage Tank Regulations | 41396 | 5YR | 03/27/2017 | 2017-8/61 |
| R311-203 | Underground Storage Tanks: Technical Standards | 40755 | AMD | 01/03/2017 | 2016-19/60 |
| R311-203 | Underground Storage Tanks: Technical Standards | 40755 | CPR | 01/03/2017 | 2016-23/118 |
| R311-203 | Underground Storage Tanks: Technical Standards | 41397 | 5YR | 03/27/2017 | 2017-8/62 |
| R311-204 | Underground Storage Tanks: Closure and Remediation | 41398 | 5YR | 03/27/2017 | 2017-8/63 |
| R311-205 | Underground Storage Tanks: Site Assessment Protocol | 41399 | 5YR | 03/27/2017 | 2017-8/64 |
| R311-206 | Underground Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms | 41400 | 5YR | 03/27/2017 | 2017-8/64 |
| R311-207 | Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks | 41401 | 5YR | 03/27/2017 | 2017-8/65 |
| R311-208 | Underground Storage Tank Penalty Guidance | 41402 | 5YR | 03/27/2017 | 2017-8/66 |
| R311-209 | Petroleum Storage Tank Cleanup Fund and State Cleanup Appropriation | 41403 | 5YR | 03/27/2017 | 2017-8/66 |
| R311-210 | Administrative Procedures | 41404 | 5YR | 03/27/2017 | 2017-8/67 |
| R311-211 | Corrective Action Cleanup Standards Policy - UST and CERCLA Sites | 41405 | 5YR | 03/27/2017 | 2017-8/68 |
| R311-212 | Administration of the Petroleum Storage Tank Loan Program | 41406 | 5YR | 03/27/2017 | 2017-8/69 |
| R311-401 | Hazardous Substances Priority List | 41206 | 5YR | 01/20/2017 | 2017-4/68 |
| Waste Management and Radiation Control, Radiation | | | | | |
| R313-12 | General Provisions | 41991 | AMD | 10/13/2017 | 2017-16/43 |
| R313-15 | Standards for Protection Against Radiation | 41177 | 5YR | 01/17/2017 | 2017-3/88 |
| R313-19 | Requirements of General Applicability to Licensing of Radioactive Material | 41992 | AMD | 10/13/2017 | 2017-16/52 |
| R313-21 | General Licenses | 41178 | 5YR | 01/17/2017 | 2017-3/88 |
| R313-21 | General Licenses | 41993 | AMD | 10/13/2017 | 2017-16/58 |
| R313-22 | Specific Licenses | 41994 | AMD | 10/13/2017 | 2017-16/67 |
| R313-24 | Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements | 41179 | 5YR | 01/17/2017 | 2017-3/89 |
| R313-30 | Therapeutic Radiation Machines | 41180 | 5YR | 01/17/2017 | 2017-3/90 |
| R313-34 | Requirements for Irradiators | 41181 | 5YR | 01/17/2017 | 2017-3/90 |
| R313-35 | Requirements for X-Ray Equipment Used for Non-Medical Applications | 41183 | 5YR | 01/17/2017 | 2017-3/91 |
| R313-37 | Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material | 41184 | 5YR | 01/17/2017 | 2017-3/91 |
| R313-38 | Licenses and Radiation Safety Requirements for Well Logging | 41185 | 5YR | 01/17/2017 | 2017-3/92 |
| Waste Management and Radiation Control, Waste Management | | | | | |
| R315-15 | Standards for the Management of Used Oil | 41650 | AMD | 08/31/2017 | 2017-11/37 |
| R315-15-13 | Registration and Permitting of Used Oil Handlers | 40879 | AMD | 02/13/2017 | 2016-21/32 |
| R315-260 | Hazardous Waste Management System | 41651 | AMD | 08/31/2017 | 2017-11/49 |
| R315-261 | General Requirements – Identification and Listing of Hazardous Waste | 41652 | AMD | 08/31/2017 | 2017-11/59 |
| R315-261-151 | Financial Requirements for Management of Excluded Hazardous Secondary Materials - Wording of the Instruments | 41688 | NSC | 08/31/2017 | Not Printed |
| R315-262 | Hazardous Waste Generator Requirements | 41653 | AMD | 08/31/2017 | 2017-11/68 |
| R315-263-12 | Transfer Facility Requirements | 41654 | AMD | 08/31/2017 | 2017-11/116 |

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| R315-264 | Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities | 41655 | AMD | 08/31/2017 | 2017-11/117 |
| R315-265-1 | Incorporation | 41656 | AMD | 08/31/2017 | 2017-11/131 |
| R315-266-80 | Spent Lead-Acid Batteries Being Reclaimed -- Applicability and Requirements | 41657 | AMD | 08/31/2017 | 2017-11/132 |
| R315-268 | Land Disposal Restrictions | 41658 | AMD | 08/31/2017 | 2017-11/135 |
| R315-270-1 | Hazardous Waste Permit Program -- Purpose and Scope of These Regulations | 41659 | AMD | 08/31/2017 | 2017-11/141 |
| R315-273 | Standards for Universal Waste Management | 41660 | AMD | 08/31/2017 | 2017-11/145 |
| R315-301-2 | Definitions | 41661 | AMD | 08/31/2017 | 2017-11/146 |
| R315-302-1 | Location Standards for Disposal Facilities | 41477 | AMD | 08/01/2017 | 2017-9/21 |
| R315-304-3 | Definitions | 41662 | AMD | 08/31/2017 | 2017-11/152 |
| R315-305-3 | Definitions | 41663 | AMD | 08/31/2017 | 2017-11/154 |
| Water Quality | | | | | |
| R317-1 | Definitions and General Requirements | 40995 | AMD | 03/27/2017 | 2016-23/49 |
| R317-1 | Definitions and General Requirements | 40995 | CPR | 03/27/2017 | 2017-4/44 |
| R317-1 | Definitions and General Requirements | 42048 | 5YR | 08/30/2017 | 2017-18/59 |
| R317-1-7 | TMDLs | 40987 | AMD | 01/30/2017 | 2016-23/54 |
| R317-2 | Standards of Quality for Waters of the State | 42157 | 5YR | 09/26/2017 | 2017-20/57 |
| R317-3 | Design Requirements for Wastewater Collection, Treatment and Disposal Systems | 41613 | 5YR | 05/09/2017 | 2017-11/219 |
| R317-5 | Large Underground Wastewater Disposal (LUWD) Systems | 41492 | 5YR | 04/25/2017 | 2017-10/163 |
| R317-6 | Ground Water Quality Protection | 41891 | 5YR | 07/06/2017 | 2017-15/30 |
| R317-8 | Utah Pollutant Discharge Elimination System (UPDES) | 42081 | 5YR | 09/12/2017 | 2017-19/125 |
| R317-9 | Administrative Procedures | 41431 | NSC | 05/15/2017 | Not Printed |
| R317-10 | Certification of Wastewater Works Operators | 41892 | 5YR | 07/06/2017 | 2017-15/30 |
| R317-12 | Certification of Water Pollution Control Facility or Freestanding Pollution Control Property | 41193 | 5YR | 01/17/2017 | 2017-3/93 |
| R317-100 | Utah State Project Priority System for the Utah Wastewater Project Assistance Program | 41893 | 5YR | 07/06/2017 | 2017-15/31 |
| R317-550 | Rules for Liquid Waste Operations | 41493 | 5YR | 04/25/2017 | 2017-10/164 |
| R317-560 | Rules for the Design, Construction, and Maintenance of Vault Privies and Earthen Pit Privies | 41494 | 5YR | 04/25/2017 | 2017-10/164 |
| R317-801 | Utah Sewer Management Program (USMP) | 41800 | 5YR | 06/12/2017 | 2017-13/240 |
| EXAMINERS (BOARD OF) | | | | | |
| Administration | | | | | |
| R320-101 | Procedures for Electronic Meetings | 41294 | 5YR | 02/07/2017 | 2017-5/65 |
| FINANCIAL INSTITUTIONS | | | | | |
| Administration | | | | | |
| R331-5 | Rule Governing Sale of Securities by Persons Issuing Securities, Who Are Under the Jurisdiction of the Department of Financial Institutions | 41943 | 5YR | 07/20/2017 | 2017-16/126 |
| R331-7 | Rule Governing Leasing Transactions by Depository Institutions Subject to the Jurisdiction of the Department of Financial Institutions | 41944 | 5YR | 07/20/2017 | 2017-16/127 |
| R331-9 | Rule Prescribing Rules of Procedure for Hearings Before the Commissioner of Financial Institutions of the State of Utah | 41945 | 5YR | 07/20/2017 | 2017-16/127 |
| R331-10 | Schedule for Retention or Destruction of Records of Financial Institutions Under the Jurisdiction of the Department of Financial Institutions | 41608 | AMD | 07/10/2017 | 2017-11/155 |
| R331-10 | Schedule for Retention or Destruction of Records of Financial Institutions Under the Jurisdiction of the Department of Financial Institutions | 41946 | 5YR | 07/20/2017 | 2017-16/128 |

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| R331-12 | Guidelines Governing the Purchase and Sale of Loans and Participations in Loans by all State Chartered Financial Institutions | 41947 | 5YR | 07/20/2017 | 2017-16/128 |
| R331-17 | Publication and Disclosure of Acquisition of Control, Merger, or Consolidation Applications to the Department of Financial Institutions | 42149 | 5YR | 09/22/2017 | 2017-20/57 |
| R331-22 | Rule Governing Reimbursement of Costs of Financial Institutions for Production of Records | 41948 | 5YR | 07/20/2017 | 2017-16/129 |
| R331-23 | Lending Limits for Banks, Industrial Loan Corporations | 42163 | 5YR | 09/28/2017 | 2017-20/58 |
| Banks | | | | | |
| R333-5 | Discount Securities Brokerage Service by Banks | 42124 | 5YR | 09/15/2017 | 2017-19/126 |
| R333-7 | Investment by a State-Chartered Bank in Shares of Open-End Investment Companies | 42060 | 5YR | 09/05/2017 | 2017-19/126 |
| R333-8 | Authority for Banks to Issue Subordinated Capital Notes or Debentures | 42125 | 5YR | 09/15/2017 | 2017-19/127 |
| R333-9 | Indemnification of Directors, Officers, and Employees | 42126 | 5YR | 09/15/2017 | 2017-19/128 |
| R333-10 | Securities Activities of Subsidiaries and Affiliates of State-Chartered Banks | 42127 | 5YR | 09/15/2017 | 2017-19/128 |
| R333-12 | Investment by State-Chartered Banks in Real Property Other Than Bank Premises | 42150 | 5YR | 09/22/2017 | 2017-20/59 |
| Consumer Credit | | | | | |
| R335-1 | Rule Prohibiting Negative Amortizing Wrap Loans | 42141 | 5YR | 09/20/2017 | 2017-20/59 |
| R335-2 | Rule Prescribing Allowable Terms and Disclosure Requirements for Variable and Adjustable Interest Rates in Consumer Credit Contracts | 42142 | 5YR | 09/20/2017 | 2017-20/60 |
| R335-4 | Notice Concerning Refund of Unearned Credit Insurance Premiums Upon Prepayment of a Consumer Debt | 42143 | 5YR | 09/20/2017 | 2017-20/60 |
| Credit Unions | | | | | |
| R337-2 | Conversion from a Federal to a State-Chartered Credit Union | 42059 | 5YR | 09/05/2017 | 2017-19/129 |
| R337-2 | Conversion from a Federal to a State-Chartered Credit Union | 42078 | NSC | 09/20/2017 | Not Printed |
| R337-5 | Allowance for Loan and Lease Losses - Credit Unions | 42061 | 5YR | 09/05/2017 | 2017-19/129 |
| R337-7 | Discount Securities Brokerage Service by State-Chartered Credit Unions | 42160 | 5YR | 09/28/2017 | 2017-20/61 |
| R337-8 | Accounts for Parties Other Than Individual Members in State-Chartered Credit Unions | 42161 | 5YR | 09/28/2017 | 2017-20/61 |
| R337-9 | Schedule for Retention or Destruction of Records of Credit Unions Under the Jurisdiction of the Department of Financial Institutions | 42162 | 5YR | 09/28/2017 | 2017-20/62 |
| R337-10 | Rule Designating Applicable Federal Law for Credit Unions Subject to the Jurisdiction of the Department of Financial Institutions | 41197 | 5YR | 01/18/2017 | 2017-4/68 |
| Industrial Loan Corporations | | | | | |
| R339-4 | Authority for Industrial Loan Corporations to Issue Subordinated Capital Notes or Debentures | 42151 | 5YR | 09/22/2017 | 2017-20/62 |
| R339-6 | Rule Clarifying Industrial Loan Corporation Investments | 42152 | 5YR | 09/22/2017 | 2017-20/63 |
| R339-11 | Discount Securities Brokerage Service by Industrial Loan Corporations | 42164 | 5YR | 09/28/2017 | 2017-20/63 |

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| Nondepository Lenders | | | | | |
| R343-1 | Rule Governing Form of Disclosures For Title Lenders, Who Are Under the Jurisdiction of the Department of Financial Institutions | 41123 | 5YR | 01/06/2017 | 2017-3/93 |
| R343-11 | Rule Designating Applicable Federal Law for a Mortgage Lender, Broker, or Servicer Subject to the Jurisdiction of the Department of Financial Institutions | 41480 | NEW | 06/21/2017 | 2017-10/61 |
| GOVERNOR | | | | | |
| Criminal and Juvenile Justice (State Commission on) | | | | | |
| R356-3 | Electronic Meetings | 41182 | NEW | 03/13/2017 | 2017-3/23 |
| R356-4 | Juvenile Confinement | 42054 | EMR | 09/01/2017 | 2017-18/41 |
| R356-101 (Changed to R356-2) | Judicial Nominating Commissions | 41297 | NSC | 03/06/2017 | Not Printed |
| Economic Development | | | | | |
| R357-1 | Rural Fast Track Program | 41430 | 5YR | 03/31/2017 | 2017-8/69 |
| R357-3 | Economic Development Tax Increment Financing Tax Credit | 40932 | AMD | 02/22/2017 | 2016-22/56 |
| R357-11 | Technology Commercialization and Innovation Program (TCIP) | 41986 | AMD | 09/26/2017 | 2017-16/77 |
| R357-11 | Technology Commercialization and Innovation Program (TCIP) | 42029 | AMD | 10/13/2017 | 2017-17/30 |
| R357-19 | Business Resource Centers | 40961 | NEW | 02/22/2017 | 2016-23/55 |
| R357-20 | Education Computing Partnerships | 41649 | NEW | 07/14/2017 | 2017-11/157 |
| Economic Development, Consumer Health Services | | | | | |
| R358-1 | Electronic Standards for Transmitting Information through the Health Insurance Exchange | 42168 | 5YR | 09/29/2017 | 2017-20/64 |
| Economic Development, Pete Suazo Utah Athletic Commission | | | | | |
| R359-1 | Pete Suazo Utah Athletic Commission Act Rule | 41425 | 5YR | 03/30/2017 | 2017-8/70 |
| Energy Development (Office of) | | | | | |
| R362-1 | Qualification for the Alternative Energy Development Tax Credit | 42043 | EXT | 08/28/2017 | 2017-18/65 |
| R362-2 | Renewable Energy Systems Tax Credits | 42039 | EXT | 08/24/2017 | 2017-18/65 |
| R362-3 | Energy Efficiency Fund | 42040 | EXT | 08/24/2017 | 2017-18/65 |
| HEALTH | | | | | |
| Administration | | | | | |
| R380-1 | Petitions for Department Declaratory Orders | 41434 | 5YR | 04/03/2017 | 2017-9/46 |
| R380-5 | Petitions for Declaratory Orders on Orders Issued by Committees | 41435 | 5YR | 04/03/2017 | 2017-9/47 |
| R380-10 | Informal Adjudicative Proceedings | 41488 | 5YR | 04/21/2017 | 2017-10/165 |
| R380-20 | Government Records and Access Management | 41433 | 5YR | 04/03/2017 | 2017-9/47 |
| R380-41 | Governance Committee Electronic Meetings | 41926 | 5YR | 07/13/2017 | 2017-15/32 |
| R380-60 | Local Health Department Emergency Protocols | 41333 | 5YR | 03/01/2017 | 2017-6/29 |
| R380-77 | Coordination of Patient Identification and Validation Services | 40996 | NEW | 02/01/2017 | 2016-23/58 |
| R380-77 | Coordination of Patient Identification and Validation Services | 41055 | NSC | 02/01/2017 | Not Printed |
| R380-100 | Americans with Disabilities Act Grievance Procedures | 41490 | 5YR | 04/24/2017 | 2017-10/165 |
| R380-400 | Use of Statistical Sampling and Extrapolation | 40993 | REP | 01/10/2017 | 2016-23/59 |
| Center for Health Data, Health Care Statistics | | | | | |
| R428-13 | Health Data Authority. Audit and Reporting of Health Plan Performance Measures | 42140 | 5YR | 09/19/2017 | 2017-20/65 |
| Children's Health Insurance Program | | | | | |
| R382-2 | Electronic Personal Medical Records for the Children's Health Insurance Program | 41962 | 5YR | 07/31/2017 | 2017-16/129 |

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| R382-10-11 | Household Composition and Income Provisions | 40997 | AMD | 01/17/2017 | 2016-23/62 |
| Disease Control and Prevention, Environmental Services | | | | | |
| R392-302 | Design, Construction and Operation of Public Pools | 41381 | AMD | 06/01/2017 | 2017-8/6 |
| R392-502 | Hotel, Motel, and Resort Sanitation | 41367 | 5YR | 03/15/2017 | 2017-7/83 |
| R392-510 | Utah Indoor Clean Air Act | 41368 | 5YR | 03/15/2017 | 2017-7/84 |
| R392-600 | Illegal Drug Operations Decontamination Standards | 41486 | AMD | 06/21/2017 | 2017-10/63 |
| Disease Control and Prevention, Epidemiology | | | | | |
| R386-702 | Communicable Disease Rule | 41038 | AMD | 01/27/2017 | 2016-24/12 |
| R386-703 | Injury Reporting Rule | 41831 | AMD | 08/23/2017 | 2017-13/157 |
| Disease Control and Prevention, Laboratory Improvement | | | | | |
| R444-11 | Rules for Approval to Perform Blood Alcohol Examinations | 41000 | REP | 01/20/2017 | 2016-23/64 |
| Disease Control and Prevention, Laboratory Services | | | | | |
| R438-10 | Rules for Establishment of a Procedure to Examine the Blood of All Adult Pedestrians and All Drivers of Motor Vehicles Killed in Highway Accidents for the Presence and Concentration of Alcohol, for the Purpose of Deriving Statistics Therefrom | 40868 | REP | 01/11/2017 | 2016-21/46 |
| R438-12 | Rule for Law Enforcement Blood Draws | 41119 | EXT | 01/03/2017 | 2017-2/47 |
| R438-12 | Rule for Law Enforcement Blood Draws | 41568 | REP | 09/28/2017 | 2017-11/161 |
| Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health | | | | | |
| R388-803 | HIV Test Reporting | 40901 | REP | 02/01/2017 | 2016-22/59 |
| R388-804 | Special Measures for the Control of Tuberculosis | 41334 | AMD | 05/11/2017 | 2017-6/4 |
| Family Health and Preparedness, Child Care Licensing | | | | | |
| R430-1 | General Licensing, Certificate, and Enforcement Provisions, Child Care Facilities | 41472 | EXT | 04/12/2017 | 2017-9/53 |
| R430-1 | General Licensing, Certificate, and Enforcement Provisions, Child Care Facilities | 41995 | 5YR | 08/01/2017 | 2017-16/130 |
| R430-6 | Background Screening | 41990 | 5YR | 08/01/2017 | 2017-16/131 |
| Family Health and Preparedness, Emergency Medical Services | | | | | |
| R426-5 | Emergency Medical Services Training and Certification Standards | 41332 | AMD | 04/26/2017 | 2017-6/7 |
| R426-8 | Emergency Medical Services Ground Ambulance Rates and Charges | 41617 | AMD | 07/10/2017 | 2017-11/159 |
| R426-8 | Emergency Medical Services Ground Ambulance Rates and Charges | 41908 | NSC | 08/01/2017 | Not Printed |
| R426-9 | Trauma and EMS System Facility Designations | 41029 | AMD | 02/01/2017 | 2016-24/30 |
| Family Health and Preparedness, Licensing | | | | | |
| R432-2 | General Licensing Provisions | 41969 | AMD | 10/06/2017 | 2017-16/80 |
| R432-31 | Life with Dignity Order | 41310 | 5YR | 02/13/2017 | 2017-5/66 |
| R432-40 | Long-Term Care Facility Immunizations | 41309 | 5YR | 02/13/2017 | 2017-5/66 |
| R432-100 | General Hospital Standards | 41324 | AMD | 05/16/2017 | 2017-5/25 |
| R432-150 | Nursing Care Facility | 41311 | 5YR | 02/13/2017 | 2017-5/67 |
| R432-150 | Nursing Care Facility | 41325 | AMD | 05/16/2017 | 2017-5/31 |
| R432-150 | Nursing Care Facility | 41966 | AMD | 10/06/2017 | 2017-16/85 |
| R432-151 | Mental Disease Facility | 41312 | 5YR | 02/13/2017 | 2017-5/67 |
| R432-152 | Mental Retardation Facility | 41313 | 5YR | 02/13/2017 | 2017-5/68 |
| R432-201 | Mental Retardation Facility: Supplement "A" to the Small Health Care Facility Rule | 41314 | 5YR | 02/13/2017 | 2017-5/68 |
| R432-270 | Assisted Living Facilities | 41056 | AMD | 02/13/2017 | 2017-1/74 |
| R432-270 | Assisted Living Facilities | 41970 | AMD | 10/06/2017 | 2017-16/88 |
| R432-600 | Abortion Clinic Rule | 41909 | AMD | 09/13/2017 | 2017-15/14 |
| R432-650 | End Stage Renal Disease Facility Rules | 41959 | AMD | 10/06/2017 | 2017-16/91 |
| R432-700 | Home Health Agency Rule | 41323 | AMD | 05/15/2017 | 2017-5/38 |
| R432-750 | Hospice Rule | 41965 | AMD | 10/06/2017 | 2017-16/94 |

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| Family Health and Preparedness, Primary Care and Rural Health | | | | | |
| R434-30 | Primary Care Grant Program | 42205 | 5YR | 10/12/2017 | Not Printed |
| Family Health and Preparedness, WIC Services | | | | | |
| R406-100 | Special Supplemental Nutrition Program for Women, Infants and Children | 41254 | 5YR | 01/30/2017 | 2017-4/69 |
| R406-200 | Program Overview | 41255 | 5YR | 01/30/2017 | 2017-4/70 |
| R406-201 | Outreach Program | 41256 | 5YR | 01/30/2017 | 2017-4/70 |
| R406-202 | Eligibility | 41257 | 5YR | 01/30/2017 | 2017-4/71 |
| R406-301 | Clinic Guidelines | 41258 | 5YR | 01/30/2017 | 2017-4/71 |
| Health Care Financing | | | | | |
| R410-14 | Administrative Hearing Procedures | 42016 | 5YR | 08/14/2017 | 2017-17/213 |
| Health Care Financing, Coverage and Reimbursement Policy | | | | | |
| R414-1 | Utah Medicaid Program | 41321 | 5YR | 02/15/2017 | 2017-5/65 |
| R414-1 | Utah Medicaid Program | 41496 | AMD | 07/01/2017 | 2017-10/72 |
| R414-1-5 | Incorporations by Reference | 41104 | AMD | 02/15/2017 | 2017-1/68 |
| R414-1-5 | Incorporations by Reference | 41446 | AMD | 06/14/2017 | 2017-9/25 |
| R414-1-5 | Incorporations by Reference | 41927 | AMD | 09/15/2017 | 2017-15/6 |
| R414-1-6 | Services Available | 41563 | AMD | 07/01/2017 | 2017-10/73 |
| R414-1-28 | Cost Sharing | 41498 | AMD | 07/01/2017 | 2017-10/75 |
| R414-1-30 | Face-to-Face Requirements for Home Health Services | 41566 | AMD | 07/01/2017 | 2017-10/76 |
| R414-1A | Medicaid Policy for Experimental, Investigational or Unproven Medical Practices | 41423 | 5YR | 03/29/2017 | 2017-8/70 |
| R414-2A | Inpatient Hospital Services | 42138 | 5YR | 09/15/2017 | 2017-19/130 |
| R414-2A-7 | Limitations | 41559 | AMD | 07/01/2017 | 2017-10/77 |
| R414-2B | Inpatient Intensive Physical Rehabilitation Services | 42046 | 5YR | 08/29/2017 | 2017-18/60 |
| R414-3A | Outpatient Hospital Services | 42139 | 5YR | 09/15/2017 | 2017-19/130 |
| R414-3A-6 | Services | 41497 | AMD | 07/01/2017 | 2017-10/78 |
| R414-8 | Electronic Personal Medical Records for the Medicaid Program | 41954 | 5YR | 07/28/2017 | 2017-16/130 |
| R414-10 | Physician Services | 41567 | AMD | 07/01/2017 | 2017-10/79 |
| R414-10-5 | Service Coverage and Limitations | 42137 | NSC | 09/29/2017 | Not Printed |
| R414-10A | Transplant Services Standards | 41125 | 5YR | 01/06/2017 | 2017-3/94 |
| R414-14 | Home Health Services | 41564 | AMD | 07/01/2017 | 2017-10/86 |
| R414-15 | Residents Personal Needs Fund | 41855 | 5YR | 06/28/2017 | 2017-14/54 |
| R414-21 | Physical Therapy and Occupational Therapy | 41126 | 5YR | 01/06/2017 | 2017-3/94 |
| R414-29 | Client Review/Education and Restriction Policy | 42036 | 5YR | 08/22/2017 | 2017-18/60 |
| R414-38 | Personal Care Services | 41326 | 5YR | 02/17/2017 | 2017-6/30 |
| R414-49 | Dental, Oral and Maxillofacial Surgeons and Orthodontia | 41562 | AMD | 07/01/2017 | 2017-10/88 |
| R414-60 | Medicaid Policy for Pharmacy Program | 41174 | AMD | 04/01/2017 | 2017-3/25 |
| R414-60 | Medicaid Policy for Pharmacy Program | 41556 | 5YR | 04/28/2017 | 2017-10/166 |
| R414-60-2 | Definitions | 41379 | AMD | 06/14/2017 | 2017-8/30 |
| R414-60-7 | Reimbursement | 41916 | AMD | 10/01/2017 | 2017-15/10 |
| R414-60A | Drug Utilization Review Board | 41803 | 5YR | 06/13/2017 | 2017-13/241 |
| R414-60A-2 | DUR Board Composition and Membership Requirements | 41175 | AMD | 04/01/2017 | 2017-3/27 |
| R414-60B | Preferred Drug List | 41811 | 5YR | 06/14/2017 | 2017-13/241 |
| R414-61-2 | Incorporation by Reference | 41290 | AMD | 04/20/2017 | 2017-5/24 |
| R414-70 | Medical Supplies, Durable Medical Equipment, and Prosthetic Devices | 41565 | AMD | 07/01/2017 | 2017-10/89 |
| R414-70 | Medical Supplies, Durable Medical Equipment, and Prosthetic Devices | 42037 | 5YR | 08/22/2017 | 2017-18/61 |
| R414-100 | Medicaid Primary Care Network Services | 41588 | 5YR | 05/05/2017 | 2017-11/219 |
| R414-100-4 | Cost Sharing Provisions | 41914 | AMD | 09/27/2017 | 2017-15/11 |
| R414-200 | Non-Traditional Medicaid Health Plan Services | 41589 | 5YR | 05/05/2017 | 2017-11/220 |
| R414-200-4 | Cost Sharing | 41915 | AMD | 09/27/2017 | 2017-15/13 |
| R414-302-6 | Residents of Institutions | 41070 | AMD | 02/15/2017 | 2017-1/72 |
| R414-303-4 | Medicaid for Parents and Caretaker Relatives, Pregnant Women, Children, and Individuals Infected with Tuberculosis Using MAGI Methodology | 41429 | AMD | 07/01/2017 | 2017-8/31 |

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|---|---|---|---|---|---|
| R414-304 | Income and Budgeting | 41211 | AMD | 03/28/2017 | 2017-4/22 |
| R414-304-5 | MAGI-Based Coverage Groups | 40998 | AMD | 01/17/2017 | 2016-23/63 |
| R414-305-5 | Resource Provisions for Parents and Caretaker Relatives, Pregnant Woman, and Child Under Non-MAGI-Based Community and Institutional Medicaid | 41557 | AMD | 09/13/2017 | 2017-10/91 |
| R414-305-5 | Resource Provisions for Parents and Caretaker Relatives, Pregnant Woman, and Child Under Non-MAGI-Based Community and Institutional Medicaid | 41557 | CPR | 09/13/2017 | 2017-15/24 |
| R414-305-7 | Treatment of Trusts | 41428 | AMD | 06/01/2017 | 2017-8/32 |
| R414-307 | Eligibility for Home and Community-Based Services Waivers | 41422 | 5YR | 03/29/2017 | 2017-8/71 |
| R414-308-7 | Change Reporting and Benefit Changes | 41212 | AMD | 03/28/2017 | 2017-4/26 |
| R414-310 | Medicaid Primary Care Network Demonstration Waiver | 41689 | 5YR | 05/22/2017 | 2017-12/36 |
| R414-310-13 | Change Reporting and Benefit Changes | 41213 | AMD | 03/28/2017 | 2017-4/28 |
| R414-401-3 | Assessment | 41560 | AMD | 07/01/2017 | 2017-10/93 |
| R414-504 | Nursing Facility Payments | 41054 | AMD | 02/15/2017 | 2017-1/73 |
| R414-509 | Medicaid Autism Waiver Open Enrollment Process | 42176 | 5YR | 10/02/2017 | 2017-20/64 |
| R414-514 | Requirements for Moratorium Exception | 41561 | NEW | 07/01/2017 | 2017-10/94 |

HERITAGE AND ARTS

Administration

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|---|---|---|---|---|---|
| R450-1 | Government Records Access and Management Act Rules | 41288 | 5YR | 02/03/2017 | 2017-5/69 |
| R450-1 | Government Records Access and Management Act Rules | 41287 | NSC | 03/06/2017 | Not Printed |
| R450-2 | Preservation Pro Fee | 41709 | 5YR | 05/31/2017 | 2017-12/37 |

Arts and Museums

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|---|---|---|---|---|---|
| R451-1 | Utah Arts Council General Program Rules | 41196 | 5YR | 01/18/2017 | 2017-4/72 |
| R451-2 | Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collections | 41201 | 5YR | 01/20/2017 | 2017-4/72 |

History

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|---|---|---|---|---|---|
| R455-1 | Adjudicative Proceedings | 41341 | 5YR | 03/02/2017 | 2017-7/85 |
| R455-12 | Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds | 41342 | 5YR | 03/02/2017 | 2017-7/86 |

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| R458-1 | Adjudicative Procedures | 41708 | 5YR | 05/31/2017 | 2017-12/37 |

HOUSING CORPORATION (UTAH)

Administration

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|---|---|---|---|---|---|
| R460-1 | Authority and Purpose | 42129 | 5YR | 09/15/2017 | 2017-19/131 |
| R460-2 | Definition of Terms Used Throughout R460 | 42130 | 5YR | 09/15/2017 | 2017-19/131 |
| R460-3 | Programs of UHC | 42131 | 5YR | 09/15/2017 | 2017-19/132 |
| R460-4 | Additional Servicing Rules (Reserved) | 42132 | 5YR | 09/15/2017 | 2017-19/132 |
| R460-5 | Termination of Eligibility to Participate in Programs | 42133 | 5YR | 09/15/2017 | 2017-19/133 |
| R460-6 | Adjudicative Proceedings | 42134 | 5YR | 09/15/2017 | 2017-19/133 |
| R460-7 | Public Petitions for Declaratory Orders | 42135 | 5YR | 09/15/2017 | 2017-19/134 |
| R460-8 | Americans with Disabilities Act (ADA) Complaint Procedures | 42136 | 5YR | 09/15/2017 | 2017-19/134 |

HUMAN RESOURCE MANAGEMENT

Administration

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|---|---|---|---|---|---|
| R477-1 | Definitions | 41270 | EXT | 02/02/2017 | 2017-5/75 |
| R477-1 | Definitions | 41524 | 5YR | 04/27/2017 | 2017-10/167 |
| R477-1 | Definitions | 41499 | AMD | 07/01/2017 | 2017-10/95 |

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| R477-1 | Definitions | 41805 | AMD | 08/30/2017 | 2017-13/159 |
| R477-2 | Administration | 41271 | EXT | 02/02/2017 | 2017-5/75 |
| R477-2 | Administration | 41526 | 5YR | 04/27/2017 | 2017-10/168 |
| R477-2 | Administration | 41501 | AMD | 07/01/2017 | 2017-10/100 |
| R477-2 | Administration | 41806 | AMD | 08/30/2017 | 2017-13/164 |
| R477-3 | Classification | 41272 | EXT | 02/02/2017 | 2017-5/75 |
| R477-3 | Classification | 41527 | 5YR | 04/27/2017 | 2017-10/168 |
| R477-4 | Filling Positions | 41273 | EXT | 02/02/2017 | 2017-5/75 |
| R477-4 | Filling Positions | 41528 | 5YR | 04/27/2017 | 2017-10/169 |
| R477-4 | Filling Positions | 41502 | AMD | 07/01/2017 | 2017-10/103 |
| R477-5 | Employee Status and Probation | 41274 | EXT | 02/02/2017 | 2017-5/76 |
| R477-5 | Employee Status and Probation | 41529 | 5YR | 04/27/2017 | 2017-10/169 |
| R477-5 | Employee Status and Probation | 41504 | AMD | 07/01/2017 | 2017-10/106 |
| R477-6 | Compensation | 41276 | EXT | 02/02/2017 | 2017-5/76 |
| R477-6 | Compensation | 41530 | 5YR | 04/27/2017 | 2017-10/170 |
| R477-6 | Compensation | 41503 | AMD | 07/01/2017 | 2017-10/108 |
| R477-7 | Leave | 41277 | EXT | 02/02/2017 | 2017-5/76 |
| R477-7 | Leave | 41531 | 5YR | 04/27/2017 | 2017-10/170 |
| R477-7 | Leave | 41505 | AMD | 07/01/2017 | 2017-10/113 |
| R477-8 | Working Conditions | 41278 | EXT | 02/02/2017 | 2017-5/76 |
| R477-8 | Working Conditions | 41532 | 5YR | 04/27/2017 | 2017-10/171 |
| R477-8 | Working Conditions | 41506 | AMD | 07/01/2017 | 2017-10/120 |
| R477-8 | Working Conditions | 41808 | AMD | 08/30/2017 | 2017-13/172 |
| R477-9 | Employee Conduct | 41280 | EXT | 02/02/2017 | 2017-5/77 |
| R477-9 | Employee Conduct | 41533 | 5YR | 04/27/2017 | 2017-10/171 |
| R477-10 | Employee Development | 41281 | EXT | 02/02/2017 | 2017-5/77 |
| R477-10 | Employee Development | 41537 | 5YR | 04/27/2017 | 2017-10/172 |
| R477-10 | Employee Development | 41507 | AMD | 07/01/2017 | 2017-10/125 |
| R477-11 | Discipline | 41282 | EXT | 02/02/2017 | 2017-5/77 |
| R477-11 | Discipline | 41538 | 5YR | 04/27/2017 | 2017-10/172 |
| R477-11 | Discipline | 41508 | AMD | 07/01/2017 | 2017-10/127 |
| R477-12 | Separations | 41283 | EXT | 02/02/2017 | 2017-5/77 |
| R477-12 | Separations | 41541 | 5YR | 04/27/2017 | 2017-10/173 |
| R477-12 | Separations | 41509 | AMD | 07/01/2017 | 2017-10/129 |
| R477-13 | Volunteer Programs | 41284 | EXT | 02/02/2017 | 2017-5/77 |
| R477-13 | Volunteer Programs | 41542 | 5YR | 04/27/2017 | 2017-10/173 |
| R477-14 | Substance Abuse and Drug-Free Workplace | 41510 | AMD | 07/01/2017 | 2017-10/131 |
| R477-15 | Workplace Harassment Prevention | 41285 | EXT | 02/02/2017 | 2017-5/78 |
| R477-15 | Workplace Harassment Prevention | 41543 | 5YR | 04/27/2017 | 2017-10/174 |
| R477-15 | Workplace Harassment Prevention | 41511 | AMD | 07/01/2017 | 2017-10/133 |
| R477-16 | Abusive Conduct Prevention | 41512 | AMD | 07/01/2017 | 2017-10/135 |

HUMAN SERVICES

Administration

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|---|---|---|---|---|---|
| R495-884 | Kinship Locate | 41217 | 5YR | 01/27/2017 | 2017-4/73 |
| R495-885 | Employee Background Screenings | 41114 | AMD | 02/23/2017 | 2017-2/23 |

Administration, Administrative Hearings

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| R497-100 | Adjudicative Proceedings | 41057 | AMD | 02/07/2017 | 2017-1/78 |

Administration, Administrative Services, Licensing

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|---|---|---|---|---|---|
| R501-1 | General Provisions | 40929 | R&R | 01/17/2017 | 2016-22/67 |
| R501-1 | General Provisions | 41117 | NSC | 01/18/2017 | Not Printed |
| R501-1 | General Provisions for Licensing | 42189 | 5YR | 10/04/2017 | Not Printed |
| R501-2 | Core Rules | 42190 | 5YR | 10/04/2017 | Not Printed |
| R501-7 | Child Placing Adoption Agencies | 42191 | 5YR | 10/04/2017 | Not Printed |
| R501-8 | Outdoor Youth Programs | 42192 | 5YR | 10/04/2017 | Not Printed |
| R501-11 | Social Detoxification Programs | 42193 | 5YR | 10/04/2017 | Not Printed |
| R501-12 | Foster Care Services | 42194 | 5YR | 10/04/2017 | Not Printed |
| R501-13 | Adult Day Care | 42195 | 5YR | 10/04/2017 | Not Printed |
| R501-14 | Human Service Program Background Screening | 40931 | AMD | 01/17/2017 | 2016-22/77 |
| R501-14 | Human Service Program Background Screening | 41173 | AMD | 03/21/2017 | 2017-3/28 |
| R501-16 | Intermediate Secure Treatment Programs for Minors | 42196 | 5YR | 10/04/2017 | Not Printed |

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| R501-17 | Adult Foster Care | 41482 | REP | 07/28/2017 | 2017-10/136 |
| R501-21 | Outpatient Treatment Programs | 40930 | R&R | 03/24/2017 | 2016-22/83 |
| R501-21 | Outpatient Treatment Programs | 40930 | CPR | 03/24/2017 | 2017-4/49 |
| Aging and Adult Services | | | | | |
| R510-1 | Authority and Purpose | 41870 | 5YR | 06/30/2017 | 2017-14/55 |
| R510-100 | Funding Formulas | 41871 | 5YR | 06/30/2017 | 2017-14/55 |
| R510-101 | Carryover Policy for Title III: Grants for State and Community Programs on Aging | 41872 | 5YR | 06/30/2017 | 2017-14/56 |
| R510-102 | Amendments to Area Plan and Management Plan | 41873 | 5YR | 06/30/2017 | 2017-14/56 |
| R510-103 | Use of Senior Centers by Long-Term Care Facility Residents Participating in Activities Outside Their Planning and Service Area | 41874 | 5YR | 06/30/2017 | 2017-14/57 |
| R510-104 | Nutrition Programs for the Elderly (NPE) | 41869 | 5YR | 06/30/2017 | 2017-14/57 |
| R510-106 | Minimum Percentages of Older Americans Act, Title III Part B: State and Supportive Services Funds | 41875 | 5YR | 06/30/2017 | 2017-14/58 |
| R510-107 | Title V Senior Community Service Employment Program Standards and Procedures | 41876 | 5YR | 06/30/2017 | 2017-14/58 |
| R510-108 | Definition of Rural for Title III: Grants for State and Community Programs on Aging Reporting Under the Older American Act | 41877 | 5YR | 06/30/2017 | 2017-14/59 |
| R510-109 | Definition of Significant Population of Older Native Americans | 41878 | 5YR | 06/30/2017 | 2017-14/59 |
| R510-110 | Policy Regarding Contractual Involvements of Area Agencies on Aging for Private Eldercare and Case Management Services | 41879 | 5YR | 06/30/2017 | 2017-14/60 |
| R510-111 | Policy on Use of State Funding for Travel Expenses to Assist the National Senior Service Corps (NSSC) | 41880 | 5YR | 06/30/2017 | 2017-14/60 |
| R510-200 | Long-Term Care Ombudsman Program Policy | 41881 | 5YR | 06/30/2017 | 2017-14/61 |
| R510-302 | Adult Protective Services | 41883 | 5YR | 06/30/2017 | 2017-14/61 |
| R510-302 | Adult Protective Services | 41698 | AMD | 08/07/2017 | 2017-12/14 |
| R510-400 | Home and Community Based Alternatives Program | 41882 | 5YR | 06/30/2017 | 2017-14/62 |
| Child and Family Services | | | | | |
| R512-204 | Child Protective Services, New Caseworker Training | 41483 | 5YR | 04/18/2017 | 2017-10/174 |
| R512-205 | Child Protective Services, Investigation of Domestic Violence Related Child Abuse | 41842 | AMD | 08/28/2017 | 2017-14/19 |
| R512-311 | Out-of-Home Services. Psychotropic Medication Oversight Panel | 40933 | NEW | 01/10/2017 | 2016-23/67 |
| Juvenile Justice Services | | | | | |
| R547-3 | Juvenile Jail Standards | 41385 | 5YR | 03/27/2017 | 2017-8/71 |
| R547-6 | Youth Parole Authority Policies and Procedures | 41386 | 5YR | 03/27/2017 | 2017-8/72 |
| R547-7 | Juvenile Holding Room Standards | 41387 | 5YR | 03/27/2017 | 2017-8/72 |
| R547-10 | Ex-Offender Policy | 41388 | 5YR | 03/27/2017 | 2017-8/73 |
| R547-12 | Division of Juvenile Justice Services Classification of Records | 41389 | 5YR | 03/27/2017 | 2017-8/73 |
| R547-13 | Guidelines for Admission to Secure Youth Detention Facilities | 41390 | 5YR | 03/27/2017 | 2017-8/74 |
| R547-13 | Guidelines for Admission to Secure Youth Detention Facilities | 41710 | AMD | 08/01/2017 | 2017-12/19 |
| R547-13 | Guidelines for Admission to Secure Youth Detention Facilities | 41963 | AMD | 09/26/2017 | 2017-16/100 |
| R547-14 | Possession of Prohibited Items in Juvenile Detention Facilities | 41391 | 5YR | 03/27/2017 | 2017-8/74 |
| Recovery Services | | | | | |
| R527-36 | Collection of Child Support After a Termination of Parental Rights or Adoption | 41929 | NEW | 09/26/2017 | 2017-16/96 |
| R527-37 | Closure Criteria for Support Cases | 41210 | 5YR | 01/23/2017 | 2017-4/73 |
| R527-250 | Emancipation | 41170 | AMD | 04/14/2017 | 2017-3/34 |
| R527-255 | Substantial Change in Circumstances | 41207 | 5YR | 01/23/2017 | 2017-4/74 |

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|---|---|---|---|---|---|
| R527-300 | Income Withholding | 41208 | 5YR | 01/23/2017 | 2017-4/75 |
| R527-330 | Posting Priority of Payments Received | 41209 | 5YR | 01/23/2017 | 2017-4/75 |
| R527-330 | Posting Priority of Payments Received | 41691 | NSC | 06/13/2017 | Not Printed |
| R527-378 | Withholding of Social Security Benefits | 41724 | 5YR | 06/02/2017 | 2017-13/242 |
| R527-412 | Intercept of Unemployment Compensation | 41214 | 5YR | 01/26/2017 | 2017-4/76 |
| R527-601 | Establishing or Modifying an Administrative Award for Child Support | 41725 | 5YR | 06/02/2017 | 2017-13/242 |
| R527-928 | Lost Checks | 41727 | 5YR | 06/02/2017 | 2017-13/243 |
| Services for People with Disabilities | | | | | |
| R539-10 | Short-Term Limited Waiting List Services | 41802 | AMD | 10/11/2017 | 2017-13/176 |
| Substance Abuse and Mental Health | | | | | |
| R523-4 | Screening, Assessment, Prevention, Treatment and Recovery Support Standards for Adults Required to Participate in Services by the Criminal Justice System | 40934 | AMD | 01/17/2017 | 2016-23/68 |
| R523-5 | Adult Peer Support Specialist Training and Certification | 41607 | AMD | 08/01/2017 | 2017-11/162 |
| R523-11-3 | Certification Requirements for DUI Educational Providers | 40999 | AMD | 01/17/2017 | 2016-23/75 |
| INSURANCE | | | | | |
| Administration | | | | | |
| R590-68 | Insider Trading of Equity Securities of Domestic Stock Insurance Companies | 41438 | 5YR | 04/04/2017 | 2017-9/48 |
| R590-70 | Insurance Holding Companies | 41134 | 5YR | 01/09/2017 | 2017-3/95 |
| R590-70 | Insurance Holding Companies | 40954 | R&R | 01/10/2017 | 2016-23/77 |
| R590-85 | Individual Accident and Health Insurance and Individual and Group Medicare Supplement Rates | 41439 | 5YR | 04/04/2017 | 2017-9/48 |
| R590-95 | Rule to Permit the Same Minimum Nonforfeiture Standards for Men and Women Insureds Under the 1980 CSO and 1980 CET Mortality Tables | 41135 | 5YR | 01/09/2017 | 2017-3/95 |
| R590-96 | Rule to Recognize New Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities | 42034 | 5YR | 08/18/2017 | 2017-18/62 |
| R590-102 | Insurance Department Fee Payment Rule | 41259 | AMD | 03/24/2017 | 2017-4/34 |
| R590-108 | Interest Rate During Grace Period or Upon Reinstatement of Policy | 41443 | 5YR | 04/04/2017 | 2017-9/49 |
| R590-114 | Letters of Credit | 41136 | 5YR | 01/09/2017 | 2017-3/96 |
| R590-116 | Valuation of Assets | 41215 | 5YR | 01/26/2017 | 2017-4/76 |
| R590-117 | Valuation of Liabilities | 41216 | 5YR | 01/26/2017 | 2017-4/77 |
| R590-120 | Surety Bond Forms | 41437 | 5YR | 04/04/2017 | 2017-9/49 |
| R590-122 | Permissible Arbitration Provisions | 41731 | 5YR | 06/05/2017 | 2017-13/243 |
| R590-131 | Accident and Health Coordination of Benefits Rule | 42174 | 5YR | 09/29/2017 | 2017-20/65 |
| R590-142 | Continuing Education Rule | 41137 | 5YR | 01/09/2017 | 2017-3/96 |
| R590-143 | Life and Health Reinsurance Agreements | 41138 | 5YR | 01/09/2017 | 2017-3/97 |
| R590-146 | Medicare Supplement Insurance Standards | 41441 | 5YR | 04/04/2017 | 2017-9/50 |
| R590-147 | Annual and Quarterly Statement Filing Instructions | 41139 | 5YR | 01/09/2017 | 2017-3/98 |
| R590-148 | Long-Term Care Insurance Rule | 41922 | 5YR | 07/12/2017 | 2017-15/32 |
| R590-149 | Americans with Disabilities Act (ADA) Grievance Procedures | 41729 | 5YR | 06/05/2017 | 2017-13/244 |
| R590-150 | Commissioner's Acceptance of Examination Reports | 41140 | 5YR | 01/09/2017 | 2017-3/98 |
| R590-151 | Records Access Rule | 41920 | 5YR | 07/12/2017 | 2017-15/33 |
| R590-166-3 | Definition | 41996 | NSC | 08/29/2017 | Not Printed |
| R590-173 | Credit for Reinsurance | 40955 | AMD | 01/10/2017 | 2016-23/83 |
| R590-173 | Credit for Reinsurance | 41730 | 5YR | 06/05/2017 | 2017-13/245 |
| R590-203 | Health Grievance Review Process | 41440 | 5YR | 04/04/2017 | 2017-9/50 |
| R590-205 | Privacy of Consumer Information Compliance Deadline | 41955 | REP | 10/06/2017 | 2017-16/102 |

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| R590-206 | Privacy of Consumer Financial and Health Information Rule | 41296 | AMD | 07/11/2017 | 2017-5/42 |
| R590-206 | Privacy of Consumer Financial and Health Information Rule | 41296 | CPR | 07/11/2017 | 2017-11/192 |
| R590-216 | Standards for Safeguarding Customer Information | 42035 | 5YR | 08/18/2017 | 2017-18/62 |
| R590-238 | Captive Insurance Companies | 41569 | 5YR | 05/02/2017 | 2017-11/220 |
| R590-238-21 | Authorized Forms | 41801 | NSC | 06/29/2017 | Not Printed |
| R590-239 | Exemption of Student Health Centers from Insurance Code | 41442 | 5YR | 04/04/2017 | 2017-9/51 |
| R590-240 | Procedure to Obtain Exemption of Student Health Programs From Insurance Code | 41728 | 5YR | 06/05/2017 | 2017-13/245 |
| R590-241 | Rule to Recognize the Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities | 41923 | 5YR | 07/12/2017 | 2017-15/33 |
| R590-248-4 | Mandatory Fraud Reporting Process | 41322 | AMD | 04/07/2017 | 2017-5/55 |
| R590-262 | Health Data Authority Health Insurance Claims Reporting | 41345 | 5YR | 03/06/2017 | 2017-7/86 |
| R590-262 | Health Data Authority Health Insurance Claims Reporting | 41172 | AMD | 03/10/2017 | 2017-3/36 |
| R590-262-2 | Purpose and Scope | 41378 | NSC | 04/10/2017 | Not Printed |
| R590-264 | Property and Casualty Actuarial Opinion Rule | 41921 | 5YR | 07/12/2017 | 2017-15/34 |
| R590-266 | Utah Essential Health Benefits Package | 42230 | 5YR | 10/16/2017 | Not Printed |
| R590-273 | Continuing Care Provider Rule | 40953 | NEW | 04/07/2017 | 2016-23/94 |
| R590-273 | Continuing Care Provider Rule | 40953 | CPR | 04/07/2017 | 2017-5/58 |
| R590-274 | Submission and Required Disclosures of Public Adjuster Contracts | 41867 | NEW | 08/23/2017 | 2017-14/20 |
| R590-275 | Qualified Health Plan Alternate Enrollment | 42038 | EMR | 08/24/2017 | 2017-18/45 |
| Title and Escrow Commission | | | | | |
| R592-5 | Title Insurance Product or Service Approval for a Dual Licensed Title Licensee | 42099 | 5YR | 09/13/2017 | 2017-19/135 |
| R592-14 | Delay or Failure to Record Documents and the Insuring of Properties with the False Appearance of Unmarketability as Unfair Title Insurance Practices | 41141 | 5YR | 01/09/2017 | 2017-3/99 |
| JUDICIAL PERFORMANCE EVALUATION COMMISSION | | | | | |
| Administration | | | | | |
| R597-2-2 | Disclosure, Recusal, and Disqualification | 41620 | AMD | 07/10/2017 | 2017-11/165 |
| R597-3-1 | Evaluation Cycles | 41623 | AMD | 07/10/2017 | 2017-11/167 |
| R597-3-3 | Courtroom Observation | 41624 | AMD | 07/10/2017 | 2017-11/168 |
| R597-3-5 | Public Comments | 41625 | AMD | 07/10/2017 | 2017-11/170 |
| R597-3-8 | Judicial Written Statements | 41026 | AMD | 02/17/2017 | 2016-24/35 |
| R597-3-9 | Judicial Discipline | 41027 | AMD | 02/17/2017 | 2016-24/35 |
| LABOR COMMISSION | | | | | |
| Adjudication | | | | | |
| R602-1 | General Provisions | 41605 | 5YR | 05/08/2017 | 2017-11/221 |
| R602-1 | General Provisions | 41635 | NSC | 05/25/2017 | Not Printed |
| R602-2 | Adjudication of Workers' Compensation and Occupational Disease Claims | 41612 | 5YR | 05/09/2017 | 2017-11/222 |
| R602-2 | Adjudication of Workers' Compensation and Occupational Disease Claims | 41633 | NSC | 06/01/2017 | Not Printed |
| R602-3 | Procedure and Standards for Approval of Assignment of Benefits | 42188 | 5YR | 10/04/2017 | Not Printed |
| Administration | | | | | |
| R600-2 | Operations | 41587 | 5YR | 05/05/2017 | 2017-11/221 |
| R600-2-1 | Business Hours | 41637 | NSC | 05/31/2017 | Not Printed |
| Boiler and Elevator Safety | | | | | |
| R616-1 | Coal, Gilsonite, or other Hydrocarbon Mining Certification | 42001 | NSC | 08/28/2017 | Not Printed |
| R616-2 | Boiler and Pressure Vessel Rules | 42002 | NSC | 08/28/2017 | Not Printed |

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| R616-2-3 | Safety Codes and Rules for Boilers and Pressure Vessels | 41951 | AMD | 09/21/2017 | 2017-16/104 |
| R616-3 | Elevator Rules | 42003 | NSC | 08/28/2017 | Not Printed |
| R616-3-4 | Inspector Qualification | 41950 | AMD | 09/21/2017 | 2017-16/105 |
| R616-3-14 | Remodeled Elevators | 41949 | AMD | 09/21/2017 | 2017-16/106 |
| R616-4 | Coal Mine Safety | 42004 | NSC | 08/28/2017 | Not Printed |
| MONEY MANAGEMENT COUNCIL | | | | | |
| Administration | | | | | |
| R628-2 | Investment of Funds of Public Education Foundations Established Under Section 53A-4-205 or Funds Acquired by Gift, Devise or Bequest | 41919 | EXD | 07/12/2017 | 2017-15/47 |
| R628-2 | Investment of Funds of Public Education Foundations Established under Section 53A-4-205 or Funds Acquired by Gift, Devise, or Bequest | 41928 | NEW | 09/07/2017 | 2017-15/19 |
| R628-4 | Bonding of Public Treasurers | 41866 | AMD | 08/21/2017 | 2017-14/24 |
| R628-15 | Certification as an Investment Adviser | 41862 | AMD | 08/21/2017 | 2017-14/25 |
| R628-17 | Limitations on Commercial Paper and Corporate Notes | 41424 | 5YR | 03/30/2017 | 2017-8/75 |
| R628-19 | Requirements for the Use of Investment Advisers by Public Treasurers | 42097 | NSC | 10/03/2017 | Not Printed |
| NATURAL RESOURCES | | | | | |
| Administration | | | | | |
| R634-1 | Americans With Disabilities Complaint Procedures | 42103 | 5YR | 09/14/2017 | 2017-19/135 |
| R634-1 | Americans with Disabilities Complaint Procedure | 42155 | NSC | 09/29/2017 | Not Printed |
| Forestry, Fire and State Lands | | | | | |
| R652-1 | Definition of Terms | 41012 | AMD | 01/10/2017 | 2016-23/97 |
| R652-1 | Definition of Terms | 41407 | 5YR | 03/28/2017 | 2017-8/76 |
| R652-3 | Applicant Qualifications and Application Forms | 41408 | 5YR | 03/28/2017 | 2017-8/77 |
| R652-4 | Application Fees and Assessments | 41409 | 5YR | 03/28/2017 | 2017-8/77 |
| R652-5 | Payments, Royalties, Audits, and Reinstatements | 41411 | 5YR | 03/29/2017 | 2017-8/78 |
| R652-6 | Government Records Access and Management | 41412 | 5YR | 03/29/2017 | 2017-8/78 |
| R652-20 | Mineral Resources | 41413 | 5YR | 03/29/2017 | 2017-8/79 |
| R652-30 | Special Use Leases | 41414 | 5YR | 03/29/2017 | 2017-8/79 |
| R652-40 | Easements | 41415 | 5YR | 03/29/2017 | 2017-8/80 |
| R652-50 | Range Management | 41416 | 5YR | 03/29/2017 | 2017-8/80 |
| R652-60 | Cultural Resources | 41417 | 5YR | 03/29/2017 | 2017-8/81 |
| R652-70 | Sovereign Lands | 41418 | 5YR | 03/29/2017 | 2017-8/81 |
| R652-90 | Sovereign Land Management Planning | 41419 | 5YR | 03/29/2017 | 2017-8/82 |
| R652-100 | Materials Permits | 41420 | 5YR | 03/29/2017 | 2017-8/82 |
| R652-120 | Wildland Fire | 41011 | AMD | 01/10/2017 | 2016-23/99 |
| R652-121 | Wildland Fire Suppression Fund | 41013 | AMD | 01/10/2017 | 2016-23/102 |
| R652-121 | Wildland Fire Suppression Fund | 42044 | 5YR | 08/28/2017 | 2017-18/63 |
| R652-122 | County Cooperative Agreements with State for Fire Protection | 41014 | AMD | 01/10/2017 | 2016-23/105 |
| R652-123 | Exemptions to Wildland Fire Suppression Fund | 41015 | REP | 01/10/2017 | 2016-23/111 |
| R652-140 | Utah Forest Practices Act | 41143 | 5YR | 01/10/2017 | 2017-3/99 |
| Oil, Gas and Mining Board | | | | | |
| R641-100 | General Provisions | 41744 | 5YR | 06/07/2017 | 2017-13/246 |
| R641-101 | Parties | 41745 | 5YR | 06/07/2017 | 2017-13/246 |
| R641-102 | Appearances and Representations | 41746 | 5YR | 06/07/2017 | 2017-13/247 |
| R641-103 | Intervention | 41747 | 5YR | 06/07/2017 | 2017-13/247 |
| R641-104 | Pleadings | 41748 | 5YR | 06/07/2017 | 2017-13/248 |
| R641-105 | Filing and Service | 41749 | 5YR | 06/07/2017 | 2017-13/248 |
| R641-106 | Notice and Service | 41750 | 5YR | 06/07/2017 | 2017-13/249 |
| R641-107 | Prehearing Conference | 41751 | 5YR | 06/07/2017 | 2017-13/249 |
| R641-108 | Conduct of Hearings | 41752 | 5YR | 06/07/2017 | 2017-13/250 |

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|---|---|---|---|---|---|
| R641-109 | Decisions and Orders | 41753 | 5YR | 06/07/2017 | 2017-13/250 |
| R641-110 | Rehearing and Modification of Existing Orders | 41754 | 5YR | 06/07/2017 | 2017-13/251 |
| R641-111 | Declaratory Rulings | 41755 | 5YR | 06/07/2017 | 2017-13/251 |
| R641-112 | Rulemaking | 41756 | 5YR | 06/07/2017 | 2017-13/252 |
| R641-113 | Hearing Examiners | 41757 | 5YR | 06/07/2017 | 2017-13/252 |
| R641-114 | Exhaustion of Administrative Remedies | 41758 | 5YR | 06/07/2017 | 2017-13/253 |
| R641-115 | Deadline for Judicial Review | 41759 | 5YR | 06/07/2017 | 2017-13/253 |
| R641-116 | Judicial Review of Formal Adjudicative Proceedings | 41760 | 5YR | 06/07/2017 | 2017-13/254 |
| R641-117 | Civil Enforcement | 41761 | 5YR | 06/07/2017 | 2017-13/254 |
| R641-118 | Waivers | 41762 | 5YR | 06/07/2017 | 2017-13/255 |
| R641-119 | Severability | 41763 | 5YR | 06/07/2017 | 2017-13/255 |
| Oil, Gas and Mining; Oil and Gas | | | | | |
| R649-2-9 | Refusal to Agree | 41614 | EMR | 05/09/2017 | 2017-11/207 |
| R649-2-9 | Refusal to Agree | 41868 | AMD | 09/21/2017 | 2017-14/29 |
| Parks and Recreation | | | | | |
| R651-102 | Government Records Access Management Act | 41382 | 5YR | 03/23/2017 | 2017-8/75 |
| R651-215-8 | River Throw Bag in Lieu of Type IV PFD | 41154 | AMD | 03/10/2017 | 2017-3/38 |
| R651-227 | Boating Safety Course Fees | 42045 | 5YR | 08/28/2017 | 2017-18/63 |
| R651-301 | State Recreation Fiscal Assistance Programs | 41383 | 5YR | 03/23/2017 | 2017-8/76 |
| R651-410 | Off-Highway Vehicle Safety Equipment | 41347 | 5YR | 03/07/2017 | 2017-7/87 |
| R651-411 | OHV Use in State Parks | 41043 | AMD | 02/16/2017 | 2016-24/36 |
| R651-412-4 | Curriculum Standards | 41952 | AMD | 09/21/2017 | 2017-16/106 |
| R651-603 | Animals | 41717 | AMD | 07/25/2017 | 2017-12/22 |
| R651-606 | Camping | 41716 | AMD | 07/25/2017 | 2017-12/23 |
| R651-614-5 | Hunting with Firearms | 41042 | AMD | 02/16/2017 | 2016-24/37 |
| R651-633 | Special Closures or Restrictions | 41044 | AMD | 02/16/2017 | 2016-24/38 |
| R651-633-2 | General Closures or Restrictions | 41715 | AMD | 07/25/2017 | 2017-12/24 |
| Water Resources | | | | | |
| R653-2 | Financial Assistance from the Board of Water Resources | 42128 | 5YR | 09/15/2017 | 2017-19/136 |
| R653-3 | Selecting Private Consultants | 42169 | 5YR | 09/29/2017 | 2017-20/66 |
| R653-4 | Investigation Account | 42170 | 5YR | 09/29/2017 | 2017-20/66 |
| R653-5 | Cloud Seeding | 42171 | 5YR | 09/29/2017 | 2017-20/67 |
| Water Rights | | | | | |
| R655-1 | Wells Used for the Discovery and Production of Geothermal Energy in the State of Utah | 41593 | 5YR | 05/05/2017 | 2017-11/223 |
| R655-2 | Procedure for Administrative Proceedings Before the Division of Water Rights Commenced Prior to January 1, 1988 | 41590 | REP | 09/22/2017 | 2017-11/171 |
| R655-6 | Administrative Procedures for Informal Proceedings Before the Division of Water Rights | 41592 | 5YR | 05/05/2017 | 2017-11/223 |
| R655-15 | Administrative Procedures for Distribution Systems and Water Commissioners | 41591 | 5YR | 05/05/2017 | 2017-11/224 |
| Wildlife Resources | | | | | |
| R657-2 | Adjudicative Proceedings | 41580 | 5YR | 05/03/2017 | 2017-11/224 |
| R657-4 | Possession of Live Game Birds | 41583 | 5YR | 05/03/2017 | 2017-11/225 |
| R657-6 | Taking Upland Game | 41832 | AMD | 08/07/2017 | 2017-13/179 |
| R657-9 | Taking Waterfowl, Wilson's Snipe and Coot | 41153 | AMD | 03/13/2017 | 2017-3/39 |
| R657-12 | Hunting and Fishing Accommodations for People with Disabilities | 42024 | 5YR | 08/15/2017 | 2017-17/213 |
| R657-13 | Taking Fish and Crayfish | 42166 | 5YR | 09/28/2017 | 2017-20/67 |
| R657-14 | Commercial Harvesting of Protected Aquatic Wildlife | 41834 | 5YR | 06/15/2017 | 2017-13/256 |
| R657-16 | Aquaculture and Fish Stocking | 41149 | REP | 03/13/2017 | 2017-3/40 |
| R657-19 | Taking Nongame Mammals | 42031 | EMR | 08/17/2017 | 2017-18/48 |
| R657-20 | Falconry | 41853 | AMD | 08/21/2017 | 2017-14/30 |
| R657-22 | Commercial Hunting Areas | 41581 | 5YR | 05/03/2017 | 2017-11/225 |
| R657-27 | License Agent Procedures | 41353 | 5YR | 03/13/2017 | 2017-7/87 |
| R657-28 | Use of Division Lands | 41958 | 5YR | 07/31/2017 | 2017-16/131 |
| R657-29 | Government Records Access Management Act | 41579 | EXD | 05/03/2017 | 2017-11/231 |

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|---|---|---|---|---|---|
| R657-29 | Government Records Access Management Act | 41585 | NEW | 07/10/2017 | 2017-11/175 |
| R657-30 | Fishing License for the Terminally Ill | 41582 | 5YR | 05/03/2017 | 2017-11/226 |
| R657-38 | Dedicated Hunter Program | 41148 | AMD | 03/13/2017 | 2017-3/44 |
| R657-43 | Landowner Permits | 41330 | 5YR | 02/27/2017 | 2017-6/30 |
| R657-44 | Big Game Depredation | 41668 | 5YR | 05/18/2017 | 2017-12/38 |
| R657-50 | Error Remedy | 41352 | 5YR | 03/13/2017 | 2017-7/88 |
| R657-52 | Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs | 42146 | 5YR | 09/21/2017 | 2017-20/68 |
| R657-54 | Taking Wild Turkey | 41833 | AMD | 08/07/2017 | 2017-13/180 |
| R657-59 | Private Fish Ponds | 41150 | AMD | 03/13/2017 | 2017-3/49 |
| R657-60 | Aquatic Invasive Species Interdiction | 41151 | AMD | 03/13/2017 | 2017-3/61 |
| R657-62 | Drawing Application Procedures | 41098 | AMD | 02/07/2017 | 2017-1/82 |
| R657-62 | Drawing Application Procedures | 41152 | AMD | 03/13/2017 | 2017-3/67 |
| R657-64 | Predator Control Incentives | 41957 | 5YR | 07/31/2017 | 2017-16/132 |
| R657-70 | Taking Utah Prairie Dogs | 42032 | EMR | 08/17/2017 | 2017-18/51 |

NAVAJO TRUST FUND

Trustees

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|---|---|---|---|---|---|
| R661-3 | Utah Navajo Trust Fund Residency Policy | 40892 | AMD | 03/14/2017 | 2016-22/90 |
| R661-6 | Utah Navajo Trust Fund Higher Education Financial Assistance and Scholarship Program | 40893 | AMD | 03/14/2017 | 2016-22/92 |

PARDONS (BOARD OF)

Administration

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|---|---|---|---|---|---|
| R671-101 | Rules | 41122 | 5YR | 01/05/2017 | 2017-3/100 |
| R671-202 | Notification of Hearings | 41241 | 5YR | 01/30/2017 | 2017-4/78 |
| R671-202 | Notification of Hearings | 41615 | AMD | 09/20/2017 | 2017-11/177 |
| R671-203 | Victim Input and Notification | 41242 | 5YR | 01/30/2017 | 2017-4/78 |
| R671-205 | Credit for Time Served | 41243 | 5YR | 01/30/2017 | 2017-4/79 |
| R671-206 | Competency of Offenders | 41269 | EXD | 02/02/2017 | 2017-5/79 |
| R671-207 | Mentally Ill and Deteriorated Offender Custody Transfer | 41244 | 5YR | 01/30/2017 | 2017-4/79 |
| R671-301 | Personal Appearance | 41245 | 5YR | 01/30/2017 | 2017-4/80 |
| R671-302 | News Media and Public Access to Hearings | 41246 | 5YR | 01/30/2017 | 2017-4/80 |
| R671-303 | Information Received, Maintained or Used by the Board | 41240 | 5YR | 01/30/2017 | 2017-4/81 |
| R671-304 | Hearing Record | 41247 | 5YR | 01/30/2017 | 2017-4/81 |
| R671-305 | Board Decisions and Orders | 41239 | 5YR | 01/30/2017 | 2017-4/82 |
| R671-308 | Offender Hearing Assistance | 41248 | 5YR | 01/30/2017 | 2017-4/82 |
| R671-310 | Rescission Hearings | 41249 | 5YR | 01/30/2017 | 2017-4/83 |
| R671-311 | Special Attention Reviews, Hearings, and Decisions | 41250 | 5YR | 01/30/2017 | 2017-4/83 |
| R671-311-3 | Earned Time Adjustments | 41081 | AMD | 02/15/2017 | 2017-1/83 |
| R671-313 | Commutation Hearings (Non-Death Penalty Cases) | 42167 | 5YR | 09/28/2017 | 2017-20/68 |
| R671-315 | Pardons | 41251 | 5YR | 01/30/2017 | 2017-4/84 |
| R671-316 | Redetermination | 41238 | 5YR | 01/30/2017 | 2017-4/84 |
| R671-402 | Special Conditions of Parole | 41176 | 5YR | 01/17/2017 | 2017-3/100 |
| R671-402 | Special Conditions of Parole | 41252 | 5YR | 01/30/2017 | 2017-4/85 |
| R671-403 | Restitution | 41121 | 5YR | 01/05/2017 | 2017-3/101 |
| R671-405 | Parole Termination | 41253 | 5YR | 01/30/2017 | 2017-4/85 |

PUBLIC LANDS POLICY COORDINATING OFFICE

Administration

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|---|---|---|---|---|---|
| R694-1 | Archaeology Permits | 41444 | 5YR | 04/04/2017 | 2017-9/51 |

PUBLIC SAFETY

Administration

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|---|---|---|---|---|---|
| R698-8 | Local Public Safety and Firefighter Surviving Spouse Trust Fund | 41373 | AMD | 06/07/2017 | 2017-8/42 |
| R698-9 | Utah Law Enforcement Memorial Support Restricted Account | 41369 | NEW | 06/07/2017 | 2017-7/32 |
| R698-10 | Electronic Meetings | 41586 | NEW | 07/18/2017 | 2017-11/178 |

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|---|---|---|---|---|---|
| Criminal Investigations and Technical Services, Criminal Identification | | | | | |
| R722-910 | Non-Reportable Traffic Offenses | 42145 | NSC | 10/10/2017 | Not Printed |
| Driver License | | | | | |
| R708-2 | Commercial Driver Training Schools | 41203 | 5YR | 01/20/2017 | 2017-4/86 |
| R708-3 | Driver License Point System Administration | 41128 | 5YR | 01/08/2017 | 2017-3/101 |
| R708-7 | Functional Ability in Driving: Guidelines for Physicians | 41133 | 5YR | 01/08/2017 | 2017-3/102 |
| R708-8 | Review Process: Driver License Medical Review Section | 41129 | 5YR | 01/08/2017 | 2017-3/102 |
| R708-14 | Adjudicative Proceedings for Driver License Actions Involving Alcohol and Drugs | 41130 | 5YR | 01/08/2017 | 2017-3/103 |
| R708-21 | Third-Party Testing | 41204 | 5YR | 01/20/2017 | 2017-4/86 |
| R708-25 | Commercial Driver License Applicant Fitness Certification | 41200 | REP | 03/27/2017 | 2017-4/41 |
| R708-27 | Certification of Driver Education Teachers in the Public Schools to Administer Knowledge and Driving Skills Tests | 41202 | 5YR | 01/20/2017 | 2017-4/87 |
| R708-34 | Medical Waivers for Intrastate Commercial Driving Privileges | 41132 | 5YR | 01/08/2017 | 2017-3/104 |
| R708-35 | Adjudicative Proceedings for Driver License Offenses Not Involving Alcohol or Drug Actions | 41131 | 5YR | 01/08/2017 | 2017-3/104 |
| R708-39 | Physical and Mental Fitness Testing | 41205 | 5YR | 01/20/2017 | 2017-4/87 |
| R708-47 | Emergency Contact Database | 42005 | 5YR | 08/07/2017 | 2017-17/214 |
| R708-48 | Ignition Interlock System Program | 42006 | 5YR | 08/07/2017 | 2017-17/215 |
| Emergency Management | | | | | |
| R704-2 | Statewide Mutual Aid Act Activation | 41380 | AMD | 06/09/2017 | 2017-8/44 |
| R704-3 | Local Government Emergency Response Loan Program | 40956 | NEW | 01/12/2017 | 2016-23/112 |
| R704-3 | Local Government Emergency Response Loan Program | 41358 | AMD | 06/07/2017 | 2017-7/33 |
| Fire Marshal | | | | | |
| R710-1 | Concerns Servicing Portable Fire Extinguishers | 41571 | 5YR | 05/02/2017 | 2017-11/226 |
| R710-2 | Rules Pursuant to the Utah Fireworks Act | 41572 | 5YR | 05/02/2017 | 2017-11/227 |
| R710-2 | Rules Pursuant to the Utah Fireworks Act | 41692 | NSC | 06/13/2017 | Not Printed |
| R710-3 | Assisted Living Facilities | 41574 | 5YR | 05/03/2017 | 2017-11/227 |
| R710-3-3 | Definitions | 41693 | NSC | 06/13/2017 | Not Printed |
| R710-4 | Buildings Under the Jurisdiction of the State Fire Prevention Board | 41575 | 5YR | 05/03/2017 | 2017-11/228 |
| R710-7 | Concerns Servicing Automatic Fire Suppression Systems | 41584 | 5YR | 05/04/2017 | 2017-11/228 |
| R710-7-8 | Requirements For All Approved Systems | 41694 | NSC | 06/13/2017 | Not Printed |
| R710-8 | Day Care Rules | 41343 | 5YR | 03/06/2017 | 2017-7/88 |
| R710-9 | Rules Pursuant to the Utah Fire Prevention and Safety Act | 41577 | 5YR | 05/03/2017 | 2017-11/229 |
| Highway Patrol | | | | | |
| R714-110 | Permit to Operate a Motor Vehicle in Violation of Equipment Laws | 41835 | 5YR | 06/19/2017 | 2017-14/62 |
| R714-158 | Vehicle Safety Inspection Program Requirements | 41836 | 5YR | 06/19/2017 | 2017-14/63 |
| R714-159 | Vehicle Safety Inspection Apprenticeship Program Guidelines | 41837 | 5YR | 06/19/2017 | 2017-14/63 |
| R714-162 | Equipment Standards for Heavy Vehicle, Trailer and Bus Safety Inspections | 41359 | R&R | 07/18/2017 | 2017-7/35 |
| R714-200 | Standards for Vehicle Lights and Illuminating Devices | 41838 | 5YR | 06/19/2017 | 2017-14/64 |
| R714-210 | Standards for Motor Vehicle Air Conditioning Equipment | 41839 | 5YR | 06/19/2017 | 2017-14/65 |
| R714-220 | Standards for Protective Headgear | 41863 | REP | 09/12/2017 | 2017-14/46 |
| R714-230 | Standards and Specifications for Vehicle Seat Belts and Safety Harnesses | 41865 | REP | 09/12/2017 | 2017-14/47 |
| R714-240 | Standards and Specifications for Child Restraint Devices and Safety Belts | 41864 | REP | 09/12/2017 | 2017-14/48 |

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| R714-300 | Standards for Motor Vehicle Braking Systems | 41840 | 5YR | 06/19/2017 | 2017-14/65 |
| R714-550 | Rule for Spending Fees Provided under Section 53-1-117 | 41841 | 5YR | 06/19/2017 | 2017-14/66 |
| PUBLIC SERVICE COMMISSION | | | | | |
| Administration | | | | | |
| R746-1 | Public Service Commission Administrative Procedures Act Rule | 41116 | NEW | 03/06/2017 | 2017-2/27 |
| R746-100 | Practice and Procedures Governing Formal Hearings | 41115 | REP | 03/06/2017 | 2017-2/33 |
| R746-101 | Statement of Rule for the Filing and Disposition of Petitions for Declaratory Rulings | 41968 | 5YR | 07/31/2017 | 2017-16/132 |
| R746-101-1 | Definitions | 41669 | NSC | 06/05/2017 | Not Printed |
| R746-110-3 | Rate Increases | 41670 | NSC | 06/05/2017 | Not Printed |
| R746-200-7 | Termination of Service | 41337 | AMD | 05/15/2017 | 2017-7/59 |
| R746-240-1 | General Provisions | 41671 | NSC | 06/05/2017 | Not Printed |
| R746-310 | Uniform Rules Governing Electricity Service by Electric Utilities | 41672 | NSC | 06/05/2017 | Not Printed |
| R746-310 | Uniform Rules Governing Electricity Service by Electric Utilities | 41931 | 5YR | 07/19/2017 | 2017-16/133 |
| R746-312 | Electrical Interconnection | 41673 | NSC | 06/05/2017 | Not Printed |
| R746-313 | Electric Service Reliability | 41514 | 5YR | 04/27/2017 | 2017-10/175 |
| R746-313 | Electrical Service Reliability | 41674 | NSC | 06/05/2017 | Not Printed |
| R746-320 | Uniform Rules Governing Natural Gas Service | 41667 | 5YR | 05/17/2017 | 2017-12/38 |
| R746-320 | Uniform Rules Governing Natural Gas Service | 41676 | NSC | 06/13/2017 | Not Printed |
| R746-340-1 | General | 41677 | NSC | 06/13/2017 | Not Printed |
| R746-341 | Lifeline Rule | 41031 | AMD | 03/24/2017 | 2016-24/40 |
| R746-341 | Lifeline Rule | 41031 | CPR | 03/24/2017 | 2017-4/54 |
| R746-343-15 | Surcharge | 41645 | AMD | 07/10/2017 | 2017-11/179 |
| R746-344-3 | Hearing Process | 41678 | NSC | 06/13/2017 | Not Printed |
| R746-345-1 | Authorization | 41679 | NSC | 06/13/2017 | Not Printed |
| R746-349 | Competitive Entry and Reporting Requirements | 41262 | 5YR | 01/31/2017 | 2017-4/88 |
| R746-349-3 | Filing Requirements | 41680 | NSC | 06/13/2017 | Not Printed |
| R746-351 | Pricing Flexibility | 41263 | 5YR | 01/31/2017 | 2017-4/89 |
| R746-360-4 | Application of Fund Surcharges to Customer Billings | 41644 | AMD | 10/11/2017 | 2017-11/180 |
| R746-360-4 | Application of Fund Surcharges to Customer Billings | 41644 | CPR | 10/11/2017 | 2017-17/208 |
| R746-360-6 | Eligibility for Fund Distributions | 41704 | AMD | 07/31/2017 | 2017-12/25 |
| R746-365 | Intercarrier Service Quality | 41681 | NSC | 06/13/2017 | Not Printed |
| R746-400 | Public Utility Reports | 41513 | 5YR | 04/27/2017 | 2017-10/176 |
| R746-400-4 | Reports to the Commission | 41682 | NSC | 06/13/2017 | Not Printed |
| R746-401-1 | Applicability | 41683 | NSC | 06/13/2017 | Not Printed |
| R746-409-6 | Remedies | 41684 | NSC | 06/13/2017 | Not Printed |
| R746-420 | Requests for Approval of a Solicitation Process | 41393 | 5YR | 03/27/2017 | 2017-8/83 |
| R746-430 | Procedural and Informational Requirements for Action Plans, for an Approval of a Significant Energy Resource, for Determination of Whether to Proceed, and for Waivers of a Solicitation Process or of an Approval of a Significant Energy Resource | 41392 | 5YR | 03/27/2017 | 2017-8/83 |
| R746-440 | Voluntary Resource Decision | 41264 | 5YR | 01/31/2017 | 2017-4/89 |
| R746-700 | Complete Filings for General Rate Case and Major Plant Addition Applications | 41685 | NSC | 06/13/2017 | Not Printed |
| REGENTS (BOARD OF) | | | | | |
| Administration | | | | | |
| R765-134 | Informal Adjudicative Procedures Under the Utah Administrative Procedures Act | 42172 | 5YR | 09/29/2017 | 2017-20/69 |
| R765-606 | Utah Leveraging Educational Assistance Partnership Program | 40915 | REP | 03/14/2017 | 2016-22/109 |
| R765-993 | Records Access and Management | 42173 | 5YR | 09/29/2017 | 2017-20/69 |

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|---|---|---|---|---|---|
| College of Eastern Utah | | | | | |
| R767-1 | Government Records Access and Management Act | 42187 | EXD | 10/03/2017 | Not Printed |
| University of Utah, Commuter Services | | | | | |
| R810-2 | Parking Meters and Other Pay Parking Spaces | 41302 | 5YR | 02/13/2017 | 2017-5/69 |
| R810-5 | Permit Types and Eligibility | 41303 | 5YR | 02/13/2017 | 2017-5/70 |
| R810-6 | Permit Prices and Refunds | 41304 | 5YR | 02/13/2017 | 2017-5/70 |
| R810-9 | Contractors and Their Employees | 41305 | 5YR | 02/13/2017 | 2017-5/71 |
| R810-9 | Contractors and Their Employees | 41328 | NSC | 03/14/2017 | Not Printed |
| R810-10 | Enforcement System | 41306 | 5YR | 02/13/2017 | 2017-5/71 |
| R810-11 | Appeals System | 41307 | 5YR | 02/13/2017 | 2017-5/72 |
| SCHOOL AND INSTITUTIONAL TRUST LANDS | | | | | |
| Administration | | | | | |
| R850-1 | Definition of Terms | 41697 | 5YR | 05/23/2017 | 2017-12/39 |
| R850-2 | Trust Land Management Objectives | 41696 | 5YR | 05/23/2017 | 2017-12/39 |
| R850-3 | Applicant Qualifications, Application Forms, and Application Processing | 41695 | 5YR | 05/23/2017 | 2017-12/40 |
| R850-4 | Application Fees and Assessments | 41845 | 5YR | 06/27/2017 | 2017-14/67 |
| R850-5 | Payments, Royalties, Audits, and Reinstatements | 41846 | 5YR | 06/27/2017 | 2017-14/67 |
| R850-6 | Government Records Access and Management | 41847 | 5YR | 06/27/2017 | 2017-14/68 |
| R850-11 | Procurement | 41489 | 5YR | 04/24/2017 | 2017-10/176 |
| R850-30 | Special Use Leases | 41848 | 5YR | 06/27/2017 | 2017-14/68 |
| R850-40 | Easements | 41849 | 5YR | 06/27/2017 | 2017-14/69 |
| R850-41 | Rights of Entry | 41291 | 5YR | 02/07/2017 | 2017-5/72 |
| R850-50 | Range Management | 41850 | 5YR | 06/27/2017 | 2017-14/69 |
| R850-60 | Cultural Resources | 41851 | 5YR | 06/27/2017 | 2017-14/70 |
| R850-80 | Sale of Trust Lands | 41852 | 5YR | 06/27/2017 | 2017-14/70 |
| R850-90 | Land Exchanges | 41155 | 5YR | 01/12/2017 | 2017-3/105 |
| R850-100 | Trust Land Management Planning | 42025 | 5YR | 08/15/2017 | 2017-17/215 |
| R850-120 | Beneficiary Use of Institutional Trust Land | 41156 | 5YR | 01/12/2017 | 2017-3/105 |
| R850-160 | Withdrawal of Trust Lands from Public Target Shooting | 41558 | NEW | 06/21/2017 | 2017-10/139 |
| SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY | | | | | |
| Administration | | | | | |
| R856-1 | USTAR Technology Acceleration Program Grants | 41804 | R&R | 08/15/2017 | 2017-13/182 |
| R856-2 | USTAR University-Industry Partnership Program Grants | 41812 | R&R | 08/15/2017 | 2017-13/188 |
| R856-3 | USTAR University Technology Acceleration Grants | 41813 | R&R | 08/15/2017 | 2017-13/195 |
| R856-4 | USTAR Science Technology Initiation Grant | 41095 | NEW | 03/22/2017 | 2017-1/85 |
| R856-4 | USTAR Science Technology Initiation Grant | 41815 | R&R | 08/15/2017 | 2017-13/201 |
| R856-5 | USTAR Energy Research Triangle Professors Grant | 41096 | NEW | 03/22/2017 | 2017-1/88 |
| R856-5 | USTAR Energy Research Triangle Professors Grant | 41828 | R&R | 08/15/2017 | 2017-13/207 |
| R856-5 | Utah Science, Technology, and Research (USTAR) Energy Research Triangle Professors (ERT-P) Grant | 41906 | NSC | 08/16/2017 | Not Printed |
| R856-6 | USTAR Energy Research Triangle Scholars Grant | 41097 | NEW | 03/22/2017 | 2017-1/92 |
| R856-6 | USTAR Energy Research Triangle Scholars Grant | 41829 | R&R | 08/15/2017 | 2017-13/214 |
| R856-7 | USTAR Definition of High-Quality Job | 41481 | NEW | 08/15/2017 | 2017-10/141 |
| TAX COMMISSION | | | | | |
| Administration | | | | | |
| R861-1A-16 | Utah State Tax Commission Management Plan Pursuant to Utah Code Ann. Section 59-1-207 | 41468 | AMD | 06/08/2017 | 2017-9/28 |

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| R861-1A-20 | Time of Appeal Pursuant to Utah Code Ann. Sections 59-1-301, 59-1-501, 59-1-1410, 59- 2-1007, 59-7-517, 59-12-114, 59-13-210, 63G-4-201, 63G-4-401, 68-3-7, and 68-3-8.5 | 41699 | AMD | 07/27/2017 | 2017-12/27 |
| R861-1A-42 | Waiver of Penalty and Interest for Reasonable Cause Pursuant to Utah Code Ann. Section 59-1-401 | 41700 | AMD | 07/27/2017 | 2017-12/28 |
| Auditing | | | | | |
| R865-9I-54 | Renewable Energy Credit Amount Pursuant to Utah Code Ann. Sections 59-10-1014 and 59-10-1106 | 41701 | AMD | 07/27/2017 | 2017-12/31 |
| Motor Vehicle | | | | | |
| R873-22M-2 | Documentation Required and Procedures to Follow to Register or Title Certain Vehicles Pursuant to Utah Code Ann. Sections 41-1a-104 and 41-1a-108 | 41702 | AMD | 07/27/2017 | 2017-12/31 |
| R873-22M-16 | Authorization to Issue a Certificate of Title Pursuant to Utah Code Ann. Section 41-1a-104 | 41703 | AMD | 07/27/2017 | 2017-12/34 |
| Property Tax | | | | | |
| R884-24P-24 | Form for Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918.5 through 59-2-924 | 41469 | AMD | 06/08/2017 | 2017-9/30 |
| R884-24P-57 | Judgment Levies Pursuant to Utah Code Ann. Sections 59-2-918.5, 59-2-924, 59-2-1328, and 59-2-1330 | 41455 | NSC | 06/01/2017 | Not Printed |
| TECHNOLOGY SERVICES | | | | | |
| Administration | | | | | |
| R895-3 | Computer Software Licensing, Copyright, Control, Retention, and Transfer | 41454 | 5YR | 04/06/2017 | 2017-9/52 |
| R895-3 | Computer Software Licensing, Copyright, Control, Retention, and Transfer | 41459 | AMD | 07/28/2017 | 2017-9/32 |
| R895-12 | Telecommunications Services and Requirements | 42144 | EXT | 09/20/2017 | 2017-20/71 |
| TRANSPORTATION | | | | | |
| Administration | | | | | |
| R907-80 | Disposition of Surplus Land | 41384 | NEW | 05/22/2017 | 2017-8/48 |
| Motor Carrier | | | | | |
| R909-2 | Utah Size and Weight Rule | 42010 | AMD | 10/10/2017 | 2017-17/177 |
| Operations, Aeronautics | | | | | |
| R914-1 | Rules and Regulations | 42062 | 5YR | 09/05/2017 | 2017-19/136 |
| R914-2 | Safety Rules and Procedures for Aircraft Operations on Roads | 42063 | 5YR | 09/05/2017 | 2017-19/137 |
| R914-3 | Aircraft Registration Enforcement | 40937 | NEW | 01/18/2017 | 2016-23/114 |
| R914-3 | Aircraft Registration Enforcement | 41421 | AMD | 05/22/2017 | 2017-8/53 |
| Operations, Maintenance | | | | | |
| R918-3 | Snow Removal | 41913 | 5YR | 07/07/2017 | 2017-15/34 |
| R918-6 | Maintenance Responsibility at Intersections, Overcrossings, and Interchanges between Class A Roads and Class B or Class C Roads | 41942 | 5YR | 07/19/2017 | 2017-16/133 |
| Operations, Traffic and Safety | | | | | |
| R920-1 | Utah Manual on Uniform Traffic Control Devices | 41910 | 5YR | 07/07/2017 | 2017-15/35 |
| R920-2 | Rural Conventional Road Definition | 41925 | 5YR | 07/12/2017 | 2017-15/35 |
| R920-4 | Special Road Use or Event | 41767 | 5YR | 06/08/2017 | 2017-13/256 |
| R920-4 | Special Road Use or Event | 41924 | 5YR | 07/12/2017 | 2017-15/36 |
| R920-6 | Snow Tire and Chain Requirements | 41911 | 5YR | 07/07/2017 | 2017-15/37 |

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|---|---|---|---|---|---|
| R920-30 | State Safety Oversight | 42012 | NEW | 10/10/2017 | 2017-17/191 |
| R920-50 | Ropeway Operation Safety | 41476 | EXT | 04/13/2017 | 2017-9/53 |
| R920-50 | Ropeway Operation Safety | 41907 | 5YR | 07/06/2017 | 2017-15/37 |
| R920-50 | Ropeway Operation Safety | 42011 | AMD | 10/10/2017 | 2017-17/192 |
| R920-51 | Safety Regulations for Railroads | 41912 | EXT | 07/07/2017 | 2017-15/45 |
| R920-51 | Safety Regulations for Railroads | 42008 | REP | 10/10/2017 | 2017-17/199 |
| Preconstruction | | | | | |
| R930-3 | Highway Noise Abatement | 42009 | AMD | 10/10/2017 | 2017-17/202 |
| R930-7 | Utility Accommodation | 42085 | 5YR | 09/12/2017 | 2017-19/137 |
| R930-9 | Detection and Elimination of Unauthorized Discharges into Drainage Systems, Enforcement of Water Laws, Sanctions for Violation, and Permitting | 41485 | NEW | 06/30/2017 | 2017-10/147 |
| Program Development | | | | | |
| R926-2 | Evaluation of Proposed Additions to or Deletions from the State Highway System | 41484 | AMD | 06/30/2017 | 2017-10/144 |
| R926-4 | Establishing and Defining a Functional Classification of Highways in the State of Utah | 41375 | 5YR | 03/17/2017 | 2017-8/84 |
| R926-11 | Clean Fuel Vehicle Decal Program | 41884 | AMD | 08/23/2017 | 2017-14/49 |
| R926-13-4 | Highways Within the State That Are Designated as State Scenic Byways | 41053 | AMD | 02/07/2017 | 2017-1/95 |
| R926-15-5 | Highways Within the State That Are Designated as State Scenic Backways | 41329 | NSC | 03/14/2017 | Not Printed |
| TREASURER | | | | | |
| Unclaimed Property | | | | | |
| R966-1 | Requirements for Claims where no Proof of Stock Ownership Exists | 41930 | EXT | 07/18/2017 | 2017-16/135 |
| VETERANS' AND MILITARY AFFAIRS | | | | | |
| Administration | | | | | |
| R978-1 | Rule Governing Veterans' Affairs | 41335 | 5YR | 03/01/2017 | 2017-6/31 |
| R978-1 | Rule Governing Veterans' Affairs | 41351 | AMD | 05/09/2017 | 2017-7/63 |
| WORKFORCE SERVICES | | | | | |
| Administration | | | | | |
| R982-101 | Americans with Disabilities Complaint Procedure | 41711 | 5YR | 05/31/2017 | 2017-12/40 |
| R982-201 | Government Records Access and Management Act | 41712 | 5YR | 05/31/2017 | 2017-12/41 |
| R982-301 | Councils | 41713 | 5YR | 05/31/2017 | 2017-12/41 |
| R982-401 | Energy Assistance: General Provisions | 41905 | 5YR | 07/06/2017 | 2017-15/38 |
| R982-402 | Energy Assistance Programs Standards | 41856 | 5YR | 06/28/2017 | 2017-14/71 |
| R982-403 | Energy Assistance Income Standards, Income Eligibility, and Payment Determination | 41857 | 5YR | 06/28/2017 | 2017-14/71 |
| R982-403-5 | Income Exclusions | 41594 | NSC | 05/23/2017 | Not Printed |
| R982-404 | Energy Assistance: Asset Standards | 41858 | 5YR | 06/28/2017 | 2017-14/72 |
| R982-405 | Energy Assistance: Program Benefits | 41894 | 5YR | 07/06/2017 | 2017-15/38 |
| R982-406 | Energy Assistance: Eligibility Determination | 41895 | 5YR | 07/06/2017 | 2017-15/39 |
| R982-407 | Energy Assistance: Records and Benefit Management | 41896 | 5YR | 07/06/2017 | 2017-15/39 |
| R982-408 | Energy Assistance: Special State Programs | 41897 | 5YR | 07/06/2017 | 2017-15/40 |
| R982-501 | Olene Walker Housing Loan Fund (OWHLF) | 41898 | 5YR | 07/06/2017 | 2017-15/40 |
| R982-601 | Provider Code of Conduct | 41714 | 5YR | 05/31/2017 | 2017-12/42 |
| Employment Development | | | | | |
| R986-100 | Employment Support Programs | 41595 | NSC | 05/23/2017 | Not Printed |
| R986-200 | Family Employment Program | 41596 | NSC | 05/23/2017 | Not Printed |
| R986-300-305 | Failure to Comply with an Employment Plan | 41597 | NSC | 05/23/2017 | Not Printed |
| R986-400-401 | Authority for General Assistance (GA) and Applicable Rules | 41598 | NSC | 05/23/2017 | Not Printed |
| R986-600 | Workforce Investment Act | 41336 | AMD | 05/01/2017 | 2017-6/18 |

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|---|---|---|---|---|---|
| R986-600 | Workforce Innovation and Opportunity Act | 41599 | NSC | 05/23/2017 | Not Printed |
| R986-700 | Child Care Assistance | 41985 | AMD | 09/21/2017 | 2017-16/110 |
| R986-700-706 | Provider Rights and Responsibilities | 41171 | AMD | 04/01/2017 | 2017-3/68 |
| R986-900 | Food Stamps | 41600 | NSC | 05/23/2017 | Not Printed |
| Housing and Community Development | | | | | |
| R990-8 | Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance | 41899 | 5YR | 07/06/2017 | 2017-15/41 |
| R990-9 | Policy Concerning Enforceability and Taxability of Bonds Purchased | 41903 | 5YR | 07/06/2017 | 2017-15/41 |
| R990-10 | Procedures in Case of Inability to Formulate Contract for Alleviation of Impact | 41900 | 5YR | 07/06/2017 | 2017-15/42 |
| R990-11 | Community Development Block Grants (CDBG) | 41901 | 5YR | 07/06/2017 | 2017-15/42 |
| R990-12 | State Small Business Credit Initiative Program Fund | 42080 | 5YR | 09/12/2017 | 2017-19/138 |
| R990-100 | Community Services Block Grant Rules | 41904 | 5YR | 07/06/2017 | 2017-15/43 |
| R990-101 | Qualified Emergency Food Agencies Fund (QEFAF) | 41902 | 5YR | 07/06/2017 | 2017-15/43 |
| R990-101 | Qualified Emergency Food Agencies Fund (QEFAF) | 41611 | AMD | 07/10/2017 | 2017-11/184 |
| Rehabilitation | | | | | |
| R993-300 | Certification Requirements for Interpreters for the Hearing Impaired | 41616 | AMD | 07/10/2017 | 2017-11/187 |
| Unemployment Insurance | | | | | |
| R994-102 | Employment Security Act, Public Policy and Authority | 41515 | EXD | 04/27/2017 | 2017-10/179 |
| R994-102 | Employment Security Act, Public Policy and Authority | 41520 | NEW | 06/21/2017 | 2017-10/149 |
| R994-106 | Combined Wage Claims | 41516 | EXD | 04/27/2017 | 2017-10/179 |
| R994-106 | Combined Wage Claims | 41521 | NEW | 06/21/2017 | 2017-10/150 |
| R994-303 | Contribution Rates | 41517 | EXD | 04/27/2017 | 2017-10/179 |
| R994-303 | Contribution Rates | 41522 | NEW | 06/21/2017 | 2017-10/152 |
| R994-401 | Payment of Benefits | 41518 | EXD | 04/27/2017 | 2017-10/180 |
| R994-401 | Payment of Benefits | 41523 | NEW | 06/21/2017 | 2017-10/155 |
| R994-401 | Payment of Benefits | 41984 | NSC | 08/11/2017 | Not Printed |
| R994-402 | Extended Benefits (EB) | 41519 | EXD | 04/27/2017 | 2017-10/180 |
| R994-402 | Extended Benefits (EB) | 41525 | NEW | 06/21/2017 | 2017-10/159 |
| R994-403-202 | Qualifying Elements for Approval of Training | 41427 | AMD | 05/30/2017 | 2017-8/54 |
| R994-404 | Payment Following Workers' Compensation | 41686 | 5YR | 05/19/2017 | 2017-12/42 |
| R994-405-2 | Separations from a Temporary Help Company (THC) | 41103 | AMD | 03/01/2017 | 2017-1/97 |
| R994-406 | Fraud, Fault and Nonfault Overpayments | 41687 | 5YR | 05/19/2017 | 2017-12/43 |
| R994-508 | Appeal Procedures | 41426 | AMD | 05/30/2017 | 2017-8/56 |