

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 Government Operations, 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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EXECUTIVE DOCUMENTS

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

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

EXECUTIVE ORDER 2022-02

Providing optional substitute leave for state employees to support Utah schools

WHEREAS, recent staffing shortages in our schools are making it difficult for public and private schools to remain open;

WHEREAS, in-person instruction has been shown to be the most effective learning environment for children and keeping children in schools is a high priority for this administration;

WHEREAS, children are our greatest legacy and should have access to a high-quality education at all times, including during the COVID-19 pandemic;

WHEREAS, throughout the pandemic, teachers, administrators and education support staff have worked tirelessly to keep Utah students in school and learning during a very challenging time;

WHEREAS, Utah is the number one state in the nation for volunteerism and is a place where we come together for the common good and serve those in need;

WHEREAS, Utah's 22,000 public employees are unified in their devotion to bettering their communities;

NOW, THEREFORE, I, Spencer J. Cox, Governor of the State of Utah, by the authority vested in me by the constitution and laws of this state, hereby order the following:

1. As used in this order, "agency" means a state executive branch agency, including:
 - a. the Utah State Tax Commission;
 - b. the Utah National Guard; and
 - c. the Board of Pardons and Parole.
2. Each state agency shall:
 - a. grant all benefitted agency employees up to thirty (30) hours of administrative leave, as defined in Utah Administrative Code R477-1-1 and hereafter referred to as 'substitute leave,' from their normal state employment responsibilities to serve in their local K-12 school district as a substitute teacher, bus driver, secretary, cafeteria worker, or other support service positions;
 - b. set appropriate limitations and ensure the agency's critical work is not unduly interrupted;
 - c. postpone or deny the use of substitute leave if an employee's use of this leave significantly harms the agency, including the agency incurring incremental costs;
 - d. shall not count substitute leave toward the 18-week maximum of unprotected leaveset forth in DHRM rule R477-7-1(11); and
 - e. shall inform all agency employees of this Order.

EXECUTIVE DOCUMENTS

3. Each Employee wanting to use substitute leave shall:
 - a. request and receive individual permission from their agency leadership;
 - b. understand that serving with the school districts is voluntary and that performing school district work and travel to and from the schoolwork site is completely separate and segregated from their employment with the state; and
 - c. comply with agency conflict of interest policies, complete any required conflict of interest declarations, and comply with the Utah Public Employees Ethics Act.
4. Employees may:
 - a. accept pay from the school districts for work performed in addition to using substitute leave;
 - b. use a portion of approved substitute leave to apply for a position and to complete any necessary background checks or training as required by the school districts; and
 - c. break up the substitute leave into hourly segments as long as the leave used for this purpose does not exceed thirty (30) hours.
5. Both full-time and part-time benefited employees are eligible for participation in the program and may receive a prorated amount of administrative leave time.
6. The Division of Human Resource Management (DHRM) shall issue guidance and policies to ensure implementation of this order.
7. The Finance Division of the Department of Government Operations shall work with the DHRM to support the implementation of this Order.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 31st day of January, 2022.

(State Seal)

Spencer J. Cox
Governor, State of Utah

ATTEST:

Deidre M. Henderson
Lieutenant Governor, State of Utah

End of the Executive Documents 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 15, 2022, 12:00 a.m., and February 01, 2022, 11:59 p.m. are included in this, the February 15, 2022, 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 17, 2022. 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 15, 2022, 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: New		
Utah Admin. Code Ref (R no.):	R64-4	Filing ID 54357

Agency Information

1. Department:	Agriculture and Food	
Agency:	Conservation Commission	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Jim Bowcutt	801-536-4436	jdbowcutt@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R64-4. Agricultural Water Optimization Program
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is needed to provide guidelines for the Agricultural Water Optimization program that provides grants to agricultural producers to help fund water conservation and improvement projects. The program has been in place since 2019 and is funded by legislative appropriation. It is authorized pursuant to Section 4-18-108 that allows the Utah Conservation Commission to issue grants to agricultural producers to fund environmental improvement projects. Federal American Rescue Plan Act (ARPA) funds have been infused into the program and the department seeks to codify program requirements and practices in rule.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule sets guidelines and parameters for the Agricultural Water Optimization Program including the purposes of the program, eligibility and application

requirements, ranking procedures, and project and reporting requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule should not have a fiscal impact to the state because the Agricultural Water Optimization Program will be funded with federal funds from the ARPA.
B) Local governments:
This rule should not impact local governments because they do not typically receive grants under this program.
C) Small businesses ("small business" means a business employing 1-49 persons):
The program set forth in this rule will benefit small businesses that can receive water optimization grants. \$20,000,000 of federal funding has been dedicated to this program to be spent over the next 3 years. The Department of Agriculture and Food (Department) estimates that half will benefit small businesses, or a \$900,000 positive fiscal impact over 3 years (accounting for 10% administration costs).
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The program set forth in this rule is generally used by small businesses. The Department does not foresee an impact on non-small businesses employing 50 or more persons.
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):
The program set forth in this rule will benefit individuals who can receive water optimization grants. \$20,000,000 of federal funding has been dedicated to this program to be spent over the next 3 years. The Department estimates that 50% will go to individuals, or \$900,000 over 3 years, accounting for 10% of funds dedicated to administration costs.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the Agricultural Water Optimization program.
G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule will have a positive impact on businesses in Utah.
Craig W. Butters, Commissioner

6. A) 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	FY2022	FY2023	FY2024
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	\$300,000	\$300,000	\$300,000
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$300,000	\$300,000	\$300,000
Total Fiscal Benefits	\$600,000	\$600,000	\$600,000
Net Fiscal Benefits	\$600,000	\$600,000	\$600,000

B) Department head approval of regulatory impact analysis:

The Commissioner of the Utah Department of Agriculture and Food, Craig W. Butters, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 4-18-108		
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/17/2022

10. This rule change MAY become effective on: 03/24/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Butters, Commissioner	Date:	01/27/2022
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R64. Agriculture and Food, Conservation Commission.

R64-4. Agricultural Water Optimization Program.

R64-4-1. Authority.

This rule is authorized by Subsection 4-18-108(4), that requires the Utah Conservation Commission to make rules to implement environmental grant programs authorized under Section 4-18-108 and Subsection 4-18-108(3)(b) that gives authority to establish rules related to the criteria for awarding the grants. 64.

R64-4-2. Definitions.

(1) "Agricultural Water" means the same as the term is defined in Subsection 4-18-103(3).

(2) "Agricultural Water Optimization Priority Area" means an area prioritized and approved by the Commission based on a need to address water quality and quantity and their management.

(3) "Application" means a project proposal that is prepared by a person seeking Agricultural Water Optimization Program funds through the process established by the Commission and in accordance with Section 4-18-108.

(4) "Commission" means the Utah Conservation Commission created by Section 4-18-104, chaired by the Commissioner of the Utah Department of Agriculture and Food.

(5) "Department" means the Utah Department of Agriculture and Food.

(6) "Division of Water Quality Impaired Watershed" means impaired waters that fail to meet water quality standards or are biologically impaired under Section 303(d) of the Clean Water Act, 33 U.S.C. Sec. 125 et seq.

(7) "Drinking Water Source Protection Area" means an area governed by the Drinking Water Source Protection Program under Subsection R309-600-6(f), designed to protect drinking water source protection zones and management areas from contaminants that may have an adverse effect on the health of persons.

NOTICES OF PROPOSED RULES

(8) "Grantee" means a person who has received funding through the Agricultural Water Optimization Program.

(9) "Program Manager" means a department employee assigned by the Commission to oversee the day-to-day activities of the Agricultural Water Optimization Program, or their staff.

(10) "Priority Water Body for Aquatic Species" means a blue-ribbon fishery or area that includes threatened and endangered species as defined in 50 CFR 17.11(October 1, 2017 edition).

(11) "Project" means a project that applies for or receives funding under the Agricultural Water Optimization Program.

(12) "Ranking Committee" means an advisory board appointed by the Commission pursuant to Subsection 4-18-108(5) charged with ranking applications for Agricultural Water Optimization Program funding.

(13) "Water Right Groundwater Management Area" or "Critical Management Area" means a groundwater basin in which the groundwater withdrawals consistently exceed the safe yield, pursuant to Subsection 73-5-15(1)(a).

R64-4-3. Purpose-Agricultural Water Optimization Program.

Under the Agricultural Water Optimization Program, grants may be awarded to fund projects that further the purposes of the program, which are to:

- (1) improve agricultural water optimization by:
 - (a) reducing consumptive water use while maintaining or improving agriculture production and profitability; and
 - (b) providing increased operational flexibility for agricultural water users;
- (2) improve agricultural water quantification by:
 - (a) showing accurate, real-time measurement of water diverted for funded projects; and
 - (b) documenting actual water savings in cubic feet per second and acre feet; and
- (3) improve and protect surface and ground water quality.

R64-4-4. Eligible Entities.

Any entity that works with agricultural water is eligible to receive grant funding under the Agricultural Water Optimization Program.

R64-4-5. Application Requirements.

(1) An application for a grant under the Agricultural Water Optimization Program shall include:

- (a) a detailed description how the project will meet the purposes listed in Section R64-4-2;
- (b) a list who will benefit from the project and why;
- (c) a description of the water that will be made available after implementation of the project and how that water is being used;
- (d) an in-depth description of the project and project design;
- (e) the project designer and title;
- (f) the project cost;
- (g) funding amount requested;
- (h) estimated completion date;
- (i) a list of other funding sources and their contribution to the project;
- (j) the water saved by implementing the project;
- (k) the project cost per acre;
- (l) crop production records;
- (m) the current method of water measurement;
- (n) the type of water measurement equipment to be installed;

(o) a map of the project area, which shall be located entirely within Utah;

(p) the county, irrigation season, and water right number associated with the project;

(q) an in-depth description of what environmental benefits shall be gained by funding the project, including whether the project is in a:

- (i) Division of Water Quality (DWQ) Impaired Watershed;
 - (ii) Drinking Water Source Protection Area;
 - (iii) Water Right Groundwater Management Area or Critical Management Area; or
 - (iv) within a mile of a priority water body for aquatic species; and
 - (r) an in-depth description of the water quality benefit to be gained by implementing the project.
- (2) Incomplete applications will not be considered or ranked.

R64-4-6. Ranking Committee.

(1) Complete applications will be evaluated and ranked by an advisory board appointed by the UCC pursuant to Subsection 4-18-108(3) that will serve as a Ranking Committee.

(2) The Ranking Committee may consist of the following members:

- (a) a member of the Commission;
 - (b) a member of the state legislature;
 - (c) an agricultural producer appointed by the Utah Farm Bureau;
 - (d) a representative of the department;
 - (e) a representative of the Utah Division of Water Rights;
 - (f) a representative of the DWQ; and
 - (g) a representative of Utah State University Extension.
- (3) The Ranking Committee shall have at least four members.

(4) Recommendations of the Ranking Committee shall be approved by the Commission before disbursement of Agricultural Water Optimization Program funds.

R64-4-7. Criteria for Awarding Grants.

(1) The Ranking Committee may consider the following factors when ranking applications for Agricultural Water Optimization Program grant funding:

- (a) how closely the proposed project meets the Agricultural Water Optimization Program goals listed in Section R64-4-2;
- (b) who will benefit from the project;
- (c) the type of project;
- (d) funding sources of the project;
- (e) matching funds available for the project;
- (f) the percentage of water saved;
- (g) how the water savings will be determined;
- (h) the project cost per acre;
- (i) whether the project is in a DWQ impaired watershed;
- (j) whether the project is in a Drinking Water Source Protection Area;
- (k) whether the project implements a total maximum daily load;
- (l) whether the project is in a Water Right Ground Water Management Area;
- (m) whether the applicant is ready to begin construction on the project;
- (n) the proximity of the project to surface water; and

(o) whether the project is located in an Agricultural Water Optimization Priority Area.

(2) Any scoring metrics or ranking criteria used by the Ranking Committee shall be approved by the Commission before their use.

R64-4-8. Project Requirements.

(1) Before project implementation, Agricultural Water Optimization Program grantees shall submit a Utah State Historical Preservation Office Cultural Resource Review report to the program manager, pursuant to Section 9-8-404.

(2) No payments reimbursement will be processed until the program manager has received the report.

(3) Projects shall have real-time metering.

(4) The program manager may conduct on-site or virtual project "spot checks" at any time during the life of the project.

(5) Projects will be evaluated through the U. S. Environmental Protection Agency's Spreadsheet Tool for Implementing Pollutant Loads module (STEPL), photo monitoring, or other monitoring depending on the type of project.

(6) The Commission may designate their duties under this section to a UCC subcommittee.

R64-4-9. Reporting Requirements.

(1) Grantees shall submit annual reports to the program manager for three years after their project is completed. Annual report requirements shall be set in policy adopted by the commission.

(2) Failure to submit three years of reporting may result in a requirement to return Agricultural Water Optimization Program funds or ineligibility to receive Agricultural Water Optimization Program funds in the future.

(3) Annually, the Agricultural Water Optimization Program shall gather data related to:

(a) water savings;

(b) crop production;

(c) the number of projects completed; and

(d) other relevant information.

(4) Program data shall be:

(a) presented as aggregated data to protect the grantee's personal information; and

(b) shared with the:

(i) Natural Resources, Agriculture, and Environment Interim Committee;

(ii) other state agencies, as appropriate; and

(iii) the Agricultural Water Optimization Task Force Created in Section 73-10g-202.

KEY: agriculture, water optimization, grants

Date of Last Change: 2022

Authorizing, and Implemented or Interpreted Law: 4-18-105

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R70-101	Filing ID
		54355

Agency Information

1. Department: Agriculture and Food

Agency: Regulatory Services

Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R70-101. Bedding, Upholstered Furniture and Quilted Clothing

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Changes are needed to correct typos in this rule, make the text more consistent with Utah Rulewriting Manual, and remove the compliance period for manufacturers of quilted clothing given that the deadline has passed.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The requirement in Subsection R70-101-9(4) that manufacturers of quilted clothing have five years from January 1, 2017, to include the sterilization permit number on a textile label has been removed given that the deadline has passed. Additional changes have been made to correct typos in this rule and make the text more consistent with Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The changes are nonsubstantive and clarifying and will not impact the operation of the program, and therefore will not have a fiscal impact on the state.

B) Local governments:

Local governments do not administer the program and are not regulated under the program and will not be impacted.

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

There should be no fiscal impact to small businesses because the changes are clarifying existing practice and the operation of the program will not change.

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

There should be no fiscal impact to non-small businesses because the changes are clarifying existing practice and the operation of the program will not change.

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 should be no fiscal impact to other persons because the changes are clarifying existing practice and the operation of the program will not change.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There should be no change in compliance costs for affected persons because compliance requirements are not changing.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule should not have a fiscal impact on businesses. Craig W. Buttars, Commissioner

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Commissioner of the Utah Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 4-10-103

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/17/2022

10. This rule change MAY become effective on: 03/24/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	01/24/2022
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R70. Agriculture and Food, Regulatory Services.**R70-101. Bedding, Upholstered Furniture, and Quilted Clothing.****R70-101-1. Authority and Purpose.**

Pursuant to Section 4-10-103, this rule establishes the standards, practices, and procedures for the manufacture, repair, sale, and distribution of bedding, upholstered furniture, quilted clothing products, and filling materials.

R70-101-2. Definitions.

1) "Clean" means free from stains, dirt, trash, filth, pulp, sludge, oil, grease, fat, skin, epidermis, excreta, vermin, insects, insect eggs, insect carcasses, contamination, hazardous materials, or residual or objectionable substances or odors.

2) "Department" means the Utah Department of Agriculture and Food.

3) "Law Label or Label" means a tag attached to a product that provides information about the product to the consumer.

4) "Manufacture" means the making, processing, or preparing of new or secondhand bedding, upholstered furniture, quilted clothing, or filling material.

5) "Manufacturer" means a person who makes or has employees make any bedding, upholstered furniture, quilted clothing, filling material, or any part ~~thereof~~.

6) "Non-resident" means a person permitted under these rules who does not have premises in Utah.

7) "Person" means an individual, partnership, association, firm, auctioneer, trust, limited liability company, or corporation ~~and any agent, or employee of the foregoing~~.

8) "Premises" means any place where bedding, upholstered furniture, quilted clothing, or filling material is sold, offered for sale, exposed for sale, stored, renovated, or manufactured and the delivery vehicle used in their transportation.

9) "Supply dealer" means a person who manufactures, processes, or sells at wholesale any felt, batting, pads, or other filling, loose in a bag, in a bale or in a container, concealed or not concealed, intended for use in bedding, upholstered furniture, or quilted clothing.

10) "Second Hand Law Tag or Tag" means a tag attached to a product or filling material that has previously been used.

11) "Sterilization Permit Number" means the number issued by a state to be used on any filling material or on the label for bedding, upholstered furniture, or quilted clothing to identify the sterilizing facility, person, or company.

12) "Sterilize" means a process used to make wool, feathers, down, shoddy, or hair free from bacteria or any other living microorganism.

13) "Sterilizer" means a person who sterilizes wool, feathers, down, shoddy, or hair.

14) "Uniform Registry Number or URN" means the number issued by a state to be used on the law label of bedding, furniture, or filling material to identify the manufacturing facility, person, or company.

R70-101-3. Application of Rule.

1) This rule shall apply to any person engaged in the business of manufacturing, retailing, wholesaling, processing, repairing, sterilizing, and selling items of bedding, upholstered furniture, quilted clothing and filling material, regardless of their point of origin.

R70-101-4. Permit Requirements for Manufacturers, Repairers, and Wholesalers.

1) Any person who advertises, solicits, or contracts to manufacture or repair bedding, upholstered furniture, or filling material shall secure a permit from the department before the product is offered for sale in Utah.

2) Any person who advertises, solicits, or contracts to manufacture quilted clothing shall secure a permit from the department before the product is offered for sale in Utah.

3) Any person seeking a permit shall provide the following to the department:

- a completed registration form;
- a sample of the identification label that will be used; and
- a sample tag~~;~~.

~~[d]~~[a] A wholesale bedding, upholstered furniture dealer, upholstery supply dealer, and quilted clothing manufacturer is exempted from providing a sample tag to the department.

~~[4]~~[5] A registration fee ~~[will]~~shall be assessed annually. This fee shall be paid before January 1 or a late fee ~~[will]~~shall be assessed. Each fee is listed in the department's fee schedule approved by the legislature.

R70-101-5. Sterilization Permit Requirements for Sterilizers.

1) Any person who advertises, solicits, or contracts as a sterilizer shall secure a sterilization permit from the department~~;~~

~~a) This permit must be obtained~~ before sterilized products are~~is~~ offered for sale in Utah.

2) Any person seeking a sterilization permit shall provide ~~to~~ the department with a sterilization permit application completed by a department authorized third party inspector.

3) A permit fee ~~[will]~~shall be assessed annually. This fee shall be paid before January 1 or a late fee will be assessed. Each fee is listed in the department's fee schedule approved by the legislature.

4) The inspection for a sterilization permit shall be conducted every three years.

5) A copy of the inspection report shall be submitted to the department with the renewal form for that year.

R70-101-6. Revocation of Permit.

1) The department shall have the authority to suspend or revoke a permit for any violation of these provisions.

2) A suspension or revocation shall be in accordance with ~~[s]~~Section 4-1-106.

R70-101-7. Sanitation Requirements.

1) The premises, delivery equipment, machinery, and any appliances, article, and devices shall ~~[at all times]~~ be kept free from refuse, dirt, contamination, or insects.

2) No person shall use in the making, repairing, or renovating of bedding, upholstered furniture, or quilted clothing any filling material that:

- contains any insect, vermin or filth;
- is not clean; or
- contains burlap or other material that has been used for baling.

3) Bedding, quilted clothing, and filling material shall be stored four inches off the floor.

4) New and used products shall be stored separately.

R70-101-8. Sterilization Requirements for New Fill Material.

1) Any wool, feathers, down, shoddy, and hair shall be cleaned and sterilized before being used as new filling material.

2) Methods for Sterilization.

a) Pressure Steam. The material shall be subjected to treatment by steam at 15 PSI (.104 mPA) for 30 minutes or 20 PSI (.0138 mPA) for 20 minutes. The gauge for registering steam pressure must be visible from the outside of the room or chamber.

b) Streaming Steam. Two applications of streaming steam maintained for a period of one hour each, applied at intervals of not less than six nor more than 24 hours, may be used. Valved outlets shall be provided near the bottom and the top of the room or chamber when streaming steam is employed.

c) Heat[~~is~~]. A temperature of 235 degrees F held for a period of two hours, within a closed container is considered satisfactory for proper sterilization.

d) Other methods of sterilization[~~as~~] may be approved by the department upon petition.

R70-101-9. Manufacturing, Wholesale, Sterilizers, and Supply Dealer Labeling Requirements for Quilted Clothing.

1) The department incorporates by reference the [~~Rules and Regulations~~]rules under the Textile Fiber Products Identification Act, Fur Products Labeling Act, and Wool Products Labeling Act found in 16 CFR parts 300, 301, and 303.

2) Articles of plumage-filled clothing shall meet the following label requirements.

a) Any label stating the contents of Down, Goose Down, or Duck Down shall also state the minimum percentage of Down, Goose Down, or Duck Down that is contained in the article. The down label is a qualified general label and shall include in parentheses the minimum percentage of down in the product which [~~must~~]shall be 75% or greater.

b) "Down and Waterfowl Feathers" may be used to designate any plumage product containing between 50% minimum and 74% down and plumules. The percentage of both [~~must~~]shall be stated on the sewn-in label and hang tags.

c) "Waterfowl Feathers and Down" may be used to designate any plumage product containing between 5% minimum and 49% down and plumules. The percentage of both [~~must~~]shall be stated on the sewn-in label and hang tags.

d) "Waterfowl Feathers" may be used to designate any plumage product containing less than 5% down and plumules.

e) Quill feathers are not permitted unless disclosed.

f) Other plumage products [~~which~~]that do not meet the requirements for any of the listed categories from Subsection R70-101-9(2) [~~must~~]shall be labeled accurately with each component listed separately in order of predominance.

3) The sterilization permit number "PER. NO. " shall be listed on the textile label.

[~~4) Manufacturers of quilted clothing shall have a five year compliance period, starting January 1, 2017, for the inclusion of the sterilization permit number on the textile label.~~]

[~~5~~]4) The form of identification used on a label and a tag shall be the same as those supplied to the department with the registration application.

R70-101-10. Filling Material.

1) Each term or definition of a filling material shall be the term that has been submitted and approved by the International Association of Bedding Law Officials (IABFLO), except as otherwise required by this rule.

2) Notwithstanding Subsection R70-101-10(1), the term "recycled" may be used if the manufacturing facility:

a) is Global Recycled Standard (GRS) certified. The GRS is incorporated by reference[~~is~~];

b) provides proof of GRS certification to the department on the registration form; and

c) provides [~~for each lot or batch of filling material~~]a copy of the certificate or the certification number on the invoice to the retailer for each lot or batch of filling material[~~is~~].

3) [~~4~~]The manufacturing facility shall provide a copy of the certificate or the certification numbers for each batch or lot to the department upon request.

4) Plumage material shall follow the standards as set forth in the "USA-2000 Labeling Standards- Down and Feather Products" and ASTM D-4522, which are incorporated by reference.

5) Any other filling material shall be clean.

6) "Imperfect, irregular foam" means any foam product that shows a major imperfection or that falls below the foam manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the foam.

7) "Imperfect, irregular fibers" shall mean any fiber that has an imperfection or that falls below the fiber manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the fiber.

8) The terms "Prime", "Super", "Northern," and similar terms shall not be used unless the fill can be proved to be of superior quality and meet the terms of the qualifying statement.

R70-101-11. Generic Names, Grades, Descriptive Terms, and Definitions of Filling Material.

1) Filling material shall be described on the label and on the tag using the:

a) true generic name;

b) grade[~~ed~~]

c) description terms; or

d) definition of the filling material that has been approved by the department.

2) When more than one kind of filling material is used in a mixture, the percentage by weight shall be listed in order of predominance.

a) Federal fiber tolerance standards are applicable, except as pertains to a plumage product.

b) Blends may be described in accordance with Section R70-101-10.

3) When a different filling material is used in different parts of the garment, the areas of the garment shall be named, followed by the name of the filling material used in that area.

R70-101-12. Manufacturer Identification and Law Label Requirements for Bedding and Upholstered Furniture.

1) The form of identification used on a label and tag shall be the same as those supplied to the department with the registration.

2) For any article of bedding and upholstered furniture, the law label shall use the format adopted by the IABFLO, as listed in the "Manual of Labeling Laws" of the International Sleep Products Association[~~(ISPA)~~]. A copy of the current edition of the "Manual of Labeling Laws" is available for public inspection at the [~~Utah Department of Agriculture and Food~~]department.

3) The law label for a newly manufactured product shall meet the following requirements:

a) white on [~~all sides~~]each side of the label;

b) made of material that cannot be easily torn;

c) printed in black ink;

d) printed in English;

e) printed clearly and legibly; and

f) firmly attached to the article.

4) Required information shall be printed on one side of the label with the opposite side remaining blank.

5) Each law label shall state the following, in order:

a) the phrase "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" ~~[shall appear]~~ in bold at the top of the label in capital letters no less than 1/8 inches in height;

b) the phrase "ALL NEW MATERIAL" ~~[shall appear in the next section]~~ in bold, capital letters no less than 1/8 inch in height, followed by the phrase "CONSISTING OF", no case or height requirements, followed by the filling contents in bold capital letters no less than 1/8 inch in height;

c) the words "CONTENTS STERILIZED" in bold capital letters no less than 1/8 inch in height;

d) the URN issued by the state in which the firm is first registered ~~[shall appear next]~~;

e) the sterilization permit number of the sterilization facility from which the material was obtained, in bold capital letters no less than 1/8 inch in height;

f) the phrase, "Certification is made by the manufacturer that the materials in this article are described in accordance with law" ~~[shall appear in the next section of the tag]~~; and

g) the name and complete address of the manufacturer, importer, or vendor of the article ~~[shall appear next]~~.

6) The law label shall be easily accessible to the consumer for examination.

a) A product that is offered for sale in a box or in ~~[some]~~ other packaging that makes a law label inaccessible shall reproduce a legible facsimile of the law label on the outer container or covering.

7) No mark, label, printed matter, illustration, sticker, or other device shall be placed upon the label.

8) The firm's license or permit with the state that issued the URN must be kept current for the number to be valid in Utah.

9) ~~[Every]~~ Each firm doing business under more than one state-issued URN or permit shall obtain a permit for each number used on a product that is offered for sale in Utah.

R70-101-13. Second Hand Law Tags and Tagging Requirements.

1) A tag for second hand material shall be:

- a) a minimum of two inches by three inches;
- b) yellow on both sides of the tag;
- c) made of material that cannot be easily torn;
- d) printed in English;
- e) printed in black ink;
- f) printed clearly and legibly; and
- g) firmly attached to the article.

2) Required information shall be printed on one side of the tag with the opposite side remaining blank.

3) A second hand tag shall contain the following information, in order:

a) the phrase "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" ~~[shall appear]~~ in bold at the top of the label in capital letters, no less than 1/8 inch in height;

b) the phrase, "THIS ARTICLE CONTAINS SECOND HAND MATERIAL CONSISTING OF CONTENTS UNKNOWN" ~~[shall appear in the next section of the tag]~~. The words "SECONDHAND MATERIAL" and "CONTENTS UNKNOWN" shall be in capital letters, size not less than 1/8 inches in height[-];

c) the phrase, "Certification is made that the materials in this article are described in accordance with law" ~~[shall appear in the next section of the tag]~~; and

d) the store name and complete corporate address ~~[shall appear next]~~.

4) The tag shall be easily accessible to the consumer for examination.

5) No mark, label, printed matter, illustration, sticker, or any other device shall be placed upon the tag.

R70-101-14. Second Hand Tag and Tagging Requirements for Repaired, Reupholstered, and Renovated Products.

1) A tag for a repaired, reupholstered, and renovated product shall be:

- a) a minimum of two inches by three inches;
- b) yellow on both sides of the tag;
- c) made of material that cannot be easily torn;
- d) have the required information printed on one side of the tag with the opposite side remaining blank;
- e) printed in English;
- f) printed in black ink;
- g) printed clearly and legibly; and
- h) firmly attached to the article.

2) A second hand tag shall contain the following information, in order:

a) the phrase, "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" ~~[shall appear]~~ in bold at the top of the label in capital letters, no less than 1/8 inch in height;

b) the phrase, "THIS ARTICLE IS NOT FOR SALE OWNER'S MATERIAL" ~~[shall appear next]~~ in bold in capital letters, no less than 1/8 inch in height;

c) the phrase, "CERTIFICATION IS MADE THAT THIS ARTICLE CONTAINS THE SAME MATERIAL IT DID WHEN RECEIVED FROM THE OWNER AND THAT ADDED MATERIALS ARE DESCRIBED IN THE ACCORDANCE WITH LAW, AND CONSIST OF THE FOLLOWING:" followed by a description of the filling material;

- d) a description of the work that was done on the product;
- e) the URN number;
- f) the name and address of the renovator or repairer; and
- g) the date of pick-up, owner's name, and address.

R70-101-15. Used Mattresses.

1) A retailer selling a customer returned, refurbished, or used mattress shall follow the second hand law tag requirements as set out in Section R70-101-13.

2) In addition, a retailer ~~[must]~~ shall also display on the mattress a tag stating "USED" in bold capital letters.

3) The USED tag shall be:

- a) a minimum three inches by six inches;
- b) yellow on both sides of the tag;
- c) the font shall be a minimum of one inch in height;
- d) printed in black ink; and
- e) printed in English.

4) Required information shall be printed on one side of the tag with the opposite side remaining blank.

5) The USED tag shall be clearly visible to the consumer ~~[at all times]~~.

R70-101-16. Variance.

1) The department may issue a variance on label and tag requirements.

NOTICES OF PROPOSED RULES

2) A request for a variance ~~[must]~~shall be made to the department in writing and ~~[must]~~shall contain the following information:

- the product associated with the variance request;
- where the variance will be used;
- an explanation of the need for a variance;
- a description of how the variance will be used in practice;

and

e) an example of the label or tag that will be used in place of the required label or tag.

3) Approval of a variance ~~[will]~~shall be given from the department in writing.

4) A variance shall be subject to a period of review.

R70-101-17. Making or Selling Material or Parts.

1) A person shall not purchase, make, process, prepare, or sell, directly or indirectly, at wholesale or retail, or otherwise, any filling material or other component parts to be used in bedding, upholstered furniture, or quilted clothing, unless such material is appropriately tagged.

R70-101-18. Retailer Responsibilities.

1) A retailer[s] shall:

- ensure that any article of bedding, upholstered furniture, quilted clothing, or filling material sold is labeled and tagged correctly;
- comply with state law and the department's ~~[laws and]~~ rules governing false and misleading advertisement; and
- ensure that the manufacturer from whom a retailer purchases a product has a valid permit with the department.

2) Upon request of the department, a~~[A]~~ retailer shall provide the identity of the manufacturer or wholesaler of an article of bedding, upholstered furniture, quilted clothing, or filling material sold~~[upon request of the department]~~.

3) A retailer may register in lieu of the manufacturer or wholesaler if the manufacturer or wholesaler is not registered.

4) A retailer shall ensure that bedding or filling material using the term "recycled":

- is from a GRS certified facility; and
- has a certificate or certification number.

R70-101-19. Violation of This Rule.

1) Each improperly labeled or tagged article of bedding, upholstered furniture, quilted clothing, or filling material made or sold shall be a separate violation of this rule.

2) No person shall be in violation if that person received, from the manufacturer or supplier of the article, a guarantee in good faith that the article is not contrary to ~~[the provisions of]~~ these rules in the form prescribed by the Textile Fiber Products Identification Act, 15 U.S.C. 70, Wool Products Labeling Act, 15 U.S.C. 68, and related Federal Trade Commission rules~~[and regulations]~~.

3) No person shall remove, or cause to be removed, any tag, or device placed upon any article of bedding, upholstered furniture, quilted clothing, or filling material by an inspector.

4) No person may remove an article that has been condemned and ordered held on inspection notice.

5) No person shall interfere with, obstruct, or hinder any inspector of the department in the performance of the inspector's duties.

6) Any article of bedding, upholstered furniture, quilted clothing, or filling material manufactured or wholesaled by a manufacturer or wholesaler who is not registered or permitted may be withheld from sale until the manufacturer or wholesaler registers or obtains a permit.

7) No person shall use the term "recycled" for bedding or filling material unless they meet the requirements of Subsection R701-101-10(2).

R70-101-20. Products Not Intended for Use Subject to this Rule.

1) The Commissioner may exclude from this rule a textile fiber product:~~[that:]~~

a) that has an insignificant or inconsequential textile fiber content; or

b) if the disclosure of the textile fiber content is not necessary for the protection of the consumer.

KEY: inspections, labeling, quality control, registration

Date of Last Change: ~~[June 8, 2020]~~2022

Notice of Continuation: March 12, 2020

Authorizing, and Implemented or Interpreted Law: 4-10-103

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R501-1

Filing ID
54356

Agency Information

1. Department:	Human Services	
Agency:	Administration, Services, Licensing	Administrative
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

General Information

2. Rule or section catchline:

R501-1. General Provisions for Licensing

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Following internal review and discussion, it was determined that the struck-through language was not necessary to meet the statutory requirements. Additionally, there were some minor subnumbering and citation mistakes.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

It was determined that the struck-through language was not necessary to meet the statutory requirements. Additionally, there were some minor numeration and citation mistakes.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no aggregate anticipated cost or savings to state budget because all legislative changes have been accounted for through a fiscal note to supplement office resources for enforcement of this rule change.

B) Local governments:

There is no aggregate anticipated cost or savings to local governments because the proposed rule changes only support local government requirements but does not impose any additional requirements on them.

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

The cost or savings impact on small businesses is inestimable because licensed programs are allowed to demonstrate rule compliance through policy and procedure development. Any additional costs as a result of the new policies and procedures will be self-imposed.

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

The cost or savings impact on non-small businesses is inestimable because licensed programs are allowed to demonstrate rule compliance through policy and procedure development and there a number of ways programs may choose to comply.

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 persons due to the enactment of these proposed rule changes, as the Office of Licensing can only regulate small or non-small businesses meeting the statutory definition for licensure.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There will be no affected persons other than small or non-small businesses meeting the statutory definition for licensure.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-2-101	Section 62A-2-106	Section 62A-2-123
Section 62A-2-124	Section 62A-2-125	

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/17/2022

10. This rule change MAY become effective on: 03/24/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	01/26/2022
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R501. Human Services, Administration, Administrative Services, Licensing.**R501-1. General Provisions for Licensing.****R501-1-1. Authority and Purpose.**

(1) This rule is authorized by Title 62A, Chapter 2, Licensure of Programs and Facilities.

(2) This rule clarifies the standard for:

(a) rules applicable to programs licensed under Title R501; and

(b) licensing procedures to be followed by the office in the enforcement of rules under Title R501.

(3) This rule provides definitions for Title R501.

R501-1-2. Scope.

(1) Except as specifically stated in categorical rule, Rule R501-1 applies to any program subject to licensure.

(2) Each licensee and person associated with the licensee shall comply with:

(a) Rule R501-14;

(b) any applicable categorical rule in Title R501; and

(c) any federal, state, or local law, rule, or ordinance.

R501-1-3. Definitions.

(1) Terms used in this rule are defined in Section 62A-2-101.

(2) "Abuse" means the same as defined in Sections 62A-3-301, 62A-4a-101, [s] 80-1-102, and R512-80-2.

(3) "Body cavity search" means a visual or manual inspection of the body cavity in search of prohibited material. An inspection of a client's mouth after taking medication is not considered a body cavity search.

(4) "Category" means the type of human service license described in Section 62A-2-101.

(5) "Chemical Restraint" means any drug that is used to restrict an individual's freedom of movement for discipline, convenience, or imminent safety and not required to treat the individual's medical symptoms.

(6) "Clinical" means treatment or services delivered by a mental health or medical professional that is licensed by the Division of Occupational and Professional Licensing.

(7) "Compliant" means adherence to governing rule and statute or only minor violations that do not rise to the level of a corrective action plan or penalty.

(8) "Confidential communication" means communication between only the individuals referenced in Subsection 62A-2-123(6). Confidential communication does not allow for outside entities to have access to information contained in the confidential exchange.

(9) "Conflict of Interest" means a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.

(10) "Critical Incident" means an incident that occurs while the program is providing a service or treatment and involves:

(a) abuse or suspected abuse;

(b) neglect or suspected neglect;

(c) exploitation or suspected exploitation;

(d) unexpected death;

(e) any client injury, including self-harm, requiring medical attention beyond basic first aid;

(f) any client injury that is a result of staff or client assault, restraint, or intervention;

(g) any prohibited practice as described in Section 62A-2-123;

(h) any restraint in a congregate care setting;

(i) any seclusion in a congregate care setting;

(j) any body cavity search;

(k) any strip search;

(l) except for a minor infraction, any illegal activity including significant criminal activity as defined in this section

(m) significant medical emergency as defined in this section, or any other protective service intervention;

(n) the unlawful or unauthorized presence or use of alcohol, substances, or harmful contraband items;

(o) the unauthorized presence or misuse of dangerous weapons;

(p) attempted self-directed violence;

(q) any on duty or client-involved staff sexual misconduct, any client unlawful sexual misconduct, or any consensual client sexual conduct between clients under the age of 16;

(r) client rights violations;

(s) department code of conduct violations;

(t) medication errors impacting client well-being, medical status, or functioning;

(u) the unauthorized departure of a client from a program;

(v) a contagious illness or situation requiring notification of or consultation with the local health department;

(w) any change to a client's environment compromising the immediate health or safety of the client including roof collapse, fire, flood, weather events, natural disasters, and infestations; or

(x) any other incident that compromises a client's immediate health or safety.

(11) "Direct Care Staff" means staff working directly with clients.

(12) "Direct Supervision" means in close physical proximity and actively supervising clients with the ability to immediately respond as necessary.

(13) "Director" means the same as defined in Section 62A-2-101 and does not mean a program director.

(14) "Emotional Mistreatment" means verbal or non-verbal conduct that results in a client suffering significant mental anguish, emotional distress, fear, humiliation, or degradation. Emotional mistreatment includes demeaning, threatening, terrorizing, alienating, isolating, intimidating, or harassing a client.

(15) "Exploitation" includes:

(a) the use of a client's property, labor, or resources without the client's consent or in a manner that is contrary to the client's best interests, or for the gain of some person other than the client; such as expending a client's funds for the benefit of another;

(b) using the labor of a client without paying the client a fair wage or without providing the client with just or equivalent non-monetary compensation, where such use is inconsistent with therapeutic practices;

(c) engaging or involving a client in any sexual conduct; or

(d) sexual abuse of a minor or vulnerable adult as described in Sections 76-5b-201, 76-5b-202 and Subsection 76-5-111(4).

(16) "Fraud" means a false or deceptive statement, act, or omission that causes, or attempts to cause, property or financial damages, or for personal or licensee gain. Fraud includes the offenses identified as fraud in Title 76, Chapter 6, Offenses Against Property.

(17) "Harm" means financial, physical, or emotional pain, damage, or injury.

(18) "Initial license" means the license issued to operate a human services program during the licensee's first year of licensure. This license is considered provisional and allows for the licensee to demonstrate sustained compliance with licensing rules before renewal. An initial license following a lapse in license is not considered provisional.

(19) "Inspection" means an announced or unannounced visit of the licensed site as described in Section 62A-2-118.

(20) "Medication-Assisted Treatment" means the use of medications with counseling and behavioral therapies to treat substance use disorders or prevent opioid overdose.

(21) "Mistreatment" means emotional or physical mistreatment.

(22) "Neglect" means abandonment or the failure to provide necessary care, including nutrition, education, clothing, shelter, sleep, bedding, supervision, health care, hygiene, treatment, or protection from harm. Neglect also means the same as defined in Sections 62A-3-301; 62A-4a-101; 76-5-110; and 80-1-102.

(23) "On duty" means individuals counted in supervision ratios and charged with supervising clients as a primary job requirement.

(24) "Owner" means any licensee, person, or entity that:

(a) is defined as a member in Section 62A-2-108;

(b) is listed on a foster home license;

(c) possesses the exclusive right to hold, use benefit from, enjoy, convey, transfer, and otherwise dispose of a program;

(d) retains the rights, participates in, or is ultimately responsible for operations and business decisions of a program; or

(e) operates or has engaged the services of others to operate the program.

(25) "Parent program" means an applicant or licensee owning or directing multiple sites under the same general administrative organization.

(26) "Penalty" means an action taken by the office to deny, place a condition on, suspend, or revoke a human services license due to the licensee's non-compliance with statute or administrative rule. Penalty includes penalties as described in Section 62A-2-112. A penalty does not include corrective action plans.

(27) "Person" means an individual, agency, association, partnership, corporation, business entity, or governmental entity.

(28) "Physical mistreatment" means conduct that results in pain, injury, or death.

(29) "Program" means ~~[H]~~human ~~[S]~~services program as defined in 62A-2-101 and may also be referred to as "Provider" in rules under this title.

(30) "Program director" means an individual responsible for day-to-day operations of a program.

(31) "Regular business hours" are the hours that the program is available to the public or providing services to clients.

(32) "Renewal license" means a license issued to a continuing program based upon the program's compliance with administrative rule and statute.

(33) "Residential program" means a program providing overnight care and includes the following license categories:

(a) recovery residence;

(b) residential support;

(c) residential treatment;

(d) outdoor youth;

(e) therapeutic school; and

(f) social detoxification.

(34) "Restraint" means physically restricting a person's freedom of movement, physical activity, or normal access to their body; and includes chemical and mechanical restraint. Restraint does not mean an escort used to lead, guide, or direct a client.

(35) "Seclusion" means the same as defined in Section 62A-2-101 and includes social isolation. Seclusion is not a voluntary time-out or medical quarantine and isolation when approved by a medical professional.

(36) "Significant criminal activity" means any unlawful activity by or against one of the program's clients or by or against an on duty staff member that poses a serious threat to client or staff health, safety, or well-being that includes:

(a) possession of an illegal substance or weapon;

(b) illegal physical or sexual misconduct or assault;

(c) riot;

(d) suspected fraud;

(e) suspected exploitation; and

(f) any significant criminal activity relevant to a program's population as described in the program's policy and procedure manual.

(37) "Significant medical emergency" means an acute injury or illness posing an immediate risk to a person's life or health or requires emergency medical care.

(38) "Site" means a human services program identified by a single geographic location and must be linked to the parent program, if one exists.

(39) "Staff" means an individual who is associated with a licensee.

(40) "Strip search" means requiring a client to undress down to undergarments or complete nudity in view of another person.

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(41) "Trauma informed" means overall practices that promote environments of healing and recovery rather than practices and services that may inadvertently re-traumatize.

(42) "Variance" means any authorized deviation from administrative rule as described in Section R501-1-8.

(43) "Violation" means an act or omission by a licensee, or any person associated with the licensee that is contrary to any administrative regulation, local, state, or federal law applicable to the program.

R501-1-4. Licensing Application Procedures.

(1) Initial and Renewal Application

(a) An applicant may not accept any fee, enter into any agreement to provide a client service, or provide any client service until licensed by the office.

(b) The office shall issue a license for a program only after verifying compliance with any applicable administrative rule or statute.

(c) An applicant or a licensee shall permit the office to have immediate, unrestricted access to:

- (i) each site subject to licensing;
- (ii) any on and off-site program and client records; and
- (iii) each staff and client.

(d) An applicant may withdraw an application for a license at any time during the application process. The applicant must notify the office in writing.

(e) An applicant seeking an initial or renewal license to operate a human services program shall submit:

- (i) an application as provided by the office;
- (ii) except as described in Subsection R501-1-7(2), the fee required for each category of human service program license applied for;

(iii) except as described in Subsection 62A-2-120(13), a background clearance for each person associated with the licensee as described in Section 62A-2-120 and Rule R501-1-4;

(iv) any required policy and procedure;

(v) for renewal purposes, rather than submitting each program policy and procedure, the applicant may choose to only submit each policy and procedure that has been modified;

(vi) name and contact information for each responsible decision-maker, including any owner or program director; and

(vii) documentation that verifies the applicant's compliance with, or exemption from, any local government zoning, health, fire, safety, and business license requirement.

(f) A program may not ~~modify~~ change an approved policy without a new office approval as described in Section R501-1-9.

(g) If a program fails to submit a renewal application at least 30-days before the expiration date of the current license, the license may expire.

(h) A residential treatment program applying for an initial license shall submit proof that the program served notice of intent to operate as described in ~~Sub~~ Section 62A-2-108.2.

(2) Application Expiration

(a) Except for a foster home application, an initial application that remains incomplete shall expire one year from the date of application.

(b) An initial application for a foster home that remains incomplete shall expire 90 days after the date of application unless extended by the office.

(c) An expired initial application is void. The program must submit a new initial application and applicable fees for each category of license requested.

(3) The office may deny the initial application or place a penalty on a renewal license if:

(a) the program failed to achieve or maintain compliance with each statute, rule, or ordinance related to the program;

(b) the office reasonably determines that the program is not likely to operate in compliance with any statute, rule, or ordinance;

(c) the office finds a program director, owner, or any individual involved in the program's billing process on the office of Inspector General's List of Excluded Individuals and Entities; or

(d) the office finds that a program maintains association with any individual with a license revoked by the office within the five-year period before to the date on the program's application.

(4) The office shall consider rule violation history when determining whether a program is likely to comply with any statute, rule, or ordinance.

(5) The office shall consider misleading information that has been presented by the program to the office, program clients, prospective clients, or public when determining whether a program is likely to comply with statute, rule, or ordinance.

(6) A denied applicant may not reapply for a minimum of a three-month period beginning on the date of denial.

R501-1-5. Licensing Determinations.

(1) The office may place an individualized parameter on a program license to promote the health, safety, and welfare of any client. Such parameters may include:

- (a) an age restriction;
- (b) an admission or placement restriction; or
- (c) any other parameter specific to an individual site or program.

(2) A license certificate shall state the name, the site address, the license category, the maximum client capacity, any specific parameter, and the effective date of the license.

(3) The office may not issue an initial license to a site associated with a parent program if any other license associated with the parent program is under penalty or has a pending appeal.

(4) A program may apply for a two-year license if:

- (a) the program is not a residential or foster care program;
- (b) the program is in good standing with the office for the two consecutive licenses issued by the office immediately before the date of application;

(c) the office reasonably determines that the program is likely to maintain good standing for a two-year period; and

(d) the program submits twice the annual fee required for each category of license sought.

(5) License Expiration

(a) An expired license is void and may not be renewed unless an application and fees are submitted for an initial license. The program must be granted an initial license before providing any services, except as allowed in Subsection R501-1-4(5)(c).

(b) A license expires at midnight on the last day of the same month the license was issued, one year after the effective date on the license, except when:

- (i) the office revokes the license before expiration;
- (ii) the office extends the license beyond the date of expiration;
- (iii) the licensee relinquished the license;
- (iv) the licensee requested a shortened license expiration time frame; or

(v) the license is issued as a two-year license. A two-year license expires at midnight on the last day of the same month the license was issued, two years after the effective date on the license.

(c) Except for an action necessary to maintain the health and safety of a client while transitioning out of the program or obtaining a new license to operate, a program with an expired license may not accept any client, fee, enter any agreement to provide a client service, or provide any client service.

(6) Except as described in Subsection R501-1-5(6)(c), the office may extend a current license for a maximum 90-day period after the license expiration date.

(a) A program must submit a renewal application and applicable fee before the expiration date on the license.

(b) The office may extend a license only once.

(c) The office may extend a current license that is not in good standing with a penalty.

(d) The office shall grant a renewal license if the program remedies any non-compliance to the satisfaction of the office.

(e) The office shall reduce the license period for any renewal license granted immediately after an extension equal to the time period of the extension.

(7) A licensee wishing to voluntarily relinquish a license shall submit a written notice to the office. Voluntary relinquishment of a license may not be accepted by the office if a notice of agency action revoking the license has been initiated.

R501-1-6. Program Changes.

(1) Name Change

(a) A licensee may not change the name of a program or site without a renewal application submitted to the office.

(b) The licensee shall submit updated program documentation reflecting the new name to the office before making the name change public.

(c) The office may link the former name of the program to the new name on the licensing database, on each license certificate, and public website, for a two-year period after the name change.

(2) Relocation

(a) A licensee may change the location of a program.

(b) The licensee may not serve a client at any new program location without a license.

(c) Before moving any program to a new location, the licensee shall submit a renewal application as described in Subsection R501-1-4(1) at least 30 days before moving and an updated license for the new site must be issued. The application shall also include proof of:

(i) a business license at the new site; and

(ii) insurance coverage at the new site.

(d) A foster home may transfer a current license a new site only after:

(i) submitting a request to relocate to the office at least 30 days before moving to the new site; and

(ii) the office inspects and approves licensure at the new site; which approval shall occur within two weeks if a foster child is placed in a foster home or within 30 days if there are no current foster placements.

(e) If a foster child is placed in a foster home, it is the responsibility of the licensed foster parent to ensure the health and safety of the foster child during the transfer to the new site.

(f) Except as described in Subsection R501-1-6(2), moving from a licensed site voids that site's license.

(3) Capacity Change

(a) A licensee seeking to increase the maximum client capacity of a program shall submit a renewal application requesting the new capacity.

(b) The program may not serve additional clients until the program pays the renewal fee for a license renewal as required by the rules of the human service program category and the office issues an updated license.

(4) Add New License Category

(a) A program may request to add a new license category to an existing licensed site by submitting an initial application for the additional license and fees for an initial license.

(b) Each requirement for initial licensure must be verified.

(5) Add New Location

(a) A program may add an additional site of service by submitting an application and fees and receiving an initial license.

(b) Each requirement for initial licensure must be verified.

(6) Ownership Changes

(a) A program anticipating, or undergoing a change of ownership, shall submit in writing, before the change:

(i) any change to programming or service;

(ii) a declaration regarding responsibility for records and records retention to include an agreement, signed by both current and prospective owners and program directors, detailing how records will be retained and remain available to the office in accordance with licensing rules regardless of whether the program remains licensed;

(iii) names and contact information of any new directors or owners;

(iv) documentation of continuous insurance coverage; and

(v) an updated business license.

(b) The status of a license at the time of a change of ownership shall continue.

(7) The office may require a new initial application and fees for each license category for any substantial change under this section, which may include:

(a) a substantial change resulting in direct client impact;

(b) any change to programming;

(c) any change in the population served;

(d) any severed tie with a previous owner; or

(e) any disruption in the continuity of record retention.

R501-1-7. License Fees.

(1) The office shall collect licensing fees as described in Section 62A-2-106, and Title 63J, Chapter 5, Federal Funds Procedures Act.

(2) No licensing fee shall be required from a foster home or a division or office of the department.

(3) The office is not required to perform any on-site visit or document review until the person applying for a license pays the licensing fee.

(4) If a license is not granted by the office, a license application fee expires 12 months after the date of application.

(5) A fee paid by a licensee may not be transferred, prorated, reduced, waived, or refunded. Any cost incurred by the applicant in preparation for, or maintenance of licensure is the sole responsibility of the applicant.

(6) An applicant must pay an initial license fee for each category of human services program offered at each program site.

(7) An applicant must pay a renewal license fee and any capacity fee for each license that is renewed at each program site.

(8) A capacity fee is calculated based on the maximum licensed client capacity of the human service program.

(9) A license with more than one building, unit, or suite located at a single site may choose between the following methods of assessing a fee and issuing a license:

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- (a) each category of license includes each on-site building, unit, or suite; or
- (b) each category of license is issued separately for each individual on-site building, unit, or suite.

R501-1-8. Variances.

- (1) A licensee may not deviate from any administrative rule before receiving written approval signed by the director, or the director's designee.
- (2) The director, or the director's designee, may grant a variance after determining that a variance is not likely:
 - (a) to compromise client health and safety; or
 - (b) provide an opportunity for abuse, neglect, exploitation, harm, mistreatment, or fraud.
- (3) A licensee seeking a variance must submit a written request to their licensing specialist that includes:
 - (a) the rule for which the variance is requested;
 - (b) the reason for the request;
 - (c) how the variance provides for the best interest of the client;
 - (d) any procedures that will be implemented to ensure the health and safety of each client; and
 - (e) the proposed start date and end date of the variance.
- (4) The written request described in Subsection R501-1-8(3) must be submitted at least 30 days before the proposed start date unless the licensee documents a need to expedite the request.
- (5) The office shall review the variance and notify the licensee of the approval, approval with conditions, or denial of the variance, in writing, within 30 days from receipt of the request.
- (6) The licensee shall comply with the terms of a written variance, including any conditions or modifications contained within the approved written variance.
- (7) A variance expires on the end date specified in the approval notice. Terms of the variance are no longer permitted by the office after the end date.
- (8) The office may renew a variance if the program justifies the request and ensures the ongoing health and safety of each client.

R501-1-9. Required Approvals.

- (1) As described in Subsection 62A-2-106(1), the office shall review and approve the following policies and procedures before program implementation by each licensee:
 - (a) any sex and gender discrimination policy as described in Section 62A-2-124; and
 - (b) any behavior management, suicide prevention, restraint, or seclusion policy or procedure used in a congregate care program as described in Section 62A-2-123 and Rule R501-1.
- (2) Each sex and gender discrimination policy must include the required content and language as described in Subsection R501-1-24(3)(s).
- (3) The office shall:
 - (a) provide written approval or denial of any policy and curriculum within 30 days of the date of submission;
 - (b) provide written feedback on any denied policy;
 - (c) re-review any denied policy or curriculum within 14 days of re-submission; and
 - (d) issue a written approval for any policy requiring approval by this section.
- (4) The licensee shall submit any change to a policy or curriculum that has been approved by the office to the office for approval before implementing the proposed change.

- (5) The office may withdraw approval and deny any previously approved policy or curriculum at any time or by providing written feedback to the program as described in Subsection R501-1-9(3).

R501-1-10. Monitoring.

- (1) Except as described in Section 62A-2-123 for a congregate care program, the office shall conduct at least one annual on-site inspection in each program.
- (2) The office may conduct as many inspections, announced or unannounced, as necessary to monitor compliance, investigate alleged violations, monitor corrective action plans or penalty compliance, or to gather information for license renewal.
- (3) An on-site inspection shall take place during regular business hours.
- (4) An applicant or licensee may not restrict the office's access to the site, client, staff, or any program records.
- (5) A licensee and licensee's staff may not compromise the integrity of the office's information gathering process by withholding or manipulating information or influencing any specific response of staff or clients.
- (6) The office shall consider each on-site inspection during the renewal or denial of the license application at the end of the license period.
 - (a) Pursuant to Subsection 62A-2-118(1), the office may accept another government entity's inspection results completed for a program during the effective license period or within the preceding quarter to the current license period to identify compliance or non-compliance with relevant rules.
 - (b) The office may review and consider any report from an accreditation agency or any other entity for each inspection conducted during or before the effective license period to determine compliance or violation of licensing rule.
 - (c) If a conflict arises between an oversight entity's requirement and rule, the program shall request a rule variance from the office.
 - (7) Except for a foster home, the licensee shall make a copy of any inspection report available to the public upon request as described in Subsection 62A-2-118(5).

- (8) The office may adopt a written inspection report from a local government, certifying entity, contracting entity, or accrediting entity if the report offers information about the licensee's compliance with a licensing requirement.
- (9) The licensee shall allow the office to access any program record or staff at an administrative location that is not located at the licensed site.

R501-1-11. Investigations of Alleged Violations.

- (1) Unlicensed Programs
 - (a) The office shall investigate each report of an unlicensed human service program.
 - (b) Investigation of an unlicensed human service program may include interviewing any individual or neighbor at the site or gathering information from any source that will aid the office in determining whether the site should be licensed.
 - (c) If an unlicensed human services program that requires licensure fails to become licensed and continues to operate, the office shall refer the program to the office of the Attorney General, and the County Attorney.
 - (d) The office may penalize each site operated by a licensed program if the program adds or operates an unlicensed site that requires licensure.

(2) Licensed Program Complaints and Critical Incidents

(a) The office may investigate any critical incident or complaint that alleges a licensing violation regarding a licensed human services program.

(b) The office accepts a complaint about a licensee from any source, including the office website or complaint email address.

(c) The office may decline to investigate a complaint that is anonymous; unrelated to a current condition of the program; or not an alleged violation of a rule or statute.

(d) A critical incident that involves a client or on duty staff that occurs in a licensed setting or under the direct responsibility and supervision of the program shall be reported by the licensee as follows:

(i) a report shall be made to the office within one business day;

(ii) a notification shall be made to legal guardian of the involved client within a 24-hour period that begins at the time of the incident; and

(iii) if the critical incident involves a client or service to a youth currently in the custody of the department, the licensee shall make an immediate live-person verbal notification to the involved division.

(e) An initial critical incident report shall be made in writing and include the following:

(i) name of provider and names or unique initials of each involved staff, witnesses and clients with the ability to identify each set of unique initials upon request by the office;

(ii) date, time, and location of the incident, and date and time of incident discovery, if different from time of incident;

(iii) descriptive summary of incident;

(iv) any action taken;

(v) any action that the program plans to take at the time of the report; and

(vi) identification of department contract status.

(f) Upon request by the office, the licensee shall collect, maintain, and submit original witness statements and supporting documentation, including video footage if available, regarding each critical incident.

(3) Investigative Process

(a) An in-person or electronic investigation may include:

(i) a review of any on or off-site record;

(ii) interview of each licensee, witness, client, or staff;

(iii) gathering information from any collateral party; and

(iv) a site inspection.

(b) The office shall prioritize an unlicensed program, a complaint regarding a licensed program, and a critical incident following an assessment of risk to client health and safety as follows:

(i) an allegation identified by the office as a potential imminent risk to the health and safety of a client requires an initial on-site contact by the office within three business days of the report date; or

(ii) any other allegations that require the office initiate an investigation within ten business days of the report date.

(c) The office may use law enforcement, Child or Adult Protective services, or any other protection agency to meet a priority on-site response.

(d) A licensee and staff shall cooperate in any investigation.

(e) The office may report any allegation or evidence of abuse, neglect, exploitation, mistreatment, illegal activity or fraud to a client, clients' legal guardian, or any entity determined necessary by the office.

(f) If a program sells or arranges for client insurance coverage, the program must:

(i) inform the client in writing of the program's role and responsibility;

(ii) provide the insurer with any program provider record;

(iii) contact and cooperate with the insurance department during any dispute regarding a service or supply billed; and

(iv) not provide unlawful substance abuse patient brokering as described in Subsection 62A-2-116(5).

R501-1-12. License Violations.

(1) When the office finds evidence of a violation of statute or rule, the office shall do one of the following:

(a) provide written notification of each violation requiring the licensee to correct each violation with a dated request for remediation, if applicable;

(b) provide written notification of each violation and request a licensee to submit a corrective action plan in response to a written notification of a violation or pattern of similar violations over time; or

(c) issue a penalty if the office determines that a violation is serious enough to merit a penalty without first issuing a request for a corrective action plan.

(2) The office may consider the chronicity, severity, and pervasiveness of a violation when determining one of the following agency actions:

(a) notification of a violation;

(b) request for a corrective action plan; or

(c) issue a formal penalty.

(3) A repeated violation of rule or statute or failure to comply with a condition of a notice of agency action may elevate the penalty level assessed.

(4) When the office issues a request for a corrective action plan, a licensee shall submit a written corrective action plan to the office within ten business days from the date of the request and the corrective action plan shall include:

(a) a statement of each violation identified by the office;

(b) a detailed description of how the licensee will correct each violation and prevent an additional violation;

(c) the date by which the licensee will achieve compliance with administrative rule and statute; and

(d) describe the involvement of each program owner and director, including each foster parent, if involving a licensed or certified foster home.

(5) The office shall review corrective action plans submitted to the office and either inform the licensee that the corrective action plan is approved or inform the licensee that the corrective action plan is not approved and provide explanation.

(6) If a corrective action plan is not approved, the office may permit a licensee to amend and resubmit its corrective action plan within five additional business days.

(7) A notification of violation or a request for a corrective action plan is not a penalty.

(8) A program may choose to refuse the notification of violation or corrective action plan process and preserve the program's appeal rights by instead requesting a penalty.

(9) The office may issue a penalty for a violation if the licensee fails to submit and comply with an approved corrective action plan.

(10) The office may provide a written notice of agency action issuing the following penalties:

(a) a conditional license;

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- (b) a suspended license for up to a three-year period; or
- (c) a revoked license.

(11) A conditional license allows a program that is in the process of correcting a violation to continue operation, subject to each condition established by the office. Failure to meet each term, condition, and time frame outlined in the notice may result in further penalty action or denial of the renewal license application.

(12) When a license has been suspended, Subsection R501-1-12(14) applies, except as described in Subsection R501-1-12(13).

(13) If the placing department entity approves and elects to allow the foster child to remain in the placement, a suspended foster care provider may continue caring for a foster child currently placed at the time of suspension.

(14) A program that has had its license suspended or revoked shall:

- (a) not accept new clients;
- (b) only provide any service necessary to maintain client health and safety during the client's transition out of the program;
- (c) subject to Subsection R501-1-12(13), develop and comply with a plan to transition each client out of the program and into an equivalent, safe, currently licensed programs or into the custody of the client's legal guardian; and
- (d) maintain program staffing and health and safety needs of each client while an appeal of the suspension or revocation is pending.

(15) The office shall maintain a record of each licensee with a revoked license for a five-year period. An individual identified in the record shall not associate with any other department licensed program during that five-year period.

(16) A licensee shall not employ, contract with, or in any way associate with a person identified on the record created in Subsection R501-1-12(15). A program in violation of this provision shall be subject to immediate penalty.

(17) The office may place a condition in the notice of agency action to protect the health and safety of clients. A condition included in the notice of agency action takes effect on the date of notice.

(18) Except when instructed by the office, a licensee shall post the notice of agency action on-site, and on the homepage of each of each program website, where it can be easily reviewed by each client, guardian of a client, and visitor within five business days, and shall remain posted until the resolution of the penalty.

(19) A licensee shall notify each client, guardian, and prospective client of a notice of agency action issued by the office within five business days of receiving notice. Any prospective client must be notified for as long as the notice of agency action is in effect.

(20) If an appeal of a revocation, suspension or conditional license that restricts admission is pending, a licensee shall not accept any new client as outlined on the notice of agency action without prior written authorization from the office.

R501-1-13. Program Administrative and Direct Service Requirements.

(1) A program shall transparently identify services to the office, public, potential client, parent, or guardian regarding:

- (a) contact information;
- (b) the complaint reporting and resolution process;
- (c) a description of each service provided;
- (e) each program requirement and expectation;
- (f) eligibility criteria outlining behavior, diagnosis, situation, population, and age that can be safely served;

(g) each cost, fee, and expense for a service and refund policy; and

(h) identification of each non-clinical, extracurricular, or supplemental service offered or referred.

(2) The following shall be posted in conspicuous places where each visitor, staff, and client may view:

- (a) abuse reporting laws as described in Sections 62A-4a-403 and 62A-3-305;
- (b) civil rights notice;
- (c) Americans with Disabilities Act notice;
- (d) the program license;
- (e) any office notice of agency action; and
- (f) a client rights poster.

(3) Program administration shall maintain compliance with or documentation of an exemption from any of the following requirements:

- (a) a food handler permits for any person preparing meals for any other person;
 - (b) business licenses;
 - (c) capacity determinations, which capacity shall include each staff and client on premises and may not exceed the capacity limits placed by local authorities;
 - (d) fire clearance, if conducted separately from a business license;
 - (e) licensure and registration of any vehicles used to transport clients.
- (4) The office may not issue a license in good standing to a program whose local clearances are under dispute.
- (5) Program administration shall maintain:
- (a) proof of financial viability of the program as verified by a financial professional;
 - (b) general liability insurance;
 - (c) professional liability insurance;
 - (d) vehicle insurance;
 - (e) fire insurance; and
 - (f) additional insurance as required to cover each program activity.

(6) Program administration shall ensure:

- (a) each entity associated with the licensee read, understand, sign, and follow the current department code of conduct;
- (b) current staff and client lists are available at each licensed site;
- (c) the organizational and governance structure of the program, this includes:
 - (i) line of authority and responsibility;
 - (ii) a job description, including each duty and qualification for each job title; and
 - (iii) notification to the office of any program changes as described in Section R501-1-6;
- (d) the program implements and follows a quality improvement plan that incorporates, at a minimum, client and staff grievances, feedback, and trends in licensing violations and incident reports;

- (e) the program provides an interpreter or refers each client to appropriate resources as necessary to communicate with the client;
- (f) at least one CPR and First Aid trained or certified staff member is available ~~whenever~~ when staff and clients are present together;

- (g) the program maintains an opioid overdose reversal kit on-site with on duty staff trained in its use if the program is serving, or is likely to serve, a client with a substance use disorder; and

(h) the program provides trainings and monitors staff to ensure compliance regarding program policy and procedures including:

- (i) the needs of each client;
- (ii) licensing rule;
- (iii) client rights as described in Section R501-1-27;
- (iv) department code of conduct;
- (v) incident reporting;
- (vi) program emergency response plan; and
- (vii) CPR and first aid.

(7) A program serving education entitled children, as that term is defined in ~~Sub~~section 62A-2-108.1, shall comply with ~~S[ub]~~section 62A-2-108.1 regarding coordination of educational services to include completion of youth education forms at initial and renewal licensure.

(8) A program providing school on-site shall:

(a) maintain the established staff to client ratio with behavioral intervention trained staff in the school setting;

(b) be recognized as in good standing by an educational accreditation organization such as the State Board of Education or the National School Accreditation Board; and

(c) ensure each youth is taught at grade level.

(9) Clinical and medical staff are licensed or certified in good standing and any unlicensed staff are appropriately supervised as described in Title 58, Occupations and Professions.

(10) A program that utilizes telehealth for treatment shall comply with each applicable rule.

R501-1-14. Residential Program Additional Administration and Direct Services Requirements.

(1) A program providing residential service shall:

(a) demonstrate compliance with Section 62A-2-125;

(b) ensure each staff shift list remains current and available to the office upon request;

(c) ensure access to a medical clinic or a medical professional familiar with the program and population served; and

(d) provide a separate space for clients who are sick.

(2) A program providing residential service to youth who have been placed in Utah from outside of Utah shall demonstrate compliance with Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children.

(3) A congregate care program serving youth may allow an individual turning 18 to remain in the program as described in Subsection 62A-2-106(1) if:

(a) the individual remains in the custody of a State entity or the individual was admitted and continuously resided in the program for at least 30 days before the individual's 18th birthday;

(b) the program has a documented need for the individual to remain in the program;

(c) the program maintains responsibility for discharge to an appropriate setting when clinically appropriate and no later than the day an individual reaches 19 years of age;

(d) the program outlines a policy regarding the protection of younger clients by supervising or separating 18-year-old individuals from youth who are more than two years younger; and

(e) the individual signs a consent document outlining:

(i) the individual is consenting to remain in the program voluntarily and understands the individual is not required to remain against their will;

(ii) that any criminal offenses committed may result in being charged as an adult; and

(iii) that if the individual is involved in any critical incidents posing a risk to the health and safety of other program residents they may be discharged from the program.

(4) A congregate care program shall ensure weekly confidential communication with family in accordance with Section 62A-2-123.

(5) Before allowing a direct care staff to work unsupervised they must have an approved background clearance and be trained in the following:

(a) behavior management policy and curriculum including crisis intervention, appropriate use of restraint and seclusion, and de-escalation techniques;

(b) which practices are prohibited for congregate care programs by Section 62A-2-123;

(c) the clinical needs of each of the clientele;

(d) client rights;

(e) department code of conduct; and

(f) incident reporting.

(6) Direct care staff must be trained in the following within six months of hire:

(a) CPR; and

(b) first aid.

R501-1-15. Program Physical Facilities and Safety.

(1) Each program shall ensure the appearance and cleanliness of the building and grounds are maintained and free from health and fire hazards.

(2) Each program shall ensure that all appliances, plumbing, electrical, HVAC, and furnishings are maintained in operating order and in a clean and safe condition.

(3) Each program shall accommodate clients with disabilities as needed or appropriately refer to comparable services.

(4) Each program shall ensure that fire drills in non-outpatient programs shall be conducted and documented at least quarterly and program administration shall provide and document feedback regarding response time and process.

(5) Each program shall ensure that a 911 recognizable phone is always on-site with clients.

(6) Each program shall ensure that bathroom facilities for staff and clients allow for individual privacy and afford reasonable accommodation based on gender identity.

(7) Each program shall ensure that each bathroom shall be properly equipped with toilet paper, paper towels or a dryer, and soap.

(8) Each program shall ensure that each bathroom is ventilated by mechanical means or equipped with a window that opens.

(9) Each program shall maintain medications and potentially hazardous items on-site lawfully, responsibly, and with consideration of the safety and risk level of the population served. This shall include locked storage for each medication and hazardous chemical.

(10) Each program shall ensure that non-prescription medications, if stored on-site, are stored in original manufacturer's packaging together with the manufacturer's directions and warnings.

(11) Each program shall ensure that prescription medications, if stored on-site, are stored in original pharmacy packaging or individual pharmacy bubble pack together with the pharmacy label, directions, and warnings.

(12) Each program shall maintain a fully supplied first aid kit as recommended by the American Red Cross.

R501-1-16. Residential Program Additional Facilities and Safety Requirements.

(1) Each residential program shall ensure designated space is available for records, administrative work, and confidential phone calls for clients.

(2) Each residential program shall ensure bedroom assignments shall be made in accordance with each agency policy and individualized assessment described in Section 62A-2-124.

(3) Each residential program shall ensure that live-in staff have separate living spaces with a bathroom that is separate from client bathrooms.

(4) Each residential program shall ensure that each bedroom designated for clients shall be comparable to other similarly utilized bedrooms with similar access, location, space, finishings, and furnishings.

(5) Dormitory space is only allowed in an emergency homeless shelter or a program serving only adults.

(6) Each residential program shall ensure that each client is not locked in a bedroom.

(7) Each residential program shall ensure that each mirror or safety mirror is secured to the bathroom wall at a convenient height.

(8) Each residential program shall ensure that each bathroom is placed to allow access to each client without disturbing any other client during sleeping hours.

(9) Each residential program shall ensure that each bath or shower allows for individual privacy.

(10) Each residential program shall ensure that each client is supplied with hygiene supplies.

(11) Each residential program shall ensure that each sleeping area has a source of natural light and is ventilated by mechanical means or is equipped with a window that opens.

(12) Each residential program shall ensure that each bed is solidly constructed and non-portable.

(13) Each residential program shall ensure that each client is permitted to decorate and personalize the client's bedroom, while maintaining respect for each other resident and property.

(14) Each residential program that provides common laundry for towels, bedding, or clothing shall provide separate containers for soiled and clean laundry.

(15) Each residential program shall ensure that bedding and towels shall be laundered weekly and after each client is discharged.

(16) Each residential program permitting clients to do the client's own laundry shall provide equipment and supplies for washing and drying.

(17) Each residential program shall ensure that each individual is provided with at least 60 square feet in a multiple occupant bedroom and 80 square feet in a single occupant bedroom.

(18) Each residential program serving individuals with disabilities shall house no more than two persons in each bedroom.

R501-1-17. Food Service Requirements.

(1) Each residential program that provides meals for four or more, but less than 16, clients shall comply with a local health inspection as described in Rule R392-110, Food Service and Sanitation in Residential Facilities.

(2) Each program that provides meals shall ensure that meals are not used as incentive or punishment.

(3) Each program that provides meals shall provide nutritional counseling to staff and clients and designate staff

responsible for food service. As part of these responsibilities, each program shall ensure that designated staff:

(a) maintain a current list of each client with special nutritional needs;

(b) ensure that each client with special nutritional needs has food storage and a preparation area that is not exposed to any identified allergen or contaminant; and

(c) except in a day treatment program serving clients for less than ten hours ~~per~~ a day, or outpatient programs serving clients for less than six consecutive hours ~~per~~ a day, provide a variety of three nutritious meals ~~per~~ a day that is:

(i) served from dietician or nutritionist approved menus; or

(ii) for programs serving individuals experiencing homelessness, serve meals as required by USDA standard homeless settings.

(4) Each program that provides meals shall establish and post kitchen rules and privileges in a kitchen according to client needs and safe food handling practices.

(5) Each program that provides meals shall provide adequate dining space for each client that is maintained in a clean and safe condition.

(6) Each program that provides self-serve meals shall ensure that self-serve kitchen users are supervised, directed, and trained by a staff that has a Department of Health food handler's permit or is trained by Serv-Safe, USDA, or a comparable program.

R501-1-18. Program Staffing.

(1) Each program shall ensure adequate staffing such that the current population can be safely supervised including, where necessary, more staff than required by the usual staffing ratio.

(2) Each program shall identify a manager or qualified designee who shall be immediately available when ~~ever~~ the program is in operation or there shall be a qualified and trained substitute when the manager is absent or unavailable.

(3) Each program that offers clinical services shall employ or consult with licensed professional staff that include an individual who is familiar with the program and the needs of each client.

(4) Each program serving substance use disorder shall ensure each staff and client is screened for tuberculosis.

(5) Each program managing, storing, or administering client medication shall identify a medical professional to be responsible for the medication management policy, medication oversight, and staff training regarding medication management.

(6) Each program or person involved with the prescription, administration, or dispensing of controlled substances shall maintain appropriate medical or pharmacy licenses and DEA registration numbers as described in 21 CFR 1301.21.

R501-1-19. Program Personnel Record Requirements.

(1) Each program shall create and maintain personnel information for each staff member, contracted employee, and volunteer.

(2) Personnel information shall include:

(a) any applicable qualification, experience, certification, or license;

(b) any approved and current office background clearance, except as excluded in Section R501-14-17;

(c) a department code of conduct that is signed by the staff member, contracted employee, or volunteer;

(d) any training records with the date completed, topic, and the individual's signed acknowledgment of training completion to include:

- (i) current CPR and First Aid certification;
- (ii) current policy and procedure training; and
- (iii) proof of annual department code of conduct and behavior management training;
- (e) any grievances or complaints made by or against the individual and actions taken by the program; and
- (f) each crisis intervention or critical incident report involving the individual.

R501-1-20. Program Client Record Requirements.

(1) A program shall maintain client information to include the following:

- (a) client name, address, email address, phone numbers, date of birth and identified gender;
- (b) emergency contact names, including legal guardian where applicable, and at minimum, the emergency contact's physical address, current email address or current phone numbers;
- (c) a program serving substance use disorder clients shall maintain compliance with an initial and annual client tuberculosis screening results in each client record;
- (d) any information that could affect health safety or well-being of the client including each medication, allergy, chronic condition or communicable disease;
- (e) intake screening and assessment;
- (f) discharge documentation;
- (g) treatment or service plan;
- (h) progress notes and services provided with date and signature of staff completing each entry;
- (i) individualized assessment for restriction of access to on-site items that could be used as weapons for self-directed violence or as an intoxicant;
- (j) any referral arrangements made by the program;
- (k) client or guardian signed consent or court order of commitment to services in lieu of signed consent for each treatment and non-clinical service;
- (l) summary of attendance and absences;
- (m) any grievances or complaints made by or against the client and actions taken by the program;
- (n) each crisis intervention or critical incident report involving the client; and
- (o) any signed agreements and consent forms.

(2) A program shall document a plan detailing how each program staff and client file shall be maintained and remain available to the office and other agencies legally authorized to access the files for seven years regardless of whether the program remains licensed.

R501-1-21. Program Intake and Discharge [x]Requirements.

(1) A program shall complete an intake screening before accepting a client into the program. Intake screening shall assess at minimum:

- (a) verification that the client meets the eligibility requirements of the program;
- (b) verification that the client does not meet any of the exclusionary criteria that the program identified in policy as unable to serve;
- (c) description of presenting needs;
- (d) suicide risk screening;
- (e) a program serving substance use disorder clients may not admit anyone who is unresponsive or unable to consent to care

because the individual is experiencing convulsions, in shock, delirium tremens, in a coma, or unconscious; and

(2) A program serving incarcerated or court mandated justice involved clients shall:

- (a) conduct a criminogenic risk assessment;
- (b) comply with Justice Reinvestment Initiative certification requirements in accordance with Title R523; and
- (c) separate high and low criminogenic risk populations.
- (3) Following determination of eligibility, the client or parent or guardian shall sign and receive copies of the following agreements to be maintained as client records:
 - (a) fee agreement outlining costs of services including program, client, parent, or guardian responsibility for payment; and
 - (b) signed consent for treatment that outlines:
 - (i) rules of the program;
 - (ii) expectations of clients, parents, and guardians;
 - (iii) services to be provided;
 - (iv) Medicaid number, insurance information, and identification of any other entities that are billed for the client's services;
 - (v) client rights; and
 - (vi) licensing contact information.

(4) A discharge plan shall identify resources available to a client and include:

- (a) reason for discharge or transfer;
- (b) aftercare plan;
- (c) summary of services provided; and
- (d) progress evaluation.

R501-1-22. Residential Additional Program Intake and Discharge Requirements.

(1) An intake assessment shall be completed following an approved intake screening and no later than seven days from the admission date. The assessment shall consider and contain:

- (a) gender identity and individualized assessment for bedroom and bathroom assignments;
- (b) cultural background;
- (c) dominant language and mode of communication;
- (d) family history and dynamics;
- (e) current and past health and medical history;
- (f) social, psychological, developmental, vocational, and, as appropriate, educational factors;
- (g) suicide risk screening; and
- (h) authorization to serve and obtain emergency care.

(2) A program may not serve youth from out of state without a disruption plan as described in Section 62A-2-125 and, as applicable, Title 62A, Chapter 4a, Part 7, Interstate Compact Placement of Children.

(3) Each congregate care disruption plan must contain the following:

- (a) program must retain jurisdiction and responsibility for the youth while the youth remains in Utah;
- (b) a program must complete an individualized disruption plan at the time of intake for each out of state client to include:
 - (i) who is responsible for the child's return ~~in the event that~~ if placement at the facility disrupts;
 - (ii) current emergency contact information to include the name, address, phone and email address of the parent or responsible party;
 - (iii) a signed statement from parent or responsible party outlining the plan for the youth in the event of an unplanned disruption in care; and

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(iv) a plan for safe transportation either to the state of origin, the responsible party identified in Subsection R501-1-22(3)(a) or to another licensed congregate care program.

(4) Each congregate care program may demonstrate compliance with Subsections R501-1-22(2) and R501-1-22(3) by producing the 100A and 100B forms and disruption plan as required by the Interstate Compact for the Placement of Children (ICPC).

(5) Each congregate Care program shall report private placements to the office as described in Section 62A-2-125 by the fifth business day of each month.

(6) Each congregate care program shall report each critical and non-critical restraint or seclusion to the office within one business day.

(7) Each congregate care program that fails to comply with Section 62A-2-125 shall be fined the actual cost of care incurred by entities maintaining the youth for purposes of locating, housing, and transporting the youth.

R501-1-23. Program Clinical Services.

(1) Each program providing clinical treatment shall assign a clinical director to ensure that assessment, treatment, and service planning practices are:

(a) regularly reviewed and updated;

(b) individualized; and

(c) designed to involve the participation of each client or each client's parent or guardian.

(2) Each program providing clinical treatment shall ensure that each person working directly with a client shall be informed of the client's individual treatment needs and advised of the best approach to working with that client.

(3) Each program providing clinical treatment shall ensure that client treatment plans are developed and signed by a licensed clinical professional within 30 days of admission.

(4) Each program providing clinical treatment shall ensure that discharge goals are identified in the initial treatment plan and treatment goals are structured around the identified discharge goals and objectives.

(5) Each program providing clinical treatment shall ensure that each client identified for treatment receives individual treatment at least weekly.

(6) Each program providing group counseling, family counseling, skills development, or other treatment shall ensure the treatment is offered and documented as prescribed in the treatment plan.

R501-1-24. Program Policy and Procedure Requirements.

(1) A program shall develop, implement, and comply with policies and procedures sufficient to ensure client health and safety and meet the needs of the client population served.

(2) Before initial licensure and as updates are made, policies and procedures shall be:

(a) submitted electronically to the office;

(b) approved by the office as required; and

(c) trained to each staff.

(3) Policy and procedures shall address:

(a) client eligibility;

(b) intake and discharge processes;

(c) client rights and responsibilities;

(d) staff and client grievance procedures;

(e) behavior management, addressing:

(i) appropriate and inappropriate behaviors of clients;

(ii) appropriate and inappropriate staff responses to client behaviors; and

(iii) staff response to a client leaving a program without permission;

(f) if applicable, seclusion policy;

(g) if applicable, restraint policy outlining that restraint is:

(i) only used as a temporary means to prevent harm to the client or in protection of others;

(ii) only to be completed by an individual with documented training in nonviolent crisis intervention and de-escalation techniques; and

(iii) is a last resort emergency safety measure only;

(h) instructions to staff regarding how to report and respond to significant criminal activity and significant medical emergencies;

(i) program plan for the prevention or control of infectious and communicable disease to include coordination with and following any guidance of the state or local health authorities, Center for Disease Control, and the department;

(j) critical incident reporting in accordance with Subsection R501-1-11(2);

(k) emergency procedures to instruct staff how to address incident reporting, continuity of care, transport, relocation, and client health and safety during natural disasters, extreme weather events, fire, utility or structural failures, or other unexpected disruptions to the program service;

(l) if transportation of clients is provided, the program shall meet the following requirements:

(i) insurance;

(ii) valid driver license;

(iii) adherence to Title 41, Motor Vehicles;

(iv) the driver to have a cell phone for immediate contact;

(v) vehicle maintenance;

(vi) emergency contact postings in the vehicle to include program name, address, and phone number to be called by first responders if needed;

(vii) vehicles to be equipped with a first aid kit as recommended by the American Red Cross; and

(viii) a policy to ensure that all clients exit the vehicle upon arriving at the destination unless directly supervised by a staff member;

(m) firearm policy that does not restrict constitutional or statutory rights regarding concealed weapons permits as described in Title 53, Chapter 5, Part 7, Concealed Firearms Act;

(n) smoking policy in accordance with Title 26, Chapter 38, Utah Indoor Clean Air Act;

(o) policies and procedures ~~whenever~~ if clients are present in the program for six or more consecutive hours to address:

(i) provision of client meals and whether meals will be program-prepared, catered, or self-provided; and

(ii) administration of required medication if a program manages, stores or administers medication;

(p) description of any supplemental or contracted services that may be provided unrelated to the treatment or service plan or outside the scope of the license to include:

(i) summer camp;

(ii) wilderness excursion;

(iii) transportation;

(iv) extended outing;

(v) travel out of the state or country;

(vi) any supplemental machines or equipment, including training on their utilization and maintenance;

(vii) gaining informed consent from each client or client's parent or guardian for voluntary participation in these supplemental services; and

(viii) securing each necessary license, certification, or state and local permission before offering these services or operating with clients in a temporary or satellite location;

(q) unplanned discharge policy;

(r) suicide prevention policy addressing how to manage clients who screen with elevated risk levels;

(s) non-discrimination policy that includes:

(i) a prohibition of abuse, discrimination, and harassment based on race, color, sex, gender identity, sexual orientation, religion, or national origin;

(ii) policy and procedure described in Section 62a-2-124;

~~[(iii) the requirement that each staff refer to the individual by their preferred name and pronouns;~~

[(i-v)iii] a program requiring uniforms shall only permit gender neutral selection;

~~[(v)iv]~~ assurance that treatment practices and staff training are trauma informed to identify and eliminate triggers for re-traumatization;

~~[(v)j]~~ outline the consequences for staff or client intolerance, harassment, or bullying of staff or clients on the basis of gender identification or sexual orientation; and

~~[(vi)j]~~ required policy approval in accordance with Section R501-1-9;

(t) consequences for staff acting outside their training or policy and procedure; and

(u) record retention.

(4) Program-specific policies shall address any unique circumstances regarding physical facility, supervision, community safety and mixing populations.

(5) Record retention policy shall describe the program's plan and responsibility for retaining each client record for seven years or until a client turns 21 years of age, whichever comes later.

(6) Record retention policy shall describe the program's plan and responsibility for retaining each staff records for seven years.

(7) In accordance with Section 63G-2-309, a program may submit a written claim of business confidentiality and a concise statement of reasons supporting the claim of business confidentiality for records the program submits to the office that the program believes should be protected under Subsection 63G-2-305(1) or 63G-2-305(2), including program policies and procedures.

R501-1-25. Additional Policy and Procedure Requirements for Residential Programs.

(1) A program that provides meals for clients shall have and follow a food service policy. The food service policy must include:

(a) staff and client training on the policy;

(b) procedures for identifying and accommodating clients with special dietary needs;

(c) allowances for nutritious snacks to be available during restricted hours if the program restricts access to food and kitchen equipment;

(d) if serving parents and their children, requirements for consenting adult clients to maintain full responsibility for their, and their children's', special dietary needs;

(e) a written policy for when meals are prepared by clients to include the following:

(i) rules and privileges of kitchen use;

(ii) menu planning and procedures;

(iii) sharing self-prepared food;

(iv) nutrition and sanitation requirements;

(v) schedule of responsibilities; and

(vi) shopping and storage responsibilities;

(f) a residential program, excluding residential treatment program, may allow for client independence and responsibility for their own supplies, food, laundry or transportation with policies that outline resources and responsibility for the provision of these items; a program shall assist clients on a limited basis if they are temporarily unable to provide these items or services for themselves.

(2) A program managing, storing, or administering client medications shall have and follow a ~~[M]~~medication ~~[M]~~management policy to require:

(a) program and client responsibility for medication including storage and administration of medications on-site and, as applicable, when staff and clients are off-site in program related activities;

(b) if applicable, medication self-administration policy;

(c) if storing and administering medications, training required to administer medication and the process to be followed;

(d) recording medication dosages according to prescriptions;

(e) monitoring and recording effects and side effects of medications; and

(f) Logging doses and recording and reporting medication errors.

(3) Policy to train staff to identify and address:

(a) clients who pose a risk of violence;

(b) clients in possession of contraband;

(c) clients who are at risk for suicide;

(d) managing clients with mental health concerns;

(e) identifying the signs and symptoms of clients presenting under the influence of substances or alcohol; and

(f) prescribed staff responses to any of the circumstances listed in Subsection R501-1-25(3), including ongoing monitoring and assessment for remaining in the program.

(4) Policy regarding the care, vaccination, licensure, and maintenance of any animals on-site to include:

(a) assessment of pet allergies for any clients interacting with animals in the program;

(b) maintenance of required examinations, registrations, and vaccinations; and

(c) supervision of clients in the presence of animals.

(5) Client belongings policy that addresses:

(a) initial and updated inventory signed by the client;

(b) storage and return of each client belonging to the client or client's guardian at the time of discharge; and

(c) program shall replace any lost or stolen items for which the program is responsible.

(6) A program managing funds for client allowances must document each expense.

(7) A residential program shall develop and follow a policy for providing separate space for sick clients

(8) A ratio of one staff to one client during transports is only permissible when the program has conducted a safety assessment that indicates that client and staff safety is reasonably assured.

R501-1-26. Congregate Care Program Additional Policy and Procedure Requirement.

(1) A Congregate Care Program may not utilize any behavior management technique, restraint, seclusion or curriculum unless it has been approved by the office.

(2) The program's licensed clinical professional shall conduct regular reviews of client restraints, seclusions, behavioral interventions, and time outs to inform processing discussions with clients and training for direct care staff.

(3) A congregate care program shall have a contraband policy including what constitutes contraband and how the program ensures restriction of client access to contraband and dangerous weapons or materials.

(a) Strip searches and body cavity searches are prohibited by Section 62A-2-123 without documented, individualized justification for protection of an individual's health and safety.

(b) Strip search and body cavity search policies may not allow for strip searches to be performed as a universal practice and may only allow these searches to be conducted with individualized justification, documentation, and in accordance with a detailed policy approved by the office.

(c) Strip searches and body cavity searches may only be performed in congregate care by a medical professional outside of the line of sight of direct care staff.

(4) A congregate care suicide prevention policy may only be approved by the office if it complies with Subsection 62A-2-123(5).

(5) A congregate care behavior management policy may only be approved by the office if, in addition to complying with Section 62A-2-123, the policy reflects the following:

(a) each program staff shall employ behavior management techniques that are trauma informed and appropriate for the client's age, behavior, needs, developmental level, and past experiences and shall defer to the least restrictive method of behavior management available to control a situation;

(b) each program will ensure compliance with Section 62A-2-123 in each aspect of the program, including for a client who is under a contracted caregiver's supervision for transportation, outing, retreat, or similar activity;

(c) each program staff shall only use behavior management techniques that emphasize de-escalation and promote self-control, self-esteem, and independence; and

(d) each program shall identify a behavior management curriculum that emphasizes de-escalation and is compliant with Section 62A-2-123;

(e) only direct care staff familiar with the child and the child's needs shall conduct passive physical restraint;

(f) restraint will only be used if it will not cause undue physical discomfort, harm, or pain to the client;

(g) interventions that use painful stimuli are prohibited as a general practice;

(h) passive physical restraint shall be used only as an emergency, temporary means of physical containment to protect the consumer, other persons, or property from immediate harm;

(i) restraint may only continue as long as the client presents an immediate danger to self or others;

(j) passive physical restraint may not be used as a convenience to staff, a substitute for programming or associated with punishment in any way;

(k) clients, non-direct care staff, or other unauthorized individuals may not use any form of restraint;

(l) staff may not use physical work assignments or activities that inflict pain as behavior management techniques;

(m) appropriate de-escalation techniques and alternatives to restraint or seclusion;

(n) thresholds for restraints;

(o) the physiological and psychological impact of restraint;

(p) appropriate monitoring;

(q) staff shall be trained to recognize the physical signs of distress, positional asphyxia, and obtaining medical assistance;

(r) staff shall be trained how to intervene if another staff member fails to follow correct procedures when using a restraint;

(s) staff shall be trained on time limits for restraints;

(t) the process for obtaining clinical approval for continued restraints;

(u) the procedure for documenting and reporting restraints;

(v) the procedure for processing restraints with clients;

(w) the procedure for following up with staff after a restraint;

(x) how staff shall address injuries and complaints;

(y) department code of conduct; and

(z) client rights listed in Section R501-1-27.

(6) A congregate care seclusion policy may only be approved by the office if it reflects the following:

(a) seclusion is only used to ensure the immediate safety of the child or others and must be terminated as soon as the risks have been mitigated, not to exceed four hours without clinical justification;

(b) staff who are familiar to the child must directly supervise the child ~~for the duration of~~ during the seclusion;

(c) staff supervising seclusion shall ensure that any potentially harmful items or objects are removed from the seclusion environment;

(d) seclusion rooms shall measure a minimum of 75 square feet and have a minimum ceiling height of seven feet with no equipment, hardware or furnishings that obstruct staff's view of the client or present a hazard;

(e) seclusion rooms shall have either natural or mechanical ventilation with break resistant windows and either a break resistant two-way mirror or camera that allows for observation of the entire room;

(f) seclusion rooms may not have locking capability and may not be located in closets, bathrooms, unfurnished areas or other areas not designated as part of residential living space;

(g) bedrooms may not be utilized as a seclusion room and seclusion rooms may not be utilized as bedrooms;

(h) seclusion shall be documented in detail by the staff involved in initiating and supervising the seclusion episode;

(i) seclusion episodes of more than two in a 24-hour period require clinical review and documentation regarding client suitability for remaining in the program; and

(j) client time-out may be used when addressing behavioral issues if:

(i) a client in time-out is never physically prevented from leaving the time-out area;

(ii) it takes place away from the area of activity or from other clients, such as in the client's bedroom;

(iii) staff monitors the client while in time-out; and

(iv) the reason for and duration of time-out is documented by staff on duty ~~at the time~~ when it occurs.

R501-1-27. Client Rights.

(1) Clients have the right to:

(a) be treated with dignity;

[~~(b) be referred to by their preferred pronouns~~]
 ([e]b) be free from potential harm or acts of violence;
 ([d]c) be free from discrimination;
 ([e]d) be free from abuse, neglect, mistreatment, exploitation, unusual or unnecessary consequences, and fraud;
 ([f]e) privacy of current and closed records;
 ([g]f) communicate and visit privately with family, attorney, clergy, physician, counselor, or case manager, unless therapeutically contraindicated or court restricted; and
 ([h]g) be informed of program policies and procedures that affect client or guardian's ability to make informed decisions regarding client care, to include:
 (i) program expectations, requirements, mandatory or voluntary aspects of the program;
 (ii) consequences for non-compliance;
 (iii) reasons for involuntary termination from the program and criteria for re-admission;
 (iv) program service fees and billing; and
 (v) safety and characteristics of the physical environment where services will be provided.
 (2) Clients shall be informed of these rights and an acknowledgment by the client or guardian shall be maintained in the client file.

R501-1-28. Compliance.

(1) A licensee that is in operation on the effective date of this rule shall be given 60 days to achieve compliance with this rule.

KEY: licensing, human services

Date of Last Change: 2022[January 21, 2022]

Notice of Continuation: October 4, 2017

Authorizing, and Implemented or Interpreted Law: 62A-2-101 et seq.

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R512-203	Filing ID 54241
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Agency Information

1. Department:	Human Services	
Agency:	Child and Family Services	
Building:	Multi-Agency State Office Building	
Street address:	120 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Carol Miller	801-557-1772	carolmiller@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information**2. Rule or section catchline:**

R512-203. Child Protective Services, Significant Risk Assessments

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services utilizes significant risk assessments.

B) Local governments:

There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services utilizes significant risk assessments.

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

There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services utilizes significant risk assessments.

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

There are no anticipated costs or savings to non-small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services utilizes significant risk assessments.

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 no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services utilizes significant risk assessments.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-4a-102	Section 62A-4a-105	Section 62A-4a-1002
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/17/2022

10. This rule change MAY become effective on: 03/24/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R512. Human Services, Child and Family Services.

R512-203. Child Protective Services, Significant Risk Assessments.

R512-203-1. Purpose and Authority.

(1) ~~[The purpose of t]~~ This rule ~~[is to]~~ defines how significant risk assessments are utilized by ~~[the Division of]~~ Child and Family Services ~~[-(Child and Family Services)]~~.

(2) Pursuant to Section 62A-4a-105, Child and Family Services ~~[is authorized to]~~ may provide Child Protective Services ~~[-(Child and Family Services)]~~. ~~Child and Family Services is required by Section 62A-4a-1002 to promulgate a rule for making significant risk assessments].~~ In accordance with Section 62A-4a-1002, Child and Family Services shall promulgate a rule for making significant risk assessments.

(3) This rule is authorized by Section 62A-4a-102.

R512-203-2. Definitions.

As used in this rule:

(1) "Assessment" means an evaluation made to determine if a minor is a risk to other children ~~and whether or not a minor's name should be placed and retained on the Licensing Information System~~.

(2) "Child and Family Services" means the Division of Child and Family Services.

(3) "CPS" means Child Protective Services.

(4) "GRAMA" means the Government Records Management and Access Act.

~~[(2)](5)~~ "Significant risk" ~~[means that a minor is likely to continue perpetrating against other children]~~ is defined in Section 62A-4a-1002.

R512-203-3. Significant Risk Assessments.

(1) During ~~[the course of]~~ a CPS investigation involving allegations of conduct by a ~~[juvenile]minor~~ that ~~[is]are~~ identified as severe or chronic as those terms are defined in Sections 62A-4a-101 and 62A-4a-1002, the CPS caseworker shall complete a significant risk assessment to determine whether a ~~[juvenile]minor~~ is a significant risk to others ~~[children or the community]~~.

(2) To conduct this assessment, the CPS caseworker shall use the assessment tool developed by Child and Family Services ~~[for the purpose of]~~ to determin~~[ing]~~e risk presented by the minor. The tool used ~~[will]~~shall be the most current version of the significant risk assessment.

(3) The CPS caseworker shall base the assessment ~~[shall be based up]~~ on the facts of the case that are present during the CPS investigation.

(4) The assessment process ~~[identified in Section R512-203-3]~~ is not for determining whether the allegation under investigation is supported or unsupported.

(5) The ~~[juvenile]minor's~~ age alone is not a reason for determining whether the ~~[juvenile]minor~~ presents a significant risk.

(6) The completed significant risk assessment instrument for each minor assessed shall be made a part of the CPS record and shall be classified as ~~[P]private~~ pursuant to ~~[the Government Records Management and Access Act (GRAMA)]~~.

KEY: child welfare, child abuse

Date of Last Change: ~~2022~~~~October 13, 2010~~

Notice of Continuation: May 19, 2020

Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 62A-4a-1002

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R512-205	Filing ID 54242
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Agency Information

1. Department:	Human Services
Agency:	Child and Family Services
Building:	Multi-Agency State Office Building
Street address:	120 N 1950 W
City, state and zip:	Salt Lake City, UT 84116

Contact person(s):

Name:	Phone:	Email:
Carol Miller	801-557-1772	carolmiller@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

General Information**2. Rule or section catchline:**

R512-205. Child Protective Services, Investigation of Domestic Violence Related Child Abuse

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes the criteria for investigation of an allegation of Domestic Violence Related Child Abuse.

B) Local governments:

There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes the criteria for investigation of an allegation of Domestic Violence Related Child Abuse.

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

There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how

Child and Family Services establishes the criteria for investigation of an allegation of Domestic Violence Related Child Abuse.

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

There are no anticipated costs or savings to non-small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes the criteria for investigation of an allegation of Domestic Violence Related Child Abuse.

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 no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes the criteria for investigation of an allegation of Domestic Violence Related Child Abuse.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-4a-102	Section 62A-4a-105	Section 76-5-109.1
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/17/2022

10. This rule change MAY become effective on: 03/24/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R512. Human Services, Child and Family Services.**R512-205. Child Protective Services, Investigation of Domestic Violence Related Child Abuse.****R512-205-1. Purpose and Authority.**

(1) ~~[The purpose of this rule is to]~~ This rule ~~[is to]~~ establishes criteria for investigation of an allegation of Domestic Violence Related Child Abuse and the basis upon which a supported finding will be made.

(2) This rule is authorized by Section 62A-4a-102.

R512-205-2. Definitions.

~~[(1)]~~ (1) "Cohabitant" has the same meaning as in Section 78B-7-102.

~~[(2)]~~ (2) "Dangerous weapon" has the same meaning as in Section 76-1-601.

~~[(3)]~~ (1) "Child and Family Services" means the ~~[Department of Human Services]~~ Division of Child and Family Services.

~~[(2)]~~ (2) "Cohabitant" has the same meaning as in Section 78B-7-102.

~~[(3)]~~ (3) "CPS" means Child Protective Services.

~~[(4)]~~ (4) "Dangerous weapon" has the same meaning as in Section 76-1-601.

~~[(4)]~~ (5) "Domestic violence" has the same meaning as in Section 77-36-1.

~~[(5)]~~ (6) "Domestic Violence Related Child Abuse" ~~[means domestic violence between cohabitants in the presence of a child. It may be an isolated incident or a pattern of conduct]~~ has the same meaning as in Rule R512-80.

~~[(6)]~~ (7) "In the presence of a child" has the same meaning as in Section 76-5-109.1.

~~[(7)]~~ (8) "Serious bodily injury" has the same meaning as in Section 76-1-601.

~~[(8)]~~ (9) "Substantial bodily injury" has the same meaning as in Section 76-1-601.

R512-205-3. Administrative Findings.

(1) The commission of acts of domestic violence in the presence of a child is child abuse, because it results in non-accidental harm or threatened harm to the child. Such abuse is subject to the reporting ~~[statute]~~ ~~[requirements in Section 62A-4a-403]~~.

~~[(2)]~~ (2) ~~Research establishes that exposure to domestic violence causes emotional or developmental harm or threatened harm to children, which may later be manifested in behavioral problems, increased risk of drug or alcohol abuse, increased risk of becoming perpetrators or victims of abuse, or in emotional disorders such as post-traumatic stress disorder.~~

~~[(3)]~~ (3) ~~Exposure to domestic violence may also threaten a child with physical harm.~~

~~[(4)]~~ (4) ~~Awaiting the manifestation of emotional or developmental harm does not protect children from such harm, and early intervention is required to mitigate and prevent further harm.~~

~~[(5)]~~ (2) ~~[Accordingly,]~~ Establishing the commission of an act of domestic violence in the presence of a child shall be sufficient to establish Domestic Violence Related Child Abuse, without any further evidence of harm.

~~[(6)]~~ (3) The primary responsibility to investigate allegations of Domestic Violence Related Child Abuse as defined in Section 76-5-109.1 lies with law enforcement, and Child and Family Services

has no responsibility to investigate domestic violence in the presence of a child as described in that section, except as provided in this rule~~[(see Section 62A-4a-105(6))]~~.

R512-205-4. Investigation.

(1) ~~[An allegation of Domestic Violence Related Child Abuse, that meets all other requirements for acceptance, shall be accepted by Child and Family Services for investigation if it is alleged that a child was physically present or saw or heard an incident of domestic violence and:]~~ Child and Family Services shall accept an allegation of Domestic Violence Related Child Abuse for investigation if it is alleged that a child was physically present or saw or heard an incident of domestic violence and:

(a) ~~[F]~~ the alleged perpetrator used or threatened to use a dangerous weapon;~~[-or]~~

(b) ~~[F]~~ the alleged perpetrator threatened to cause substantial or serious bodily injury;~~[-or]~~

(c) ~~[F]~~ the alleged perpetrator committed a sexual assault, impeded the breathing or the circulation of blood by application of pressure to the neck, throat, or chest, or by the obstruction of the nose or mouth, which produced or was likely to produce a loss of consciousness, or other assault likely to result in substantial or serious bodily injury;~~[-or]~~

(d) ~~[F]~~ the alleged victim sustained substantial or serious bodily injury;~~[-or]~~

(e) ~~[F]~~ there is a pattern of two or more CPS investigations of Domestic Violence Related Child Abuse within the previous two years; or

(f) ~~[A]~~ another allegation of abuse, neglect, or dependency is being accepted or is in the process of being investigated.

(2) If during an open, non-CPS case, a referral is received by Intake for Domestic Violence Related Child Abuse ~~[which]~~ ~~[that]~~ does not meet the criteria for acceptance ~~[under subparagraph (1) above]~~ specified in this rule, the information will be sent to the ongoing caseworker for assessment.

R512-205-5. Investigation Findings.

~~[(1)]~~ ~~Upon~~ Once CPS ~~[completion of]~~ completes an investigation of Domestic Violence Related Child Abuse, a supported finding ~~[may]~~ ~~[shall]~~ be based upon the definitions of this rule.

KEY: child abuse, domestic violence

Date of Last Change: 2022~~[August 28, 2017]~~

Notice of Continuation: August 7, 2020

Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 76-5-109.1

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R512-300

Filing ID
54243

Agency Information

1. Department:	Human Services
Agency:	Child and Family Services
Building:	Multi-Agency State Office Building
Street address:	120 N 1950 W

NOTICES OF PROPOSED RULES

City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Carol Miller	801-557-1772	carolmiller@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R512-300. Out-of-Home Services
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides Out-of-Home Services.
B) Local governments:
There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services provides Out-of-Home Services.
C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how

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State Government	\$0	\$0	\$0
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Small Businesses	\$0	\$0	\$0
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Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
B) Department head approval of regulatory impact analysis:			
The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.			

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 62A-4a-102	Section 62A-4a-105	
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	03/17/2022
--	------------

10. This rule change MAY become effective on:	03/24/2022
--	------------

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R512. Human Services, Child and Family Services.**R512-300. Out-of-Home Services.****R512-300-1. Purpose and Authority.**

(1) ~~[The purposes of]~~ This rule defines how Child and Family Services administers ~~[O]ut-of-[H]ome [S]ervices[are] to provide:~~

(a) ~~[To provide]~~ a temporary, safe living arrangement for a child placed in the custody of ~~[the Division of]~~ Child and Family Services ~~[(Child and Family Services) or the Department of Human Services]~~ by court order or through voluntary placement by the child's parent or legal guardian~~[-]~~;

(b) ~~[To provide]~~ services to protect the child and facilitate the safe return of the child home or to another permanent living arrangement~~[-]~~; and

(c) ~~[To provide]~~ safe and proper care and address the child's needs while in state custody.

(2) Sections 62A-4a-105 and 62A-4a-106 authorize Child and Family Services to provide ~~[O]ut-of-[H]ome [S]ervices and Title 42, The Public Health and Welfare, [USC] Section 672~~ authorizes federal foster care. ~~[42 USC Sections 671 and 672 (2007), and 45 CFR Parts 1355 and 1356 (2008) are incorporated by reference.]~~

(3) ~~[This rule is authorized by]~~ Section 62A-4a-102 authorizes this rule.

R512-300-2. Definitions.

As used in this rule:

~~[The following terms are defined for the purposes of this rule:~~

~~_____](1) "[Custody by court order]" means temporary custody or custody authorized by Sections 78A-6-117 or 78A-6-322. It does not include protective custody.~~

~~_____](2) "[Child and Family Services]" means the Division of Child and Family Services.~~

~~_____](2) "Custody" means temporary custody or custody authorized by Section 80-3-102. It does not include protective custody.~~

~~_____](3) "Department" means the Department of Human Services.~~

~~_____](4) "Least restrictive" means most family-like.~~

~~_____](5) "Placement" means living arrangement.~~

R512-300-3. Scope of Services.

~~(1) [Qualification for Services.]~~ Child and Family Services provides ~~Out-of-[H]ome [S]ervices [are provided]~~ to:

(a) ~~[A]~~ a child placed in the custody of Child and Family Services by court order and the child's parent or guardian, if the court orders reunification; ~~or~~

~~[(b) A child placed in the custody of the Department by court order for whom Child and Family Services is given primary responsibility for case management or for payment for the child's placement, and the child's parent or guardian if reunification is ordered by the court;~~

~~_____](e)](b) [A] a child voluntarily placed into the custody of Child and Family Services [and] by the child's parent or guardian.~~

~~(2) [Service Description.]~~ Out-of-[H]ome [S]ervices in Subsection (1) consist of:

(a) ~~[P]~~ protection, placement, supervision, and care of the child;

(b) ~~[S]~~ services to a parent or guardian of a child receiving ~~[O]ut-of-[H]ome [S]ervices~~ when a reunification goal is ordered by the court or to facilitate return of a child home upon completion of a voluntary placement~~[-]~~; and

(c) [S]services to facilitate another permanent living arrangement for a child receiving [O]out-of-[H]home [S]services if a court determines that reunification with a parent or guardian is not required or in the child's best interests.

(3) ~~[Availability.—]~~Out-of-[H]home [S]services in Subsection (1) are available in ~~[a]each~~ geographic region[s] of the state.

(4) ~~[Duration of Services.—]~~Out-of-[H]home [S]services continue until a child's custody is terminated by a court or when a voluntary placement agreement expires or is terminated.

(5) Section 62A-4a-415 establishes the standards for law enforcement interviews of children in state custody.~~[As specified in Section 62A-4a-415, Child and Family Services may not consent to the interview of a child in state custody by a law enforcement officer, unless consent for the interview is obtained from the child's Guardian ad Litem. This provision does not apply if a Guardian ad Litem is not appointed for the child.]~~

R512-300-4. Child and Family Services Responsibility to a Child Receiving Out-of-Home Services.

(1) ~~[Child and Family Team.~~

~~(a) —]~~With the family's assistance, Child and Family Services shall establish a Child and Family Team~~—shall be established]~~ for each child receiving [O]out-of-[H]home [S]services.

(b)2) At a minimum, the Child and Family Team shall:

(a) assist with assessment, Child and Family Plan development, and selection of permanency goals;

(b) oversee progress towards completion of the plan;

(c) provide input into adaptations to the plan; and

(d) recommend placement type~~[or level]~~.

(2)3) ~~[Assessment.~~

~~(a) —]~~A written assessment is completed Child and Family Services provides ongoing written assessment for each child placed in the custody of Child and Family Services through court order or voluntary placement and for the child's family.

(b)4) The written assessment shall include an [evaluates]evaluation of the child and family's strengths and underlying needs.

(e)5) ~~[F]Child and Family Services shall determine the type of assessment [is determined]~~by the unique needs of the child and family, such as cultural considerations, special medical or mental health needs, and permanency goals.

(d) ~~Assessment is ongoing.~~

(3)6) ~~[Child and Family Plan.~~

~~(a) —]~~Based upon an assessment, each child and family receiving [O]out-of-[H]home [S]services shall have a written [C]child and [F]family [P]plan in accordance with Section 62A-4a-205.

(b)7) The child, the child's parent or guardian, and other members of the [C]child and [F]family [F]team shall assist in creating the plan based on the assessment of the child and family's strengths and needs.

(e)8) In addition to requirements specified in Section 62A-4a-205, the [C]child and [F]family [P]plan shall include~~—the following to facilitate permanency]~~:

(i)a) [F]the current strengths of the child and family as well as the underlying needs to be addressed;[-]

(ii)b) [A]a description of the type of placement appropriate for the child's safety, special needs, and best interests, in the least restrictive setting available and, when the goal is reunification, in reasonable proximity to the parent;[-]

~~(c) [If the child with a goal of reunification has not been placed in reasonable proximity to the parent, the plan shall describe]reasons why the placement is in the best interests of the child [if the child with a goal of reunification has not been placed in reasonable proximity to the parent;[-]~~

(iii)d) [G]goals and objectives for assuring the child receives safe and proper care, including ~~[the provision of]~~medical, dental, mental health, educational, or other specialized services and resources;[-]

(iv)e) ~~[If the child is age 14 years or older,]~~a written description of the programs and services to help the child prepare for the transition from foster care to independent living in accordance with Rule R512-305 if the child is age 14 years or older;[-]

(v)f) [A]a visitation plan for the child, parents, and siblings, unless prohibited by court order;[-]

(vi)g) [S]steps for monitoring the placement and plan for worker visitation and supports to the [O]out-of-[H]home caregiver for a child placed in Utah or out of state; and[-]

(vii)h) ~~[If the goal is adoption or placement in another permanent home,]~~steps to finalize the placement, including diligent efforts to place with kin and other child-specific recruitment efforts if the goal is adoption or placement in another permanent home.

(d)9) The Child and Family Plan is modified when indicated by changing needs, circumstances, progress towards achievement of service goals, or the wishes of the child, family, or Child and Family Team members.

(e)10) A copy of the completed Child and Family Plan shall be ~~[provided]~~uploaded into eSign and made available to the parent or guardian, [O]out-of-[H]home caregiver, juvenile court, [A]assistant [A]attorney [G]general, [G]guardian ad [L]item, legal counsel for the parent, and the child, if the child ~~[is able to]~~can understand the plan.

~~[4) Permanency Goals.~~

~~(a)11)~~ A child in [O]out-of-[H]home care shall have a primary permanency goal and a concurrent permanency goal identified by the Child and Family Team.

(b)12) Permanency goals include:

(i)a) [R]reunification[-];

(ii)b) [A]adoption[-];

(iii)c) [G]guardianship ~~[(R)with relative]~~[-];

(iv)d) [G]guardianship ~~[(N)with non-(R)relative]~~[-]; and

(v)e) [I]individualized [P]permanency.

(e)13) For a child whose custody is court ordered, Child and Family Services shall provide both the primary and concurrent permanency goals ~~[shall be submitted]~~to the court for approval.

(d)14) The primary permanency goal in Subsection (11) shall be reunification unless the court has ordered that no reunification efforts be offered.

(e)15) A determination that Transition to Adult Living services are appropriate for a child does not preclude adoption as a primary permanency goal. Enrollment in Transition to Adult Living services can occur concurrently with continued efforts to locate and achieve placement of an older child with an adoptive family.

(5)16) ~~[Placement.~~

~~(a) —]~~A child receiving [O]out-of-[H]home [S]services shall receive safe and proper care in an appropriate placement according to placement selection criteria specified in Rule R512-302.

(b)17) The type of placement, either initial or change in placement, is determined within the context of the Child and Family Team utilizing a need level screening tool designated by Child and Family Services.

~~([e]18) [Placement decisions are based upon the child's needs, strengths, and best interests.]Child and Family Services shall determine placement decisions on the child's needs, strengths, and best interests. A placement decision is based upon the child's needs, strengths and best interests.~~

~~([d]19) [The following factors are considered in determining placement:]Child and Family Services shall consider the following factors for determining placement:~~

~~([i]a) [A]age, special needs, and circumstances of the child;~~

~~([i]b) [L]east restrictive placement consistent with the child's needs;~~

~~([i]c) [P]lacement of siblings together;~~

~~([i]d) placement with relatives or other kin;~~

~~(e) [P]roximity to the child's home and school;~~

~~([i]f) [S]ensitivity to cultural heritage and individual equity and support needs of a [minority]child, including consideration of the child's race, religion, sexual orientation, gender identity, language, ethnicity, medical or mental health needs, or disability; and~~

~~([i]g) [P]otential for adoption.~~

~~([e]20) [A child's placement shall not be denied or delayed on the basis of race, color, or national origin of the Out of Home caregiver or the child involved.]Child and Family Services shall not deny or delay the child's placement on the basis of race, color, or national origin of the out-of-home caregiver or the child involved.~~

~~([f]21) Placement of an Indian child shall be in compliance with the Indian Child Welfare Act of 1978, 25 USC Section 1915 (2007), which is incorporated by reference.~~

~~([g]22) When a young woman in state custody is the mother of a child and desires and [is able to]can parent the child with the support of the [O]ut-of-[H]ome caregiver, the child shall remain in the [O]ut-of-[H]ome placement with the mother. Child and Family Services shall only petition for custody of the young woman's child if there are concerns of abuse, neglect, or dependency[in accordance with Section 78A-6-322].~~

~~([h]23) The Child and Family Team may recommend a [T]ransition to [A]dult [L]iving placement for a child age 14 years or older in accordance with Rule R512-305 when in the child's best interests.~~

~~([6]24) [Federal Benefits.~~

~~(a) [Child and Family Services may apply for eligibility for Title IV-E foster care and Medicaid benefits for a child receiving [O]ut-of-[H]ome [S]ervices. Information provided by the parent or guardian, as specified in Rule R512-301, shall be utilized in determining eligibility.~~

~~([b]25) Child and Family Services may apply to be protective payee for a child in state custody who has a source of unearned income, such as Supplemental Security Income or Social Security Income. Child and Family Services shall manage a representative payee account for the management of the child's income. [A representative payee account shall be maintained by Child and Family Services for management of the child's income.]The unearned income shall be utilized only towards costs of the child's care and personal needs in accordance with requirements of the regulating agency.~~

~~([7]26) [Visitation with Familial Connections.~~

~~(a) [The child has a right to purposeful and frequent visitation with a parent or guardian and siblings, unless the court orders otherwise.~~

~~([b]27) [Visitation is not a privilege to be earned or denied based on behavior of the child or the parent or guardian.]Child and~~

~~Family services shall not use visitation as a privilege to earn or deny based on the behavior of the child or the parent or guardian.~~

~~([e]28) [Visitation may be supplemented with telephone calls and written correspondence.]The child or the parent or guardian may supplement visitation with telephone calls and written correspondence.~~

~~([d]29) The child also has a right to communicate with extended family members, the child's attorney, physician, clergy, and others who are important to the child.~~

~~([e]30) [Intensive efforts shall be made to engage a parent or guardian in continuing contacts with a child, when not prohibited by court order.]When not prohibited by court order, Child and Family Services shall use intensive efforts to engage the parent or guardian in continuing contact with a child.~~

~~([f]31) If clinically contraindicated for the child's safety or best interests, Child and Family Services may petition the court to deny or limit visitation with specific individuals.~~

~~([g]32) [Visitation and other forms of communication with familial connections shall only be denied when ordered by the court.]Child and Family services shall only deny communication with familial connections when ordered by the court.~~

~~([h]33) [A parent whose parental rights have been terminated does not have a right to visitation.]A parent who no longer has parental rights does not have a right to visitation.~~

~~([8]34) [Out-of-Home Worker Visitation with the Child.~~

~~(a) [The [O]ut-of-[H]ome worker shall visit with the child to ensure that the child is safe and is appropriately cared for while in an [O]ut-of-[H]ome placement.~~

~~(35) If the child is placed out of the area or out of state, arrangements may be made for another worker to perform [some of the]visits. The Child and Family Team shall develop a specific plan for the worker's contacts with the child based upon the needs of the child.~~

~~([9]36) [Case Reviews.~~

~~(a) [Pursuant to Sections [78A-6-313]80-3-407 and [78A-6-315]80-3-408, periodic reviews of court ordered [O]ut-of-[H]ome [S]ervices shall be held no less frequently than once every six months.~~

~~([b]37) Child and Family Services shall seek to ensure that each child receiving [O]ut-of-[H]ome [S]ervices has timely and effective case reviews and that the case review process:~~

~~([i]a) [E]xpedites permanency for a child receiving [O]ut-of-[H]ome [S]ervices[;]~~

~~([i]b) [A]ssures that the permanency goals, Child and Family Plan, and services are appropriate[;]~~

~~([i]c) [P]romotes accountability of the parties involved in the child and family planning process[;] and~~

~~([i]d) [M]onitors the care for a child receiving [O]ut-of-[H]ome [S]ervices.[~~

~~(10) Maximum Number of Children in Out of Home Care.~~

~~(a) At no time during the fiscal year will the proportion of children in Out of Home care for over 24 months exceed one third of the total number of children currently in Out of Home care.~~

~~(b) On an annual basis, the statewide quality improvement committee (also known as the Child Welfare Improvement Council) will review data on the proportion of children in foster care over 24 months and the steps taken by Child and Family Services to ensure that proportion is not exceeded. As appropriate, recommendations for improvement will be made from the committee to Child and Family Services administration.]~~

NOTICES OF PROPOSED RULES

KEY: social services, child welfare, domestic violence, child abuse

Date of Last Change: ~~2022~~**[July 22, 2015]**

Notice of Continuation: February 15, 2018

Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105[; ~~42 U.S.C. 674~~]

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R512-311	Filing ID 54252
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Agency Information

1. Department:	Human Services	
Agency:	Child and Family Services	
Building:	Multi-Agency State Office Building	
Street address:	120 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Carol Miller	801-557-1772	carolmiller@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R512-311. Psychotropic Medication Oversight Panel
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this rule filing is to bring this rule in-line with Executive Order No. 2021-12, issued by Utah's Governor on May 6, 2021.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule has been updated to ensure legal citations are accurate and to bring this rule in-line with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There are no anticipated costs or savings to the state budget because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes and operates a psychotropic medication Oversight Panel for children in the custody of Child and Family Services to ensure that foster children are being prescribed psychotropic medication consistent with their needs.

B) Local governments:

There are no anticipated costs or savings to local governments because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes and operates a psychotropic medication Oversight Panel for children in the custody of Child and Family Services to ensure that foster children are being prescribed psychotropic medication consistent with their needs.

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

There are no anticipated costs or savings to small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes and operates a psychotropic medication Oversight Panel for children in the custody of Child and Family Services to ensure that foster children are being prescribed psychotropic medication consistent with their needs.

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

There are no anticipated costs or savings to non-small businesses because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes and operates a psychotropic medication Oversight Panel for children in the custody of Child and Family Services to ensure that foster children are being prescribed psychotropic medication consistent with their needs.

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 no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities because the changes just update and make corrections to the existing rule text and do not change how Child and Family Services establishes and operates a psychotropic medication Oversight Panel for children in the custody of Child and Family Services to ensure that foster children are being prescribed psychotropic medication consistent with their needs.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 62A-4a-102	Section 62A-4a-105	Section 62A-4a-213
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/17/2022

10. This rule change MAY become effective on: 03/24/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/14/2021
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R512. Human Services, Child and Family Services.**R512-311. Out-of-Home Services. Psychotropic Medication Oversight Panel.****R512-311-1. Purpose and Authority.**

(1) ~~The purpose of this rule is to~~ establish and operates a psychotropic medication oversight panel for children in the custody of Child and Family Services to ensure that foster children are being prescribed psychotropic medication consistent with their needs.

(2) This rule is authorized by Sections 62A-4a-102, 62A-4a-10[4]5, and 62A-4a-213.

R512-311-2. Definitions.

As used in this rule:

(1) "Advanced Practice Registered Nurse" means the same as the term~~is~~ defined in Section 58-31b-102.

(2) "Child" means the same as the term~~is~~ defined in Section 62A-4a-101.

(3) "Child and Family Services" means the Division of Child and Family Services, Department of Human Services.

(4) "Fostering Healthy Children nurse" is~~means~~ a nurse assigned to each child in foster care through the Fostering Healthy Children program administered by the Department of Health.

(5) "Oversight Panel" means the Psychotropic Medication Oversight Panel.

(6) "Psychotropic medication" means the same as the term~~is~~ defined in Section 62A-4a-213.

NOTICES OF PROPOSED RULES

R512-311-3. Composition of the Oversight Panel.

(1) ~~[The Oversight Panel shall be comprised, at minimum, of an Advanced Practice Registered Nurse and a child psychiatrist.]~~ Child and Family Services shall comprise the oversight panel with, at minimum, an advanced practice registered nurse and a child psychiatrist.

(2) Child and Family Services may add [O]other individuals [may be added] to the oversight panel as resources permit and when Child and Family Services determines it to be necessary.

R512-311-4. Duties of the Oversight Panel.

(1) The [O]versight [P]panel shall monitor foster children:

(a) six years old or younger who are being prescribed one or more psychotropic medication; and

(b) seven years old or older who are being prescribed two or more psychotropic medications.

(2) ~~[The children shall be referred to the Oversight Panel by the Fostering Healthy Children nurse.]~~ The fostering healthy children nurse shall refer children to the oversight panel.

(3) The [O]versight [P]panel may request information and ~~[or]~~ records related to the foster child's health care history, including:

(a) psychotropic medication history;

(b) ~~[and]~~ mental and behavioral health history, including trauma assessment and trauma treatment history, from the;

(i) foster child's current or past caseworker;

(ii) the foster child;

(iii) the foster parents;

(iv) the natural parents;

(v) the legal guardians from whom the child was removed; and ~~[or]~~

(vi) the foster child's current or past health care provider.

(4) The caseworker ~~[and]~~ or nurse shall assist in obtaining the information and records requested by the oversight panel.

~~[(4)]~~ (5) The [O]versight [P]panel ~~[may]~~ shall:

(a) review and monitor information about the foster child ~~[s]~~; and

(b) make recommendations to the foster child's health care providers concerning the foster child's psychotropic medication or the foster child's mental or behavioral health.

~~[(5)]~~ (6) The oversight [P]panel shall provide these recommendations to the foster child's parent or legal guardians from whom the child was removed, and to the child's caseworker after discussing the recommendations with the foster child's current health care providers.

KEY: child welfare

Date of Last Change: ~~2022~~ January 10, 2017

Notice of Continuation: December 1, 2021

Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 62A-4a-213

NOTICE OF PROPOSED RULE

TYPE OF RULE: New

Utah Admin. Code Ref (R no.): R539-12

Filing ID 54360

Agency Information

1. Department:	Human Services	
Agency:	Services for People with Disabilities	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Bruce Quaglia	435-669-4855	bquaglia@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R539-12. Person-Centered Budget
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Division of Services for People with Disabilities (Division) is acting on the Office of Legislative Auditor's recommendation to enact a rule for the Division person-centered budget practices.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Rule R539-12 describes multiple budget practices: the annual budget review, initial budget development, and budget adjustments. This rule also creates the Request for Services Committee.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
No anticipated cost or savings to the state budget. Changes to this rule do not alter service access or funding.
B) Local governments:
No anticipated cost or savings to local governments. Local governments do not contribute funding to state disability services.

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

No anticipated cost or savings to small businesses. Small businesses do not contribute funding to state disability services.

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

No anticipated cost or savings to non-small businesses. Non-small businesses do not contribute funding to state disability services.

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**):

No anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities. Changes to this rule do not alter service access or funding.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No anticipated compliance costs for affected persons. Changes to this rule do not alter service access or funding.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 62A-5-103

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/17/2022

10. This rule change MAY become effective on: 03/24/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	01/31/2022
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R539. Human Services, Services for People with Disabilities.

R539-12. Person-Centered Budget.

R539-12-1. Purpose and Authority.

(1) The purpose of this rule is to establish a process and standard for creating, adjusting, and reviewing the budget for each person-centered service plan.

(2) This rule is authorized by Subsections 62A-5-103(2)(l) and 62A-5-103(2)(q).

R539-12-2. Definitions.

As used in this rule:

(1) Terms used in this rule are defined in Sections 62A-5-101 and R539-1-3.

(2) "Committee" means the Request for Services Committee.

(3) "Committee chair" means the Request for Services Administrator. Alternates include any supervisor that the Request for Services Administrator reports to; the division Assistant Director; and the division Director.

(4) "Immediate jeopardy" means danger of loss, harm, or failure within 30 days.

(5) "Non-voting committee member" means a division budget specialist, and a specialist or administrator that provides subject matter expertise or consultation.

(6) "Plan cycle" means the period between the person-centered support plan's effective start date and effective end date. A plan cycle is typically 365 days, or 366 days during a leap year.

(7) "Plan total" means the sum of each service line item in the budget. Each service line item multiplies the service rate by the service units.

(8) "Request for services" means a process integrated into USTEPS that facilitates the creation of a person-centered budget through an initial budget and any budget adjustment by submitting proposed service codes, units, and rates; designated start and end dates; and evidence of need to the Request for Services Committee for review.

(9) "Restricted service code" means a service code related to a residential service, day support, or public transportation that includes RHS, HHS, PPS, DSG, DSI, DSP, EPR, and UTA.

(10) "Surplus" means the difference between the plan maximum and the plan cycle expenditures within two consecutive and closed plan cycles.

(11) "Voting committee member" means an employee of the division that reviews and makes a decision about a request for services. A voting member is an employee that:

(a) reports to the Request for Services Administrator; or

(b) is designated by the division Director.

R539-12-3. Request for Services Committee.

(1) The committee reviews protected health information to determine the amount of a person-centered budget based on the person's assessed need.

(2) The committee consists of a minimum of six division employees.

(a) Each committee member shall be a full-time employee with a minimum job classification of program specialist II.

(b) The committee chair must have a minimum job classification of administrator I.

(c) A voting committee member must be:

(i) supervised by the committee chair; or

(ii) designated as a voting committee member by the division director.

(d) A division budget specialist may not be a voting committee member.

(3) A voting committee member shall review each request for services assigned to the voting committee member.

(a) A voting committee member may make a decision for any request for services with a budget adjustment amount less than \$5,000.

(b) A voting committee member shall submit the following request for services to the committee for a decision:

(i) a budget adjustment amount equal to or more than \$5,000;

(ii) a change from an in-home service to an out-of-home service; or

(iii) an adaptive equipment request.

(4) The committee shall meet at least once a week, except during a week in which a recognized holiday or a lack of quorum interferes with the meeting. The committee chair must reschedule a meeting during the preceding or following week.

(a) At least three voting committee members shall be in attendance to make a decision about a request for services.

(b) At least one non-voting committee member who is a division budget specialist shall be in attendance to make a decision about a request for services.

(5) The committee shall:

(a) use the request for services process to review each initial budget and person-centered budget adjustment;

(b) complete the person-centered budget review each year; and

(c) complete the closed plan payment review.

(6) The division must maintain at least three non-voting committee members who can act as a voting committee member in the event of an emergency situation. An emergency situation includes:

(a) a declared public health emergency or natural disaster;

(b) a vacancy in an employee position that reports to the committee chair; or

(c) a sudden increase in the volume of requests.

(7) Except for a division budget specialist, a non-voting committee member may act as a voting member in the event of an emergency after completion of:

(a) 32 hours of participation in committee meetings as a non-voting member;

(b) review of training material;

(c) consultation with and approval by the committee chair; and

(d) approval by the division director.

R539-12-4. Initial Budget.

(1) A division support coordinator, administrative case manager, or specialist develops an initial budget that reflects the person's assessed need and preference.

(2) A division support coordinator, administrative case manager, or specialist shall submit an initial budget to the committee through a request for services.

(3) The division may disburse funding to an initial person-centered budget through a request for services approved by the committee.

(4) The committee will make a decision within a reasonable timeframe but no later than 30 days after the initial budget submission

R539-12-5. Budget Adjustment.

(1) Except as described in Section R539-12-6, a support coordinator shall submit any budget adjustment to the committee for review and approval before changing a person-centered budget. A budget adjustment includes:

(a) an increase or decrease to a plan total;
(b) adding or removing a service in a person-centered budget; or

(c) an increase or decrease to a restricted service code.
(2) A voting committee member shall review each request for services as described in Subsection R539-12-3(1) within 14-days of the date of submission.

(a) The voting committee member must review each supporting document included in the request for services.

(b) The voting committee member must use the criteria for each service code included in the request to evaluate the request for services.

(c) The voting committee member may submit any request for services to the committee for additional review.

(3) A voting committee member or the committee may defer a decision on a request for services.

(a) A voting committee member or the committee may use a deferral to:

(i) clarify the narrative explanation;
(ii) request additional documentation; or
(iii) clarify the requested number of units or reimbursement rate for a service code.

(b) A support coordinator must respond to a deferred request for services within 30 days of the date of deferral.

(4) A voting committee member or the committee may use the modified approval to adjust the number of units or reimbursement rate for a requested service.

(5) A voting committee member or the committee shall deny a request for services that:

(a) does not meet the service criteria;
(b) requests an excessive amount of a service;
(c) requests an amount of service that is not supported by documentation; or

(d) the described use of a service code, number of units, or reimbursement rate does not comply with:

(i) federal Medicaid law and state law;
(ii) the state implementation plan for the 1915c Medicaid waiver; and

(iii) each scope of work and service description requirement in the contract.

(6) A support coordinator may submit an emergency request for services if a person in-service is in immediate jeopardy and needs the service change within 72 hours of the request submission date.

(a) The support coordinator may request units of service equal to or less than 30 days of service. The units of service must be used within a 30-day period beginning on the effective start date.

(b) The committee chair shall review an emergency request within 72 hours of the request submission date.

(c) The committee chair may approve an emergency request after determining that the person is in immediate jeopardy and requires a service change within 72 hours of the request submission date.

R539-12-6. Budget Neutral Change.

(1) A support coordinator may make a budget neutral change to a person-centered budget without review by a voting committee member.

(a) A support coordinator may not adjust the following services in a budget neutral change, except as described in Subsections R539-12-6(2) and R539-12-6(3):

(i) a restricted service code;
(ii) a service code that requires completion of an individualized budget worksheet to determine the daily rate; or
(iii) a service code for which any other agency pays the state match rate as defined in Section R539-1-9.

(b) The support coordinator must review each criteria, justification, and documentation requirement for each service before making a need based change.

(c) A budget neutral change requires that it be fully funded within the plan total for the plan cycle.

(d) A budget neutral change must maintain the integrity of the person-centered support plan as a whole.

(e) The support coordinator shall document any budget neutral change in the person-centered support plan and the division case management system. The support coordinator must:

(i) update the budget, goal, support, and service;
(ii) document the person's and person-centered planning team's involvement in the service change;
(iii) document any justification for a service change in a log note in USTEPS; and

(iv) include the date of a related log note in the addendum to the person-centered support plan.

(2) If the day program daily rate is sufficient to cover the extended living services (ELS) daily rate as defined in the contract, a support coordinator may move the dollar value of the units not used in the day program to fund additional days of ELS.

(a) The ELS exception may be used if the person does not attend the day program:

(i) because of illness or any other unforeseen issue; and
(ii) the person uses a residential service.

(b) The support coordinator must document use of the standard 16 days of ELS built into the individualized budget worksheet for a residential service before requesting additional ELS funding.

(3) A support coordinator may adjust the absentee days for the residential habilitation service (RHS) by contacting a division budget specialist.

(a) The change to absentee days must not increase the overall cost of RHS.

(b) A division budget specialist may make an adjustment to absentee days if the described use of the absentee days complies with:

(i) federal and state law related to Medicaid;
(ii) the state implementation plan for the 1915c Medicaid waiver; and

(iii) each scope of work and service description requirement in the contract.

(4) The support coordinator shall notify the division of a budget neutral change through noa@utah.gov.

R539-12-7. Budget Review.

(1) The division annually reviews utilization of person-centered budgets to maintain alignment of funding and the person's needs.

(a) The division Administrative Services Director begins the review process in August of each fiscal year.

(b) A Request for Services Committee member reviews each budget with potential funding misalignment.

(2) The division shall reduce a person-centered budget after two consecutive and completed plan cycles of underuse due to a misalignment of funding and actual need.

(a) A budget with a \$2,000 or more surplus is subject to a budget reduction that realigns funding with actual need.

(b) The division shall presume that the person-centered budget aligns with the person's need if underuse is caused by one or more of the following reasons:

(i) hospitalization, including placement in the Utah State Hospital;

(ii) incarceration;

(iii) temporary placement in facility-based care, including placement in a nursing facility or a private intermediate care facility;

(iv) temporary placement at the developmental center;

(v) public health or other declared emergency;

(vi) limited access to a service provider; or

(vii) limited access to a direct care employee for a person participating in the self-administered services model.

(c) The division Administrative Services Director may consider budget underuse for a reason not listed in Subsection R539-12-7(2)(b) on a case-by-case basis.

(2) The division shall notify the support coordinator of a budget reduction 30 days before sending a notice of agency action.

(a) A support coordinator must submit written justification within 30 days of notification to dispute the reduction.

(b) The support coordinator must include documentation that explains:

(i) why the unused service continues to represent the person's need;

(ii) why the service was not used; and

(iii) how underuse is being remedied.

(3) The committee members will review the documentation and determine whether the justification is adequate.

(4) If the division reduces the unused portion of the person-centered budget, the division shall send a notice of agency action as described in Section R539-3-8.

(5) The division shall coordinate any appeal of the person-centered budget review process as described in Section R539-3-8.

(6) The support coordinator shall reduce the person's plan cycle total within 30 days of the notice of agency action.

(a) The division monitors compliance with each budget reduction.

(b) If the support coordinator fails to reduce the person's plan cycle total within 30 days of the notice of agency action, the division sends the support coordinator a second notice.

(i) The support coordinator must make the requested change to the person's plan cycle total within 15 days of the date of the second notice.

(ii) The division refers the support coordinator to the Office of Quality and Design for any failure to make the requested change.

KEY: disabilities, budget, request for services

Date of Last Change: 2022

Authorizing, and Implemented or Interpreted Law: 62A-5-103

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal and Reenact

Utah Admin. Code R590-91

Ref (R no.):

Filing ID
54362

Agency Information

1. Department:	Insurance
Agency:	Administration
Room no.:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901
Contact person(s):	
Name:	Phone: Email:
Steve Gooch	801-957-9322 sgooch@utah.gov

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

General Information**2. Rule or section catchline:**

R590-91. Credit Life Insurance and Credit Accident and Health Insurance

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This rule is being repealed and reenacted in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a significant number of minor issues that needed to be amended and determined that a repeal and reenact was the proper method.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The majority of the changes are being done to fix style issues to bring this rule text more in line with Utah Rulewriting Manual standards and to make the language of this rule clearer. Substantive changes remove certain requirements including a duplicative filing requirement for rates and forms, reserving standards that are no longer applicable, duplicative annual financial reporting

requirements, and outdated and unenforced experience reporting requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no anticipated cost or savings to the state budget. The substantive rule changes are limited to removal of requirements that are duplicative, outdated, or no longer enforced.

B) Local governments:

There is no anticipated cost or savings to local governments. The substantive rule changes are limited to removal of requirements that are duplicative, outdated, or no longer enforced.

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

There is no anticipated cost or savings to small businesses. The substantive rule changes are limited to removal of requirements that are duplicative, outdated, or no longer enforced.

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

There is no anticipated cost or savings to non-small businesses. The substantive rule changes are limited to removal of requirements that are duplicative, outdated, or no longer enforced.

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 anticipated cost or savings to any other persons. The substantive rule changes are limited to removal of requirements that are duplicative, outdated, or no longer enforced.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The substantive rule changes are limited to removal of requirements that are duplicative, outdated, or no longer enforced.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

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

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-2-201

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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/17/2022

10. This rule change MAY become effective on: 03/24/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	02/01/2022
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R590. Insurance, Administration.**R590-91. Credit Life Insurance and Credit Accident and Health Insurance.****[R590-91-1. Purpose and Authority.**

The purpose of this rule is to protect the interests of debtors and the public in this State and to ensure a fair and equitable credit insurance market by establishing a system of reasonable rating, policy form, and operating standards for the transaction of credit life insurance and credit accident and health insurance. This rule is promulgated pursuant to Section 31A-2-201.

R590-91-2. Definitions.

As used in this rule:

A. "Credit Accident and Health Insurance" means insurance as defined in Section 31A-22-802.

B. "Credit Insurance" means both credit life insurance and credit accident and health insurance.

C. "Credit Life Insurance" means insurance as defined in Section 31A-22-802.

D. "Indebtedness" means indebtedness as defined in Section 31A-22-802.

E. "Net Indebtedness" means net indebtedness as defined in Section 31A-22-802.

F. "Net Written Premium" means premium as defined in Section 31A-22-802.

G. "Open End Credit" means credit extended by a creditor under an agreement in which the creditor reasonably contemplates repeated transactions; the creditor imposes a finance charge from time to time on an outstanding unpaid balance; and the amount of credit available to the debtor is self-replenishing as the debtor repays amounts previously drawn.

R590-91-3. Rights and Treatment of Debtors.

A. Multiple Plans of Insurance. If a creditor makes available to the debtor more than one plan of credit life insurance or more than one plan of credit accident and health insurance, the debtor

must be informed of the plans applicable to the specific loan transaction.

B. Substitution. If a creditor requires insurance, the debtor shall be given the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by the debtor or procuring and furnishing the required coverage through any insurer authorized to transact insurance business in this State. If this subsection is applicable, the debtor shall be informed by the creditor of the right to provide alternative coverage before the transaction is completed.

C. Evidence of Coverage.

(1) All credit insurance shall be evidenced by an individual policy, or, in the case of group insurance, by a certificate of insurance.

(a) The individual policy or certificate of insurance shall be delivered to the debtor in accordance with Section 31A-22-806(3) and 70C-6-104. The insurer shall promptly notify the debtor of any delay in providing the insurance.

(b) If the named insurer does not accept the risk, the insurer, if any, shall notify the debtor of the failure to provide the insurance. A substituted insurer, if any, shall deliver the policy or certificate in accordance with Section 31A-22-806(5).

(c) Subsequent certificates are not needed on open-end credit arrangements after the initial indebtedness.

(2) Each individual policy or certificate of insurance shall provide the information required by Section 31A-22-806.

(3) Each policy application must provide the information required by Section 31A-22-806(4)(b) and identify the agent, if any.

D. Claims Processing. All credit insurance claims shall be processed in accordance with Section 31A-26-302.

E. Termination of Group Credit Insurance Policy.

(1) If a debtor is covered by a group credit insurance policy providing for the payment of single premiums to the insurer, then provisions shall be made by the insurer that in the event of termination of the policy for any reason, insurance coverage with respect to any debtor insured under the policy shall be continued for the entire period for which the single premium has been paid.

(2) If a debtor is covered by a group credit insurance policy providing for the payment of premiums to the insurer on a monthly outstanding balance basis, then the policy shall provide that, in the event of termination of such policy, for whatever reason, termination notice shall be given to the insured debtor at least 30 days prior to the effective date of termination, except where replacement of the coverage by the same or another insurer in the same or greater amount takes place without lapse of coverage. The notice required in this paragraph shall be given by the insurer or, at the option of the insurer, by the creditor.

F. Interest on Premium. If the creditor adds identifiable insurance charges or premiums for credit insurance to the indebtedness, and any direct or indirect finance, carrying, credit, or service charge is made to the debtor on the insurance charges or premiums, the creditor must remit and the insurer shall collect the premium within 60 days after it is added to the indebtedness.

G. Renewal or Refinancing of Indebtedness. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited promptly to the debtor as provided in Section 8.

H. Maximum Aggregate Provisions. A provision in an individual policy or certificate that sets a maximum limit on total payments must apply only to that individual policy or certificate.

~~I. Voluntary Prepayment of Indebtedness. If a debtor prepays his indebtedness other than as a result of his death or through a lump sum accident and health payment:~~

~~(1) Any credit life insurance covering indebtedness shall be terminated and an appropriate refund of the credit life insurance premium shall be paid to the debtor in accordance with Section 8; and~~

~~(2) Any credit accident and health insurance covering indebtedness shall be terminated and an appropriate refund of the credit accident and health insurance premium shall be paid to the debtor in accordance with Section 8. If a claim under this coverage is in progress at the time of prepayment, the amount of refund may be determined as if the prepayment did not occur until the payment of benefits terminates. No refund need be paid during any period of disability for which credit disability benefits are payable. A refund shall be computed as if prepayment occurred at the end of the disability period.~~

~~J. Involuntary Prepayment of Indebtedness. If an indebtedness is prepaid by the proceeds of a credit life insurance policy covering the debtor or by a lump sum payment of a disability claim under a credit insurance policy covering the debtor, then it shall be the responsibility of the insurer to see that the following are paid to the insured debtor if living or to the beneficiary, other than the creditor, named by the debtor or to the debtor's estate:~~

~~(1) In the case of prepayment by the proceeds of a credit life insurance policy, or by the proceeds of a lump sum total and permanent disability benefit under credit life coverage, an appropriate refund of the credit accident and health insurance premium in accordance with Section 8;~~

~~(2) In the case of prepayment by a lump sum disability claim, an appropriate refund of the credit life insurance premium in accordance with Section 8;~~

~~(3) In either case, the amount of the benefits in excess of the amount required to repay the indebtedness after crediting any unearned interest or finance charges.~~

~~K. Amounts to be Insured:~~

~~(1) Credit life insurance benefits shall be consistent with the premium charge.~~

~~The initial amount of credit life insurance may not exceed the total amount payable under the contract of indebtedness. Credit life insurance may provide benefits in amounts which do not exceed, but may be less than, the scheduled amount of indebtedness, including unearned interest or finance charges, or the actual amount of unpaid indebtedness, whichever is greater. Credit life insurance on preauthorized lines of credit not exceeding the commitment period may be written for the preauthorized amount on a nondecreasing or level term plan. The death benefit amount shall be that amount for which premiums are paid. Whenever the amount of insurance exceeds the unpaid indebtedness, that excess is payable to a beneficiary, other than the creditor, named by the debtor or to the debtor's estate.~~

~~(2) The total amount of indemnity payable by credit accident and health insurance in the event of disability, as defined in the policy, may not exceed, but may be less than the aggregate of the periodic scheduled unpaid installments of the indebtedness. The amount of each periodic indemnity payment may not exceed the total amount payable under the contract of indebtedness divided by the number of periodic installments.~~

~~L. Dividends on participating individual policies of credit insurance shall be payable to the individual insureds.~~

R590-91-4. Policy Forms, Filing and Reserves.

~~A. Permissible Forms. Credit life insurance and credit accident and health insurance shall be issued only in the forms defined in Section 31A-22-803.~~

~~B. Filing Requirements.~~

~~(1) All policy forms, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders to be delivered or issued for delivery in this State shall be filed with the commissioner as required by Sections 31A-21-201, 31A-22-807, and 31A-22-808.~~

~~(2) An actuarial memorandum, signed and dated, must be included in each rate and form filing. The memorandum must identify the following:~~

~~(a) types of coverage: gross, net, decreasing, level, single life, joint life, full term or truncated;~~

~~(b) types of loans to be insured: open end, closed end;~~

~~(c) durations of the loans and durations of the coverage. Refer to Section 31A-22-801(2)(a);~~

~~(d) methods of premium charge: single premium or monthly outstanding balance;~~

~~(e) schedules of premium rates and formulas for each type of coverage;~~

~~(f) methods of refund calculation and formulas for each type of coverage; and~~

~~(g) reserve bases.~~

~~(3) All filings are subject to the general filing requirements of the Utah Submission of Credit Life and Credit Accident and Health Insurance Form and Rate Filings, Rule R590-228. The commissioner may prohibit a form if the benefits provided are not reasonable in relation to the premium charged.~~

~~C. The minimum reserve basis for credit life insurance issued to be effective prior to January 1, 2008 shall be the 1980 Commissioner's Standard Ordinary Table (1980 CSO) with interest at 5 1/2% per annum.~~

~~D. The minimum reserve basis for active lives on credit accident and health insurance issued to be effective prior to January 1, 2008 shall be the amount of the premium refund available to the insured.~~

~~E. The minimum reserve basis for disabled lives on credit accident and health insurance issued to be effective prior to January 1, 2008 shall be the 1987 Commissioner's Group Disability Table (1987 CGDT) with interest at 5 1/2% per annum.~~

R590-91-5. Reasonableness of Benefits in Relation to Premium.

~~A. General Standard. Under Section 31A-22-807, benefits provided by credit insurance policies must be reasonable in relation to the premium charged. This requirement is deemed to be satisfied if the premium rate charged develops or may be reasonably expected to develop a loss ratio of not less than 50% for credit life insurance and not less than 55% for credit accident and health insurance.~~

~~B. Nonstandard Coverage. If any insurer files for approval of any form providing coverage different from that described in Sections 6 and 7, the insurer shall demonstrate to the satisfaction of the commissioner that the premium rates to be charged for the coverage will develop or may be reasonably expected to develop a loss ratio not less than that contemplated for standard coverage at the premium rates described in these sections.~~

~~C. Coverage Without Separate Charge. If no specific charge is made to the debtor for credit insurance, the standards of Subsection A above and the deviation standards of Section 11 are not required to be used. For purposes of this subsection, it will be considered that the debtor is charged a specific amount for insurance~~

if an identifiable charge for insurance is disclosed in the credit or other instrument furnished the debtor which sets out the financial elements of the credit transactions, or if there is a differential in finance, interest, service or other similar charge made to debtors who are in like circumstances, except for their insured or noninsured status. Any such charge which exceeds the premium rate standards set out in Sections 6 and 7 as adjusted pursuant to Section 9 must be filed with the commissioner.

~~R590-91-6. Credit Life Insurance Prima Facie Rates.~~

~~A. Premium Rate. Credit life insurance prima facie premium rates for the insured portion of an indebtedness payable in equal monthly installments, where the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid, shall be as set forth in paragraphs (1) and (2). Paragraphs (3), (4), and (5) refer to prima facie premium rates for other types of benefits either alone or in combination with the type of benefits applicable to (1) and (2).~~

~~(1) Outstanding balance: \$0.65 per month per \$1,000 of outstanding insured indebtedness if premiums are payable on a monthly outstanding balance basis;~~

~~(2) Single Premium Decreasing Term: If premiums are payable on a single premium basis, the following formula shall be used to develop single premium rates from the outstanding balance rate:~~

~~$Sp = (N + 1)/20 (Op)$ where Sp is the single term premium per \$100 of initial insured indebtedness, N is the credit term in months, and Op is the monthly outstanding balance rate per \$1,000 of outstanding insured indebtedness;~~

~~(3) Single Premium Level Term: If premiums are payable on a single premium basis when the benefit provided is level term, the following formula shall be used to develop single premium rates from the outstanding balance rate:~~

~~$Sp = N/10 (Op)$ where Sp is the single term premium per \$100 of initial insured indebtedness, N is the credit term in months, and Op is the monthly outstanding balance rate per \$1,000 of outstanding insured indebtedness.~~

~~(4) Joint coverage rate on basis (1), (2), or (3) of Subsection A may be no greater than one hundred and seventy percent (170%) of the specific rate for that type of coverage.~~

~~(5) A combination of the appropriate rate for level term and the appropriate rate for decreasing term, with equal decrements, shall be used, if coverage provided is a combination of level term and decreasing term, with equal decrements.~~

~~(6) If the benefits provided are other than those described in Subsection A above, rates for these benefits shall be actuarially consistent with the rates provided in Paragraphs (1), (2), and (3).~~

~~B. The premium rates in Subsection A shall apply to all policies providing credit life insurance, to be issued either with or without evidence of insurability, to be offered to all eligible debtors, and containing:~~

~~(1) No exclusions other than suicide within one year of the incurred indebtedness;~~

~~(2) Either no age restrictions or age restrictions making ineligible for coverage debtors 65 or over at the time the indebtedness is incurred or debtors having attained age 66 or over on the maturity date of the indebtedness; and~~

~~(3) Insurance written in connection with an open-end credit plan may exclude from the classes eligible for insurance classes of debtors determined by age, and provide for the cessation of insurance or reduction in the amount of insurance upon attainment of not less than age 65.~~

~~(4) On insurance written in connection with open-end credit plans where the amount of insurance is based on or limited to the outstanding unpaid balance, no provision excluding or denying a claim for death resulting from a preexisting condition except for those conditions for which the insured debtor received medical diagnosis or treatment within six months preceding the effective date of coverage and which caused or substantially contributed to the death of the insured debtor within six months following the effective date of coverage. The effective date of coverage for each part of the insurance attributable to a subsequent advance or increase to the outstanding balance is the date on which the advance or increase is posted to the plan account. Such preexisting condition exclusion shall apply to the initial indebtedness and all subsequent advances on an individual basis, only where evidence of individual insurability has not been required.~~

~~R590-91-7. Credit Accident and Health Insurance Prima Facie Rates.~~

~~A. Premium Rate. Credit accident and health insurance prima facie premium rates for the insured portion of an indebtedness repayable in equal monthly installments, where the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid, shall be as set forth in paragraphs (1) and (2). Paragraphs (3), (4), (5), and (7) refer to prima facie premium rates for other types of benefits either alone or in combination with the type of benefits applicable to (1) and (2).~~

~~(1) If premiums are payable on a single premium basis for the duration of the coverage, the premiums shall be as indicated on the attached chart which is available from the Insurance Department.~~

~~(2) If premiums are paid on the basis of a premium rate per month per thousand of outstanding insured indebtedness, these premiums shall be computed according to the following formula, or according to a formula approved by the commissioner which produces rates actuarially equivalent to the single premium rates in Table I:~~

~~$OP_n = 20/n + 1 (SP_n)$~~

~~where SP_n = Single Premium Rate per \$100 of initial insured indebtedness repayable in n equal monthly installments;~~

~~OP_n = Monthly Outstanding Balance Premium Rate per \$1,000;~~

~~n = Original payment period, in months.~~

~~(3) The actuarial equivalent of paragraphs (1) and (2) shall be used if the coverage provided is a constant maximum indemnity for a given period of time.~~

~~(4) An appropriate combination of the premium rate for a constant maximum indemnity for a given period of time and the premium rate for a maximum indemnity which decreases in equal amounts per month shall be used if the coverage provided is a combination of a constant maximum indemnity for a given period of time after which the maximum indemnity begins to decrease in equal amounts per month.~~

~~(5) If the benefits provided are other than those described above, rates for the benefits shall be actuarially consistent with rates provided in Paragraphs (1), (2), (3), and (4).~~

~~(6) The outstanding balance rate for credit accident and health insurance may be either a term specified rate or may be a single composite term outstanding balance rate applicable to all loans made under an open-end credit plan.~~

~~(7)(a) For an open-end credit plan, the monthly rate per \$1,000 of outstanding principal balance shall be the rate calculated using the formula in paragraph (2) where n is the number of monthly indemnity payments required to completely extinguish the debt. The~~

rate shall be further reduced to appropriately account for critical period if applicable.

~~(b) The critical period factors shall be filed with the department and shall not exceed the factors based on the 1968 Credit A and H Two Composite Tables published by the NAIC (Proceedings – 1968 Vol. II).~~

~~B. The premium rates in Subsection A shall apply to all policies providing credit accident and health insurance, to be issued with or without evidence of insurability, to be offered to all eligible debtors, and containing:~~

~~(1) No provision excluding or denying a claim for disability resulting from preexisting conditions except for those conditions for which the insured debtor received medical advice, diagnosis, or treatment within six months preceding the effective date of the debtor's coverage and which caused loss within the six months following the effective date of coverage.~~

~~(2) No other provision which excludes or restricts liability in the event of disability caused in a specified manner except that it may contain provisions excluding or restricting coverage in the event of normal pregnancy and intentionally self inflicted injuries.~~

~~(3) No actively at work test may require that the debtor be employed more than 30 hours per week.~~

~~(4) No age restrictions or only age restrictions making ineligible for coverage debtors 65 or over at the time the indebtedness is incurred or debtors who will have attained age 66 or over on the maturity date of the indebtedness.~~

~~(5) A daily benefit equal in amount to one thirtieth of the monthly benefit payable under the policy for the indebtedness.~~

~~(6) A definition of disability, which is no more restrictive than one requiring that during the first 12 months of disability the insured shall be unable to perform the principal duties of his occupation at the time the disability occurred, and thereafter unable to perform the principal duties of any occupation for which the insured is reasonably fitted by education, training, or experience. This paragraph may not apply to lump sum disability coverage.~~

~~(7) Insurance written in connection with an open end credit plan may exclude from the classes eligible for insurance classes of debtors determined by age, and provide for the cessation of insurance or reduction in the amount of insurance upon attainment of not less than age 65.~~

R590-91-8. Refund Formulas.

~~A. Refund formulas which any insurer desires to use must be filed with and approved by the commissioner prior to use. Refund formulas used must develop refunds which are at least as favorable to the debtor as the following methods which are deemed the minimum requirements for the plans described.~~

~~(1) Pro Rata Method. The pro rata unearned gross premium method shall be deemed to produce the minimum refund amount to be used for level term credit insurance, and for credit insurance coverages under which premiums are collected from the debtor on a basis other than the single premium basis.~~

~~Refund = t/n (original gross single premium) where t = the number of remaining months;~~

~~n = the original loan term in months.~~

~~(2) Rule of 78 method. The Rule of 78 or sum of the digits unearned premium method shall be deemed to produce the minimum refund amount to be used for insurance coverage which reduces in equal amounts per month and for which the premiums are collected on a single premium basis.~~

~~Refund = $((t+1)/n(n+1))$ (original gross single premium)~~

~~where t = the number of remaining months; n = the original loan term in months.~~

~~(3) Combination Methods. An appropriate combination of the pro rata method and the Rule of 78 method or, at the option of the insurer, the pro rata method shall be used for credit life insurance provided as a combination of level and decreasing term coverage and for credit accident and health insurance wherein the insured is covered for a constant maximum indemnity for a given period of time, after which the maximum indemnity begins to decrease in equal amounts per month.~~

~~B. For net indebtedness insurance and for other types of insurance and other modes of premium payment, each insurer shall file for approval and include in the policy appropriate formulas and/or factors for refunds, or reference to such formulas and factors that are on file with the commissioner. For net indebtedness, either the actuarial method also known as the U.S. Rule or pure premium method, or an arithmetic average of refunds due under Pro Rata and Rule of 78 Methods will be acceptable.~~

~~C. In the event of termination, no charge for credit insurance may be made for the first 15 days of a loan month and a full month may be charged for 16 days or more of a loan month, unless refunds are made on a pro rata basis for each day within the loan month.~~

~~D. If the total of all refunds due a debtor (or joint debtors) is less than \$5.00, no refund need be made.~~

R590-91-9. Experience Reports and Adjustment of Prima Facie Rates.

~~A. Each insurer doing Credit Insurance business in this state shall annually file with the commissioner and the NAIC Support and Services Office a report of credit life insurance and credit accident and health business written on a calendar year basis. Each insurer shall utilize the Credit Insurance Experience Exhibit as approved by the National Association of Insurance Commissioners. The report shall contain data separately for this state. The filing shall be made in accordance with and no later than the due date in the Instructions to the Annual Statement.~~

~~B. Whenever deemed necessary, the commissioner will publish by order, after a hearing, Prima Facie Rates before September 1. The new prima facie rates shall be effective January 1 of the following year.~~

R590-91-10. Rating Standards—Filing Requirements.

~~A. Requirement to File the Four Year Loss Ratio Test.~~

~~(1) Insurers with more than \$250,000 of credit insurance premium earned in Utah in the most recent four year period shall annually file an experience report to determine whether benefits are reasonable in relation to premiums based on the loss ratio test in Section 31A-22-807(4). The loss ratio shall be calculated at the rates actually used in each year. The insurer may also file an adjusted loss ratio report that adjusts premium to the most recent premium rates. The Four Year Loss Ratio Report is due one month after the due date of the experience exhibit required by Section 9.~~

~~(2) Insurers whose loss ratios are less than the minimum loss ratio by ten percentage points or more shall file a rating and benefits plan that meets the requirements of Subsection B. Insurers who would be required to decrease rates by more than 10% may phase in decreases in annual 10% increments.~~

~~B. Filing Standards.~~

~~(1) Insurers filing for a rate deviation, including those required to file under Subsection 1 above, shall submit an actuarial~~

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memorandum that shows that the premium rate does not exceed the sum of:

- ~~_____ (a) 50% of the prima facie rate or its actuarial equivalent; and~~
- ~~_____ (b) the expected losses.~~
- ~~_____ (2) The calculation of expected losses shall take into account the following:~~
 - ~~_____ (a) the actual loss experience to the extent credible;~~
 - ~~_____ (b) the degree of underwriting used in marketing the product; and~~
 - ~~_____ (c) the relative mortality and morbidity of Utah experience when using national experience or actuarial tables.~~

R590-91-11. Rating Procedures – Direct Business Only.

- ~~_____ A. Use of Rates Higher Than Prima Facie Rates.~~

~~_____ An insurer may file for approval and use rates that are higher than prima facie rates if it can be expected that the use of those higher rates will produce a minimum loss ratio that is required by Section 31A-22-807.~~
- ~~_____ B. Use of Rates Lower Than Filed Rates.~~

~~_____ An insurer may use a rate that is lower than its filed rate without notice to the commissioner.~~

R590-91-12. Disclosure to Debtor.

- ~~_____ A. When a premium or identifiable charge is payable by a debtor for credit insurance coverage, certain information must be disclosed to the debtor at the time the debtor applies for the insurance. The disclosures shall be made to the principal debtor and copies given to the debtor and retained in accordance with State and Federal law. These disclosures shall be made prominently and in close proximity to the space for the signature indicating the election to obtain the coverage. These disclosures may be made in conjunction with the Federal Truth in Lending disclosure, a Notice of Proposed Insurance, the application for insurance, or in the individual insurance policy or certificate. The following items must be included in the disclosure:~~
 - ~~_____ (1) the optional nature of the coverage;~~
 - ~~_____ (2) the premium or identifiable charge separately listed by type of coverage;~~
 - ~~_____ (3) eligibility requirements including health restrictions and at work requirements; and~~
 - ~~_____ (4) any age restrictions in regard to eligibility for insurance coverage at the time the indebtedness is incurred or in regard to cessation of coverage due to attainment of age.~~
- ~~_____ B. If at any time during the term of the loan, the insurance is insufficient to pay off the scheduled outstanding balance of the loan, this fact must be clearly and prominently disclosed to the prospective insured on the policy or certificate.~~
- ~~_____ C. All credit insurance policies and certificates shall clearly describe the amount of the benefit and the term of coverage. Whenever the amount of credit life insurance exceeds the unpaid indebtedness, such fact shall be clearly disclosed in the policy or group certificate; and such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to the debtor's estate.~~
- ~~_____ D. If any policy or certificate has a preexisting condition exclusion, such exclusion shall be clearly and prominently disclosed.~~

R590-91-13. Unfair Marketing Practices.

~~_____ The commissioner finds that violations of this rule when engaged in by licensees of the department in connection with the sale or placement of credit insurance, or as an inducement, are misleading, deceptive, or unfairly induce the purchase of credit insurance and~~

~~constitute unfair methods of competition and shall be in violation of Unfair marketing practices under Section 31A-23a-402.~~

R590-91-14. Severability.

~~_____ If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances may not be affected.~~

R590-91-15. Enforcement Date.

~~_____ The commissioner will begin enforcing the revised provisions of this rule on the effective date.]~~

R590-91-1. Authority.

~~_____ This rule is promulgated by the commissioner pursuant to Section 31A-2-201.~~

R590-91-2. Purpose and Scope.

- ~~_____ (1) The purpose of this rule is to:~~
 - ~~_____ (a) protect the interests of debtors and the public in this state; and~~
 - ~~_____ (b) establish a system of reasonable rating, policy form, and operating standards for credit insurance transactions.~~
- ~~_____ (2) This rule applies to each credit insurance transaction within the scope of Title 31A, Chapter 22, Part 8, Credit Life and Accident and Health Insurance.~~

R590-91-3. Definitions.

~~_____ Terms used in this rule are defined in Sections 31A-1-301 and 31A-22-802. Additional terms are defined as follows:~~

- ~~_____ (1) "Credit insurance" means credit life insurance and credit accident and health insurance.~~
- ~~_____ (2) "Open-end credit" means credit extended by a creditor under an agreement in which:~~
 - ~~_____ (a) the creditor reasonably contemplates repeated transactions;~~
 - ~~_____ (b) the creditor imposes a finance charge from time to time on an outstanding unpaid balance; and~~
 - ~~_____ (c) the credit available to the debtor is self-replenishing as the debtor repays amounts previously drawn.~~

R590-91-4. Rights and Treatment of Debtors.

- ~~_____ (1)(a) If a creditor requires insurance, the creditor shall give the debtor the option to:~~
 - ~~_____ (i) furnish the required amount of insurance through an existing insurance policy the debtor owns or controls; or~~
 - ~~_____ (ii) obtain insurance coverage through any insurer authorized to transact insurance business in this state.~~
- ~~_____ (b) If this subsection applies, the creditor shall inform the debtor of the debtor's right to provide alternative coverage before the transaction is completed.~~
- ~~_____ (2) Evidence of coverage for credit insurance shall comply with Sections 31A-22-806 and 70C-6-104.~~
- ~~_____ (3)(a) If the named insurer does not accept the risk, the insurer shall notify the debtor that the insurer did not accept the risk and did not provide the insurance.~~
- ~~_____ (b) A substituted insurer, if any, shall deliver the policy or certificate according to Subsection 31A-22-806(5).~~
- ~~_____ (4) No subsequent certificate is needed on an open-end credit arrangement after the initial indebtedness.~~
- ~~_____ (5) Each policy application must identify the producer, if any, and provide the information required by Subsection 31A-22-806(4)(b).~~

(6)(a) If a debtor is covered by a group credit insurance policy in which each individual pays a single premium to the insurer, the policy shall include a provision indicating that if the policy is terminated for any reason, the debtor's insurance coverage shall continue for the period for which the debtor's premium has been paid.

(b) If a debtor is covered by a group credit insurance policy with a premium paid to the insurer on a monthly outstanding balance basis, the policy shall include a provision indicating that the debtor shall be given at least 30 days notice before the policy is terminated.

(c) The notice requirement in Subsection (5)(b) does not apply when:

(i) the debtor obtains replacement coverage from the same or another insurer;

(ii) in the same or greater amount; and

(iii) the replacement coverage takes place without lapse of coverage.

(d) The insurer shall provide the notice required in Subsection (5)(b) or, at the insurer's option, the creditor may provide the notice.

(7) If the creditor adds any identifiable insurance charge or premium for credit insurance to the indebtedness, and the creditor adds any direct or indirect finance, carrying, credit, or other service charge on the insurance charge or premium, the following shall occur:

(a) the creditor must remit the insurance charge or premium to the insurer; and

(b) the insurer shall collect the insurance charge or premium within 60 days after the insurance charge or premium is added to the indebtedness.

(8) A provision in an individual policy or certificate that sets a maximum limit on total payments shall only apply to the individual policy or certificate that contains the provision.

(9) For credit life insurance, when the indebtedness of a debtor is prepaid in a manner other than a lump sum accident and health payment, or as a result of the debtor's death:

(a) any credit life insurance covering the indebtedness shall be terminated; and

(b) the debtor shall be refunded the credit life insurance premium according to the formula in Section R590-91-9.

(10)(a) For credit accident and health insurance, when the indebtedness of a debtor is prepaid in a manner other than a lump sum accident and health payment or as a result of the debtor's death:

(i) any credit accident and health insurance covering the indebtedness shall be terminated; and

(ii) the debtor shall be refunded the credit accident and health insurance premium according to the formula in Section R590-91-9.

(b) If there is a pending claim under the coverage when the indebtedness is paid, the refund amount may be determined as if the indebtedness was paid after the benefit payments terminated.

(c) No refund need be paid during any disability period when credit disability benefits are payable.

(d) A refund shall be computed as if the indebtedness was paid at the end of the disability period.

(11)(a) If an indebtedness is prepaid from the proceeds of a debtor's credit life insurance policy or from a disability claim lump sum payment under the debtor's credit insurance policy, the insurer shall be responsible for ensuring that the following are paid to the insured debtor if living, or to the debtor's named beneficiary, other than the creditor, or to the debtor's estate:

(i) when the indebtedness is prepaid from the proceeds of a credit life insurance policy, or from the proceeds of a lump sum total and permanent disability benefit under credit life insurance coverage, the credit accident and health insurance premium refund made according to the formula in Section R590-91-9; or

(ii) when the indebtedness is prepaid from a lump sum disability claim under credit accident and health insurance coverage, the credit life insurance premium refund made according to the formula in Section R590-91-9.

(b) For a debt paid under Subsection (11)(a), the benefit amount in excess of the amount required to repay the indebtedness after crediting any unearned interest or finance charges.

(12)(a) A credit life insurance benefit shall be consistent with the premium charge.

(b) Credit life insurance on preauthorized lines of credit not exceeding the commitment period may be written for the preauthorized amount on a nondecreasing or level term plan.

(c) The death benefit amount shall be the amount for which a premium is paid.

(d) When the insurance amount exceeds the unpaid indebtedness, the excess is payable to the debtor's named beneficiary, other than the creditor, or to the debtor's estate.

(13) A dividend on a participating individual credit insurance policy shall be payable to each individual insured.

R590-91-5. Policy Forms and Reserves.

(1) Credit insurance shall be issued in a form described in Section 31A-22-803.

(2) Each policy form, certificate, notice of proposed insurance, application, endorsement, and rider to be delivered or issued for delivery in this state shall be filed with the commissioner as required by Sections 31A-21-201, 31A-22-807, and 31A-22-808.

(3) Each filing is subject to the general filing requirements of Rule R590-228, Submission of Credit Life and Credit Accident and Health Insurance Form and Rate Filings.

(4) The commissioner may prohibit a form if the benefits provided are not reasonable in relation to the premium charged.

R590-91-6. Reasonableness of Benefits in Relation to Premium.

(1) If any insurer files a form for approval that provides coverage that is different from the coverage described in Sections R590-91-7 and R590-91-8, the insurer shall demonstrate to the commissioner's satisfaction that the premium rates for the coverage will develop or may reasonably be expected to develop a loss ratio not less than that contemplated for standard coverage at the premium rates described in Sections R590-91-7 and R590-91-8.

(2) If the debtor is not specifically charged for credit insurance, the standards in Section 31A-22-807 and Section R590-91-11 are not required to be used.

(3) For the purposes of Subsection (2), the debtor is specifically charged for credit insurance if:

(a) an identifiable charge for insurance is disclosed in the credit or other instrument furnished to the debtor that sets out the credit transaction's financial elements; or

(b) there is a differential in finance, interest, service, or other similar charge made to debtors who are in like circumstances, except for their insured or noninsured status.

(4) Any charge described in Subsection (3) that exceeds the premium rate standards in Sections R590-91-7 and R590-91-8, as adjusted under Section R590-91-10, shall be filed with the commissioner.

R590-91-7. Credit Life Insurance Prima Facie Rates.

(1) Subsections (3) and (4) refer to credit life insurance prima facie premium rates for the insured portion of an indebtedness payable in equal monthly installments, when the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid.

(2) Subsections (5), (6), and (7) refer to the prima facie premium rates for other benefit types alone or in combination with the benefit types in Subsections (3) and (4).

(3) If a premium is payable on a monthly outstanding balance basis, the prima facie rate shall be \$0.65 per month per \$1,000 of outstanding insured indebtedness.

(4) If a premium is payable on a single premium basis, the single premium prima facie rate per \$100 of the initial indebtedness shall be $((N+1)/20)(Op)$:

(a) N is the credit term in months; and

(b) Op is the rate specified in Subsection (3).

(5) If a premium is payable on a single premium basis when the benefit provided is level term, the single premium prima facie rate per \$100 of the initial indebtedness shall be $(N/10)(Op)$:

(a) N is the credit term in months; and

(b) Op is the rate specified in Subsection (3).

(6) The joint coverage rate for Subsection (3), (4), or (5) may not be greater than 170% of the specific rate for the type of coverage.

(7) A combination of the appropriate rate for level term and the appropriate rate for decreasing term, with equal decrements, shall be used if coverage provided is a combination of level term and decreasing term, with equal decrements.

(8) If the benefits provided are other than the benefits described in Subsections (1) through (7), the benefit rates shall be actuarially consistent with the rates in Subsections (1) through (7).

(9)(a) The premium rates in Subsections (1) through (8) shall apply to each credit life insurance policy that is issued with or without evidence of insurability, that is offered to all eligible debtors, and that contains:

(i) no exclusion, except suicide within one year of the incurred indebtedness; and

(ii) either no age restriction or an age restriction making ineligible for coverage:

(A) a debtor age 65 or over at the time the indebtedness is incurred; or

(B) a debtor age 66 or over on the maturity date of the indebtedness.

(b) Insurance written for an open-end credit plan may:

(i) exclude from insurance eligibility debtor classes determined by age; and

(ii) provide for the insurance to stop or reduce the insurance amount when the debtor reaches age 65.

(c) Insurance written for an open-end credit plan where the amount of insurance is based on or limited to the outstanding unpaid balance may not include any provision excluding or denying a claim for death resulting from a preexisting condition, except for a condition that:

(i) the insured debtor received medical diagnosis or treatment within six months before the effective date of coverage; and

(ii) caused or substantially contributed to the insured debtor's death within six months after the effective date of coverage.

(d) The exclusion in Subsection (9)(c) shall apply to the initial indebtedness and all subsequent advances on an individual

basis, only where evidence of individual insurability has not been required.

(e) The effective date of coverage for each part of the insurance attributable to a subsequent advance or increase to the outstanding balance is the date on which the advance or increase is posted to the plan account.

R590-91-8. Credit Accident and Health Insurance Prima Facie Rates.

(1) Subsections (3) and (4) refer to credit accident and health insurance prima facie premium rates for the insured portion of an indebtedness repayable in equal monthly installments, when the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid.

(2) Subsections (5), (7), (8), and (9) refer to the prima facie premium rates for other benefit types alone or in combination with the benefit types in Subsections (3) and (4).

(3) If a premium is payable on a single-premium basis for the duration of the coverage, the premium shall be as indicated on "R590-91 Attachment: Credit Disability Insurance" available on the department's website <https://insurance.utah.gov>.

(4) If a premium is paid on a premium rate per month per thousand of outstanding insured indebtedness, the premium shall be computed according to:

(a) the formula in Subsection (4)(c); or

(b) a formula approved by the commissioner that produces a rate actuarially equivalent to the single premium rate defined in Subsection (3).

(c) $OPn = (20/(n+1))(SPn)$:

(i) SPn = single premium rate per \$100 of initial insured indebtedness repayable in n equal monthly installments;

(ii) OPn = monthly outstanding balance premium rate per \$1,000; and

(iii) n = original payment period in months.

(5) The actuarial equivalent of Subsections (3) and (4) shall be used if the coverage provided is a constant maximum indemnity for a given time period.

(6) An appropriate combination of the premium rate for a constant maximum indemnity for a given time period and the premium rate for a maximum indemnity that decreases in equal amounts per month shall be used if the coverage provided is a combination of a constant maximum indemnity for a given time period after which the maximum indemnity begins to decrease in equal amounts per month.

(7) If the benefit provided is different from the benefits described in Subsections (1) through (6), the benefit rate shall be actuarially consistent with the rates in Subsections (3), (4), (5), and (6).

(8) The outstanding balance rate for credit accident and health insurance may be a term specified rate or a single composite term outstanding balance rate applicable to any loan made under an open-end credit plan.

(9)(a)(i) For an open-end credit plan, the monthly rate per \$1,000 of outstanding principal balance shall be the rate calculated using the formula in Subsection (4) where n is the number of monthly indemnity payments required to completely extinguish the debt.

(ii) The rate shall be further reduced to appropriately account for the critical period, if applicable.

(b) The critical period factors shall be filed with the department and shall not exceed the factors based on the 1968 Credit A and H Two Composite Tables published by the NAIC (Proceedings - 1968 Vol. II).

(10) The premium rates in Subsections (1) through (9) shall apply to each credit accident and health insurance policy that is issued with or without evidence of insurability, that is offered to all eligible debtors, and that contains:

(a) no provision excluding or denying a disability claim resulting from a preexisting condition, except for a condition that:

(i) the insured debtor received medical advice, diagnosis, or treatment within six months before the effective date of the debtor's coverage; and

(ii) caused the insured debtor's loss within the six months after the effective date of coverage;

(b) no other provision that excludes or restricts liability for a disability caused in a specified manner, except for a provision that excludes or restricts coverage in the event of:

(i) normal pregnancy; and

(ii) an intentionally self-inflicted injury;

(c) no actively at work test that requires the debtor to be employed more than 30 hours per week;

(d) no age restriction or an age restriction only making ineligible for coverage;

(i) a debtor age 65 or over at the time the indebtedness is incurred; or

(ii) a debtor who will have reached age 66 or over on the maturity date of the indebtedness;

(e) a daily benefit equal to 1/30th of the monthly benefit payable under the policy for the indebtedness; and

(f) a definition of disability that is no more restrictive than a definition requiring that:

(i) the insured be unable to perform the principal duties of the insured's occupation for 12 months from the time the insured's disability occurred; and

(ii) the insured be unable to perform the principal duties of any occupation the insured is reasonably qualified for by education, training, or experience after 12 months from the time the insured's disability occurred.

(11) Subsection (10)(f) may not apply to lump sum disability coverage.

(12) Insurance written for an open-end credit plan may:

(a) exclude from insurance eligibility debtor classes determined by age; and

(b) stop insurance coverage or reduce the amount of insurance when the debtor reaches age 65.

R590-91-9. Refund Formulas.

(1) A refund formula shall be at least as favorable to the debtor as the formulas in this section.

(2) The refund formulas in this section are the minimum requirements for a plan described in Subsections (2)(a) through (c).

(a)(i) The pro rata unearned gross premium method shall provide the minimum refund amount for level term credit insurance and credit insurance coverage under which premiums are collected from the debtor on a basis other than the single premium basis.

(ii) $\text{Refund} = t/n(\text{original gross single premium})$

(A) t = the number of remaining months; and

(B) n = the original loan term in months.

(b)(i) The Rule of 78 or sum of the digits unearned premium method shall provide the minimum refund amount for insurance coverage that:

(A) reduces in equal amounts per month; and

(B) the premiums are collected on a single premium basis.

(ii) $\text{Refund} = (t(t+1)/n(n+1))(\text{original gross single premium})$

(A) t = the number of remaining months; and

(B) n = the original loan term in months.

(c) A combination of the pro rata method and the Rule of 78 method or, at the option of the insurer, the pro rata method shall be used for:

(i) credit life insurance provided as a combination of level and decreasing term coverage; and

(ii) credit accident and health insurance when the insured is:

(A) covered for a constant maximum indemnity for a given time period; and

(B) after the time period the maximum indemnity begins to decrease in equal amounts per month.

(3) For net indebtedness insurance, another type of insurance, and another mode of premium payment, each insurer shall:

(a) file for approval each formula and factor for a refund; and

(b) include in the policy:

(i) each formula and factor for a refund; or

(ii) reference each formula and factor filed and approved by the commissioner.

(4) For net indebtedness, the acceptable methods of refund calculations are:

(a) the actuarial method, also known as the U.S. Rule or the pure premium method; or

(b) an arithmetic average of refunds due under pro rata and Rule of 78 methods.

(5) When credit insurance is terminated:

(a) no charge may be made for the first 15 days of a loan month; and

(b) a full month may be charged for 16 days or more of a loan month, unless a refund is made on a pro rata basis for each day within the loan month.

(6) If the total of all refunds due to a debtor or joint debtors is less than \$5, no refund is required.

R590-91-10. Adjustment of Prima Facie Rates.

When the commissioner determines that it is necessary to revise the prima facie rates, the commissioner shall publish by order and after a hearing, the revised prima facie rates before September 1. The new prima facie rates shall be effective January 1 of the following year.

R590-91-11. Rating Procedures for Direct Business Only.

(1) An insurer may file for approval and use a rate that is higher than a prima facie rate if the higher rate is expected to produce a minimum loss ratio that Section 31A-22-807 requires.

(2) An insurer may use a rate that is lower than the insurer's filed rate without notifying the commissioner.

R590-91-12. Disclosure to Debtor.

(1) When a premium or identifiable charge is payable by a debtor for credit insurance coverage, the following information must be disclosed to the debtor at the time the debtor applies for the insurance:

(a) the optional nature of the coverage;

(b) each premium or identifiable charge separately listed by type of coverage;

(c) any eligibility requirement, including a health restriction or at-work requirement; and

NOTICES OF PROPOSED RULES

(d) any age restriction regarding eligibility for insurance coverage at the time the indebtedness is incurred or stopped due to the debtor reaching a specific age.

(2) The disclosures in Subsection (1) shall be made to the principal debtor.

(3) The principal debtor shall receive a copy of the disclosures.

(4) The disclosures shall be retained in accordance with state and federal law.

(5) The disclosure language shall be prominently displayed near the signature space for the election to obtain coverage.

(6) The disclosures in Subsection (1) may be made in conjunction with:

(a) the Federal Truth-In-Lending disclosure;

(b) a Notice of Proposed Insurance;

(c) the application; or

(d) the policy or certificate.

(7) If, during the term of the loan, the insurance is insufficient to pay off the scheduled outstanding loan balance, the policy or certificate must clearly and prominently disclose to the prospective insured that the insurance is insufficient to pay off the outstanding loan balance.

(8) Each credit insurance policy and certificate shall clearly describe the benefit amount and the term of coverage.

(9) When the amount of credit life insurance exceeds the unpaid indebtedness:

(a) the certificate or policy shall clearly disclose the excess; and

(b) the excess shall be paid to the debtor's named beneficiary, other than the creditor, or to the debtor's estate.

(10) If any policy or certificate has a preexisting condition exclusion, the exclusion shall be clearly and prominently disclosed.

R590-91-13. Severability.

If any provision of this rule, Rule R590-91, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance law

Date of Last Change: 2022~~May 29, 2008~~

Notice of Continuation: October 19, 2021

Authorizing, and Implemented or Interpreted Law: 31A-2-201

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): **R590-160**

Filing ID
54363

Agency Information

1. Department:	Insurance
Agency:	Administration
Room no.:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W

City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R590-160. Adjudicative Proceedings

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The majority of the changes are being done to fix style issues to bring this rule text more in line with the Utah Rulewriting Manual standards. Other changes make the language of the rule clearer. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.

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

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.

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

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and will not affect 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**):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

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

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 31A-2-201	Section 63G-4-102	Section 63G-4-203
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/17/2022

10. This rule change MAY become effective on: 03/24/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	02/01/2022
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R590. Insurance, Administration.**R590-160. Adjudicative Proceedings.****R590-160-1. Authority.**

This rule is promulgated by the commissioner pursuant to [Subsections] Sections 31A-2-201[(3)(a)], 63G-4-102[(6)], and 63G-4-203[(4)], and applicable provisions of Title 63G, Chapter 4, Administrative Procedures Act].

R590-160-2. Purpose and Scope.

(1) ~~[This rule establishes.]~~ The purpose of this rule is to establish procedures governing the designation and conduct of an adjudicative proceeding before the [presiding officer] commissioner.

(2)(a) This rule applies to:

(i) an adjudicative proceeding commenced by a complainant;

(ii) an adjudicative proceeding commenced by a petitioner;

(iii) a respondent in an adjudicative proceeding; and

(iv) an intervenor in an adjudicative proceeding.

(b) This rule does not apply to a [—A] public hearing [pursuant to] under Section 63G-3-302 [is not governed by this rule].

(3)(c) This rule [shall be] is liberally construed to secure a just, speedy, and economical determination of each issue.

(4)(d) The [presiding officer] commissioner may permit a deviation from this rule for good cause.

R590-160-3. Definitions.

[In addition to the definitions in Sections 31A-1-301 and 63G-4-103, the following definitions shall apply to this rule] Terms used in this rule are defined in Sections 31A-1-301 and 63G-4-103. Additional terms are defined as follows:

(1) "Commissioner." for purposes of this rule, means Utah's insurance commissioner or a presiding officer designated by Utah's insurance commissioner.

(2) "Complainant" means the [D] department in an [y] action against a licensee or other person alleged to have committed a violation of statute, rule, or order of the commissioner.

(3) "Intervenor" means a [ny] person, not a party, permitted to intervene in a formal proceeding [pursuant to] under Section 63G-4-207.

(4) "Licensee" means a [ny] person who [has been] is issued a license or certificate [pursuant to], or is registered under Title 31A, Insurance Code.

(5) "Petitioner" means a [ny] person, other than the department, who commences an adjudicative proceeding.

(6) "Pleading" means a [ny] document authorized to be filed [pursuant to] under Title 63G, Chapter 4, Administrative Procedures Act, and this rule.

R590-160-4. Designations of Proceedings.

(1) The [department] commissioner designates each of the following as an informal adjudicative proceeding:

(a) denial of an application for a license or a certificate of authority;

(b) disapproval of a rate or form filing;

(c) a matter having no factual or legal issue in dispute;

(d) a matter involving a technical or minor violation of law;

or

(e) the entry of a stipulated pleading.

(2) The department may commence an informal or formal adjudicative proceeding pursuant to this rule.

(3) A petitioner may commence a formal adjudicative proceeding pursuant to this rule.

(4) The [presiding officer] commissioner shall conduct an informal or formal adjudicative proceeding.

R590-160-5. Rules Applicable to Any Adjudicative Proceeding.

The following rules apply to an [y] adjudicative proceeding:

(1)(a) The time within which an [y] act [shall be] is completed [shall be] is computed by excluding the first day and

including the last day, unless the last day is a Saturday, Sunday, or a legal holiday [—and then—].

(b) If the last day is a Saturday, Sunday, or a legal holiday, the last day is excluded and the period runs until the end of the next day that is not a Saturday, Sunday, or a legal holiday.

(2) A party to a proceeding [shall be] is named in the caption as [P] petitioner, [C] complainant, [R] respondent, or [I] intervenor.

(3) [Representation of a Party and Entering an Appearance] Representing a party and entering an appearance.

(a) [Representation of a Party] Representing a party.

(i) An attorney who is an active member, in good standing, of the Utah State Bar or an attorney with an active license from another jurisdiction may represent a party.

(ii) An individual who is a party to an adjudicative proceeding may self[—] represent.

(iii) An officer [duly] authorized by corporate resolution may represent a corporation that is [duly] registered with the Department of Commerce, Division of Corporations and Commercial Code.

(iv) A general partner may represent a partnership.

(v) An authorized member or manager may represent a limited liability company that is [duly] registered with the Department of Commerce, Division of Corporations and Commercial Code.

(vi) The legal, registered owner of a business conducted under an assumed name [shall be] is considered the legal party in interest and [that business may not be represented except through the legal party in interest or an attorney] only the legal party in interest or an attorney may represent the business.

(b) Entering an [A] appearance.

(i) A party's attorney or representative enters an appearance by:

(A) filing a notice of agency action;

(B) filing a request for agency action;

(C) filing a written response to a notice of agency action [by—];

(D) filing a notice of appearance; or [by—]

(E) orally stating an appearance at a hearing.

(ii) The appearance shall include the attorney's or representative's name, address, email, telephone number, and the party's position or interest in the proceeding.

(4) [A] Pleadings.

(a) A pleading shall be in substantially the following form:

(i) centered heading, [—] BEFORE THE UTAH INSURANCE COMMISSIONER;

(ii) left side, identification of parties;

(iii) right side, title of pleading; [—and]

(iv) right side, name of presiding officer; and

(v) right side, docket number.

(b) A pleading shall clearly and concisely present a party's position or request, and the grounds in support.

(c) A pleading may be amended [in accordance with the] pursuant to Utah Rules of Civil Procedure, Rule 15.

(d) Signing [of] a [P] pleading.

(i) A pleading shall be signed and dated by the party, the party's attorney, or other authorized representative, and shall [show] include the signer's address, telephone number, and email.

(ii) The signature in Subsection (4)(d)(i) [shall be a certification by] certifies that:

(A) the signer [that the signer] has read the pleading; and [that—]

(B) to the best of the signer's knowledge and belief, there are grounds to support ~~it~~the pleading.

(e) Motion[s].

(i) A motion, other than ~~one~~a motion made orally at a hearing, shall be in writing and shall state the basis for relief.

(A) An affidavit, declaration, or other document may be submitted in support of a motion.

(B) The ~~presiding officer~~commissioner may decide a motion with or without a hearing.

(C) If either party desires a hearing on a motion, the party's pleading shall state the grounds for a hearing.

(ii) A motion shall be filed and served at least ten days ~~prior to~~before the date set for the hearing.

(5)(a) A pleading ~~shall be~~is filed with the ~~presiding officer~~commissioner by mail or by submitting a PDF to uidadmincases@utah.gov.

(b) A pleading is filed on the date received.

(6) Service of a ~~P~~Pleading.

(a) A copy of a pleading filed with the ~~presiding officer~~commissioner shall be served on each party to the proceeding.

(b) The department may be served with a summons, complaint, petition, or other pleading that commences a proceeding by sending a copy of the document by certified mail to the commissioner.

(c) The department may be served with any other pleading by ordinary mail or by sending a PDF to the email address of the attorney ~~who represents~~representing the department in the proceeding.

(d) A licensee or a certificate holder may be served by:

(i) ~~ordinary~~regular mail;

(ii) sending a PDF to the current email address provided to the department by the licensee ~~or certificate holder pursuant to~~under Rule R590-258; or

(iii) sending a PDF to the current email address set forth in the pleading last filed by or on behalf of the licensee ~~or certificate holder~~.

(e) A pleading shall include a ~~C~~Scertificate of ~~in which the signer certifies the date and method of service,~~that:

(i) identifies the person [on whom] that was served with the pleading~~was served, and~~;

(ii) contains the service email address or mailing address;
and

(iii) certifies the date and method of service.

(f) When an attorney or other authorized representative represents a party~~is represented by an attorney or other authorized representative~~, service upon the attorney or representative constitutes service upon the party.

(7) Disqualification of a ~~P~~Presiding ~~O~~Officer designated by the commissioner.

(a) A party may move to disqualify ~~the~~a presiding officer by filing a motion with the commissioner alleging the basis for disqualification.

(b) The commissioner may request additional ~~memoranda~~briefing, evidence, or testimony as necessary to decide the motion.

(i) An adjudicative proceeding is stayed until the commissioner decides the motion.

(ii) A party may not appeal the commissioner's decision regarding the motion to disqualify until a final order is entered ~~in the proceeding~~on the motion.

(c) A presiding officer may ~~at any time~~voluntarily withdraw from deciding an adjudicative proceeding at any time.

(d) If ~~the~~a presiding officer is disqualified, the commissioner shall appoint another presiding officer.

(8) ~~A presiding officer shall not have ex parte contact with a party or its representative~~Ex parte contact may not occur between the commissioner and a party, the party's attorney, or the party's representative.

(9) An issue of fact in an adjudicative proceeding ~~shall be~~is decided by a preponderance of the evidence.

(10) Burden of ~~P~~Proof.

(a) A party ~~who~~that commences an adjudicative proceeding has the burden to prove entitlement to the relief sought.

(b) A party ~~who~~that asserts an affirmative defense to a request for relief has the burden to prove entitlement to ~~that~~the affirmative defense.

(11) ~~Dismissal of an Adjudicative Proceeding~~Dismissing an adjudicative proceeding.

(a) A complainant or a petitioner may dismiss an adjudicative proceeding by filing:

(i) a notice of dismissal before the respondent serves a response to the initial pleading; or

(ii) a stipulation of dismissal signed by each party ~~who~~that has appeared.

(b) Except as provided in Subsection (11)(a), the commissioner, by order, may dismiss an adjudicative proceeding~~may be dismissed at a party's request by order of the presiding officer~~at a party's request only on terms the presiding officer commissioner considers proper.

(c) If a complainant or a petitioner fails to prosecute the adjudicative proceeding, the ~~presiding officer~~commissioner may dismiss the proceeding after applying the standard for dismissal for failure to prosecute under Utah Rules of Civil Procedure, Rule 41.

R590-160-6. Rules Applicable to a Formal Adjudicative Proceeding.

(1) A hearing in a formal adjudicative proceeding shall comply with Section 63G-4-206.

(2) The ~~presiding officer~~commissioner may direct the parties to participate in a pre[-]hearing conference.

(3) The ~~presiding officer~~commissioner may grant a motion to continue a ~~any~~proceeding for good cause.

(4) Unless ordered closed by the ~~presiding officer~~commissioner for good cause, a hearing in a formal adjudicative proceeding ~~shall be~~is open to the public.

(5) Telephonic ~~F~~Testimony.

(a) The ~~presiding officer~~commissioner may, when the witness's identity ~~of a witness~~can be established with reasonable assurancecertainty, take testimony telephonically.

(b) If telephonic testimony is taken, a party ~~shall be permitted to~~may hear the testimony and examine or cross-examine the witness.

(c) Telephonic testimony ~~shall be~~is given under oath.

(6) Record of a ~~H~~Hearing.

(a) Recording.

(i) A record of a hearing ~~shall be~~is made by audio recording.

(ii) The ~~presiding officer~~commissioner shall provide a copy of the recording at the request and expense of a party other than the department.

(b) Transcript of a ~~H~~Hearing.

(i) On reasonable notice to and approval from the ~~presiding officer~~commissioner, a party may employ a certified court reporter to record and transcribe a hearing.

NOTICES OF PROPOSED RULES

(ii) The party seeking approval to use a court reporter shall pay for the reporter and file the original transcript with the [presiding officer] commissioner at no cost to the [commissioner] department.

(iii) A party [who wants] requesting a copy of the transcript may purchase [it] the transcript copy from the reporter.

(7) Subpoenas.

(a) A subpoena [shall be] is issued and served [in accordance with] under the Utah Rules of Civil Procedure, Rule 45.

(b) A party [that requests] requesting a subpoena shall pay a witness the same fee[s] and mileage [allowed by law to witnesses in] the law allows for a district court.

(8) Discovery may be conducted by:

(a) the parties' agreement; or [pursuant to an order of the presiding officer]

(b) the commissioner's order.

R590-160-7. Rules Applicable to an Informal Adjudicative Proceeding.

(1)(a) The department may commence an informal adjudicative proceeding by issuing a Notice of Agency Action and Order [pursuant to] under Subsection R590-160-4(1).

(b) The [O] order [shall be] in Subsection (1)(a) is based [upon the] on information contained in [affidavits, declarations, and the department's files];

(i) an affidavit;

(ii) a declaration; or

(iii) the department's files.

(c) The [O] order [shall] in Subsection (1)(a) constitutes a proposed order that [shall] becomes final 15 days after service on the respondent unless a written request for a hearing is received before the expiration of 15 days.

(2) A respondent's failure to timely request a hearing in an informal adjudicative proceeding [will be considered] is a failure to exhaust administrative remedies.

(3) When a hearing is requested in an informal adjudicative proceeding, a notice of a prehearing conference [shall be] is issued stating the matters to be decided and giving notice of the prehearing scheduling conference's date, time, and [place of the prehearing scheduling conference to be held] location.

(4) A hearing in an informal adjudicative proceeding may be of record.

(5)(a) At a hearing in an informal adjudicative proceeding, the [presiding officer] commissioner may receive [any], regarding the issues to be decided, the following:

(i) testimony[-];

(ii) proffer of evidence[-];

(iii) affidavit[-];

(iv) declaration[- and]; or

(v) argument[- relating to the issues to be decided and].

(b) The commissioner may issue a subpoena[s] requiring [the] a witness's attendance [of any witness-] or the production of necessary evidence.

R590-160-8. Agency Review.

(1)(a) Agency review of an adjudicative proceeding, except an informal adjudicative proceeding that becomes final without a request for a hearing [pursuant to] under Subsection R590-160-7(1), [shall be] is available to a party to a proceeding by filing a request for agency review with the commissioner within 30 days of the date of the order.

(b) Failure to seek agency review [shall be considered] is a failure to exhaust administrative remedies.

(2) Agency review shall comply with Sections 63G-4-301 and 63G-4-302.

(3)(a) The commissioner or the commissioner's designee shall conduct the review.

(b) A designee [shall] may not be the presiding officer who issued the decision under review.

(c) If a designee conducts a review, the designee shall recommend a disposition to the commissioner [who shall].

(d) The commissioner will make the final decision and [shall] sign the order.

(4) Content of a [R] request for [A] agency [R] review.

(a) A request for agency review shall comply with Subsection 63G-4-301(1)(b), and shall include the following:

(i) a copy of the order that is the subject of the request;

(ii) the factual basis for the request, including:

(A) citation to the record of the formal adjudicative proceeding; and

(B) clear reference to evidence or a proffer of evidence in an informal adjudicative proceeding;

(iii) the legal basis for the request, including citation to supporting authority;

(iv) for a challenge to a finding of fact in a formal adjudicative proceeding, the reason that the finding is not supported by substantial evidence based on the entire record; and

(v) for a challenge to a finding of fact in an informal adjudicative proceeding, the reason that the finding is not supported by substantial evidence based on the evidence received or proffered.

(b) A party challenging a finding of fact in a formal adjudicative proceeding shall:

(i) order a transcript of the recording relevant to the finding;

(ii) certify that a transcript [has been] is ordered;

(iii) file the transcript with the commissioner or the commissioner's designee [and];

(iv) serve a copy of the transcript on each party; and

(i) [bear] pay the cost of preparing the transcript.

(c) The commissioner or commissioner's designee may waive the transcript requirement on motion for good cause shown.

(5) Memoranda.

(a)(i) A party requesting agency review shall submit a supporting memorandum with the request.

(ii) If a transcript is necessary to conduct [the] agency review, [the] a supporting memorandum shall be filed no later than 15 days after the service of the transcript on the opposing party.

(b) An opposing memorandum shall be filed no later than 15 days after [the filing of] the supporting memorandum is filed.

(c) A reply memorandum shall be filed no later than five days after [the filing of] the opposing memorandum is filed.

(d) The commissioner or the commissioner's designee may order a party to submit additional memoranda to assist in conducting agency review.

(6) Request for a [S] stay.

(a) On motion by a [any] party and for good cause, the commissioner or commissioner's designee may stay the presiding officer's order during the pendency of agency review.

(b) A motion for a stay shall be made in writing and may be made at any time during the pendency of agency review.

(c) An opposition to a motion for a stay shall be made in writing within [10] ten days from the date the [stay is requested] motion is filed.

(7)(a) A party may request oral argument in the party's initial pleading.

(b) The commissioner or the commissioner's designee may grant oral argument if requested in a party's initial pleading.

(8) Failure to comply with Section R590-160-~~[9]~~8 may result in ~~[dismissal of]~~the commissioner or the commissioner's designee dismissing the request for agency review.

R590-160-9. Sanctions.

(1)(a) The ~~[presiding officer]~~commissioner may sanction a party, a party's representative, a witness, or a witness's representative for:

- ~~(i) contemptuous [or] conduct;~~
- ~~(ii) disobedient conduct[~~-or for~~]; or~~
- ~~(iii) failure to comply with this rule or a lawful order.~~
- (b) A sanction may include:
 - (i) excluding evidence;
 - (ii) dismissing one or more claims;
 - (iii) striking a~~[ny]~~ pleading or a~~[ny]~~ portion of a pleading;
 - (iv) entering a default judgment; or
 - (v) ordering payment of ~~[any]~~costs, expenses, reasonable attorney fees, and other fees.

(2) The ~~[presiding officer]~~commissioner may take reasonable steps to control the conduct of an adjudicative proceeding.

R590-160-10. Severability.

If any provision of this rule, R590-160, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule which can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance

Date of Last Change: 2022~~[January 22, 2021]~~

Notice of Continuation: September 21, 2018

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 63G-4-102; 63G-4-203

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R590-176	Filing ID 54364
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Agency Information

1. Department:	Insurance
Agency:	Administration
Room no.:	Suite 2300
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorville, UT 84129
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901

Contact person(s):

Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule or section catchline:

R590-176. Health Benefit Plan Enrollment

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The majority of the changes are being done to fix style issues to bring this rule text more in line with Utah Rulewriting Manual standards. Other changes make the language of the rule clearer and update Section R590-176-6 to use the Department's current language. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.

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

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.

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

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and will not affect 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**):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

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

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-2-201	Section 31A-2-202	
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/17/2022

10. This rule change MAY become effective on: 03/24/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	02/01/2022
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R590. Insurance, Administration.

R590-176. Health Benefit Plan Enrollment.

R590-176-1. Authority.

~~[The commissioner's authority to promulgate this rule is provided in]~~ This rule is promulgated by the commissioner pursuant to Sections 31A-2-201~~(3)~~ and 31A-2-202~~(2)~~.

R590-176-2. Purpose and Scope.

~~(1)~~ The purpose ~~[and scope]~~ of this rule is to provide enrollment requirements under Section 31A-30-108~~[for]~~.

~~(2)~~ This rule applies to a carrier~~[s who]~~ that provides health benefit plan coverage to individuals and small employers ~~[as stated in]~~ under Section 31A-30-104.

R590-176-3. Definitions.

~~[(1) The definitions.] Terms used in this rule are defined in Sections 31A-1-301 and 31A-30-103[apply to this rule]. Additional terms are defined as follows.~~

~~[(2)]~~ "Time period" means the period such as daily, weekly, or monthly, as determined by the carrier, in which applications are grouped.

R590-176-4. General Provisions.

(1) Any attempt to selectively or unfairly delay, obstruct, or ~~[otherwise]~~ hinder any person from obtaining coverage under Title 31A, Chapter 30, Individual, Small Employer, and Group Health Insurance Act, is a violation of Section 31A-30-108.

(2) Enrollment shall be equally available through all distribution systems.

(3) A carrier may not market or encourage producers to market individual or small employer health benefit plans ~~[in such a way that there is a lessened]~~ to lessen the incentive to insure business with greater health risks.

(4) ~~[All]~~ Each record[s] regarding an enrollment application[s] ~~and~~ or underwriting determination[s] shall:

(a) be retrievable for examination by the time period the application was received;

(b) include ~~[all]~~ any document[s] ~~indicating the applicable date,~~ pertaining to the application and its underwriting; and

(c) be retained for the current year plus three years.

(5) ~~[The]~~ A document[s] ~~indicated]~~ described in Subsection (4)(b) ~~[would]~~ includes:

(a) an application and date received[;];

(b) any notification[s] to the applicant and ~~[the]~~ date of notification;

(c) any record[s] used in underwriting and date received; and

(d) an underwriting decision and date of decision.

R590-176-5. Application and Enrollment.

(1) ~~[Each carrier shall establish a procedure to determine the order of applications. The procedure shall group the applications into consistent time periods. The]~~ A carrier shall keep a record of ~~[all]~~ each application[s] for coverage that includes the time period ~~[an]~~ the application is received by the carrier.

(2) All applications shall be treated consistently.

(3)(a) A complete application shall be processed and ~~[a written notice of the decision communicated to]~~ the applicant shall be given written notice of the decision within 30 days of the decision.

(b) ~~[The]~~ A carrier may not require that an application be complete ~~[in order]~~ to qualify as an application for coverage.

(c) If an application is incomplete, ~~[within 15 days from receipt of the application a]~~ the carrier shall notify the applicant of the incomplete areas [that are incomplete] and the information required to complete the application within 15 days of receipt of the application.

(d) Before an application can be rejected as incomplete, an applicant[s] shall have at least 30 days [after being notified additional information is required] to provide the required information.

R590-176-6. Severability.

~~[If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.] If any provision~~

of this rule, Rule R590-176, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: health insurance

Date of Last Change: 2022~~[December 2, 2014]~~

Notice of Continuation: November 19, 2021

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-202

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): **R590-181**

Filing ID
54365

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information**2. Rule or section catchline:**

R590-181. Yankee Bond Rule

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The majority of the changes are being done to fix style issues to bring this rule text more in line with the Utah

Rulewriting Manual standards. Other changes make the language of the rule clearer and update Section R590-181-5 to use the Department's current language. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.

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

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.

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

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and will not affect 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**):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

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

6. A) 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	FY2022	FY2023	FY2024
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

B) Department head approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-2-201	Section 31A-18-101	
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	03/17/2022
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10. This rule change MAY become effective on:	03/24/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	02/01/2022
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R590. Insurance, Administration.**R590-181. Yankee Bond Rule.****R590-181-1. Authority.**

This rule is ~~adopted pursuant to Section 31A-18-105(13), which allows the commissioner to authorize investments other than those enumerated in Section 31A-18-105 promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-18-101.~~

R590-181-2. Purpose and Scope.

~~[A-](1) The purpose of this rule is to permit an insurer[s] to invest, within the limits prescribed by this rule, in a bond[s which are] that is:~~

- ~~(a) denominated in U.S. Dollars; and [which are]~~
- ~~(b) issued by;~~
 - ~~(i) a foreign government[s, or by entities];~~
 - ~~(ii) an entity backed by a foreign government[s, or by]; or~~
 - ~~(iii) a corporation[s] not domiciled in the United States of America. [Such instruments are commonly referred to as "Yankee Bonds."]~~

~~[B-](2) This rule applies to [all insurers transacting business in Utah] an insurer or reinsurer doing business in this state.~~

R590-181-3. Definitions.

~~[For the purpose of this rule, the following definitions will apply] Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:~~

~~[A. A "Yankee Bond" is a fixed income bond issued in U.S. Dollar denominations by foreign governments, by entities whose bonds are guaranteed by foreign governments, or by corporations not domiciled in the United States of America.~~

~~[B-](1) "Investment [Q]quality" means a quality rating of "1" or "2" assigned by the National Association of Insurance Commissioners' Securities Valuation Office ([SVO]). [Yankee Bonds which are]~~

~~(a) A Yankee bond that is not SVO rated at the time of purchase by [the] an insurer [must] shall be submitted to the SVO for rating within 90 days of purchase. [Bonds which are unrated]~~

~~(b)(i) A Yankee bond that is not SVO rated at the time of purchase by [the] an insurer may be temporarily considered [to be] investment quality if the insurer [can] demonstrates to the satisfaction of the commissioner that an SVO rating of "1" or "2" is likely. [However, this]~~

~~(ii) The assumption of quality [shall only be] is in effect only until rating by the SVO is complete[d].~~

~~[C-](2) "Qualified assets" [are defined in section] means the same as that term is defined in Subsection 31A-17-201(2).~~

~~(3) "Yankee bond" means a fixed income bond issued:~~

~~(a) in a U.S. Dollar denomination by a foreign government;~~

~~(b) by an entity whose bonds are guaranteed by a foreign government; or~~

~~(c) by a corporation not domiciled in the United States of America.~~

R590-181-4. [Rule] Investments in Yankee Bonds.

~~[A-](1) An insurer may invest in Yankee [B]bonds of investment quality limited to [the extent of] 20% of the insurer's qualified assets.~~

~~[B-](2) Subject to Subsection [C, below, for all] (3), an insurer's investment[s] in Yankee [B]bonds of investment [quality] quality issued by a single entity, its affiliates, [and] or subsidiaries, [an insurer] is limited to 3% of the insurer's qualified assets.~~

~~[C. For all investments] (3) An investment in Yankee bonds of [H] investment [Q] quality issued by [entities] an entity within a [ny] single sovereign foreign nation, [an insurer] is limited to:~~

~~(a) 5% of the insurer's qualified assets if [all] the bonds are rated "1" by the SVO; and [limited to]~~

~~(b) 3% of the insurer's qualified assets if [any of] the bonds are rated "2" by the SVO.~~

R590-181-5. Separability.

~~[If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid by a court of competent jurisdiction, the remainder of the rule and the application of this revision to other persons or circumstances may not be affected] If any provision of this rule, Rule R590-181, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

KEY: insurance

Date of Last Change: ~~2022~~ February 24, 1997

Notice of Continuation: November 19, 2021

Authorizing, and Implemented or Interpreted Law: 31A-18-105

NOTICE OF PROPOSED RULE

TYPE OF RULE: New

Utah Admin. Code Ref (R no.): R634-4

Filing ID 54361

Agency Information

1. Department:	Natural Resources
Agency:	Administration
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116

Contact person(s):		
Name:	Phone:	Email:
Kaelyn Anfinson	801-538-7201	kaelynanfinson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R634-4. Health Reform -- Health Insurance Coverage in State Contracts -- Implementation
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Department of Natural Resources (Department) failed to file a five-year review and notice of continuation and the penalty was the expiration of Rule R634-2. This rule filing is now being proposed. The previous rule was Rule R634-2 but because rule numbers cannot be reused, the rule number is now R634-4. (EDITOR'S NOTE: There is a corresponding 120-day emergency rule filing for Rule R634-4 that is effective as of 11/23/2021 and was published under ID No. 54154 in the December 15, 2021, issue of the Bulletin.)
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The Department is reinstating a rule that expired. This rule designates that all design or construction contracts entered into by the Department that the contractors and subcontractors shall obtain and maintain an offer of qualified health insurance coverage for the duration of contracts. The text is the same as the expired Rule R634-2.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This proposed rule filing places into effect the rule that had previously been effective without any additional changes. Therefore, the Department has determined that this rule does not create a cost or savings impact to the state budget or the Department's budget since the changes will not increase workload and can be carried out with existing budget.
B) Local governments:
Since the proposed filing makes no changes to the rule text that was previously effective, this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because

this rule change 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 will not directly impact small businesses nor is there a service required of them.

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

The proposed rule will not directly impact non-small businesses nor is there a service 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**):

The proposed rule will not directly impact other persons nor is there a service required of them.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There is no cost compliance with the re-issuance of this rule because it is not being amended at this time.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. Brian Steed, Executive Director

6. A) 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	FY2022	FY2023	FY2024
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

B) 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.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 79-2-404		
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	03/17/2022
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10. This rule change MAY become effective on:	03/24/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Brian C. Steed, Executive Director	Date:	02/01/2022
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R634. Natural Resources, Administration.

R634-4. Health Reform -- Health Insurance Coverage in State Contracts -- Implementation.

R634-4-1. Purpose.

The purpose of this rule is to comply with Section 79-2-404.

R634-4-2. Authority.

This rule is authorized under Subsection 79-2-404(6), which directs the Department of Natural Resources to make rules related to health insurance provisions in certain design or construction contracts.

R634-4-3. Definitions.

(1) Except as otherwise stated in this rule, terms used in this rule are defined in Section 79-2-404.

(2) In addition:

(a) "Department" means the Department of Natural Resources created in Section 79-2-201.

(b) "Employees" means an "employee", "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

(c) "Executive Director" means the executive director of the department who is appointed under Section 79-2-202, including, unless otherwise stated, the Director's authorized designee.

(d) "State" means the State of Utah.

R634-4-4. Applicability of Rule.

(1) Except as provided in Subsection R634-4-4(2) or R634-4-4(3), Rule R634-4 applies to design or construction contracts entered into by the Department, and

(a) applies to a prime contractor if the prime contract is in the amount of \$2,000,000 or greater at the original execution of the contract; and

(b) applies to a subcontractor if the subcontract is in the amount of \$1,000,000 or greater at the original execution of the contract.

(2) Rule R634-4 does not apply if:

(a) the application of Rule R634-4 jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(3) Rule R634-4 does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection R634-4-4(1).

(4) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection R634-4-4(1) is guilty of an infraction.

R634-4-5. Contractors and Subcontractors to Comply with Section 79-2-404.

(1) Contractors and subcontractors that are subject to the requirement of Section 79-2-404 shall comply with the requirements, penalties and liabilities of Section 79-2-404.

(2) If a subcontractor of the contractor is subject to Subsection 79-2-404(2) or Section R634-4-4, the contractor shall:

(a) place a requirement in the subcontract that the subcontractor shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

NOTICES OF PROPOSED RULES

(b) certify to the director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.

R634-4-6. Not Basis for Protest or Suspend, Disrupt, or Terminate Design or Construction.

(1) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by Rule R634-4 or Section 79-2-404:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt or terminate the design or construction.

R634-4-7. Requirements and Procedures a Contractor Must Follow.

A contractor, including consultants and designers, must comply with the following requirements and procedures to demonstrate compliance with Section 79-2-404.

(1) Demonstrating Compliance with Health Insurance Requirements. A contractor, including design professional, shall demonstrate compliance with Subsection 79-2-404(5)(a) or (b) at the time of execution of each initial contract described in Subsection 79-2-404(2).

(a) The compliance is subject to an audit by the Department or the Office of Legislative Auditor General.

(b) A contractor, including design professional subject to Subsection 79-2-404(2) shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and employees' dependents.

(c) Such demonstration shall be a certification on the form provided by the Department. The form shall also require compliance with Subsection R634-4-5(2) regarding subcontractors.

(d) The actuarially equivalent determination required for the qualified health insurance coverage is met by the contractor if the contractor provides the Department with a written statement of actuarial equivalency attached to the certification, which is not more than one year old, regarding the contractor's offer of qualified health coverage from an actuary selected by the contractor or the contractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates. The Contractor is responsible for collecting the statements as required by law from any of the subcontractors at any tier that must do so.

(2) For purposes of Rule R634-4-7, actuarially equivalency is achieved by meeting or exceeding the commercially equivalent benchmark for the qualified health insurance coverage identified in Subsection 79-2-404(1)(c) that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(3) The health insurance must be available upon the first day of the calendar month following sixty days from the date of hire.

(4) Any contract subject to R634-4 shall contain a provision requiring compliance with Rule R634-4 from the time of execution and throughout the duration of the contract.

(5) Hearing and Penalties.

(a) Hearing. Any hearing for any penalty under Rule R634-4 conducted by the Department shall be conducted in the same manner as any hearing required for a suspension or debarment.

(b) Penalties that may be imposed by Department. The penalties that may be imposed by the Department if a contractor, consultant, subcontractor or subconsultant, at any tier, intentionally violates Section 79-2-404 or Rule R634-4 include:

(i) a three-month suspension of the contractor or subcontractor from entering into future contracts with the State upon the first violation, regardless of which tier the contractor or subcontractor is involved with the future design or construction contract;

(ii) a six-month suspension of the contractor or subcontractor from entering into future contracts with the State upon the second violation, regardless of which tier the contractor or subcontractor is involved with the future design or construction contract;

(iii) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(iv) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract.

(c)(i) In addition to the penalties imposed in this section, a contractor, consultant, subcontractor or subconsultant who intentionally violates the Section 79-2-404 shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection R634-2-7(5)(c)(i) as provided in Subsection 79-2-404(7)(a). An employee has a private right of action only against the employee's employer to enforce Subsection 79-2-404(7).

R634-4-8. Not Create any Contractual Relationship with any Subcontractor or Subconsultant.

Nothing in Rule R634-4 shall be construed as to create any contractual relationship between the State or the Department with any subcontractor or subconsultant at any tier.

KEY: health insurance, contractors, contracts, contract requirements

Date of Last Change: 2022

Authorizing, and Implemented or Interpreted Law: 79-2-404

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 adminrules.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.):	R105-2	Filing ID: 50202
Effective Date:	01/25/2022	

Agency Information

1. Department:	Attorney General	
Agency:	Administration	
Room no.:	230	
Building:	Utah State Capitol Complex	
Street address:	350 N State Street	
City, state and zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Lonny Pehrson	801-281-1246	lpehrson@agutah.gov
GRAMA Coordinator	801-281-1286	Ago_grama_coordinator@agutah.gov
Office of the Attorney General	801-366-0260	uag@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R105-2. Records Access and Management
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 63G-2-204(3) provides that a governmental entity may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall be directed.

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 Attorney General's Office is not aware of any written 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:

This rule is necessary to ensure that requests for access to records and appeals are properly submitted to the Attorney General's Office. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Lonny Pehrson, Assistant Attorney General, Government Records Counsel	Date:	01/25/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R156-16a	Filing ID: 50255
Effective Date:	01/25/2022	

Agency Information

1. Department:	Commerce	
Agency:	Occupational and Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Larry Marx	801-530-6254	lmarx@utah.gov

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

General Information

2. Rule catchline:
R156-16a. Optometry Practice Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 58, Chapter 16a, provides for the licensure and regulation of optometrists. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Optometrist Licensing Board's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 16a, with respect to optometrists.
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:
Since this rule was last reviewed in February 2017, the Division has received no written comments with respect to 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 as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 16a. This rule also provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct,

definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Director	Date:	10/04/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R156-76	Filing ID:	53315
Effective Date:	01/25/2022		

Agency Information

1. Department:	Commerce	
Agency:	Occupational and Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Steve Duncombe	801-530-6235	sduncombe@utah.gov

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

General Information

2. Rule catchline:
R156-76. Professional Geologist Licensing Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 58, Chapter 76, provides for the licensure and regulation of professional geologists. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Professional Geologists Licensing Board's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 76, with respect to professional geologists.

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:

Since this rule was last reviewed in February 2017, the Division has received no written comments with respect to 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 as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 76. This rule also provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Director	Date:	10/04/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R164-101	Filing ID:	50337
Effective Date:	01/16/2022		

Agency Information

1. Department:	Commerce	
Agency:	Securities	
Building:	Heber M. Wells	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146760	
City, state and zip:	Salt Lake City, UT 84114-6760	
Contact person(s):		
Name:	Phone:	Email:
Charles Lyons	801-530-6600	clyons@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R164-101. Securities Fraud Reporting Program Act

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 by Sections 61-1-24, 61-1-103, and 61-1-107. Subsection 61-1-24(1)(a) authorizes the Division of Securities (Division) to make, amend, or rescind a rule when necessary to carry out the chapter. Section 61-1-103 describes the information required for an individual to be considered for an award under the Securities Fraud Program Reporting Act and requires that the individual provide such information in accordance with procedures established by rule made by the Division. Section 61-1-107 sets forth the procedures related to an award to a fraud reporter and requires that the Division adopt rules memorializing those procedures.

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 regarding the 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 sets forth procedures for filing an application for an award under the Securities Fraud Reporting Program Act and the procedures for the making or denial of such an award. It provides an incentive for individuals to report suspected violations of the securities laws to the Division. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jason Sterzer, Division Director	Date:	01/19/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R305-1	Filing ID:	50560
Effective Date:	01/24/2022		

Agency Information

1. Department:	Environmental Quality		
Agency:	Administration		
Building:	Multi-Agency State Office Building		
Street address:	195 N 1950 W		
City, state and zip:	Salt Lake City, UT 84116		
Mailing address:	PO Box 144820		
City, state and zip:	Salt Lake City, UT 84114-4820		

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Contact person(s):		
Name:	Phone:	Email:
Robert Wood	385-499-3416	rwood@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R305-1. Records Access and Management
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 authority for this rule is found in Section 63G-2-204 of the Government Records Access and Management Act (GRAMA), effective July 1, 1992, and Section 63A-12-104 of the Archives and Records Service 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 comments have been received since the last five-year review.
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 continues to be needed because it describes the processes, requirements, fees, and timelines that govern the sharing of public records under GRAMA. These specifics are not included in the GRAMA statute and must therefore be specified by administrative rule. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Kimberly Shelley, Executive Director	Date:	01/22/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R337-10	Filing ID:	50823
Effective Date:	01/18/2022		

Agency Information

1. Department:	Financial Institutions
Agency:	Credit Unions
Room no.:	201

Street address:	324 S State St	
City, state and zip:	Salt Lake City, UT 84111-2393	
Mailing address:	PO Box 146800	
City, state and zip:	Salt Lake City, UT 84114-6800	
Contact person(s):		
Name:	Phone:	Email:
Paul Allred	801-538-8761	pallred@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R337-10. Rule Designating Applicable Federal Law for Credit Unions Subject to the Jurisdiction of the Department of Financial Institutions
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 designates which one or more federal laws are applicable to a credit union subject to the jurisdiction of the Department of Financial Institutions (Department). This rule establishes that designated federal law may only be enforced by the Department by taking action permitted under Title 7 and the applicable chapters set forth in Section 7-1-325. The statutory provision states that the "...department shall by rule...designate which one or more federal laws are applicable to an institution subject to the jurisdiction of the department."
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 supporting or opposing written comments have been received since the last notice of continuation.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Section 7-1-325 requires that the Department designate, by rule, which one or more federal laws are applicable to an institution subject to the jurisdiction of the Department. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	G. Edward Leary, Commissioner	Date:	01/18/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R380-77	Filing ID: 54307
Effective Date:	01/25/2022	

Agency Information

1. Department:	Health	
Agency:	Administration	
Room no.:	104	
Building:	Dr. Martha Hughes Cannon Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Kyle Lunt	385-332-1578	kylelunt@utah.gov

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

General Information

2. Rule catchline:
R380-77. Coordination of Patient Identification and Validation 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:
This rule was enacted to meet the Department of Health's (Department) responsibility defined in Subsection 26-1-30(30) to "establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve."
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 has not received comments on 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 consulted with the Utah Digital Health Service Commission and the committee established by this rule. Those parties recommended this committee and rule continue as it had not fully yet fulfilled the responsibilities outlined in Subsection 26-1-30(30). The Department recently filed nonsubstantive changes to align this rule with the Utah Rulewriting Manual. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	01/23/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R406-100	Filing ID: 50942
Effective Date:	01/24/2022	

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, WIC Services	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141013	
City, state and zip:	Salt Lake City, UT 84114-1013	
Contact person(s):		
Name:	Phone:	Email:
Chris Furner	801-554-4509	cfurner@utah.gov
Rick Wardle	801-580-7932	rwardle@utah.gov

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

General Information

2. Rule catchline:
R406-100. Special Supplemental Nutrition Program for Women, Infants and Children
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 26-1-15 authorizes the Executive Director of the Utah Department of Health to accept federal funding to operate the Women, Infants, and Children (WIC) program.
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:
Comments on this rule were requested from the Utah Association of WIC Administrators (UAWA). The Department has received no comments on this rule since the last five-year review.

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 needed to regulate the administration of the WIC program within the local health departments. It includes specific requirements for processing applications and implementing waiting lists. Requirements for record retention and vendor monitoring are listed. This rule is also needed to outline materials incorporated by reference. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	01/23/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R406-200	Filing ID:	50954
Effective Date:	01/24/2022		

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, WIC Services	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141013	
City, state and zip:	Salt Lake City, UT 84114-1013	
Contact person(s):		
Name:	Phone:	Email:
Chris Furner	801-554-4509	cfurner@utah.gov
Rick Wardle	801-580-7932	rwardle@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R406-200. Program Overview
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 26-1-15 authorizes the Executive Director of the Utah Department of Health (Department) to accept federal funding to operate the Women, Infants, and Children (WIC) program.

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:

Comments on this rule were requested from the Utah Association of WIC Administrators (UAWA). The Department has received no comments on this rule since the last five-year review.

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 agency intends to repeal this rule to eliminate unnecessary information and because some of the information is being consolidated into Rule R406-100. Therefore, this rule should be continued until this rule can be repealed through the regular rulemaking process.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	01/23/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R406-201	Filing ID:	50949
Effective Date:	01/24/2022		

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, WIC Services	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141013	
City, state and zip:	Salt Lake City, UT 84114-1013	
Contact person(s):		
Name:	Phone:	Email:
Chris Furner	801-554-4509	cfurner@utah.gov
Rick Wardle	801-580-7932	rwardle@utah.gov

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

General Information

2. Rule catchline:

R406-201. Outreach Program

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 26-1-15 authorizes the Executive Director of the Utah Department of Health (Department) to accept federal funding to operate the Women, Infants, and Children (WIC) program.

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:

Comments on this rule were requested from the Utah Association of WIC Administrators (UAWA). The Department has received no comments on this rule since the last five-year review.

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 agency intends to repeal this rule because all critical information is included in incorporated materials in other administrative rules. Therefore, this rule should be continued until this rule can be repealed through the regular rulemaking process.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	01/23/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R406-202	Filing ID:	50944
Effective Date:	01/24/2022		

Agency Information

1. Department:	Health
Agency:	Family Health and Preparedness, WIC Services
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 141013

City, state and zip: Salt Lake City, UT 84114-1013

Contact person(s):

Name:	Phone:	Email:
Chris Furner	801-554-4509	cfurner@utah.gov
Rick Wardle	801-580-7932	rwardle@utah.gov

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

General Information

2. Rule catchline:

R406-202. Eligibility

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 26-1-15 authorizes the Executive Director of the Utah Department of Health (Department) to accept federal funding to operate the Women, Infants, and Children (WIC) program.

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:

Comments on this rule were requested from the Utah Association of WIC Administrators (UAWA). The Department has received no comments on this rule since the last five-year review.

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 agency intends to repeal this rule because all critical information is included in incorporated materials in other administrative rules. Therefore, this rule should be continued until this rule can be repealed through the regular rulemaking process.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	01/23/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R406-301	Filing ID:	50955
Effective Date:	01/24/2022		

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, WIC Services	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141013	
City, state and zip:	Salt Lake City, UT 84114-1013	
Contact person(s):		
Name:	Phone:	Email:
Chris Furner	801-554-4509	cfurner@utah.gov
Rick Wardle	801-580-7932	rwardle@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R406-301. Clinic Guidelines
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 26-1-15 authorizes the Executive Director of the Utah Department of Health (Department) to accept federal funding to operate the Women, Infants, and Children (WIC) program.
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:
Comments on this rule were requested from the Utah Association of WIC Administrators (UAWA). The Department has received no comments on this rule since the last five-year review.
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 needed to regulate the administration of the WIC program within the local health departments. It requires WIC clinics to receive state approval for clinic guidelines prior to implementation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	01/23/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R432-31	Filing ID:	51061
Effective Date:	01/24/2022		

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Licensing	
Room no.:	4th Floor	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact person(s):		
Name:	Phone:	Email:
Kristi Grimes	385-214-9187	kristigrimes@utah.gov
Joel Hoffman	801-273-2804	jhoffman@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R432-31. Life With Dignity Order
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 26, Chapter 21, is the health code that mandates the licensing of health facilities.
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:
There have been no written comments from any party 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 purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards. This rule sets standards for the Life with Dignity Order. There are multiple agencies, facilities and individuals currently using these rules to complete end of life decisions. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	01/23/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R432-40	Filing ID:	51064
Effective Date:	01/24/2022		

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Licensing	
Room no.:	4th Floor	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact person(s):		
Name:	Phone:	Email:
Kristi Grimes	385-214-9187	kristigrimes@utah.gov
Joel Hoffman	801-273-2804	jhoffman@utah.gov

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

General Information

2. Rule catchline:
R432-40. Long-Term Care Facility Immunizations
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 26, Chapter 21, is the health code that mandates the licensing of health facilities.

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:

There have been no written comments from any party 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 purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards. This rule sets standards for Long Term Care Facility Immunizations. There are multiple facilities required to comply with immunization rules. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	01/23/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R432-150	Filing ID:	51073
Effective Date:	01/24/2022		

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Licensing	
Room no.:	4th Floor	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact person(s):		
Name:	Phone:	Email:
Kristi Grimes	385-214-9187	kristigrimes@utah.gov
Joel Hoffman	801-273-2804	jhoffman@utah.gov

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

General Information**2. Rule catchline:**

R432-150. Nursing Care Facility

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

Title 26, Chapter 21, is the health code that mandates the licensing of health facilities.

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:

There have been no written comments from any party 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 purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards. This rule sets standards for the operation of Nursing Care Facilities. There are facilities currently licensed in this category. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	01/23/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R432-151	Filing ID:	51079
Effective Date:	01/24/2022		

Agency Information

1. Department:	Health
Agency:	Family Health and Preparedness, Licensing
Room no.:	4th Floor
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144103
City, state and zip:	Salt Lake City, UT 84114-4103

Contact person(s):

Name:	Phone:	Email:
Kristi Grimes	385-214-9187	kristigrimes@utah.gov
Joel Hoffman	801-273-2804	jhoffman@utah.gov

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

General Information**2. Rule catchline:**

R432-151. Mental Disease Facility

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

Title 26, Chapter 21, is the health code that mandates the licensing of health facilities.

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:

There have been no written comments from any party 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 purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards. This rule sets standards for the operation of Mental Disease Facilities. Nursing care facilities that have more than 50% of their residents with a diagnosis of mental disease would then be classified as a mental disease facility. Nursing care facilities have a very fluid census and changing to this classification is likely at any given time. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	01/23/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R432-201	Filing ID:	51078
Effective Date:	01/24/2022		

Agency Information

1. Department:	Health
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Agency:	Family Health and Preparedness, Licensing	
Room no.:	4th Floor	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact person(s):		
Name:	Phone:	Email:
Kristi Grimes	385-214-9187	kristigrimes@utah.gov
Joel Hoffman	801-273-2804	jhoffman@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R432-201. Mental Retardation Facility: Supplement "A" to the Small Health Care Facility Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 26, Chapter 21, is the health code that mandates the licensing of health facilities.
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:
There have been no written comments from any party 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 purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards. This rule sets standards for the operation of Intermediate Care Facilities with Intellectual Disabilities. There are facilities currently licensed in this category. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	01/23/2002
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R590-116	Filing ID: 54096
Effective Date:	01/26/2022	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-116. Valuation of Assets
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 31A-2-201 authorizes the Insurance Commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-17-401 requires the Insurance Commissioner to set standards for the valuation of an insurer's assets and securities, and to write rules to determine the present value of future income derived from securities owned by an insurer.
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 of Insurance (Department) has received no written comments regarding this rule during 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 sets a standard for an insurer doing business in Utah to use in determining the value of its assets. This rule helps the Department assess the financial health of

each licensed insurer in an effort to protect the financial security of their insureds. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	01/26/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R590-117	Filing ID: 53910
Effective Date:	01/26/2022	

Agency Information

Agency information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-117. Valuation of Liabilities
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 31A-2-201 authorizes the Insurance Commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-17-402 requires the Insurance Commissioner to adopt a rule specifying which liabilities insurers must report and the methods for evaluating those assets. Section R590-117-4 states the liabilities that are to be listed on the insurer's financial statement and also the methods by which these liabilities will be valued.

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 of Insurance (Department) has received no written comments regarding this rule during 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 standardizes the liabilities that must be listed on an insurer's annual statement and how they are to be valued. It is important that the liabilities of all licensed insurers in Utah be evaluated using the same standard for fairness. Knowing the true value of an insurer's liabilities is one way the Department can determine the insurer's financial health. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	01/26/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R590-147	Filing ID: 54097
Effective Date:	01/31/2022	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information**2. Rule catchline:**

R590-147. Annual and Quarterly Statement Filing Instructions

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 31A-2-201 authorizes the Insurance Commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-4-113 authorizes the Insurance Commissioner to prescribe by rule the information to be submitted with, and the form of, the annual statement. This rule provides instructions for the filing of annual and quarterly statements with supplementary schedules, exhibits, and documents by insurers.

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 of Insurance (Department) has received no written comments regarding this rule during 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:

If this rule is not continued in force, it may create confusion for insurers regarding their quarterly and annual reporting requirements for the National Association of Insurance Commissioners and the Utah Insurance Department. Annual and quarterly statements may be filed incorrectly more frequently, resulting in costly and unnecessary follow-ups both by insurers and the Department. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	01/31/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R590-150	Filing ID:	54099
Effective Date:	01/31/2022		

Agency Information

1. Department:	Insurance
Agency:	Administration
Room no.:	Suite 2300
Building:	Taylorsville State Office Building

Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information**2. Rule catchline:**

R590-150. Commissioner's Acceptance of Examination Reports

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 31A-2-201 authorizes the Insurance Commissioner to make rules to implement Title 31A, Insurance Code. Section 31A-2-203 authorizes the Insurance Commissioner to approve actuarial evaluations made by an actuary and defines standards that must be met in a report of an examination conducted by an insurance department in another state in order to be acceptable to the Insurance Commissioner. These standards were implemented as a result of the National Association of Insurance Commissioners' (NAIC) accreditation program.

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 of Insurance (Department) has received no written comments regarding this rule during 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 supports Subsection 31A-2-203(4) by defining standards that must be met in reports of examinations conducted by insurance departments of other states in order to be acceptable to the commissioner. These standards were implemented as a result of the NAIC accreditation program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	01/31/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R657-43	Filing ID:	51755
Effective Date:	02/01/2022		

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room no.:	Suite 2110	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146301	
City, state and 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 catchline:
R657-43. Landowner Permits
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under Sections 23-14-18 and 23-14-19 the Wildlife Board is authorized and required to provide rules to regulate the management of big game species. This rule provides the standards and procedures for private landowners to obtain landowner permits for taking specific big game species from the landowner's property.
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 supporting or opposing Rule R657-43 were received since March 2017 when this rule was last reviewed.

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

Rule R657-43 provides the requirements, procedures and standards for private landowners to obtain landowner permits for taking buck deer within a general regional hunt boundary where the landowner's property is located, and taking bull elk, buck deer or buck pronghorn within a limited entry unit. This rule provides the opportunity for landowners, whose property provides habitat for deer, elk or pronghorn, to benefit by obtaining landowner permits for use within a general regional hunt area or limited entry area where the landowner's property is located. The provisions adopted in this rule are effective in providing the requirements, procedures and standards for managing the landowner permit program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	J Shirley, Division Director	Date:	02/01/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R746-349	Filing ID:	51978
Effective Date:	01/27/2022		

Agency Information

1. Department:	Public Service Commission	
Agency:	Administration	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S, 4th Floor	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 4558	
City, state and zip:	Salt Lake City, UT 84114-4558	
Contact person(s):		
Name:	Phone:	Email:
Yvonne Hogle	801-530-6709	yhogle@utah.gov

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

General Information

2. Rule catchline:
R746-349. Competitive Entry and Reporting Requirements

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 was enacted under Title 54, Chapter 8b, Part 2.2, "Interconnection". This rule establishes filing requirements and procedures that competing telecommunications corporations must meet and follow in order to offer telecommunications services and compete with the incumbent telecommunications corporation in the state of Utah, consistent with Section 54-8b-2.2. This statute states, "[t]he commission shall adopt rules or issue an interim order which implements by December 31, 1996, the competitive provision of facilities-based intraLATA toll and local exchange services."

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 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 continues to promote the policy of the state of Utah of ensuring competition in the telecommunications industry. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Thad LeVar, PSC Chair	Date:	01/27/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R746-351	Filing ID: 51970
Effective Date:	01/27/2022	

Agency Information

1. Department:	Public Service Commission
Agency:	Administration
Building:	Heber M. Wells Building
Street address:	160 E 300 S, 4th Floor
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 4558
City, state and zip:	Salt Lake City, UT 84114-4558

Contact person(s):

Name:	Phone:	Email:
Yvonne Hogle	801-530-6709	yhogle@utah.gov

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

General Information**2. Rule catchline:**

R746-351. Pricing Flexibility

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 was enacted under Title 54, Chapter 8b, Part 2.3, "Pricing Flexibility". Because this rule establishes a procedure by which the pricing flexibility granted to an incumbent telecommunications corporation under Subsection 54-8b-2.3(2)(b) becomes effective, rules must be enacted to provide additional detail regarding the way that an "incumbent", like a "competing" telecommunications corporation, is also able to achieve pricing flexibility. The rules that apply to the competitive local exchange carrier's pricing flexibility were promulgated under Subsections 54-8b-2.2(2)(a) and (b), and they reside in large part under Section R746-349-4. These rules are largely inapplicable to incumbents. Therefore, rules that specifically apply to the incumbent as it relates to pricing flexibility are still needed. Subsection 54-8b-2.3(2)(b) states "[t]he incumbent telephone corporation's pricing flexibility shall be the same as a competing telecommunications corporation's pricing flexibility for all public telecommunications services." Therefore, since there are no specific rules for incumbents, Rule R746-351 is needed. Finally, this rule is largely promulgated to ensure that the competing telecommunications corporation is not at a competitive disadvantage as compared to the incumbent telecommunications corporation. For example, under this rule, to achieve pricing flexibility, the incumbent must demonstrate that the competing telecommunications corporation is interconnected to the incumbent's system. This furthers the policy of the state of ensuring continued competition in the telecommunications industry.

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 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:

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

As explained in Box 3 above, the statutory requirement and policy need for this rule still exist. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Thad LeVar, PSC Chair	Date:	01/27/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R746-440	Filing ID: 51981
Effective Date:	01/27/2022	

Agency Information

1. Department:	Public Service Commission	
Agency:	Administration	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S, 4th Floor	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 4558	
City, state and zip:	Salt Lake City, UT 84114-4558	
Contact person(s):		
Name:	Phone:	Email:
Michael Hammer	801-530-6729	michaelhammer@utah.gov

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

General Information

2. Rule catchline:

R746-440. Voluntary Resource Decision

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

Subsection 54-17-103(1) requires the Public Service Commission (PSC) to create certain rules and authorizes it to make other rules, as necessary, to implement the Energy Resources Procurement Act, Title 54, Chapter 17. See also Subsection 54-17-302(8) (providing the PSC "shall make rules regarding the process for approval of a significant energy resource decision under this section"); Subsection 54-17-402(9) (providing the PSC "shall make rules regarding the process for approval of a resource decision under this section").

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 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 and specifically required by statute to implement the Energy Resources Procurement Act, which governs the circumstances under which an electric utility must, and in some cases may, obtain approval from the Public Service Commission before procuring certain energy resources. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Thad LeVar, PSC Chair	Date:	01/27/2022
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR EXTENSION (EXTENSION)** with the Office. However, if the agency fails to file either the **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION** or the **EXTENSION** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **NOTICE OF FIVE-YEAR EXPIRATION (EXPIRATION)** to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

NOTICE OF EXPIRED RULE		
Utah Admin. Code	R311-401	ID No. 53201
Ref (R no.):		

Agency Information

1. Department:	Environmental Quality		
Agency:	Environmental Remediation	Response	and
Street address:	195 N 1950 W		
City, state, and zip:	Salt Lake City, UT 84116		
Contact person(s):			
Name:	Phone:	Email:	
Nancy L. Lancaster	801-957-7102	rulesonline@utah.gov	

General Information

2. Title of rule (catchline):	
R311-401. Utah Hazardous Substances Priority List	
3. Effective Date:	01/21/2022
4. Summary:	
The five-year review and notice of continuation was not filed for this rule by the deadline of 01/20/2022. This rule has expired and will be removed from the Utah Administrative Code.	

End of the Notices of Notices of Five Year Expirations Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

Administration

No. 54137 (Amendment) R51-5: Rural Rehabilitation Loans
Published: 12/15/2021
Effective: 02/01/2022

Animal Industry

No. 54114 (Amendment) R58-11: Slaughter of Livestock and Poultry
Published: 12/01/2021
Effective: 01/12/2022

Conservation Commission

No. 54136 (Amendment) R64-1: Agriculture Resource Development Loans (ARDL)
Published: 12/15/2021
Effective: 02/01/2022

Commerce

Occupational and Professional Licensing

No. 54139 (Amendment) R156-17b: Pharmacy Practice Act Rule
Published: 12/15/2021
Effective: 01/27/2022

No. 54215 (Amendment) R156-28: Veterinary Practice Act Rule
Published: 01/01/2022
Effective: 02/09/2022

Environmental Quality

Air Quality

No. 54174 (Repeal) R307-301: Utah and Weber Counties: Oxygenated Gasoline Program As a Contingency Measure
Published: 12/15/2021
Effective: 02/03/2022

Waste Management and Radiation Control, Waste Management

No. 54189 (Amendment) R315-307: Landtreatment Disposal Standards
Published: 01/01/2022
Effective: 02/14/2022

Health

Family Health and Preparedness, Licensing

No. 54175 (Amendment) R432-152: Intermediate Care Facility for Individuals with Intellectual Disabilities
Published: 12/15/2021
Effective: 01/31/2022

No. 54081 (Amendment) R432-200: Small Health Care Facility - Four to Sixteen Beds
Published: 12/01/2021
Effective: 01/31/2022

Higher Education (Utah Board of)

Administration

No. 54119 (Amendment) R765-611: Veterans Tuition Gap Program
Published: 12/01/2021
Effective: 01/20/2022

No. 54120 (Amendment) R765-800: Free Expression on Campus
Published: 12/01/2021
Effective: 01/20/2022

No. 54121 (Amendment) R765-801: Student Due Process
Published: 12/01/2021
Effective: 01/20/2022

No. 54122 (Amendment) R765-802: Weapons on Campus
Published: 12/01/2021
Effective: 01/20/2022

NOTICES OF RULE EFFECTIVE DATES

University of Utah, Administration

No. 54190 (Amendment) R805-2: Government Records
Access and Management Act Procedures
Published: 01/01/2022
Effective: 02/08/2022

University of Utah, Commuter Services

No. 53380 (Amendment) R810-6: Permit Prices and
Refunds
Published: 01/01/2022
Effective: 02/08/2022

Human Services

Recovery Services

No. 54169 (Amendment) R527-40: Retained Support
Published: 12/15/2021
Effective: 01/24/2022

No. 54111 (Amendment) R527-300: Income Withholding
Published: 12/15/2021
Effective: 01/24/2022

No. 54167 (Amendment) R527-301: Non-IV-D Income
Withholding
Published: 12/15/2021
Effective: 01/24/2022

No. 54170 (Amendment) R527-430: Administrative Notice
of Lien-Levy Procedures
Published: 12/15/2021
Effective: 01/24/2022

No. 54171 (Amendment) R527-450: Federal Tax Refund
Intercept
Published: 12/15/2021
Effective: 01/24/2022

No. 54168 (Amendment) R527-920: Mandatory
Disbursement to Obligee Through Electronic Funds Transfer
Published: 12/15/2021
Effective: 01/24/2022

Insurance

Administration

No. 54184 (Amendment) R590-132: Insurance Treatment
of Human Immunodeficiency Virus (HIV) Infection
Published: 01/01/2022
Effective: 02/08/2022

No. 54185 (Amendment) R590-142: Continuing Education
Rule
Published: 01/01/2022
Effective: 02/08/2022

No. 54149 (Repeal and Reenact) R590-155: Utah Life and
Health Insurance Guaranty Association Summary Document
Published: 12/15/2021
Effective: 01/24/2022

No. 54186 (Amendment) R590-166: Home Protection
Service Contracts
Published: 01/01/2022
Effective: 02/08/2022

No. 54183 (Repeal) R590-182: Risk Based Capital
Instructions
Published: 01/01/2022
Effective: 02/08/2022

No. 54187 (Amendment) R590-283: Defrayment of State-
Required Benefits
Published: 01/01/2022
Effective: 02/08/2022

Labor Commission

Administration

No. 54138 (Amendment) R600-2: Operations
Published: 12/15/2021
Effective: 01/24/2022

Industrial Accidents

No. 54141 (Amendment) R612-400-5: Premium Rates for
the Uninsured Employers' Fund and the Employers'
Reinsurance Fund
Published: 12/15/2021
Effective: 01/24/2022

Tax Commission

Administration

No. 54131 (Amendment) R861-1A-16: Utah State Tax
Commission Management Plan Pursuant to Utah Code Ann.
Section 59-1-207
Published: 12/01/2021
Effective: 01/13/2022

Transportation

Administration

No. 54161 (Amendment) R907-63-2: Procedure to Collect
for Damage to Structures and Highways
Published: 12/15/2021
Effective: 02/07/2022

Transportation Commission

Administration

No. 54160 (Amendment) R940-3: State Infrastructure Bank
Fund, Prioritization process, Procedures, and Standards for
Making Loans or Providing Infrastructure Assistance
Published: 12/15/2021
Effective: 02/07/2022

End of the Notices of Rule Effective Dates Section