

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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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 801-957-7110. 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

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 2. Administrative procedure--Utah--Periodicals.
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EDITOR'S NOTES

There was a processing error in the publication of the notice of effective date for Rule R414-518, File No. 44023. The effective date, which is 01/13/2020, was not published. The notice should have been:

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 44023 (NEW): R414-518. Emergency Services Program for Non-Citizens

Published: 09/15/2019

Effective: 01/13/2020

If you have any questions about the issues addressed in this editor's note, please contact the Office of Administrative Rules by telephone at (801) 957-7110, or by email at rulesonline@utah.gov

End of the Editor's Notes Section

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 January 16, 2020, 12:00 a.m., and January 31, 2020, 11:59 p.m. are included in this, the February 15, 2020, 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 March 16, 2020. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through June 14, 2020, 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.

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R156-11a	Filing No.	52505

Agency Information

1. Department:	Commerce		
Agency:	Occupational and Professional Licensing		
Building:	Heber M. Wells Building		
Street address:	160 East 300 South		
City, state:	Salt Lake City UT 84111-2316		
Mailing address:	PO Box 146741		
City, state, zip:	Salt Lake City UT 84114-6741		
Contact person(s):			
Name:	Phone:	Email:	
Allyson Pettley	801-530-6179	apettley@utah.gov	

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
Cosmetology and Associated Professions Licensing Act Rule

3. Purpose of the new rule or reason for the change:
The Division of Occupational and Professional Licensing (Division) in collaboration with the Cosmetology and Associated Professions Licensing Board recommends these changes to update and clarify licensing requirements.

4. Summary of the new rule or change:
In Subsection R156-11a-102(8), the proposed amendment modifies the supervision requirement for dermaplaning from direct supervision to general supervision.

In Subsection R156-11a-102(15), the proposed amendment clarifies supervision language.

In Subsection R156-11a-302, the proposed amendments remove references to "good moral character" to clarify that the potentially disqualifying convictions are based on unprofessional conduct per Subsection 58-1-501(2)(c).

In Subsection R156-11a-302a(1), the proposed amendment reduces the required passing score for the National Interstate Council of State Board of

Cosmetology (NIC) exams from 75% to 70%.

In Section R156-11a-302b, the proposed amendment adds a third approved education or credential evaluation service provider and corrects the statute reference.

In Section R156-11a-503, the proposed amendment makes a nonsubstantive formatting change to the fine schedule by substituting a table in place of subsections (1)(a) through (f).

In Section R156-11a-610, the proposed amendments delete subsection (5) (which prohibited a licensee from applying acid to skin that has undergone microdermabrasion or microneedling within the previous seven days, unless under the general supervision of a licensed health care practitioner), and renumber the remainder of the subsections.

In Subsection R156-11a-611(2), the proposed amendment modifies the supervision requirement for dermaplaning from direct supervision to general supervision.

In Sections R156-11a-800 through R156-11a-804, the proposed amendments modify requirements for apprenticeships in each of these sections to mandate that an instructor may not have had any disciplinary action in the preceding three years, and to require the daily record to be available to the Division immediately upon request.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:
No state agencies will be directly or indirectly affected by these rule changes because the constrained parties consist only of individuals applying for or appropriately licensed in the cosmetology and associated professions. Additionally, there are no state government entities acting as businesses that will be impacted. As a result, this filing is not expected to impact the state beyond a minimal cost to the Division of approximately \$75 to print and distribute the rule once the proposed amendments are made effective.

B) Local governments:
No local government agencies will be directly or indirectly affected by these rule changes because the constrained parties consist only of individuals applying for or appropriately licensed in the cosmetology and associated professions. Additionally, there are no local government entities acting as businesses that will be impacted.

C) Small businesses ("small business" means a business employing 1-49 persons):

There are 637 small businesses in Utah owned by individuals in the barber, cosmetology, esthetician, and

nail technician industries (NAICS 812111, NAICS 812112, NAICS 812113). The full impact to these small businesses cannot be estimated as the necessary data is unavailable, because it cannot be estimated how many licensees or applicants in these industries who own or work for these small businesses will pass the exams at the reduced rate, choose to perform dermaplaning, or supervise apprentices.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

These proposed rule changes are not expected to impact non-small businesses because there are no non-small businesses in Utah in the industries in question.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

In Utah there are 52 licensed barber instructors, 1,941 licensed cosmetologist/barber instructors, 660 licensed master estheticians (who can supervise both master esthetician apprentices and basic esthetician apprentices), and 234 nail technician instructors. There are also 46 barber apprentices, 83 cosmetology/barber apprentices, 30 esthetician apprentices, 177 master esthetician apprentices, and 105 nail technician apprentices. These persons may be impacted by the amendments which modify the requirements for apprenticeships to mandate that an instructor may not have had any disciplinary action in the preceding three years. Between January 1, 2017, and December 31, 2019, there were approximately 30 cases in which instructors received disciplinary action. However, the Division does not collect data regarding the financial agreements between instructors and apprentices. Therefore, the full impact to these persons from the proposed amendments cannot be estimated as the necessary data are unavailable.

Instructors and apprentices may also experience a fiscal impact from the proposed amendments that modify the supervision requirement for dermaplaning from direct supervision to general supervision. However, because it cannot be estimated how many licensees will choose to perform dermaplaning and there is no data on the instructors who will choose to supervise such apprentices, the full impact to these persons from these proposed amendments cannot be estimated.

Finally, the Division estimates that many applicants for licensure under Title 58, Chapter 11a, will experience a fiscal benefit from the proposed amendments that will reduce the required passing scores on the NIC exams from 75% to 70%. Between December 1, 2018, and November 30, 2019, there were 9,577 candidate exam attempts made, including both the theory and the practical exams. Of these exam attempts, 1,516 resulted in failed exams scored between 70% and 75%. Each

exam attempt costs \$90. Accordingly, the Division estimates that the collective cost savings to applicants who will pass the NIC exams at the lower rate will be approximately \$136,440 ongoing annually.

F) Compliance costs for affected persons:

These amendments are not expected to impose any additional compliance cost on any affected persons other than as described above for other persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$75	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$136,440	\$136,440	\$136,440
Total Fiscal Benefits	\$136,440	\$136,440	\$136,440
Net Fiscal Benefits	\$136,365	\$136,440	\$136,440

H) Department head approval of regulatory impact analysis:

The Interim Executive Director of the Department of Commerce, Chris Parker, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are twelve sections affected by the proposed amendments to Rule R156-11a Cosmetology and Associated Professions Licensing Act Rules. The amendments consist of minimal changes to clarify licensing requirements and professionalism, adjust to the new state standards for the National Interstate Council of State Board of Cosmetology (NIC) exam, refine the supervision requirements for dermaplaning, and update the requirements for records available to the Division.

Small Businesses (less than 50 employees): The proposed amendments will regulate Utah licensed cosmetologists, licensed barbers, licensed estheticians, and licensed nail technicians as well as apprentices, masters, and instructors in these respective occupations. There are 637 small businesses in Utah owned by individuals in the barber, cosmetology, esthetician, and nail technician industries (NAICS 812111, 812112, and 812113). The Division estimates fiscal benefits from the proposed amendments reducing the required passing scores on the NIC exams from 75% to 70%. This change will allow more licenses to be issued. The Division estimates that the collective cost savings to applicants who will pass the NIC exams at the lower rate will be approximately \$136,440 ongoing annually. Further, The full impact to these small businesses cannot be estimated as the data is unavailable, estimates of how many licensees or applicants in these industries own or work for these small businesses is unknown, any estimate of who will pass the exams at the reduced rate is unknown, and the estimates of those that choose to perform dermaplaning is unknown. The fiscal impact described in the fiscal note reflects the above estimated benefits for the rule amendments. Other costs beyond the initial licensing cost are either inestimable or there is no fiscal impact.

Regulatory Impact to Non-Small Businesses (50 or more employees): The proposed amendments are not expected to result in any measurable fiscal impact for Utah cosmetology non-small businesses (NAICS 812111, 812112, and 812113) because there are no non-small cosmetology businesses in Utah.

B) Name and title of department head commenting on the fiscal impacts:
Chris Parker, Interim Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 58-11a-101	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)
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Public Notice Information

9. The public may submit written or oral comments

to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	03/16/2020	
B) A public hearing (optional) will be held:		
On:	At:	At:
02/20/2020	9:00 AM	Heber Wells Bldg, 160 East 300 South, Conference Room 210 (second floor), Salt Lake City, UT

10. This rule change MAY become effective on:	03/23/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Director	Date:	01/15/2020
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R156. Commerce, Occupational and Professional Licensing. R156-11a. Cosmetology and Associated Professions Licensing Act Rule.

R156-11a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 11a, as used in Title 58, Chapters 1 and 11a or this rule:

(1) "Acrylic nail", as used in Section 15A-3-402 and Subsection R156-11a-102(25), means an extension for natural nails molded out of a polymer powder and a liquid monomer buffed to a shine.

(2) "Advanced pedicures", as used in Subsection 58-11a-102(39)(a)(i)(D), means any of the following while caring for the nails, cuticles or calluses of the feet:

(a) utilizing manual instruments, implements, advanced electrical equipment, tools, or microdermabrasion for cleaning, trimming, softening, smoothing, or buffing;

(b) utilizing blades, including corn or callus planer or rasp, for smoothing, shaving or removing dead skin from the feet as defined in Section R156-11a-611; or

(c) utilizing topical products and preparations for chemical exfoliation as defined in Subsection R156-11a-610(4).

(3) "Aroma therapy" means the application of essential oils which are applied directly to the skin, undiluted or in a misted dilution with a carrier oil or lotion. for varied applications such as

massage, hot packs, cold packs, compress, inhalation, steam or air diffusion, or in hydrotherapy services.

(4) "BCA acid" means bicloroacetic acid.

(5) "Body wraps", as used in Subsection 58-11a-102(39)(a)(i)(A), means body treatments utilizing products or equipment to enhance and maintain the texture, contour, integrity and health of the skin and body.

(6) "Chemical exfoliation", as defined in Subsections 58-11a-102(39)(a)(i)(C) and R156-11a-610(4), means a resurfacing procedure performed with a chemical solution or product for the purpose of removing superficial layers of the epidermis to a point no deeper than the stratum corneum.

(7) "Dermabrasion or open dermabrasion" means the surgical application of a wire or diamond frieze for deep skin resurfacing by a physician to abrade the skin to the epidermis and possibly down to the papillary dermis.

(8) "Dermaplane" means the use of a scalpel or bladed instrument under the ~~direct~~ general supervision of a health care practitioner to shave the upper layers of the stratum corneum.

(9) "Direct supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(a).

(10) "Equivalent number of credit hours" means:

- (a) the following conversion table if on a semester basis:
 - (i) theory - 1 credit hour - 30 clock hours;
 - (ii) practice - 1 credit hour - 30 clock hours; and
 - (iii) clinical experience - 1 credit hour - 45 clock hours;

and

(b) the following conversion table if on a quarter basis:

- (i) theory - 1 credit hour - 20 clock hours;
- (ii) practice - 1 credit hour - 20 clock hours; and
- (iii) clinical experience - 1 credit hour - 30 clock hours.

(11) "Exfoliation" means the sloughing off of non-living skin cells "corneocytes" by superficial and non-invasive means.

(12) "Extraction" means the following:

(a) "Advanced extraction", as used in Subsections 58-11a-102(39)(a)(i)(F) and R156-11a-611(2)(b), means to perform extraction with a lancet or device that removes impurities from the skin.

(b) "Manual extraction", as used in Subsection 58-11a-102(31)(a), means to remove impurities from the skin with protected fingertips, cotton swabs or a loop comedone extractor.

(13) "Galvanic current" means a constant low-voltage direct current.

(14) "General supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(c).

(15) "Health care practitioner" means a physician/surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a podiatrist under Title 58, Chapter 5A, Podiatric Physician Licensing Act, or a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Practice Act, acting within the ~~appropriate~~ supervisor's scope of practice.

(16) "Hydrotherapy", as used in Subsection 58-11a-102(39)(a)(i)(B), means the use of water for cosmetic purposes or beautification of the body.

(17) "Indirect supervision" means the supervising instructor who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(b).

(18) "Limited chemical exfoliation" means a non-invasive chemical exfoliation and is further defined in Subsection R156-11a-610(3).

(19) "Lymphatic massage", as used in Subsections 58-11a-102(39)(a)(ii) and 58-11a-302(11)(e), means a method using a light rhythmic pressure applied by manual or other means to the skin using specific lymphatic maneuvers to promote drainage of the lymphatic fluid through the tissue.

(20) "Manipulating", as used in Subsection 58-11a-102(31)(a), means applying a light pressure by the hands to the skin.

(21) "Microdermabrasion", as used in Subsection 58-11a-102(39)(a)(i)(E), means a gentle, progressive, superficial, mechanical exfoliation of the uppermost layers of the stratum corneum using a closed-loop vacuum system.

(22) "Microneedling" means the use of multiple tiny solid needles designed to pierce the skin for the purpose of stimulating collagen production or cellular renewal. Devices used may be in the form of rollers, stamps or electronic "pens". It is also known as:

- (a) dermal needling;
- (b) Collagen Induction Therapy (CIT);
- (c) dermal rolling;
- (d) cosmetic dry needling;
- (e) multitrepannic collagen actuation; or
- (f) percutaneous collagen induction.

(23) "Patch test" or "predisposition test" means applying a small amount of a chemical preparation to the skin of the arm or behind the ear to determine possible allergies of the client to the chemical preparation.

(24) "Pedicure" means any of the following:

- (a) cleaning, trimming, softening, or caring for the nails, cuticles, or calluses of the feet;
- (b) the use of manual instruments or implements on the nails, cuticles, or calluses of the feet;
- (c) callus removal by sanding, buffing, or filing; or
- (d) massaging of the feet or lower portion of the leg.

(25) "Source capture system", as used in Section 15A-3-402 and Subsection 58-11a-502(7), means an air filtration and recirculation system that shall be:

- (a) maintained and cleaned according to the manufacturer's instructions; and
- (b) capable of:
 - (i) filtering and recirculating air to inside space not less than 50 cubic feet per minute (cfm) per acrylic nail station; or
 - (ii) exhausting not less than 50 cubic feet per minute (cfm) per acrylic nail station.

(26) "TCA acid" means trichloroacetic acid.

(27) "Unprofessional conduct" is further defined, in accordance with Section 58-1-501, in Section R156-11a-502.

R156-11a-302. ~~[Good Moral Character]~~Disqualifying Convictions.

~~[(1)]~~When reviewing an application to determine ~~the good moral character of an applicant as set forth in Section 58-11a-302 and~~ whether the applicant has ~~been involved~~engaged in unprofessional conduct as set forth in Subsection 58-1-501(2)(c), the Division and the Board shall consider the applicant's criminal record as follows:

~~(a)~~ a criminal conviction for the following crimes may disqualify an applicant from becoming licensed:

- ~~(a)~~ a sex offense as defined in:
 - ~~(i)~~ Title 76, Chapter 5, Part 4; ~~and~~
 - ~~(ii)~~ Title 76, Chapter 5a; and
 - ~~(iii)~~ Title 76, Chapter 10, Part 12 and 13; ~~may disqualify an applicant from becoming licensed; and~~

~~(b)~~ a criminal conviction for the following crimes may disqualify an applicant from becoming licensed:

- ~~(i)~~ crimes against a person as defined in Title 76, Chapter 5, Parts 1, 2, and 3;
- ~~(ii)~~ crimes against property as defined in Title 76, Chapter 6, Parts 1 through 6;
- ~~(iii)~~ any offense involving controlled ~~dangerous~~ substances; or
- ~~(iv)~~ conspiracy to commit or any attempt to commit any of the above offenses.

(2) An applicant who has a criminal conviction for a felony crime of violence may be considered ineligible for licensure for a period of seven years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(3) An applicant who has a criminal conviction for a felony involving a controlled substance may be considered ineligible for licensure for a period of five years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(4) An applicant who has a criminal conviction for any misdemeanor crime of violence or the use of a controlled substance may be considered ineligible for licensure for a period of three years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(5) Each application for licensure or renewal of licensure shall be considered in accordance with the requirements of Section R156-1-302.

R156-11a-302a. Qualifications for Licensure - Examination Requirements.

In accordance with Section 58-11a-302, the examination requirements for licensure are established as follows:

(1) Except as otherwise provided in Section 58-1-308 and R156-11a-308 for individuals reinstating a license, applicants for each classification listed below shall pass within one year prior to the date of application, or within other reasonable timeframe as approved by the Division upon review of applicable extenuating circumstances, the respective examination with a passing score of at least ~~75%~~ 70% as determined by the examination provider.

(a) Applicants for licensure as a barber shall pass the National- Interstate Council of State Boards of Cosmetology (NIC) Barber Theory and Practical Examinations.

(b) Applicants for licensure as a cosmetologist/barber shall pass the NIC Cosmetology/Barber Theory and Practical Examinations.

(c) Applicants for licensure as an electrologist shall pass the NIC Electrology Theory and Practical Examinations.

(d) Applicants for licensure as a basic esthetician shall pass the NIC Esthetics Theory and Practical Examinations.

(e) Applicants for licensure as a master esthetician shall pass the NIC Master Esthetics Theory and Practical Examinations.

(f) Applicants for licensure as a hair designer shall pass the NIC Hair Design Theory and Practical Examinations.

(g) Applicants for licensure as a barber instructor, cosmetologist/barber instructor, electrology instructor, esthetician

instructor, hair designer instructor, or nail technology instructor shall pass the NIC Instructor Examinations.

(h) Applicants for licensure as a nail technician shall pass the NIC Nail Technology Theory and Practical Examinations.

(2) Any substantially equivalent theory, practical or instructor examination approved by the licensing authority of any other state is acceptable for any of the examinations specified in Subsection(1).

R156-11a-302b. Qualifications for Licensure - Equivalency of Foreign School Education.

In accordance with Subsection 58-11a-302(17):

(1) An applicant shall submit documentation of education equivalency from a foreign school education to a Utah licensed barber school, cosmetology/barber school, hair design school, esthetics school, electrology school, or nail technology school.

(2) The documentation shall be an education or credential evaluation from one of the following approved credential evaluation services:

(a) Josef Silny and Associates Incorporated, International Education Consultants; ~~or~~

(b) Educational Credential Evaluators Incorporated; or

(c) National Association of State Boards of Accountancy (NASBA).

R156-11a-503. Administrative Penalties - Unlawful Conduct.

~~(1)~~ In accordance with Subsection ~~s 58-1-501(1)(a) and (e), 58-11a-301(1) and (2), 58-11a-502(1), (2), (4), (5), (6), or (7), and~~ 58-11a-503(4), unless otherwise ordered by the presiding officer, the following fine schedule shall apply to citations issued under Title 58, Chapter 11a:

~~(a) Practicing or engaging in, or attempting to practice or engage in activity for which a license is required under Title 58, Chapter 11a in violation of Subsection 58-11a-502(1):~~

~~First Offense: \$500~~

~~Second Offense: \$1,000;~~

~~(b) Aiding or abetting a person engaging in the practice of, or attempting to engage in the practice of, knowingly employing any other person to engage in or practice or attempt to engage in or practice any occupation or profession for which a license is required under Title 58, Chapter 11a in violation of Subsection 58-11a-502(2):~~

~~First Offense: \$800~~

~~Second Offense: \$1,600;~~

~~(c)(i) Using a solution composed of at least 10% methyl methacrylate (MMA) on a client in violation of Subsection 58-11a-502(4):~~

~~First Offense: \$500~~

~~Second Offense: \$1,000;~~

~~(ii) Possessing a solution composed of at least 10% methyl methacrylate (MMA) in violation of Subsection 58-11a-502(4):~~

~~First Offense: \$500~~

~~Second Offense: \$1,000;~~

~~(d) Performing an ablative procedure as defined in Section 58-67-102 in violation of Subsection 58-11a-502(5):~~

~~First Offense: \$1,000~~

~~Second Offense: \$2,000;~~

~~(e) When acting as an instructor regarding a service requiring licensure under Title 58, Chapter 11a, for a class or education program where attendees are not licensed under Title 58,~~

~~Chapter 11a, violating Subsection 58-11a-502(6) by failing to inform each attendee in writing that:~~

~~(i) taking the class or program without completing the requirements for licensure under this chapter is insufficient to certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter; and~~

~~(ii) the attendee is required to obtain licensure under this chapter before performing the service for compensation:~~

~~First Offense: \$500~~

~~Second Offense: \$1,000;~~

~~(f) Failing, as a salon or school where nail technology is practiced or taught, to maintain a source capture system as required under Title 15A, State Construction and Fire Codes Act, including failing to maintain and clean a source capture system's air filter according to the manufacturer's instructions, in violation of Subsection 58-11a-502(7):~~

~~First Offense: \$500~~

~~Second Offense: \$1,000.]~~

TABLE
FINE SCHEDULE

VIOLATION	FIRST OFFENSE	SECOND OFFENSE
58-11a-502(1)	\$ 500	\$1,000
58-11a-502(2)	\$ 800	\$1,600
58-11a-502(4)	\$ 500	\$1,000
58-11a-502(5)	\$1,000	\$2,000
58-11a-502(6)	\$ 500	\$1,000
58-11a-502(7)	\$ 500	\$1,000

~~(2)1~~ Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-11a-503(4)(h).

~~(3)2~~ If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

~~(4)3~~ An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

~~(5)4~~ 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.

R156-11a-610. Standards for the Use of Acids.

In accordance with Subsections 58-11a-102(25)(b), 58-11a-102(31)(a)(i)(C), and 58-11a-501(17), the standards for the use of any acid or concentration of acids, shall be:

(1) The use of any acid or acid solution which would exfoliate the skin below the stratum corneum, including those listed in Subsections (3) and (4), is prohibited unless used under the supervision of a licensed health care practitioner.

(2) The following acids are prohibited unless used under the supervision of a licensed health care practitioner:

- (a) phenol;
- (b) bichloroacetic acid;
- (c) resorcinol, except as provided in Subsection (4)(b);

and

(d) any acid in any concentration level that requires a prescription.

(3) Limited chemical exfoliation for a basic esthetician does not include the mixing, combining, or layering of skin exfoliation products or services, but does include:

(a) alpha hydroxy acids of 30% or less, with a pH of not less than 3.0; and

(b) salicylic acid of 15% or less.

(4) Chemical exfoliation for a master esthetician includes:

(a) acids allowed for a basic esthetician;

(b) modified jessner solution on the face and the tissue immediately adjacent to the jaw line;

(c) alpha hydroxy acids with a pH of not less than 1.0 and at a concentration of 50% ~~must~~ shall include partially neutralized acids, and any acid above the concentration of 50% is prohibited;

(d) beta hydroxy acids with a concentration of not more than 30%;

(e) trichloroacetic acid, in accordance with Subsection 58-11a-501(17)(c), in a concentration of not more than 15%, but no manual, mechanical, or acid exfoliation can be used prior to treatment unless under the general supervision of a licensed health care practitioner; and

(f) vitamin-based acids.]

~~(5) A licensee may not apply any exfoliating acid to a client's skin that has undergone microdermabrasion or microneedling within the previous seven days, unless under the general supervision of a licensed health care practitioner.]~~

~~(6)5(a)~~ A licensee shall prepare and maintain current documentation of the licensee's cumulative experience in chemical exfoliation, including:

(i) courses of instruction;

(ii) specialized training;

(iii) on-the-job experience; and

(iv) the approximate percentage that chemical exfoliation represents in the licensee's overall business.

(b) A licensee shall provide the documentation required by Subsection ~~(6)5(a)~~ to the Division upon request.

~~(7)6~~ A licensee may not use an acid or perform a chemical exfoliation that the licensee is not competent to use or perform through training and experience, and as documented in accordance with Subsection ~~(6)5~~.

~~(8)7~~ Only commercially available products utilized in accordance with manufacturers' instructions may be used for chemical exfoliation purposes.

~~(9)8~~ A patch test shall be administered to each client prior to beginning any chemical exfoliation series.

R156-11a-611. Standards for Approval of Mechanical or Electrical Apparatus.

In accordance with Subsections 58-11a-102(39)(a)(i)(G)(II) and (H), the standards for approval of mechanical or electrical apparatus are:

(1) No mechanical or electrical apparatus that is considered a prescription medical device by the FDA may be used by a licensee, unless such use is completed under the appropriate level of supervision by a licensed health care practitioner acting within the licensed health care practitioner's scope of practice.

(2) Dermaplane procedures, dermabrasion procedures, blades, knives, and lancets are prohibited except for:

(a) advanced pedicures;

(b) advanced extraction of impurities from the skin; and

NOTICES OF PROPOSED RULES

(c) dermaplane procedures for advanced exfoliation as defined in Subsection R156-11a-102(7) by a master esthetician under ~~direct~~ general supervision of a health care practitioner.

(3) The use of any procedure in which human tissue is cut or altered by laser energy or ionizing radiation is prohibited for all individuals licensed under this chapter unless it is within the scope of practice for the licensee and under the appropriate level of supervision by a licensed health care practitioner acting within the licensed health care practitioner's scope of practice.

(4) To be approved, a microdermabrasion machine ~~must~~ shall:

(a) be specifically labeled for cosmetic or esthetic purposes;

(b) be a closed-loop vacuum system that uses a tissue retention device; and

(c) the normal and customary use of the machine does not result in the removal of the epidermis beyond the stratum corneum.

(5) To be approved, a microneedling device shall:

(a) be used only by a master esthetician:

(i) without supervision if needle penetration does not exceed 1.5 mm; or

(ii) with general supervision by a licensed health care practitioner if needle penetration exceeds 1.5 mm; and

(b) be used specifically for cosmetic or esthetic purposes.

R156-11a-800. Approved Barber Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(1), the requirements for an approved barber apprenticeship shall include the following:

(1) In accordance with Subsection 58-11a-306(1)(b)(ii), an instructor is required to provide one-on-one direct supervision of their apprentice during the apprenticeship program. This does not preclude an instructor from having more than one apprentice; however, if an instructor has more than one apprentice, the instructor may not simultaneously supervise the apprentices, and the same hour or hours of instruction may not be credited toward more than one apprentice.

(2) The apprentice shall register with the Division by submitting a form prescribed by the Division.

(3) The instructor ~~must~~ shall be approved by the Division for the apprenticeship. The instructor may not have had any disciplinary action in the preceding three years.

(4) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training".

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services which will document the total number of hours of training. The record shall be available to the Division immediately upon request.

(6) A complete set of barber texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 1,250 hours using the curriculum defined in Section R156-11a-700.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice ~~shall~~ may not perform work on the public until the apprentice has received at least 10% of the hours of

technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-700.

(11) Any hours obtained while enrolled in a barber school or a cosmetology/barber school shall not be used to satisfy the required 1,250 hours of apprentice training.

(12) If an apprentice completes the apprenticeship and fails NIC Barber Theory Examination or NIC Barber Practical Examination three times, the apprentice and instructor ~~must~~ shall:

(a) meet with the Board at the next appropriate Board meeting;

(b) explain to the Board why the apprentice is not able to pass the examination; and

(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

R156-11a-801. Approved Cosmetologist/Barber Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(1), the requirements for an approved cosmetologist/barber apprenticeship include:

(1) In accordance with Subsection 58-11a-306(2)(b)(ii), an instructor is required to provide one-on-one direct supervision of their apprentice during the apprenticeship program. This does not preclude an instructor from having more than one apprentice; however, if an instructor has more than one apprentice, the instructor may not simultaneously supervise the apprentices, and the same hour or hours of instruction may not be credited toward more than one apprentice.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor ~~must~~ shall be approved by the Division for the apprenticeship. The instructor may not have had any disciplinary action in the preceding three years.

(4) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training".

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services which will document the total number of hours of training. The record shall be immediately available to the Division upon request.

(6) A complete set of cosmetology/barber texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 2,500 hours using the curriculum defined in Section R156-11a-705.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice ~~shall~~ may not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-705.

(11) Hours obtained while enrolled in a cosmetology/barber school shall not be used to satisfy the required 2,500 hours of apprentice training.

(12) If an apprentice completes the apprenticeship and fails the NIC Barber/Cosmetology Theory Examination or NIC Barber/Cosmetology Practical Examination three times, the apprentice and instructor ~~must~~ shall:

- (a) meet with the Board at the next appropriate Board meeting;
- (b) explain to the Board why the apprentice is not able to pass the examination; and
- (c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

R156-11a-802. Approved Basic Esthetician Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(2), the requirements for an approved basic esthetician apprenticeship include:

(1) In accordance with Subsection 58-11a-306(3)(b)(ii), an instructor is required to provide one-on-one direct supervision of their apprentice during the apprenticeship program. This does not preclude an instructor from having more than one apprentice; however, if an instructor has more than one apprentice, the instructor may not simultaneously supervise the apprentice, and the same hour or hours of instruction may not be credited toward more than one apprentice.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor ~~must~~ shall be approved by the Division for the apprenticeship. The instructor may not have had any disciplinary action in the preceding three years.

(4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training".

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be immediately available to the Division upon request.

(6) A complete set of esthetics texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 800 hours using the curriculum defined in Section R156-11a-702.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice ~~shall~~ may not perform work on the public until the apprentice has received at least 10% of the hours required in technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-702.

(11) Hours obtained while enrolled in an esthetics school or a cosmetology/barber school shall not be used to satisfy the required 800 hours of apprentice training.

(12) If an apprentice completes the apprenticeship and fails the NIC Esthetics Theory Examination or NIC Esthetics Practical Examination three times, the apprentice and instructor ~~must~~ shall:

- (a) meet with the Board at the next appropriate Board meeting;
- (b) explain to the Board why the apprentice is not able to pass the examination; and
- (c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

R156-11a-803. Approved Master Esthetician Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(3), the requirements for an approved master esthetician apprenticeship include:

(1) In accordance with Subsection 58-11a-306(4)(b)(ii), an instructor is required to provide one-on-one direct supervision of their apprentice during the apprenticeship program. This does not preclude an instructor from having more than one apprentice; however, if an instructor has more than one apprentice, the instructor may not simultaneously supervise the apprentices, and the same hour or hours of instruction may not be credited toward more than one apprentice.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor ~~must~~ shall be approved by the Division for the apprenticeship. The instructor may not have had any disciplinary action in the preceding three years.

(4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be immediately available to the Division upon request.

(6) A complete set of esthetics texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 1,500 hours using the curriculum defined in Section R156-11a-703.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice ~~shall~~ may not perform work on the public until the apprentice has received at least 10% of the required hours of technical training, with at least a portion of that time devoted to each of the subjects specified in S~~ub~~section R156-11a-703.

(11) Hours obtained while enrolled in an esthetics school or a cosmetology/barber school shall not be used to satisfy the required 1,500 hours of apprentice training.

(12) If an apprentice completes the apprenticeship and fails the NIC Master Esthetics Theory Examination or NIC Master Esthetics Practical Examination three times, the apprentice and instructor ~~must~~ shall:

- (a) meet with the Board at the next appropriate Board meeting;
- (b) explain to the Board why the apprentice is not able to pass the examination; and
- (c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

R156-11a-804. Approved Nail Technician Apprenticeship Requirements.

In accordance with Subsection 58-11a-102(4), the requirements for an approved nail technician apprenticeship include:

NOTICES OF PROPOSED RULES

(1) In accordance with Subsection 58-11a-306(5)(b)(iii), an instructor is required to provide one-on-two direct supervision of their apprentices during the apprenticeship program. This does not preclude an instructor from having more than two apprentices; however, if an instructor has more than two apprentices, the instructor may not simultaneously supervise more than two apprentices, and the same hour or hours of instruction may not be credited toward more than two apprentices.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor ~~must~~ shall be approved by the Division for the apprenticeship. The instructor may not have had any disciplinary action in the preceding three years.

(4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be immediately available to the Division upon request.

(6) A complete set of nail technician texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 375 hours using the curriculum defined in Section R156-11a-704.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice ~~shall~~ may not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in ~~S~~ubsection R156-11a-704.

(11) Hours obtained while enrolled in a nail technology school or a cosmetology/barber school shall not be used to satisfy the required 375 hours of apprentice training.

(12) If an apprentice completes the apprenticeship and fails the NIC Nail Technology Theory Examination or NIC Nail Technology Practical Examination three times, the apprentice and instructor ~~must~~ shall:

(a) meet with the Board at the next appropriate Board meeting;

(b) explain to the Board why the apprentice is not able to pass the examination; and

(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

KEY: cosmetologists/barbers, estheticians, electrologists, nail technicians

Date of Enactment or Last Substantive Amendment: ~~June 7, 2018~~ 2020

Notice of Continuation: January 19, 2017

Authorizing, and Implemented or Interpreted Law: 58-11a-101; 58-1-106(1)(a); 58-1-202(1)(a)

NOTICE OF PROPOSED RULE
TYPE OF RULE: New

Utah Admin. Code Ref (R no.):	R357-15a	Filing No.	52537
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Agency Information

1. Department:	Governor	
Agency:	Economic Development	
Building:	World Trade Center	
Street address:	60 E. South Temple	
City, state:	Salt Lake City, UT 84111	
Mailing address:	60 E. South Temple	
City, state, zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-538-8864	dishihara@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
Targeted Business Tax Credit Rule
3. Purpose of the new rule or reason for the change:
The purpose of this rule filing is to codify the administration of targeted business income tax credit awards including the form and content of an application and documentation of other requirements for a business applicant to receive a targeted business income tax credit eligibility certificate.
4. Summary of the new rule or change:
Section R357-15a-102 creates definitions that will be used to administer the program. Section R357-15a-103 references the authority granted in the statutory language that permits rulewriting. Section R357-15a-104 outlines the application form and content of the application. Section R357-15a-105 establishes the documentation required to receive a targeted business income tax credit eligibility certificate.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no aggregate anticipated cost or savings to the state budget. The rule is merely creating the requirements for the Targeted Business Tax Credit Program (Program).
B) Local governments:
There is no aggregate anticipated cost or savings to local governments because local governments are not

required to comply with or enforce this rule.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no aggregate anticipated cost or savings to small businesses because this proposed rule filing does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation. Participation in the Program is optional.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no regulatory impact creating financial cost to non-small businesses. This proposed rule filing is to clarify the standards for participation in the Program. There are no general regulations being promulgated by this rule because the Program is voluntary and does not require non-participants to do anything. There is no impact to businesses or persons general because this rule only applies to those who chose to participate in this Program.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed rule does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons because participation in the program is optional.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Governor's Office of Economic Development, Val Hale, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The purpose of this rule filing is to clarify the standards for participation in the program. This rule will have no impact on businesses. The purpose of this rule filing is to clarify the standards for participation in the program.

B) Name and title of department head commenting on the fiscal impacts:

Val Hale, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 63N-3-303(7)		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in

the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	03/16/2020

10. This rule change MAY become effective on:	03/23/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Val Hale, Executive Director	Date:	01/23/2020
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R357. Governor, Economic Development. R357-15a. Targeted Business Tax Credit.

R357-15a-101. Title.

This rule is known as the "Targeted Business Tax Credit Rule."

R357-15a-102. Definitions.

In addition to the terms defined under Section 63N-2-302, the following terms are defined as follows:

(1) "Benchmarks" as used in Subsection 63N-2-303 (3), means the minimum amount of significant new employment and significant new capital development that a business applicant and the office agree to in writing that a business applicant shall generate prior to being awarded a targeted business income tax credit eligibility certificate.

(2) "New employment" means newly created positions in addition to the baseline jobs, defined under Section 63N-1-102, filled by an employee:

(a) working at least 30 hours per week; and
 (b) is paid at least 110% of the county average wage of the county in which the position exists.

(3) "Significant new capital development" means costs of at least \$100,000 for:

(a) improvement to real property;
 (b) purchase of real property; or
 (c) purchase of depreciable equipment.

(4) "Significant new employment" means the projected number of new employment positions in comparison to the:

(a) business baseline count of full time equivalent employees; and
 (b) overall county employment numbers provided by the Department of Work Force Services.

R357-15a-103. Authority.

This rule is adopted by the office under the authority of Subsection 63N-3-303 (7).

R357-15a-104. Form and Content of Application for a Targeted Business Income Tax Credit Eligibility.

(1) In addition to the plan developed by the business applicant outlined in Subsection 63N-2-304 (2), the following content is required:

- (a) company name;
- (b) contact information including:
 - (i) applicant's physical address;
 - (ii) telephone number; and
 - (iii) email address.
- (c) the anticipated years the business applicant is seeking to claim the targeted business income tax credit;
- (d) the benchmarks of the community investment project and how they will be measured, tracked and reported;
- (e) list of all entities associated with the community investment project and their anticipated roles;
- (f) letters of support from all entities associated with the community investment project;
- (g) timeline of the community investment project;
- (h) detailed budget of the community investment project; and
- (i) an employee list in a form prescribed by the office.

R357-15a-105. Documentation to Receive a Targeted Business Income Tax Credit Eligibility Certificate.

(1) The following supporting documents shall, at a minimum, accompany each request to receive a targeted business income tax credit eligibility certificate:

- (a) written summary explaining how all benchmarks have been satisfied;
- (b) all receipts showing expenses for the approved community investment project;
- (c) an employee list in a form prescribed by the office; and
- (d) any other items as outlined in a written agreement with the office.

KEY: economic development, tax credit, tax credit eligibility

Date of Enactment or Last Substantive Amendment: 2020

Authorizing, and Implemented or Interpreted Law: 63N-3-303(7)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-400	Filing No. 52527	No.

Agency Information

1. Department:	Health
Agency:	Administration
Building:	Martha Hughes Cannon Building
Street address:	288 North 1460 West
City, state:	Salt Lake City, UT
Mailing address:	PO Box 141000
City, state, zip:	Salt Lake City, UT 84114-1000
Contact person(s):	

Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

Utah Medical Cannabis Act Rule

3. Purpose of the new rule or reason for the change:

The Utah Medical Cannabis Act, Title 26, Chapter 61a, requires that the Utah Department of Health (Department) establish rules related to medical cannabis cardholders, medical cannabis pharmacies, medical cannabis home delivery services, qualified medical providers, pharmacy medical providers, medical cannabis pharmacy agents, medical cannabis couriers, medical cannabis courier agents, and other rules.

4. Summary of the new rule or change:

This rule filing defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act, and Rules R380-400 through R380-411.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This rule filing only defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act, and Rules R380-400 through R380-411, and the definitions have no anticipated cost or savings impact on the state budget.

B) Local governments:

This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.

C) Small businesses ("small business" means a business employing 1-49 persons):

Defining child care facility or preschool as only those approved by the Department to have a capacity of 300 or more children on Subsection R380-400-2(4) decreases the number applicable facilities from 375 to 3. This change will likely have savings impact on medical cannabis pharmacies because it reduces restrictions on where they can locate and increases the number of available real estate options. At this time, the extent of savings impact on medical cannabis pharmacies prompted by this rule is unknown.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This proposed rule will not result in a fiscal impact to the non-small businesses because this rule does not establish new requirements for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule only defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act, and Rules R380-400 through R380-411, and the definitions have no anticipated cost or savings impact on persons other than small businesses, businesses, or local government entities.

F) Compliance costs for affected persons:

This rule only defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act and Rules R380-400 through R380-411, and the definitions have no anticipated cost or savings impact on affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There is no fiscal impact to business as a result of this rule.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 61a	Subsection 26-1-5(1)	Title 63G, Chapter 3
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/16/2020

B) A public hearing (optional) will be held:

On:	At:	At:
03/05/2020	02:00 PM	Cannon Health Bldg, 288 North 1460 West, Room 125, Salt Lake City, UT

10. This rule change MAY become effective on: 03/23/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative

Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration.

R380-400. Utah Medical Cannabis Act Rule.

R380-400-1. Authority and Purpose.

Pursuant to Section 26-1-5(1), this rule defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act and Sections R380-400 through R380-411.

R380-400-2. Definitions.

(1) The definitions in Section 26-61a-102 apply in this rule. In addition the following apply in this rule:

(2) "Card" means any type of medical cannabis card or registration card, whichever is applicable, authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(3) "Cardholder area" means the area of a medical cannabis pharmacy where products are purchased that is restricted to medical cannabis cardholders, medical cannabis pharmacy employees, or other individuals authorized by the medical cannabis pharmacy's PIC.

(4) "Child-care facility or preschool" means a child-care facility approved by the Department to have a capacity of 300 or more children.

(5) "Courier agent" means a medical cannabis courier agent.

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

(7) "Direct supervision" means that a PMP is physically present at a medical cannabis pharmacy facility and immediately available for in person face-to-face communication with the pharmacy agent.

(8) "EVS" means the electronic verification system established in Section 26-61-103.

(9) "ICS" means the inventory control system established in Section 4-41a-103.

(10) "Limited access area" means an indoor area of a medical cannabis pharmacy facility where medical cannabis and medical cannabis devices shall be stored, labeled, and disposed of that is separated from the cardholder and public areas of the medical cannabis pharmacy by a physical barrier with suitable locks and an electronic barrier to detect entry doors.

(11) "Pharmacy agent" means a medical cannabis pharmacy agent.

(12) "PIC" means a pharmacist in charge who oversees the operation and generally supervises a medical cannabis pharmacy.

(13) "PMP" means a medical cannabis pharmacy medical provider.

(14) "Public waiting area" means an area of the medical cannabis pharmacy where the public waits for cardholders and cardholders wait for authorization to enter the cardholder area. Non-cardholders and non-employees may be present in this area of the medical cannabis provider.

(15) "QMP" means a qualified medical provider.

- (16) "UDAF" means the Utah Department of Agriculture and Food.
- (17) "Utah resident" means an individual who has established a domicile in Utah.

KEY: medical cannabis, marijuana
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 26-1-5(1); 26-61a; 63G-3

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R380-401	Filing No.:	52529

Agency Information

1. Department:	Health		
Agency:	Administration		
Building:	Martha Hughes Cannon Building		
Street address:	288 North 1460 West		
City, state:	Salt Lake City, UT		
Mailing address:	PO Box 141000		
City, state, zip:	Salt Lake City, UT 84114-1000		
Contact person(s):			
Name:	Phone:	Email:	
Richard Oborn	801-538-6504	medicalcannabis@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
Electronic Verification System and Inventory Control System
3. Purpose of the new rule or reason for the change:
The Utah Medical Cannabis Act, Title 26, Chapter 61a, requires the Utah Department of Health (Department) to establish rules related to medical cannabis cardholders, medical cannabis pharmacies, medical cannabis home delivery services, qualified medical providers, pharmacy medical providers, medical cannabis pharmacy agents, medical cannabis couriers, medical cannabis courier agents, and other rules.
4. Summary of the new rule or change:
This rule filing establishes electronic verification system and inventory control system access limitations and standards and confidentiality requirements.

Fiscal Information

5. Aggregate anticipated cost or savings to:			
A) State budget:			
This proposed only establishes electronic verification system and inventory control system access limitations and standards and confidentiality requirements, and it has no anticipated cost or savings impact on the state budget.			
B) Local governments:			
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
This proposed rule will not result in a fiscal impact to small businesses because this rule does not establish requirements for small businesses.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
This proposed rule will not result in a fiscal impact to the non-small businesses because this rule does not establish new requirements for non-small businesses.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
This proposed rule only establishes electronic verification system and inventory control system access limitations and standards and confidentiality requirements, and it has no anticipated cost or savings impact on persons other than small businesses, businesses, or local government entities.			
F) Compliance costs for affected persons:			
This rule only establishes electronic verification system and inventory control system access limitations and standards and confidentiality requirements, and it has no anticipated cost or savings impact on affected persons.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There is no fiscal impact to businesses as a result of this rule.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 61a	Subsection 26-61a-103(4)	Subsection 26-1-5(1)
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/16/2020

B) A public hearing (optional) will be held:

On:	At:	At:
03/05/2020	02:00 PM	Cannon Health Bldg, 288 North 1460 West, Room 125, Salt Lake City, UT

10. This rule change MAY become effective on: 03/23/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R380. Health, Administration.

R380-401. Electronic Verification System and Inventory Control System.

R380-401-1. Authority and Purpose.

Pursuant to Subsections 26-1-5(1) and 26-61a-103(4), this rule establishes EVS and ICS access limitations and standards and confidentiality requirements.

R380-401-2. Definitions.

For purposes of this section, the following definitions apply:

(1) "Law enforcement personnel" means law enforcement personnel who have access to UCIJIS.

(2) "Safeguard" means to maintain the confidentiality of the information accessed and not use, release, publish, disclose or otherwise make available to any other person not authorized to access the information, for any other purpose than as specifically authorized or permitted by applicable law.

(3) "State agency employee" means an employee of the Utah Department of Health, Utah Department of Agriculture and Food, Utah Department of Technology Services and the Utah Department of Commerce, Division of Occupational and Professional Licensing.

(4) "UCIJIS" means the Utah Criminal Justice Information System.

R380-401-3. Access Limitations and Standards.

(1) A person requests access to the data in the EVS and ICS by creating an account to begin an EVS or ICS application process.

(2) The following individuals may access information in the EVS about themselves or other cardholders for whom they are a guardian or caregiver to the extent allowed in Title 26, Chapter 61a, Utah Medical Cannabis Act or Title 4, Chapter 41a, Cannabis Productions Establishments:

- (a) medical cannabis patient cardholder;
- (b) medical cannabis guardian cardholder; and
- (c) medical cannabis caregiver cardholder.

(3) The following individuals may be granted EVS access to the extent allowed in Title 26, Chapter 61a, Utah Medical Cannabis Act or Title 4, Chapter 41a, Cannabis Productions Establishments, and this rule:

- (a) QMP;
- (b) PMP;
- (c) pharmacy agent;
- (d) courier agent;
- (e) cannabis production establishment agent;
- (f) state agency employee; and
- (g) law enforcement personnel.

(4) A medical cannabis cardholder may be granted EVS access for purposes specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including

- (a) to submit card applications, both initial and renewal;
- (b) to submit online payment of fees;
- (c) to submit petitions to the Compassionate Use Board;
- (d) to gain access to home delivery medical cannabis pharmacy websites to order products; and
- (e) to complete surveys reporting patient outcomes and interactions with medical cannabis.

(5) A QMP may be granted EVS access and ICS access for purposes specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:

- (a) to complete QMP registration, both initial and renewal;
- (b) to complete online fee payment;
- (c) to submit, review, edit, or change a patient's medical information;
- (d) to submit recommendations on behalf of a patient to receive a specific dosage type and dosage amount of medical cannabis; and
- (e) to complete surveys reporting patient outcomes and interactions with medical cannabis.

(6) A PMP may be granted EVS access and ICS access for purposes specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:

- (a) to complete PMP registration, both initial and renewal;
- (b) to complete online fee payment;
- (c) to review and verify dosing parameters in patient's medical cannabis recommendation submitted by a QMP;

(d) to enter dosing parameters in a medical cannabis recommendation if it does not contain dosing parameters;

(e) to complete surveys reporting patient outcomes and interactions with medical cannabis; and

(f) to update employment status of PMPs and pharmacy agents.

(7) An authorized state agency employee may be granted EVS access or ICS access for purposes specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and Title 4, Chapter 41a, Cannabis Productions Establishments, and this rule, including:

- (a) to process applications submitted by license and card applicants, both initial and renewal;
- (b) to review inventory of medical cannabis pharmacies and cannabis production establishments;
- (c) to manage petitions submitted to the Compassionate Use Board; and
- (d) to run epidemiological reports and statistics from data stored in the EVS.

(8) A cannabis production establishment agent, pharmacy agent, and a courier agent, may be granted EVS access, and ICS access, for purposes specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:

- (a) for the purpose of completing agent registration, both initial and renewal;
- (b) to complete online payments of fees; and
- (c) to update employment status.

(9) State and local law enforcement personnel may be granted EVS access through UCIIJS for the purpose of determining if an individual is in compliance with the state medical cannabis law.

R380-401-4. Applications for Access.

(1) A person listed in Subsection R380-401-3 requests access to the data in the EVS and ICS by creating an account to begin an EVS or ICS application process.

(2) An applicant's EVS access and ICS access is limited to the information submitted by the applicant until the application is approved.

(3) Once an application is approved, the level of EVS access and ICS access granted shall depend on the type of card or license issued.

(a) Requests for access shall be completed within the EVS application interface.

(b) Appropriate access shall be automatically requested with all cardholder and license applications when applicable.

(c) A separate request for access may be completed when the Department determines that a card or license application is not required.

(d) All required fields of a card or license application shall be completed by an applicant.

(e) A request for access will not be considered submitted unless all required information is provided.

R380-401-5. Confidentiality Requirements.

(1) A person authorized to access information in the EVS and the ICS shall access only the minimum amount of information necessary to perform authorized functions specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, Title 4, Chapter 41a, Cannabis Productions Establishments, R68-27 and this rule.

(2) A person authorized to access information in the EVS and the ICS shall safeguard all information stored in those systems, including specific information about medical cannabis cardholders.

(3) The Executive Director of the Department or his or her designee shall determine if an emergency situation warrants immediate release of medical cannabis cardholder information to another state agency. The information may be released only to another governmental agency under the Memorandum of Understanding or data sharing agreement between the Department and the requesting agency.

(4) A person authorized to access the EVS or ICS who fails to observe the confidentiality requirements of this rule may lose access the EVS and ICS and may be subject to the penalties provided in Section 26-61a-103.

KEY: medical cannabis, medical cannabis pharmacy, inventory control system, electronic verification system

Date of Enactment or Last Substantive Amendment: 2020 Authorizing, and Implemented or Interpreted Law: 4-41A; 26-61a-103(4); 63G-3

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Repeal			
Utah Admin. Code Ref (R no.):	R414-100	Filing No.	52524

Agency Information

1. Department:	Health		
Agency:	Health Care Financing, Coverage and Reimbursement Policy		
Building:	Cannon Health Building		
Street address:	288 North 1460 West, Salt Lake City, UT		
Mailing address:	PO Box 143102		
City, state, zip:	Salt Lake City, UT, 84114-3102		
Contact person(s):			
Name:	Phone:	Email:	
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:	Medicaid Primary Care Network Services
3. Purpose of the new rule or reason for the change:	The Department of Health (Department) will repeal this rule because the Primary Care Network (PCN) no longer exists under the Medicaid program.
4. Summary of the new rule or change:	This rule is repealed in its entirety, and no longer necessary, because PCN no longer exists under the Medicaid program.

Fiscal Information

5. Aggregate anticipated cost or savings to:			
A) State budget:			
There is no impact to the state budget because this repeal only reflects current policy, and does not affect current or future appropriations.			
B) Local governments:			
There is no impact on local governments because this repeal only reflects current policy, and does not affect current or future appropriations.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no impact on small businesses because this repeal only reflects current policy, and does not affect current or future appropriations.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no impact on non-small businesses because this repeal only reflects current policy, and does not affect current or future appropriations.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
There is no impact on Medicaid providers and Medicaid members because this repeal only reflects current policy, and does not affect current or future appropriations.			
F) Compliance costs for affected persons:			
There are no compliance costs to a single Medicaid provider or to a Medicaid member because this repeal only reflects current policy, and does not affect current or future appropriations.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
After conducting a thorough analysis, it was determined that this proposed rule repeal will not result in a fiscal impact on businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
Joseph K. Miner, MD, Executive Director			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Section 26-1-5	Section 26-18-3	

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	03/16/2020

10. This rule change MAY become effective on:	03/23/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	01/30/2020
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R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

~~**R414-100. Medicaid Primary Care Network Services.**~~

~~**R414-100-1. Introduction and Authority.**~~

~~This rule lists the services under the Medicaid Primary Care Network (PCN). The Primary Care Network is authorized by a waiver of federal Medicaid requirements approved by the federal Center for Medicare and Medicaid Services and allowed under Section 1115 of the Social Security Act effective January 1, 1999. This rule is authorized by Title 26, Chapter 18, UCA.~~

~~**R414-100-2. Definitions.**~~

- ~~(1) "Emergency" means the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:~~
 - ~~(a) placing the enrollee's health in serious jeopardy;~~
 - ~~(b) serious impairment to bodily functions;~~
 - ~~(c) serious dysfunction of any bodily organ or part; or~~
 - ~~(d) death.~~

NOTICES OF PROPOSED RULES

- ~~(2) "Emergency services" means:~~
- ~~(a) attention provided within 24 hours of the onset of symptoms or within 24 hours of diagnosis;~~
- ~~(b) for a condition that requires acute care, and is not chronic;~~
- ~~(c) reimbursed only until the condition is stabilized sufficient that the patient can leave the hospital emergency department; and~~
- ~~(d) is not related to an organ transplant procedure.~~
- ~~(2) "Outpatient" means an enrollee who receives services from a licensed outpatient care facility.~~
- ~~(3) "Primary care" means services to diagnose and treat illness and injury as well as preventive health care services. Primary care promotes early identification and treatment of health problems, which can help to reduce unnecessary complications of illness or injury and maintain or improve overall health status.~~

R414-100-3. Services Available.

- ~~(1) To meet the requirements of 42 CFR 431.107, the department contracts with each provider who furnishes services under the PCN.~~
- ~~(2) By signing a provider agreement with the department, the provider agrees to follow the terms incorporated into the provider agreements, including policies and procedures, provider manuals, Medicaid Information Bulletins, and provider letters.~~
- ~~(3) By signing an application for Medicaid coverage, the enrollee agrees that the department's obligation to reimburse for services is governed by contract between the department and the provider.~~
- ~~(4) Medical or hospital services for which providers are reimbursed under the PCN are generally limited by federal guidelines as set forth under Title XIX of the federal Social Security Act and Title 42 of the Code of Federal Regulations (CFR).~~
- ~~(5) The following services in the Medicaid Primary Care Network are available to those adults found eligible under Section 1931 of the federal Social Security Act (Aid to Families of Dependent Children adults and medically needy adults):~~
 - ~~(a) emergency services only in a designated hospital emergency department;~~
 - ~~(b) primary care physician services provided directly by licensed physicians or osteopaths, or by licensed certified nurse practitioners, or physician assistants under appropriate supervision of the physician or osteopath, but not including pregnancy related or mental health services by any of the listed providers;~~
 - ~~(c) services associated with surgery or administration of anesthesia are physician services to be provided by physicians or licensed certified nurse anesthetists;~~
 - ~~(d) laboratory and radiology services by licensed and certified providers;~~
 - ~~(e) durable medical equipment, supplies and appliances used to assist the patient's medical recovery;~~
 - ~~(f) preventive services, immunizations and health education methods and materials to promote wellness, disease prevention and manage illnesses;~~
 - ~~(g) pharmacy services by a licensed pharmacy limited to four prescriptions per month per client with no overrides or exceptions in the number of prescriptions;~~
 - ~~(h) dental services are limited to examinations, cleanings, fillings, extractions, treatment of abscesses or infections and to be covered must be provided by a dentist in the office;~~
 - ~~(i) transportation services limited to ambulance (ground and air) service for medical emergencies;~~

- ~~(j) interpretive services provided by contracting entities competent to provide medical translation services for people with limited English proficiency and interpretive services for the deaf; and~~
- ~~(k) vision services once every 12 months including an eye examination/refraction by a licensed ophthalmologists or optometrists, but not including the cost of glasses or other refractive device.~~

~~**KEY: Medicaid, primary care network**~~

~~**Date of Enactment or Last Substantive Amendment: September 27, 2017**~~

~~**Notice of Continuation: May 5, 2017**~~

~~**Authorizing, and Implemented or Interpreted Law: 26-18**~~

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R414-307	Filing No. 52517	

Agency Information

1. Department:	Health		
Agency:	Health Care Financing, Coverage and Reimbursement Policy		
Building:	Cannon Health Building		
Street address:	288 North 1460 West, Salt Lake City, UT		
Mailing address:	PO Box 143102		
City, state, zip:	Salt Lake City, UT 84114-3102		
Contact person(s):			
Name:	Phone:	Email:	
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
Eligibility for Home and Community-Based Services Waivers
3. Purpose of the new rule or reason for the change:
The purpose of these changes is to implement the new Community Transitions Waiver (CTW), in accordance with Section 1915(c) Home and Community Based Services Waivers.
4. Summary of the new rule or change:
This amendment implements the new CTW group, sets forth provisions for eligibility, spells out agency procedures, and makes other technical changes.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:			
There is an anticipated cost of about \$24,771,000 to the state budget.			
B) Local governments:			
There is no impact on local governments because they neither fund nor provide services under the CTW.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
Small businesses that provide Home and Community-Based Services (HCBS) may see a share in revenue based on the total amount of \$24,771,000. Conversely, small businesses that own intermediate care facilities (ICFs) will see a decrease in revenue based on that amount as individuals move out of ICFs into HCBS.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
Non-small businesses that provide HCBS may see a share in revenue based on the total amount of \$24,771,000. Conversely, non-small businesses that own ICFs may see a decrease in revenue based on that amount as individuals move out of ICFs into HCBS.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
Medicaid providers of HCBS may see a share in revenue based on the total amount of \$24,771,000. Conversely, Medicaid providers in ICFs may see a decrease in revenue based on that amount as individuals move out of ICFs into HCBS. Medicaid members who qualify for the CTW may see out-of-pocket savings.			
F) Compliance costs for affected persons:			
A single ICF may see a decrease in revenue based on the total amount of \$24,771,000 as individuals move into HCBS.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$24,771,000	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$24,771,000	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$7,431,300	\$0
Non-Small Businesses	\$0	\$8,669,850	\$0
Other Persons	\$0	\$8,669,850	\$0
Total Fiscal Benefits	\$0	\$24,771,000	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
Some businesses may see a share in revenue as more individuals access HCBS, while other businesses may see a decrease in revenue as individuals move from ICFs into HCBS.			
B) Name and title of department head commenting on the fiscal impacts:			
Joseph K. Miner, MD, Executive Director			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Section 26-1-5	Section 26-18-3	Pub L. No. 111-148

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	03/16/2020

10. This rule change MAY become effective on:	03/23/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	01/22/2020
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R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-307. Eligibility for Home and Community-Based Services Waivers.

R414-307-5. Medically Needy Waiver Group.

The following sets forth financial eligibility requirements for the medically needy coverage group, and applies to individuals seeking Medicaid coverage for HCBS under the New Choices Waiver, Community Transitions Waiver, or the Individuals with Physical Disabilities Waiver.

(1) If an individual's spouse meets the definition of a community spouse, the eligibility agency shall apply the resource provisions defined in 42 U.S.C. 1396r-5, ~~[Section 1924 of the Social Security Act and]~~ Section R414-305-3, and Section R414-305-4.

(2) If the individual does not have a spouse or the individual's spouse does not meet the definition of a community spouse, the eligibility agency may only count the individual's resources to determine eligibility. When both members of a married couple who live together apply for waiver services and meet the criteria for the medically needy waiver group, the eligibility agency shall count one-half of jointly[-] held assets available to each spouse. Each spouse must pass the medically needy resource test for one person.

(3) The eligibility agency may only count income of the individual determined under the most closely associated cash assistance program to decide eligibility for the medically needy waiver group. The eligibility agency may not count income of the individual's spouse except for actual contributions from the spouse.

(4) If the individual is a minor child, the eligibility agency may only count income and resources of the child and may not count income and resources of the child's parents to decide if the child passes

the income and resource tests for the medically needy waiver group. The eligibility agency shall count actual contributions from a parent, including court-ordered support payments as income of the child.

(5) The individual's income must exceed three times the payment that would be made to an individual with no income under 42 U.S.C. 1382(b)(1)~~[Subsection 1611(b)(1) of the Social Security Act]~~.

(6) To determine eligibility for an individual, the eligibility agency shall apply the income deductions allowed by the community Medicaid category under which the individual qualifies.

(a) The eligibility agency shall compare countable income to the applicable medically needy income limit for a one-person household to determine the individual's spenddown. The individual's medical expenses, including the cost of long-term care services, must exceed the spenddown amount.

To receive Medicaid eligibility, the individual must meet the monthly spenddown as defined in Subsection R414-304-11(9).

(b) The eligibility agency deducts medical expenses incurred by the individual in accordance with Section R414-304-11.

(7) The eligibility agency shall determine an individual's financial eligibility for the medically needy waiver group based on the level of care date on a valid waiver referral form as defined in Subsection R414-307-3(2). The eligibility agency shall determine eligibility for prior months using the community Medicaid or institutional Medicaid rules that apply to the individual's situation.

R414-307-14. Community Transitions Waiver.

(1) The Community Transitions Waiver is limited to individuals with intellectual disabilities and other related conditions who transition from an intermediate care facility for individuals with intellectual disabilities. An individual must meet non-financial criteria for Aged, Blind, or Disabled Medicaid.

(2) An individual's resources must be equal to or less than \$2,000, however the spousal impoverishment resource provisions for married, institutionalized individuals in Section R414-305-6 apply to this rule.

(3) Countable income is determined using income rules of Aged, Blind, or Disabled Institutional Medicaid. The eligibility agency counts an individual's income except for income excluded under other federal laws to determine eligibility for federally funded, needs-based medical assistance. Eligibility is determined counting only the gross income of an individual.

(4) The eligibility agency counts a spouse's income only if an individual receives a cash contribution from the spouse.

(5) An individual whose income does not exceed 300% of the federal benefit rate may be required to pay a cost-of-care contribution. The following provisions apply to the determination of cost-of-care contribution.

(a) The eligibility agency counts an individual's income except for income excluded under other federal laws to determine eligibility for federally funded, needs-based medical assistance.

(b) The eligibility agency deducts the maximum allowance available, which is a personal needs allowance equal to 300% of the federal benefit rate payable under 42 U.S.C. 1382(b)(1) for an individual with no income. No other income deductions are allowed.

(6) An individual whose income exceeds three times the federal benefit rate payable under 42 U.S.C. 1382(b)(1) may pay a spenddown to become eligible. To determine the spenddown amount, the income rules and medically needy income standard for non-institutionalized aged, blind, or disabled individuals in Rule R414-304 apply except that income is not deemed from the individual's spouse.

(7) The provisions of Section R414-305-9 concerning transfers of assets apply to individuals seeking eligibility or receiving benefits under this home and community-based services waiver.

KEY: eligibility, waivers, special income group
Date of Enactment or Last Substantive Amendment: ~~May 20, 2016~~ **2020**
Notice of Continuation: March 29, 2017
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R414-513	Filing No.	52528

Agency Information

1. Department:	Health		
Agency:	Health Care Financing, Coverage and Reimbursement Policy		
Building:	Cannon Health Building		
Street address:	288 North 1460 West, Salt Lake City, UT		
Mailing address:	PO Box 143102		
City, state, zip:	Salt Lake City, UT 84114-3102		
Contact person(s):			
Name:	Phone:	Email:	
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov	

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:	Intergovernmental Transfers
3. Purpose of the new rule or reason for the change:	The purpose of this amendment is to clarify funding options that pertain to intergovernmental transfers (IGTs).
4. Summary of the new rule or change:	This amendment includes a new definition and specifies a prohibited IGT source of funding.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no expected impact to the state budget because this amendment only clarifies IGT sources of funding. It neither affects Medicaid services nor provider reimbursement.

B) Local governments:																								
There is no expected impact to local governments because this amendment only clarifies appropriate IGT sources of funding. It neither affects Medicaid services nor provider reimbursement.																								
C) Small businesses ("small business" means a business employing 1-49 persons):																								
There is no expected impact to small businesses because this amendment only clarifies appropriate IGT sources of funding. It neither affects Medicaid services nor provider reimbursement.																								
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):																								
There is no expected impact to non-small businesses because this amendment only clarifies appropriate IGT sources of funding. It neither affects Medicaid services nor provider reimbursement.																								
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):																								
There is no expected impact to Medicaid providers and to Medicaid members because this amendment only clarifies appropriate IGT sources of funding. It neither affects Medicaid services nor provider reimbursement.																								
F) Compliance costs for affected persons:																								
There is no expected impact to a single Medicaid provider or to a Medicaid member because this amendment only clarifies appropriate IGT sources of funding. It neither affects Medicaid services nor provider reimbursement.																								
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)																								
Regulatory Impact Table																								
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2020</th> <th>FY2021</th> <th>FY2022</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Other Persons</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2020	FY2021	FY2022	State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0	Non-Small Businesses	\$0	\$0	\$0	Other Persons	\$0	\$0	\$0
Fiscal Cost	FY2020	FY2021	FY2022																					
State Government	\$0	\$0	\$0																					
Local Governments	\$0	\$0	\$0																					
Small Businesses	\$0	\$0	\$0																					
Non-Small Businesses	\$0	\$0	\$0																					
Other Persons	\$0	\$0	\$0																					

NOTICES OF PROPOSED RULES

Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 26-1-5	Section 26-18-3	42 CFR 433.51
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/16/2020

10. This rule change MAY become effective on:	03/23/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	01/31/2020
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R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-513. Intergovernmental Transfers.

R414-513-1. Introduction and Authority.

This rule requires documentation accompanying intergovernmental transfer of funds for use as non-federal share of Medicaid payments or administration costs. This rule is authorized by Sections 26-1-5 and 26-18-3.

R414-513-2. Definitions.

"Line of credit" means a credit facility extended by a bank or other financial institution with a fixed maximum amount that a borrower may borrow without a fixed length of time or fixed payments.

R414-513-[2]3. Intergovernmental Transfer (IGT) Certification.

With its IGT, using the "IGT Certification Form" prescribed by the Medicaid agency, governmental entities shall specify the dollar amount and certify the source of the IGT funds transferred to the Medicaid agency. The governmental entity shall specify, on the form, a detailed description of the IGT monies and the legal basis for the monies ability to be used to match federal funds.

R414-513-4. Prohibited Sources of IGT.

IGTs may not be funded by a line or lines of credit.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~August 12, 2016~~ 2020

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R426-5-2700	Filing No.	52518
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Agency Information

1. Department:	Health
Agency:	Family Health and Preparedness, Emergency Medical Services

Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142102	
City, state, zip:	Salt Lake City, UT 84114-2102	
Contact person(s):		
Name:	Phone:	Email:
BettySue Hinkson	801-538-6814	bhinkson@utah.gov
Guy Dansie	801-273-6671	gdansie@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
Epinephrine Auto-Injector Use
3. Purpose of the new rule or reason for the change:
Title 26, Chapter 41, was revised in the 2019 General Session under H.B. 344. Changes in legislation require this rule be updated.
4. Summary of the new rule or change:
In the 2019 General Session, the statute requiring stock epinephrine auto-injectors in schools was revised (H.B. 344). The statute now also includes the optional use of stock albuterol in schools. These revisions to statute required changes to the rule. Changes include the option for schools to stock albuterol for use when a student experiences an asthma emergency. The Department of Health (Department) is responsible for developing training for school employees on the use of these medications.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The Department's EPICC Program will develop the training program for school employees who volunteer to administer stock epinephrine auto-injectors or stock albuterol to students, and will monitor these requirements in Utah public schools. It is estimated that this rule will cost the EPICC Program \$10,000 annually, starting with FY 2021, to monitor. The EPICC Program is expected to experience an ongoing direct fiscal cost of \$10,000.
B) Local governments:
Across the 1,256 public schools (elementary and secondary schools, NAISC 611110) are required to

provide training to school employees on how to administer stock epinephrine and stock albuterol to students. Each should have a minimum of two employees trained to administer these medications.

The cost to train school employees is inestimable because the pay scale for school employees varies greatly depending on primary assignment. Local governments are expected to experience ongoing inestimable direct fiscal costs.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule is not expected to have any impact on small businesses' revenues or expenditures because it only affects government at the state and local level.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This rule is not expected to have any impact on non-small businesses' revenues or expenditures because it only affects government at the state and local level.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There are 658,952 students in Utah public schools that would experience an inestimable indirect non-fiscal benefit by receiving stock epinephrine or albuterol in an emergency, which may save a student's life. It is difficult to estimate the monetary value of a student's life. An exact estimate of the non-fiscal benefit to these students is not possible because the data necessary to determine the benefit is not available.

F) Compliance costs for affected persons:

FY2021 and ongoing = \$10,000

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$10,000	\$10,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$10,000	\$10,000

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

After conducting a thorough analysis, it was determined that this rule amendment will not result in fiscal impact to businesses.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 41		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and

Rule R15-1 for more information.)	
A) Comments will be accepted until:	03/16/2020

10. This rule change MAY become effective on:	03/23/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	01/28/2020
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R426. Health, Family Health and Preparedness, Emergency Medical Services.

R426-5. Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards.

R426-5-2700. Epinephrine Auto-Injector and Stock Albuterol Use.

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

- ~~(a) recognition of life threatening symptoms of anaphylaxis;~~
- ~~(b) appropriate administration of an epinephrine auto-injector;~~

- ~~(c) proper storage of an epinephrine auto-injector;~~
- ~~(d) disposal of an epinephrine auto-injector; and~~
- ~~(e) an initial and annual refresher course.]~~

(a) The epinephrine auto-injector training shall include:

- (i) recognition of life threatening symptoms of anaphylaxis;
- (ii) appropriate administration of an epinephrine auto-injector;

- (iii) proper storage of an epinephrine auto-injector;
- (iv) disposal of an epinephrine auto-injector; and
- (v) an initial and annual refresher course.

(b) The stock albuterol training shall include:

- (i) recognition of life threatening symptoms of an asthma emergency;

- (ii) appropriate administration of stock albuterol;
- (iii) proper storage of stock albuterol;
- (iv) disposal of stock albuterol; and
- (v) an initial and annual refresher course.

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

- (a) the qualified entities or qualified adults are currently licensed at the EMR or higher level by the [S]state[of Utah]; or
- (b) the approved trainings are the Red Cross and American Heart Association epinephrine auto-injector modules.

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

(4) To become qualified, a teacher or school employee who is 18 years of age or older shall successfully complete the training program listed in Subsection R426-5-2700(1).

[(4)](5) All epinephrine auto injectors and stock albuterol shall be kept in a secure unlocked location for use in an emergency. Devices should be [stored and] disposed of following the manufacturer's specifications.

KEY: emergency medical services

Date of Enactment or Last Substantive Amendment: ~~October 30, 2019~~ **2020**

Notice of Continuation: December 6, 2016

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

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R657-10	Filing No.	52522

Agency Information

1. Department:	Natural Resources		
Agency:	Wildlife Resources		
Room no.:	Suite 2110		
Building:	Dept. of Natural Resources		
Street address:	1594 West North Temple		
City, state:	Salt Lake City, UT		
Mailing address:	PO Box 146301		
City, state, zip:	Salt Lake City, UT 84114-6301		
Contact person(s):			
Name:	Phone:	Email:	
Staci Coons	801-450-3093	stacicoons@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
Taking Cougar
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (Division) rule pursuant to taking cougar
4. Summary of the new rule or change:
The proposed amendments to this rule: 1) set the maximum number of dogs that can be used to pursue; 2) set criteria for when to end a pursuit on a single animal;

and 3) implement changes to state park rules to incorporate hunting within state parks.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The proposed rule amendments clarify current regulations and implement state parks rules, all of these changes can be initiated within the current workload and resources of the Division, therefore, the Division determines that these amendments do not create a cost or savings impact to the state budget or the Division's budget since the changes will not increase workload and can be carried out with existing budget.
B) Local governments:
Since the proposed amendments make adjustments to current regulations and implement State Parks regulations, this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
The proposed rule amendments will not directly impact small businesses because a service is not required of them.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
These amendments do not have the potential to create a cost impact to those individuals wishing to participate in the hunting opportunities
F) Compliance costs for affected persons:
The Division has determined that this amendment will not create additional costs for those participating in cougar hunting in Utah.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
Brian Steed, Executive Director			
Citation Information			
7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):			
Section 23-14-18	Section 23-14-19		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	03/16/2020
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10. This rule change MAY become effective on:	03/23/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Mike Fowlks, Division Director	Date:	01/30/2020
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R657. Natural Resources, Wildlife Resources.

R657-10. Taking Cougar.

R657-10-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19[of the Utah Code], the Wildlife Board has established this rule for taking and pursuing cougar.

(2) Specific dates, areas, number of permits, limits, and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking cougar.

R657-10-6. Firearms, Archery Equipment, Crossbows, and Airguns.

(1) For limited entry and harvest objective hunts identified in the Wildlife Board's guidebook for taking cougar, a person may use the following to take cougar:

(a) any firearm not capable of being fired fully automatic, except a firearm using rimfire cartridge;

(b) archery equipment meeting the following requirements:

(i) the minimum bow pull is 30 pounds at the draw or the peak, whichever comes first;

(ii) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;

(iii) expanding arrowheads cannot pass through a 7/8 inch ring when expanded; and

(iv) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock;

(c) a crossbow meeting the following requirements:

(i) a minimum draw weight of 125 pounds;

(ii) a positive mechanical safety mechanism; and

- (iii) an arrow or bolt that is at least 16 inches long with:
 - (A) a fixed broadhead that is at least 7/8 inch wide at the widest point; or
 - (B) an expandable, mechanical broadhead that is at least 7/8 inch wide at the widest point when the broadhead is in the open position; and
 - (d) an airgun used to hunt ~~[bear]~~cougar must:
 - (i) be pneumatically powered;
 - (ii) be pressurized solely through a separate charging device; and
 - (iii) may only fire a bolt or arrow:
 - (A) no less than 16 inches long;
 - (B) with a fixed or expandable broadhead at least 7/8 inch wide at its widest position; and
 - (C) traveling no less than 400 feet per second at the muzzle.
- (2) Arrows and bolts carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

R657-10-8. State Parks.

- (1) Hunting of ~~[any]~~wildlife is ~~[prohibited]~~allowed within the boundaries of all state park areas except for those ~~[designated]~~areas and hunts specifically closed by the Division of Parks and Recreation in Section R651-614-4.
- (2) ~~[Hunting with a rifle, handgun or muzzleloader in park areas designated open is prohibited within one mile of all park facilities including buildings, camp or picnic sites, overlooks, golf courses, boat ramps and developed beaches.]~~State laws regarding possession and discharge of dangerous weapons apply in state park areas open to hunting.
- ~~_____ (3) Hunting with shotguns, crossbows and archery tackle is prohibited within one quarter mile of the above stated areas.]~~

R657-10-9. Prohibited Methods.

- (1) Cougar may be taken or pursued only during open seasons and using methods prescribed in this rule and the guidebook of the Wildlife Board for taking cougar. Otherwise, under the Wildlife Resources Code, it is unlawful for any person to pursue, possess, capture, kill, injure, drug, rope, trap, snare or in any way harm or transport cougar.
- (2) (a) A person may not pursue a single cougar in repeated pursuits such that it renders the cougar physically unable to escape.
 - (b) After a cougar has been pursued, chased, treed, cornered or held at bay, a person may not, in any manner, restrict or hinder the animal's ability to escape.
 - (c) A person must make reasonable efforts to call dogs off of a cougar that has been cornered or held at bay.
 - (3) A person may not engage in a canned hunt.
 - (4) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.
 - (5) Electronic locating equipment may not be used to locate cougar wearing electronic radio devices.

R657-10-12. Use of Dogs.

- (1) Dogs may be used to take or pursue cougar only during open seasons as provided in the guidebook of the Wildlife Board for taking cougar.
- (2) A dog handler may pursue cougar provided he or she possesses:

- (a) a valid cougar permit issued to the dog handler;
- (b) a valid cougar pursuit permit; or
- (c) the documentation and certifications required in Subsection R657-10-25(2) to pursue cougar for compensation.
- (3) When dogs are used in the pursuit of a cougar, the licensed hunter intending to take the cougar must be present when the dogs are released and must continuously participate in the hunt thereafter until the hunt is completed.
- (4) When dogs are used to take a cougar and there is not an open pursuit season, the dog handler must have:
 - (a) a valid cougar permit issued to the dog handler for the unit being hunted;
 - (b)(i) a valid cougar pursuit permit; and
 - (ii) be accompanied, as provided in Subsection (3), by a hunter possessing a cougar permit for the area; or
 - (c)(i) the documentation and certifications required in Subsection R657-10-25(2) to pursue cougar for compensation; and
 - (ii) be accompanied, as provided in Subsection (3), by a paying client possessing a valid cougar permit for the area.
- (5) A dog handler may pursue cougar under:
 - (a) a cougar pursuit permit only during the season and in the areas designated by the Wildlife Board in the guidebook open to pursuit;
 - (b) a valid cougar permit only during the season and in the area designated by the Wildlife Board in the guidebook for that permit; or
 - (c) the pursuit for compensation provisions in this rule only during the seasons and in the areas designated by the Wildlife Board in the guidebook open to pursuit.
- ~~(6) [When dogs are used to take cougar and there is not an open pursuit season, the owner and handler of the dogs must have a valid pursuit permit and be accompanied by a licensed hunter as provided in Subsection (3), or have a cougar permit.]~~(a) An individual may not:
 - (i) release into the field more than the maximum number of dogs allowed in a single pursuit;
 - (ii) pursue a cougar with more than the maximum number of dogs allowed in a single pursuit, regardless of whether the individual owns or controls the dogs encountered in the field; or
 - (iii) harvest a cougar that was pursued using more than the allowable maximum number of dogs.
- (b) An individual may not pursue or take a cougar using more than 16 dogs in a single pursuit.
- (c) The maximum number of dogs allowed in a single pursuit is cumulative across all members of a hunting party, even if multiple members of the hunting party possess authorization to use dogs to pursue cougar.
- (7)(a) A dog handler pursuing cougar may retrieve dogs that separate from the pack, provided the dog handler:
 - (i) takes reasonable steps to keep the pack together before and during pursuit;
 - (ii) separates from the permit holder exclusively to retrieve stray dogs and does not attempt to actively pursue cougar during the retrieval process; and
 - (iii) immediately releases any cougar incidentally treed or held at bay by the stray dogs.
- (b) Dogs that separate from the pack continue to count towards the maximum number of dogs allowable in pursuit.
- (c) A dog handler retrieving stray dogs under this subsection must still possess the documentation initially required to use dogs to pursue cougar as provided in this rule.

KEY: wildlife, cougar, game laws
Date of Enactment or Last Substantive Amendment: ~~October 22, 2019~~ 2020
Notice of Continuation: August 1, 2016
Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R657-33	Filing No.	52523

Agency Information

1. Department:	Natural Resources		
Agency:	Wildlife Resources		
Room no.:	Suite 2110		
Building:	Dept. of Natural Resources		
Street address:	1594 West North Temple		
City, state:	Salt Lake City, UT		
Mailing address:	PO Box 146301		
City, state, zip:	Salt Lake City, UT 84114-6301		
Contact person(s):			
Name:	Phone:	Email:	
Staci Coons	801-450-3093	stacicoons@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
Taking Bear
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (Division) rule pursuant to taking bear.
4. Summary of the new rule or change:
The proposed amendments to this rule: 1) implement a non-resident restricted pursuit spring season; 2) set the maximum number of dogs that can be used to pursue; 3) set criteria for when to end a pursuit on a single animal; 4) add an ethics course requirement; and 5) implement changes to state park rules to incorporate hunting within state parks.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:
 The proposed rule amendments clarify current regulations and implements a mandatory ethics training, all of these changes can be initiated within the current workload and resources of the Division, therefore, the Division determines that these amendments do not create a cost or savings impact to the state budget or the Division's budget since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:
 Since the proposed amendments make adjustments to current regulations and implements an online training course this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
 The proposed rule amendments will not directly impact small businesses because a service is not required of them.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
 The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):
 These amendments do not have the potential to create a cost impact to those individuals wishing to participate in the hunting opportunities.

F) Compliance costs for affected persons:
 The Division has determined that these amendments will not create additional costs for those participating in bear hunting in Utah.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

After conducting a thorough analysis, it was determined that these proposed rule amendments will not result in a fiscal impact to businesses.

B) Name and title of department head commenting on the fiscal impacts:

Brian Steed, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 23-14-18	Section 23-14-19
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the

agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/16/2020

10. This rule change MAY become effective on: 03/23/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Mike Fowlks, Division Director	Date:	01/30/2020
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R657. Natural Resources, Wildlife Resources.

R657-33. Taking Bear.

R657-33-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, [of the Utah Code,] the Wildlife Board has established this rule for taking and pursuing bear.

(2) Specific dates, areas, number of permits, limits and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking and pursuing bear.

R657-33-3. Permits for Taking Bear.

(1)(a) To harvest a bear, a person must first obtain a valid limited entry bear permit, a harvest objective bear permit, or a bear control permit for a specified hunt unit as provided in the guidebook of the Wildlife Board for taking bear.

(b) Any person who obtains a limited entry bear permit or a harvest objective bear permit which allows the use of dogs may pursue bear without a pursuit permit while hunting during the season and on the unit for which the take permit is valid, provided the person is the dog handler.

(2)([#]a) A person may not apply for or obtain more than one bear permit per year, except:

([#]b) if the person is unsuccessful in the drawing administered by the division under Rule R657-62, the person may purchase a permit available outside of the drawing; and

([#]c) a person may acquire more than one bear control permit as described in Subsection R657-33-23(4).

(3) Any bear permit purchased after the season opens is not valid until three days after the date of purchase.

(4) Residents and nonresidents may apply for and receive limited entry bear permits, and may purchase harvest objective bear permits and bear pursuit permits.

NOTICES OF PROPOSED RULES

(5)(a) A person must complete a mandatory orientation course prior to applying for or obtaining a limited entry, harvest objective, or bear pursuit permit.

(b) A person does not need to complete [the] orientation course [is not required] to receive a bear control permit under Subsection R657-33-23(4).

(c) The orientation course shall include training on hunter ethics.

(6) To obtain a limited entry, harvest objective, or bear pursuit permit, a person must possess a valid Utah hunting or combination license.

R657-33-8. State Parks.

(1) Hunting of ~~any~~ wildlife is ~~prohibited~~ allowed within the boundaries of all state park areas except for those [designated] areas and hunts specifically closed by the Division of Parks and Recreation in ~~[Section] Rule~~ Rule R651-614.

(2) ~~[Hunting with a rifle, handgun or muzzleloader in park areas designated open is prohibited within one mile of all area park facilities, including buildings, camp or picnic sites, overlooks, golf courses, boat ramps and developed beaches.]~~ State laws regarding possession and discharge of dangerous weapons apply in state park areas open to hunting.

~~[Hunting with shotguns, crossbows, archery tackle, and airguns is prohibited within one quarter mile of the above stated areas.]~~

R657-33-9. Prohibited Methods.

(1) Bear may be taken or pursued only during open seasons and using methods prescribed in this rule and the guidebook of the Wildlife Board for taking and pursuing bear. Otherwise, under the Wildlife Resources Code, it is unlawful for any person to pursue, possess, capture, kill, injure, drug, rope, trap, snare, or in any way harm or transport bear.

(2)(a) A person may not pursue a single bear in repeated pursuits such that it renders the bear physically unable to escape.

(b) After a bear has been pursued, chased, treed, cornered, legally baited or held at bay, a person may not, in any manner, restrict or hinder the animal's ability to escape.

(c) A person must make reasonable efforts to call dogs off of a bear that has been cornered or held at bay.

(3) A person may not engage in a canned hunt.

(4) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.

R657-33-12. Use of Dogs.

(1) Dogs may be used to take or pursue bear only during authorized hunts as provided in the guidebook of the Wildlife Board for taking bear.

(2) A dog handler may pursue bear in a unit and during a season permitting the use of dogs, provided he or she possesses:

(a) a valid limited entry or harvest objective bear permit issued to the dog handler;

(b) a valid bear pursuit permit; or

(c) the documentation and certifications required in Subsection R657-33-26(2) to pursue bear for compensation.

(3) When dogs are used to pursue a bear, the licensed hunter intending to take the bear must be present when the dogs are released and must continuously participate in the hunt thereafter until the hunt is completed.

(4) When dogs are used to take a bear during a restricted pursuit season or when there is not an open pursuit season, the dog handler must have:

(a) a limited entry or harvest objective bear permit authorizing the use of dogs issued to the dog handler for the unit being hunted;

(b)(i) a valid bear pursuit permit; and

(ii) be accompanied, as provided in Subsection (3), by a hunter possessing a limited entry or harvest objective bear permit authorizing the use of dogs for the unit being hunted; or

(c)(i) the documentation and certifications required in Subsection R657-33-26(2) to pursue bear for compensation; and

(ii) be accompanied, as provided in Subsection (3), by a paying client possessing a limited entry or harvest objective bear permit authorizing the use of dogs for the unit being hunted.

(5) A dog handler may pursue bear under:

(a) a bear pursuit permit only during the season and in the areas designated by the Wildlife Board in the guidebook open to pursuit;

(b) a limited entry or harvest objective bear permit authorizing the use of dogs only during the season and in the area designated by the Wildlife Board in the guidebook for that permit; or

(c) the pursuit for compensation provisions in this rule only during the seasons and in the areas designated by the Wildlife Board in the guidebook open to pursuit.

~~(6) [When dogs are used to pursue or take a bear, no more than eight dogs may be used in the field at one time while pursuing during the summer pursuit or restricted pursuit seasons as established by the Wildlife Board in guidebook.]~~ (a) An individual may not:

(i) release into the field more than the maximum number of dogs allowed in a single pursuit;

(ii) pursue a bear with more than the maximum number of dogs allowed in a single pursuit, regardless of whether the individual owns or controls the dogs encountered in the field; or

(iii) harvest a bear that was pursued using more than the allowable maximum number of dogs.

(b) An individual may not pursue or take a bear using more than:

(i) 16 dogs in a single pursuit for the spring restricted pursuit season;

(ii) 8 dogs in a single pursuit for the summer restricted pursuit season; and

(iii) 16 dogs in a single pursuit for all other bear hunts allowing the use of dogs.

(c) The maximum number of dogs allowed in a single pursuit is cumulative across all members of a hunting party, even if multiple members of the hunting party possess authorization to use dogs to pursue bear.

(7)(a) A dog handler pursuing bear may retrieve dogs that separate from the pack, provided the dog handler:

(~~[A]~~i) takes reasonable steps to keep the pack together before and during pursuit;

(~~[B]~~ii) separates from the permit holder exclusively to retrieve stray dogs and does not attempt to actively pursue bear during the retrieval process; and

(~~[C]~~iii) immediately releases any bear incidentally treed or held at bay by the stray dogs.

(b) Dogs that separate from the pack continue to count towards the maximum number of dogs allowable in pursuit.

(c) A dog handler retrieving stray dogs under this subsection must still possess the documentation initially required to use dogs to pursue bear as provided in this rule.

R657-33-26. Bear Pursuit.

(1)(a) Except as provided in ~~[rule]~~Subsection R657-33-3(1)(b) and Subsection (2), bear may be pursued only by persons who have obtained a bear pursuit permit.

(b) The bear pursuit permit does not allow a person to:

- (i) kill a bear; or
- (ii) pursue bear for compensation.

(c) A person may pursue bear for compensation only as provided in Subsection (2).

(d) To obtain a bear pursuit permit, a person must possess a Utah hunting or combination license.

(2)(a) A person may pursue bear on public lands for compensation, provided the dog handler:

(i) receives compensation from a client or customer to pursue bear;

(ii) is a licensed hunting guide or outfitter under Title 58, Chapter 79~~[of the Utah Code]~~, Hunting Guides and Outfitters Licensing Act and authorized to pursue bear;

(iii) possesses on his or her person the Utah hunting guide or outfitter license;

(iv) possesses on his or her person all permits and authorizations required by the applicable public lands managing authority to pursue bear for compensation; and

(v) is accompanied by the client or customer at all times during pursuit.

(b) A person may pursue bear on private lands for compensation, provided the dog handler:

(i) receives compensation from a client or customer to pursue bear;

(ii) is accompanied by the client or customer at all times during pursuit; and

(iii) possesses on his or her person written permission from all private landowners on whose property pursuit takes place.

(c) A person who is an employee or agent of the Division of Wildlife Services may pursue bear on public lands and private lands while acting within the scope of their employment.

(3) A pursuit permit is not required to pursue bear ~~[under]~~if the individual satisfies the requirements in Subsection (2).

(4)(a) A person pursuing bear for compensation under subsections (2)(a) and (2)(b) shall comply with all other requirements and restrictions in statute, rule and the guidebooks of the Wildlife Board regulating the pursuit and take of bear.

(b) Any violation of, or failure to comply with the provisions of Title 23, Wildlife Resources Code of Utah~~[of the Utah Code]~~, this rule, or the guidebooks of the Wildlife Board may be grounds for suspension of the privilege to pursue bear for compensation under this subsection, as determined by a division hearing officer.

(5) Except as provided in Subsection (6), a bear pursuit permit authorizes the holder to pursue bear with dogs on any unit open to pursuing bear during the seasons and under the conditions prescribed by the Wildlife Board in guidebook.

(6) The Wildlife Board may establish or designate in the guidebook restricted pursuit units as determined necessary or convenient to better manage wildlife resources, including to protect wildlife, curtail over-utilization of resources, reduce conflict with other recreational activities, reduce conflict with private and public land activities, and protect wildlife habitat.

(a) Bear may not be pursued on a restricted pursuit unit unless the dog handler:

(i) possesses a pursuit permit issued for the particular restricted pursuit unit;

(ii) possesses or is accompanied by a person who possesses a limited entry or harvest objective bear permit allowing the use of dogs, and the pursuit occurs within the area and during the season established by the respective permit; or

(iii) is engaged in pursuit for compensation as provided in Subsection (2), and pursuit occurs within the area and during the season established for the:

(A) paying client's limited entry or harvest objective bear permit allowing the use of dogs; or

(B) restricted pursuit unit.

(b) A pursuit permit issued for a restricted pursuit unit authorizes the holder to pursue bear on:

(i) the particular restricted pursuit unit for which the permit is issued; and

(ii) any other bear pursuit unit not designated as a restricted pursuit unit.

(c) Notwithstanding Subsection (6)(a)(i), when two or more dog owners are in the field pursuing bear together~~[with a single pack of eight dogs or less on a restricted pursuit unit]~~, only one must possess a restricted pursuit unit permit, provided the dog owners accompany the person possessing the restricted pursuit unit permit at all times.

(i) A dog handler pursuing bear on a restricted pursuit unit may leave the pursuit permit holder to retrieve dogs that separate from the pack, provided the dog handler:

(A) takes reasonable steps to keep the pack together before and during pursuit;

(B) separates from the pursuit permit holder exclusively to retrieve stray dogs and does not attempt to actively pursue bear during the retrieval process; and

(C) immediately releases any bear incidentally treed or held at bay by the stray dogs.

(ii) Maximum number of dogs in the field and pack sizes described in Section R657-33-12 remain applicable, even if there are multiple dog owners in the same hunting party.

(7) Pursuit permits may be obtained at division offices, through the Internet and at license agents.

(a) The division may distribute pursuit permits for restricted pursuit units:

(i) through its offices, license agents, or online resources on a first-come, first-served basis; or

(ii) through a random drawing.

(8) A person may not:

(a) take or pursue a female bear with cubs;

(b) repeatedly pursue, chase, tree, corner or hold at bay the same bear during the same day;

(c) individually or in combination with another person, use more than eight dogs in the field to pursue a bear during the summer pursuit season as established by the Wildlife Board in the guidebook; or

(d) possess a firearm or any device that could be used to kill a bear while pursuing bear.

(i) The weapon restrictions set forth in Subsection (d) do not apply to a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 ~~[of the Utah Code]~~Concealed Firearm Act, provided the person is not utilizing or attempting to utilize the concealed weapon to injure or kill bear.

NOTICES OF PROPOSED RULES

(9) If eligible, a person who has obtained a bear pursuit permit may also obtain a limited entry or harvest objective bear permit.

(10) Season dates, closed areas and bear pursuit permit areas are published in the guidebook of the Wildlife Board for taking and pursuing bear.

KEY: wildlife, bear, game laws

Date of Enactment or Last Substantive Amendment: ~~March 25, 2019~~ 2020

Notice of Continuation: November 28, 2017

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-13-2

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R986-100-113	Filing No.	52521

Agency Information

1. Department:	Workforce Services		
Agency:	Employment Development		
Building:	Olene Walker Building		
Street address:	140 East 300 South		
City, state:	Salt Lake City, UT		
Mailing address:	PO Box 45244		
City, state, zip:	Salt Lake City, UT 84145-0244		
Contact person(s):			
Name:	Phone:	Email:	
Amanda B. McPeck	801-517-4709	ampeck@gmail.com	

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
A Client Must Inform the Department of All Material Changes
3. Purpose of the new rule or reason for the change:
The rule change clarifies where households may inform the Department of Workforce Services (Department) of material changes which might affect the household's eligibility.
4. Summary of the new rule or change:
The rule change clarifies that households may report material changes at specific offices and outreach locations, as well as through the online eligibility case system.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have any fiscal impact on state revenues or expenditures. There are no additional state employees or resources needed to oversee the proposed rule amendment because the changes reflect existing Department policy.
B) Local governments:
This proposed rule change is not expected to have any fiscal impact on local governments' revenues or expenditures because the Department is merely clarifying the rule to reflect existing Department policy.
C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed rule change is not expected to have any fiscal impact on small businesses because the Department is merely clarifying the rule to reflect existing Department policy. Further the program does not interact directly or indirectly with small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This proposed rule change is not expected to have any fiscal impact on non-small businesses because the Department is merely clarifying the rule to reflect existing Department policy. Further the program does not interact directly or indirectly with non-small businesses.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
This proposed rule change is not expected to have any fiscal impact on other persons because the Department is merely clarifying the rule to reflect existing Department policy.
F) Compliance costs for affected persons:
The proposed rule change is not expect to cause any compliance costs for affected persons because the proposed rule change does not create any new administrative fees and is consistent with existing Department policy.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)
Regulatory Impact Table

Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Workforce Services, Jon Pierpont, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
After a thorough analysis, it was determined that this proposed rule change will not result in a fiscal impact to businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
Jon Pierpont, Executive Director			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Section 35A-3-101 et seq.	Section 35A-3-301 et seq.	Section 35A-3-401 et seq.

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	03/16/2020
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10. This rule change MAY become effective on:	03/23/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Jon Pierpont, Executive Director	Date:	01/31/2020
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R986. Workforce Services, Employment Development.

R986-100. Employment Support Programs.

R986-100-113. A Client Must Inform the Department of All Material Changes.

(1) A material change is any change which might affect eligibility.

(2) Households receiving assistance must report all material changes to the Department as follows:

(a) households receiving SNAP must report a change in the household's gross income if the income exceeds 130% of the federal poverty level. The change must be reported within ten days from the end of the calendar month in which the change occurred. Changes reported by the tenth of the month following the month when the change occurred are considered timely; and

(b) households receiving GA, WTE, FEP, FEPTP, AA and RRP that do not meet the requirements of paragraph (2)(a) must report the following changes within ten days of the change occurring:

(i) if the household's gross income exceeds 185% of the adjusted standard needs budget;

(ii) a change of address;

(iii) if any eligible child leaves the household and the household receives FEP, FEPTP or AA;

(iv) if a parent, step-parent, spouse, or former spouse moves into the household or if a marriage or adoption occurs with or between the already reported household members;

(v) if a child becomes eligible for foster care or subsidized adoption financial assistance;

(vi) a change in student status of a child in the household;

(vii) if a client receiving TCA is no longer employed or is working less than an average of 30 hours per week;

NOTICES OF PROPOSED RULES

(viii) if there is a change in disability status of a GA client; and/or
(ix) if a GA client becomes employed.

(3) Households that do not meet the requirements of paragraph (2)(a) of this section will be assigned a review month. In addition to the ten-day reporting requirements listed in paragraph (2)(b) of this section, the household must report, by the last day of the review month, all material changes that have occurred since the last review, or the date of application if it is the first review. The household is also required to accurately complete all review forms and reports as requested by the Department.

(4) Most changes which result in an increase of assistance will become effective the month following the month in which the report of the change was made. If verification is necessary, verification and changes will be made in the month following the month in which verification was received. If the change is to add a person to the household, the person will be added effective on the date reported, provided necessary verification is received within 30 days of the

change. If verification is received after 30 days, the increase will be made effective the date verification was received.

(5) For the purposes of this subsection, "the Department" means any state office or outreach location of the Department of Workforce Services that accepts and processes applications for the programs listed in R986-100-102 and the divisions of the Department of Workforce Services that determine eligibility for those programs, including submitting information using the Department's eligibility customer case system available on the Department's website.

KEY: employment support procedures, hearing procedures, public assistance, SNAP

Date of Enactment or Last Substantive Amendment: ~~June 1, 2019~~ 2020

Notice of Continuation: September 2, 2015

Authorizing, and Implemented or Interpreted Law: 35A-3-101 et seq.; 35A-3-301 et seq.; 35A-3-401 et seq.

End of the Notices of 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.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R68-2	Filing No. 50136

Agency Information

1. Department:	Department of Agriculture and Food	
Agency:	Plant Industry	
Building:	William Spry Agriculture Building	
Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-538-6023	ambermbrown@utah.gov
Bracken Davis	801-946-1139	brackendavis@utah.gov
Robert Hougaard	801-791-2746	rhougaard@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Utah Commercial Feed Act Governing Feed
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 4-12-103 authorizes the Department of Agriculture and Food to make rules governing Chapter 12 of the Utah Commercial Feed Act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received during and since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it prescribes detailed guidelines for the registration and labeling of commercial feed to ensure animal safety, and protect consumers from misbranding and adulteration. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Kelly Pehrson, Interim Commissioner	Date:	01/24/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R131-1	Filing No. 50208

Agency Information

1. Department:	Capitol Preservation Board	
Agency:	Administration	
Building:	Utah State Capitol Building	
Street address:	350 North State Street	
City, state, zip:	Salt Lake City, UT 84107	
Contact person(s):		
Name:	Phone:	Email:
Allyson Gamble	801-537-9156	agamble@utah.gov
Dana Jones	801-538-1189	danajones@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
Procurement of Architectural and Engineering Services
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The Capitol Preservation Board's (Board) authority to adopt rules is provided according to Subsections 63C-9-301(3). As required by Subsection 63C-9-301(4), procurement of architectural and engineering services shall be conducted in accordance with this rule, the provisions of Title 63G, Chapter 6, or of Title 63A, Chapter 5, as determined by the Board.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received during the last five-year review of this rule from interested persons supporting or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because this rule establishes procedures for the procurement of architectural and engineering services by the State Capitol Preservation Board. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Allyson Gamble, Executive Director	Date:	01/16/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R131-2	Filing No. 50217

Agency Information

1. Department:	Capitol Preservation Board	
Agency:	Administration	
Building:	Utah State Capitol Building	
Street address:	350 North State Street	
City, state, zip:	Salt Lake City, UT 84107	
Contact person(s):		
Name:	Phone:	Email:
Allyson Gamble	801-537-9156	agamble@utah.gov
Dana Jones	801-538-1189	danajones@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
Capitol Hill Complex Facility Use
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The State Capitol Preservation Board adopts this Capitol Hill Complex Facility Use Rule pursuant to Section 63C-9-301.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received during the last five-year review of this rule from interested persons supporting or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because this rule defines conditions for public access and use of the Capitol Hill Complex, and to establish procedures for receiving and deciding complaints regarding the access or use of the

Capitol Hill Complex. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Allyson Gamble, Executive Director	Date:	01/16/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R131-7	Filing No. 50220

Agency Information

1. Department:	Capitol Preservation Board	
Agency:	Administration	
Building:	Utah State Capitol Building	
Street address:	350 North State Street	
City, state, zip:	Salt Lake City, UT 84107	
Contact person(s):		
Name:	Phone:	Email:
Allyson Gamble	801-537-9156	agamble@utah.gov
Dana Jones	801-538-1189	danajones@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
State Capitol Preservation Board Master Planning Policy
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized under Subsection 63C-9-402(1), which directs the Executive Director to develop, for board approval, a master plan for the State Capitol facilities and grounds.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received during the last five-year review of this rule from interested persons supporting or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Pursuant to Section 63C-9-402, this rule provides a procedure for the Executive Director to devise and develop a master-planning process for Capitol Hill Facilities; for future capital facilities expansion of the State Capitol grounds, and for projected Capitol Hill facility growth needs. This rule is necessary under the section listed above. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Allyson Gamble, Executive Director	Date:	01/16/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R131-8	Filing No. 50215

Agency Information

1. Department:	Capitol Preservation Board	
Agency:	Administration	
Building:	Utah State Capitol Building	
Street address:	350 North State Street	
City, state, zip:	Salt Lake City, UT 84107	
Contact person(s):		
Name:	Phone:	Email:
Allyson Gamble	801-537-9156	agamble@utah.gov
Dana Jones	801-538-1189	danajones@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
CPB Facilities and Grounds: Maintenance of Aesthetics
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized under Subsection 63C-9-402(1), Utah Code, which directs the Executive Director to develop a master plan for the Capitol Preservation Board's (Board) approval to maintain, preserve, restore, and modify the Capitol Hill facilities and Capitol Hill grounds.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

<p>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</p> <p>No comments were received during the last five-year review of this rule from interested persons supporting or opposing this rule.</p>
<p>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</p> <p>Pursuant to Subsections 63C-9-301(1)(b) and 63C-9-301(3)(a), Utah Code, this rule defines the Board's statutory requirement to preserve, maintain and restore Capitol Hill facilities and Capitol Hill grounds. This rule is necessary under the sections listed above. Therefore, this rule should be continued.</p>

Agency Authorization Information

Agency head or designee, and title:	Allyson Gamble, Executive Director	Date:	01/16/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R131-14	Filing No. 50230

Agency Information

1. Department:	Capitol Preservation Board	
Agency:	Administration	
Building:	Utah State Capitol Building	
Street address:	350 North State Street	
City, state, zip:	Salt Lake City, UT 84107	
Contact person(s):		
Name:	Phone:	Email:
Allyson Gamble	801-537-9156	agamble@utah.gov
Dana Jones	801-538-1189	danajones@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Parking on Capitol Hill
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated pursuant to Section 63C-9-301, Utah Code.

<p>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</p> <p>No comments were received during the last five-year review of this rule from interested persons supporting or opposing this rule.</p>
<p>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</p> <p>The purpose of this rule is to define and implement Capitol Preservation Board policy regarding parking at the Utah State Capitol Hill Complex. That purpose still stands. Therefore, this rule should be continued.</p>

Agency Authorization Information

Agency head or designee, and title:	Allyson Gamble, Executive Director	Date:	01/16/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R414-309	Filing No. 50980

Agency Information

1. Department:	Health	
Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 North 1460 West	
City, state, zip:	Salt Lake City	
Mailing address:	PO Box 143102	
City, state, zip:	Salt Lake City, UT, 84114-3102	
Contact person(s):		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
Medicare Drug Benefit Low-Income Subsidy Determination
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 26-1-5 grants the Department of Health (Department) the authority to adopt, amend, or rescind rules as necessary to implement the Medicaid program, and Section 26-18-3 requires the Department to implement the Medicaid program through administrative rules. In addition, 42 CFR 423.904 requires the Department to make eligibility determinations and redeterminations for low-income premium and cost-sharing subsidies.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department did not receive any written or oral comments regarding this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Department will continue this rule because it sets forth eligibility determination requirements for the Medicare Part D low-income subsidies, as required by the Medicare Modernization Act.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	01/15/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R655-14	Filing No. 51723
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Agency Information

1. Department:	Natural Resources	
Agency:	Water Rights	
Room no.:	220	
Street address:	1594 W. North Temple	
City, state, zip:	Salt Lake City Utah 84116	
Mailing address:	1594 W. North Temple	
City, state, zip:	Salt Lake City Utah 84116	
Contact person(s):		
Name:	Phone:	Email:
Marianne Burbidge	801-538-7370	marianneburnbidge@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

Administrative Procedures for Enforcement Proceedings Before the Division of Water Rights

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule establishes procedures for enforcement adjudicative proceedings which may be commenced under Section 73-2-25. Under Subsection 73-2-1(4)(g), the State Engineer, as the Director of the Utah Division of Water Rights, is required to make rules regarding enforcement orders and the imposition of fines and penalties. The State Engineer's powers and duties include acting on behalf of the to administer, as the agency head of the Division of Water Rights, the distribution and use of all surface and ground waters within the state in accordance with statutory authority, including but not limited to Sections 73-2-1, 73-2-1.2, and 73-2-25.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received in the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is still required for processing and acceptance by the State Engineer. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Boyd Clayton, Interim State Engineer/Director	Date:	01/21/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R655-16	Filing No. 51728
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Agency Information

1. Department:	Natural Resources	
Agency:	Water Rights	
Room no.:	220	
Street address:	1594 W. North Temple	
City, state, zip:	Salt Lake City Utah 84116	
Mailing address:	1594 W. North Temple	
City, state, zip:	Salt Lake City Utah 84116	
Contact person(s):		

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Name:	Phone:	Email:
Marianne Burbidge	801-538-7370	marianneburnbidge@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:

Administrative Procedures for Declaring Beneficial Use Limitations for Supplemental Water Rights

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 73-1-3 declares, "beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state." Subsection 73-2-1(3) declares, "The State Engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment and distribution of those waters." Subsection 73-2-1(5)(e) authorizes the State Engineer to make rules governing the form and content of applications and related documents, maps and reports. Subsection 73-3-3(4)(b)(vii) requires the State Engineer to supply an application form for the permanent or temporary change of a water right which shall set forth, among other information, "the place, purpose, and extent of the present use." Section 73-3-16 requires applicants to submit proof of appropriation or permanent change including, among other information, "a map showing the place of use", "the nature and extent of the completed works" and "the method of applying the water to beneficial use". Section 73-3-20(2) states "The state engineer may require the owner of record of an approved exchange application to provide information concerning...

the extent to which the development under the exchange has occurred and other information the state engineer considers necessary... to arrive at the quantity of water being exchanged." Section 73-5-8 states, Every person using water from any river system or water source, when requested by the State Engineer, shall within 30 days after such request report to the State Engineer in writing: 1) the nature of the use of any such water; 2) the area on which it is used; 3) the kind of crops grown; and 4) water elevations on wells or tunnels and quantity of underground water used."

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received in the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is still required for processing and acceptance by the State Engineer. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Boyd Clayton, Interim State Engineer/Director	Date:	01/21/2020
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **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. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **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.

Administrative Services

Finance

No. 52362 (Repeal): R25-10. State Entities' Posting of Financial Information to the Utah Public Finance Website
Published: 12/15/2019
Effective: 01/22/2020

No. 52315 (Repeal): R25-11. Utah Transparency Advisory Board, Procedures for Electronic Meetings
Published: 12/15/2019
Effective: 01/22/2020

Commerce

Occupational and Professional Licensing

No. 52391 (Amendment): R156-60. Mental Health Professional Practice Act Rule
Published: 12/15/2019
Effective: 01/21/2020

No. 52388 (Amendment): R156-61. Psychologist Licensing Act Rule
Published: 12/15/2019
Effective: 01/21/2020

Education

Administration

No. 52356 (Amendment): R277-100. Definitions for Utah State Board of Education (Board) Rules
Published: 12/15/2019
Effective: 01/22/2020

No. 52445 (Amendment): R277-210. Utah Professional Practices Advisory Commission (UPPAC), Definitions
Published: 01/01/2020
Effective: 02/07/2020

No. 52446 (Amendment): R277-211. Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions
Published: 01/01/2020
Effective: 02/07/2020

No. 52447 (Amendment): R277-212. UPPAC Hearing Procedures and Reports
Published: 01/01/2020
Effective: 02/07/2020

No. 52448 (Amendment): R277-213. Request for Licensure Reinstatement and Reinstatement Procedures
Published: 01/01/2020
Effective: 02/07/2020

No. 52449 (Amendment): R277-215. Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions
Published: 01/01/2020
Effective: 02/07/2020

No. 52450 (New Rule): R277-217. Educator Standards and LEA Reporting
Published: 01/01/2020
Effective: 02/07/2020

No. 52451 (New Rule): R277-316. Professional Standards and Training for Non-licensed Employees and Volunteers
Published: 01/01/2020
Effective: 02/07/2020

No. 52357 (New Rule): R277-324. Paraprofessional/Paraeducator Programs, Assignments, and Qualifications
Published: 12/15/2019
Effective: 01/22/2020

No. 52355 (Amendment): R277-400. School Facility Emergency and Safety
Published: 12/15/2019
Effective: 01/22/2020

No. 52452 (Amendment): R277-502. Educator Licensing and Data Retention
Published: 01/01/2020
Effective: 02/07/2020

No. 52453 (Repeal): R277-515. Utah Educator Professional

NOTICES OF RULE EFFECTIVE DATES

Standards

Published: 01/01/2020
Effective: 02/07/2020

No. 52454 (Repeal): R277-516. Professional Standards and Training for Non-licensed Employees and Volunteers
Published: 01/01/2020
Effective: 02/07/2020

No. 52358 (Repeal): R277-524. Paraprofessional/Paraeducator Programs, Assignments, and Qualifications
Published: 12/15/2019
Effective: 01/22/2020

No. 52359 (Amendment): R277-609. Standards for LEA Discipline Plans and Emergency Safety Interventions
Published: 12/15/2019
Effective: 01/22/2020

No. 52456 (New Rule): R277-623. School Climate Survey
Published: 01/01/2020
Effective: 02/07/2020

No. 52360 (Amendment): R277-724. Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program
Published: 12/15/2019
Effective: 01/22/2020

No. 52458 (Amendment): R277-800. Utah Schools for the Deaf and the Blind
Published: 01/01/2020
Effective: 02/07/2020

Health

Center for Health Data, Health Care Statistics
No. 52354 (Amendment): R428-1. Health Data Plan and Incorporated Documents
Published: 12/15/2019
Effective: 01/28/2020

Disease Control and Prevention, Epidemiology
No. 52320 (Amendment): R386-900. Special Measures for the Operation of Syringe Exchange Programs
Published: 12/01/2019
Effective: 01/31/2020

Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health
No. 52332 (Amendment): R388-804. Special Measures for the Control of Tuberculosis
Published: 12/01/2019
Effective: 02/01/2020

Family Health and Preparedness, Children with Special Health Care Needs
No. 52376 (Amendment): R398-30. Children's Organ Transplants
Published: 12/15/2019
Effective: 01/27/2020

Family Health and Preparedness, Licensing
No. 52404 (New Rule): R432-15. Speciality Hospital - Cancer Treatment Construction
Published: 12/15/2019
Effective: 1/24/2020

No. 52375 (Amendment): R432-35. Background Screening -- Health Facilities
Published: 12/15/2019
Effective: 03/01/2020

No. 52406 (New Rule): R432-107. Specialty Hospital - Cancer Treatment
Published: 12/15/2019
Effective: 01/24/2020

Health Care Financing, Coverage and Reimbursement Policy
No. 52390 (Amendment): R414-320. Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver
Published: 12/15/2019
Effective: 01/31/2020

Human Services

Child and Family Services
No. 52368 (Amendment): R512-100. In-Home Services
Published: 12/15/2019
Effective: 01/22/2020

Recovery Services
No. 52438 (Amendment): R527-303. Automatic Payment Withdrawal
Published: 01/01/2020
Effective: 02/10/2020

Insurance

Administration
No. 52384 (Amendment): R590-164. Uniform Health Billing Rule
Published: 12/15/2019
Effective: 01/22/2020

No. 52385 (Repeal): R590-260. Utah Defined Contribution Risk Adjuster Plan of Operation
Published: 12/15/2019
Effective: 01/22/2020

No. 52386 (Amendment): R590-271. Data Reporting for Consumer Quality Comparison
Published: 12/15/2019
Effective: 01/22/2020

Natural Resources

Oil, Gas and Mining; Non-Coal
No. 52348 (Amendment): R647-1. Minerals Regulatory Program
Published: 12/01/2019
Effective: 02/10/2020

No. 52349 (Amendment): R647-2. Exploration
Published: 12/01/2019
Effective: 02/10/2020

No. 52350 (Amendment): R647-3. Small Mining Operations
Published: 12/01/2019
Effective: 02/10/2020

No. 52351 (Amendment): R647-4. Large Mining Operations
Published: 12/01/2019
Effective: 02/10/2020

No. 52352 (Amendment): R647-5. Administrative
Procedures
Published: 12/01/2019
Effective: 02/10/2020

Wildlife Resources
No. 52441 (Amendment): R657-5. Taking Big Game
Published: 01/01/2020
Effective: 02/10/2020

No. 52442 (Amendment): R657-42. Fees, Exchanges,
Surrenders, Refunds and Reallocation of Wildlife Documents

Published: 01/01/2020
Effective: 02/10/2020

No. 52443 (Amendment): R657-57. Division Variance Rule
Published: 01/01/2020
Effective: 02/10/2020

No. 52444 (Amendment): R657-62. Drawing Application
Procedures
Published: 01/01/2020
Effective: 02/10/2020

Public Service Commission
Administration

No. 52464 (Amendment): R746-8. Utah Universal Public
Telecommunications Service Support Fund (UUSF)
Published: 01/01/2020
Effective: 02/10/2020

No. 52459 (Amendment): R746-409. Pipeline Safety
Published: 01/01/2020
Effective: 02/10/2020

End of the Notices of Rule Effective Dates Section