

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed February 16, 2022, 12:00 a.m. through March 01, 2022, 11:59 p.m.

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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

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

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

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## EXECUTIVE ORDER 2022-03

An Order Instructing the Utah Department of Alcohol and Beverage Control, Utah State Liquor Stores to Remove all Russian-produced and Russian-branded Products Off of Its Shelves Immediately

**WHEREAS**, Russia's invasion of Ukraine puts millions of innocent lives at risk and represents an all-out assault on democracy; and

**WHEREAS**, Utah stands united with the people of Ukraine and unequivocally condemns the continued Russian attack; and

**WHEREAS**, Utah recognizes that economic support of Russian enterprises implies a contradictory message to the Ukrainian people; and

**WHEREAS**, Utah will take whatever measures possible to support the people of Ukraine and oppose the unprovoked attack.

**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. All Russian-produced and Russian-branded products shall be removed from shelves in all Utah State Liquor Stores until this Order is rescinded; and
2. The Governor's Office of Economic Opportunity shall review the state's procurements.

**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 26th day of February, 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

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between February 16, 2022, 12:00 a.m., and March 01, 2022, 11:59 p.m. are included in this, the March 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 April 14, 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 July 13, 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.

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R380-406	Filing ID 54390

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 14100	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Richard Oborn	801-538-6504	cannabiscompliance@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

2. Rule or section catchline:
R380-406. Medical Cannabis Pharmacy
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This proposed rule filing makes multiple statutorily required rule amendments. Subsection 26-61a-505(5)(c) requires that the Department of Health (Department) make rules to define elements of and restrictions on educational events held by a medical cannabis pharmacy. Subsection 26-61a-505(4)(b) requires that the Department make rules defining the educational material that may appear on a medical cannabis pharmacy's website. Subsection 26-61-303(2) requires that the Department establish by rule criteria to identify medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license. Subsection 26-61a-305(1)(d)(ii) requires that the Department establish by rule criteria and processes for consultation, analysis, and application for a medical cannabis pharmacy license. Subsection 26-61a-505(3)(b) requires that the Department establish standards by rule for a medical cannabis pharmacy business' name and logo. This proposed rule also establishes multiple standards applicable to medical cannabis pharmacy operations and it makes nonsubstantive amendments to make rule language consistent with the Rulewriting Manual for Utah published by the Utah Office of Administrative Rules.

**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):

In Section R380-406-1, unnecessary language is removed and references to statutes which prompted this rule filing are added.

In Section R380-406-2, definitions for new terms used in the proposed rule are added.

In Section R380-406-3, unnecessary language is removed and standards for medical cannabis pharmacy ownership changes are established.

In Subsection R380-406-3(10), the Department establishes conditions under which a medical cannabis pharmacy is required to share a certificate of analysis with a medical cannabis cardholder or a recommending medical provider.

In Sections R380-406-4 and R380-406-5, unnecessary language is removed.

Also in Section R380-406-5, the term "dosing parameters" is replaced with the phrase "dosing guidelines and directions of use." This amendment was prompted by S.B. 121 passed during the 2020 General Session which made this amendment to Title 26, Chapter 61a, Utah Medical Cannabis Act. Multiple nonsubstantive changes are made in this subsection.

In Section R380-406-7, multiple nonsubstantive changes are made.

In Subsection R380-406-7(5)(d), language is added to clarify that the video camera used to record operations in the pharmacy may be motion activated.

Subsection R380-406-7(5)(e) establishes a requirement to have a video camera at each product destruction or disposal location. In the same subsection, this rule is amended to require a video camera to allow for the identification of a visitor or pharmacy employee, not only a medical cannabis cardholder.

Subsection R380-406-7(6)(b)(ii)(B) establishes additional standards for a medical cannabis cardholder's inspection of a sample medical cannabis product.

Subsection R380-406-7(10)(b) is removed because it is unnecessary.

Subsection R380-406-7(11) clarifies that if a cabinet or drawer located in the cardholder area is used as a limited access area, it is not required to have a "Limited Access Area" sign on it.

In Section R380-406-8, amendments to pharmacy operating standards for inventory are made and unnecessary language is removed.



In Section R380-406-9, nonsubstantive changes are made.

In Subsection R380-406-11(2), an additional statutory reference is added. The reference to Section R68-27-12 is removed and replaced with applicable parts of Section R68-27-12. Section R68-27-12 establishes the Utah Department of Agriculture and Food's standards for cannabis waste disposal and the Department determined that Section R68-27-12 should not be referenced because some parts of that rule are not applicable to a medical cannabis pharmacy's cannabis waste disposal process.

In Section R380-406-12, nonsubstantive changes are made.

Subsection R380-406-14(5) is removed because it is not applicable to medical cannabis pharmacy operations.

Section R380-406-15 establishes rule criteria to identify medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

Section R380-406-16 establishes standards for a medical cannabis pharmacy's drive-thru and curbside service.

Section R380-406-17 establishes standards for a medical cannabis pharmacy's educational material.

Section R380-406-18 establishes standards for educational events that a medical cannabis pharmacy holds or in which they participate.

Section R380-406-19 establishes standards for a medical cannabis pharmacy's business name or logo.

Section R380-406-20 establishes criteria and process for the Department's issuance of additional medical cannabis pharmacy licenses.

**Public Hearings:**

**In-Person:**

Utah Department of Health  
Martha Hughes Cannon Building, Room 125  
288 N 1460 W  
Salt Lake City, UT

**Virtual:**

**Meeting ID**

[meet.google.com/eum-dxki-jqk](https://meet.google.com/eum-dxki-jqk)

**Phone Numbers**

(US) +1 470-273-8525

PIN: 248 923 105#

**Fiscal Information**

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

**A) State budget:**

In Section R380-406-8, amendments are made to operating standards related to a medical cannabis pharmacy's inventory of products. These amendments will have fiscal impact on the state because state employees will need to spend more time conducting inspections. The Department must pay a compliance supervisor and finance manager approximately \$50 hourly to incorporate inventory inspections into inspections. The compliance supervisor will do these inspections at each pharmacy an average of four times a year. Each inspection will take about 2 hours. 14 pharmacies x 4 visits x 2 hours each x \$50 hourly = \$5,600 annually. The Department must pay a finance manager approximately \$50 hourly to review inventory records once a month at each medical cannabis pharmacy. Each inspection will take about 2 hours. 14 pharmacies x 12 inspections (once a month) x 2 hours x \$50 hourly = \$16,800 annually. The total cost impact to the Department is estimated to be \$22,400 annually.

In Section R380-406-11, amendments are made to operating standards related to a medical cannabis pharmacy's cannabis disposal and waste. These amendments will not have a cost impact on the state because the current rule already requires compliance with the standards and the Department already inspects for compliance.

Section R380-406-15 establishes standards for a medical cannabis pharmacy's drive thru and curbside services. The Department must pay a compliance officer approximately \$50 hourly who will spend on average one hour at each medical cannabis pharmacy to confirm compliance with these standards. \$50 hourly x 1 hour x 14 pharmacies = \$700 annually.

Section R380-406-16 establishes standards for a medical cannabis pharmacy's educational material. The Department expects to have a compliance officer spend about 2 hours a month reviewing educational materials used by each medical cannabis pharmacy for compliance with these standards. \$50 hourly x 2 hours x 12 months x 14 pharmacies = \$16,800 annually.

Section R380-406-19 establishes a criteria and process for the Department's issuance of additional medical cannabis pharmacy licenses. The Department expects to pay a business analyst \$50 hourly for 40 hours. \$50 x 40 hours = \$2,000. The Department must also cover the cost of holding a public hearing which is minimal.

**B) Local governments:**

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

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

In Subsections R380-406-3(8) and (9), standards for medical cannabis pharmacy ownership changes are established. Some medical cannabis pharmacies may experience a cost impact if the Department denies their request to make an ownership change. The cost impact in these cases is not possible to estimate due to the unique circumstances of each ownership change request.

Subsection R380-406-7 (5)(e) adds a requirement for a medical cannabis pharmacy to take and maintain video footage of each product destruction or disposal location and of visitors or pharmacy employees. Medical cannabis pharmacies already have existing video software and equipment, but this requirement may require some to buy additional video camera equipment. Estimating these new standards require 7 pharmacies to buy 2 additional cameras and each camera is estimated to cost \$300, that is  $\$300 \times 7 \text{ pharmacies} \times 2 \text{ cameras each} = \$4,200$  annually.

Subsection R380-406-7 (6)(b)(ii)(B) establishes additional standards for when a medical cannabis pharmacy has samples available for inspection by medical cannabis pharmacies. Pharmacies cannot give product samples at no cost, but they may allow a cardholder to inspect the smell of a product in a sample container that is kept at the medical cannabis pharmacy. To comply with the standards, a medical cannabis pharmacy may be required to print a new label and there are minimal costs associated with that. Estimating that the 14 pharmacies each use 30 sample containers each month and each label is \$0.15 for material and \$0.10 to activate, that is  $\$0.25 \times 30 \text{ products} \times 14 \text{ pharmacies} \times 12 \text{ months} = \$1,260$  annually.

In Section R380-406-8, amendments are made to operating standards related to a medical cannabis pharmacy's inventory of products. Some medical cannabis pharmacies may experience a cost impact if they do not already comply with these standards. Estimating that a pharmacy agent is paid an average of \$20 hourly and spends an average of 1 hour each day, paying a pharmacy agent to implement inventory controls would cost a pharmacy \$7,300 annually. Estimating that a pharmacy medical provider (PMP) is paid an average of \$50 per hour and spends an average of 1 hour per week performing weekly inventory controls, paying a PMP to perform the weekly inventory controls would cost a pharmacy \$2,600 annually. Performing an annual comprehensive audit would take a PMP and a pharmacy agent approximately 4 hours once a year for an estimated cost of \$280 annually. This calculates a total cost to 1 pharmacy at approximately \$10,180. Some pharmacies already comply with these standards. If 3 pharmacies do not currently comply, the cost impact will calculate as follows:  $3 \times \$10,180 = \$30,540$  annually.

Section R380-406-16 establishes standards for a medical cannabis pharmacy's educational material. These standards may require some medical cannabis

pharmacies to cover the cost of revising website content. The Department estimates that each pharmacy will pay an employee or a contractor \$35 hourly to revise content or make website design changes. An employee may spend approximately 20 hours annually revising content and making website design changes.  $\$35 \text{ hourly} \times 20 \text{ hours} \times 14 \text{ medical cannabis pharmacies} = \$9,800$  one-time during FY 2022.

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

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

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

This proposed rule will not result in a fiscal impact to the budget of persons other than small businesses, non-small businesses, or state or local government entities because this rule does not establish new requirements for these entities.

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

In Subsections R380-406-3(8) and (9), standards for medical cannabis pharmacy ownership changes are established. Some medical cannabis pharmacies may experience a cost impact if the Department denies their request to make an ownership change. The cost impact in these cases is not possible to estimate due to the unique circumstances of each ownership change request.

Subsection R380-406-7 (5)(e) adds a requirement for a medical cannabis pharmacy to take and maintain video footage of each product destruction or disposal location and of visitors or pharmacy employees. Medical cannabis pharmacies already have existing video software and equipment, but this requirement may require some to buy additional video camera equipment. Estimating these new standards require 7 pharmacies to buy 2 additional cameras and each camera is estimated to cost \$300, that is  $\$300 \times 7 \text{ pharmacies} \times 2 \text{ cameras each} = \$4,200$  annually.

Subsection R380-406-7 (6)(b)(ii)(B) establishes additional standards for when a medical cannabis pharmacy has samples available for inspection by medical cannabis pharmacies. Pharmacies cannot give product samples at no cost, but they may allow a cardholder to inspect the smell of a product in a sample container that is kept at the medical cannabis pharmacy. To comply with the standards, a medical cannabis pharmacy may be required to print a new label and there are minimal costs associated with that. Estimating that the 14 pharmacies each use 30

sample containers each month and each label is \$0.15 for material and \$0.10 to activate, that is \$0.25 x 30 products x 14 pharmacies x 12 months = \$1,260 annually.

In Section R380-406-8, amendments are made to operating standards related to a medical cannabis pharmacy's inventory of products. Some medical cannabis pharmacies may experience a cost impact if they do not already comply with these standards. Estimating that a pharmacy agent is paid an average of \$20 hourly and spends an average of one hour each day, paying a pharmacy agent to implement inventory controls would cost a pharmacy \$7,300 annually. Estimating that a pharmacy medical provider (PMP) is paid an average of \$50 per hour and spends an average of 1 hour per week performing weekly inventory controls, paying a PMP to perform the weekly inventory controls would cost a pharmacy \$2,600 annually. Performing an annual comprehensive audit would take a PMP and a pharmacy agent approximately 4 hours once a year for an estimated cost of \$280 annually. This calculates a total cost to 1 pharmacy at approximately \$10,180. Some pharmacies already comply with these standards. If 3 pharmacies do not currently comply, the cost impact will calculate as follows: 3 x \$10,180 = \$30,540 annually.

Section R380-406-16 establishes standards for a medical cannabis pharmacy's educational material. These standards may require some medical cannabis pharmacies to cover the cost of revising website content. The Department estimates that each pharmacy will pay an employee or a contractor \$35 hourly to revise content or make website design changes. An employee may spend approximately 20 hours annually revising content and making website design changes. \$35 hourly x 20 hours x 14 medical cannabis pharmacies = \$9,800 one-time during FY 2022.

**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):

There is some fiscal impact on small businesses for compliance with the rule requirements. There is no fiscal impact on non-small businesses. Nathan Checketts, 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	\$41,900	\$41,900	\$41,900
Local Governments	\$0	\$0	\$0
Small Businesses	\$45,800	\$36,000	\$36,000

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$87,700</b>	<b>\$77,900</b>	<b>\$77,900</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Utah Department of Health, Nathan Checketts, 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:**

Subsection 26-1-5(1)	Subsection 26-61a 505(5)	Subsection 26-61a-505(4)
Subsection 26-61a-303(2)	Subsection 26-61a-305(1)	Subsection 26-61a-505(3)

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 04/14/2022

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

<b>On:</b>	<b>At:</b>	<b>At:</b>
03/28/2022	10:00 AM	See details above in Box 4.

**10. This rule change MAY become effective on:** 04/21/2022

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

<b>Agency head or designee, and title:</b>	Nathan Checketts, Executive Director	<b>Date:</b>	03/01/2022
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### R380. Health, Administration.

#### R380-406. Medical Cannabis Pharmacy.

##### R380-406-1. Authority and Purpose.

Pursuant to Subsections 26-1-5(1), ~~26-61a-303(2), 26-61a-305 (1), 26-61a-501(12), 26-61a-501(13), 26-61a-503(3), 26-61a-505(3), 26-61a-505(4), 26-61a-505(5), and 26-61a-605(5),~~ this rule establishes ~~[general]~~ operating and licensing standards and requirements applicable to medical cannabis pharmac[y]ies and their employees.~~[operating standards, partial fill standards, medical cannabis pharmacy operating plan requirements, cannabis product transportation standards, cannabis product waste and disposal standards, cannabis product recall standards, duties and requirements of a pharmacist in charge, security standards, supervision standards, inventory standards, cannabis product packaging standards, and standards related to closing a medical cannabis pharmacy.]~~

##### R380-406-2. Definitions.

~~[As used in this rule:]~~

~~(1) The definitions in R380-400-2 apply to this rule. In addition, the following apply in this rule.~~

~~(1)(2) "Cannabis waste" means cannabis product that is damaged, deteriorated, mislabeled, expired, returned, subject to a recall, or enclosed within a container or package that has been opened or breached.~~

~~(3) "Educational event" means an organized event at which a medical cannabis pharmacy distributes, orally presents, or displays educational material.~~

~~(4)(a) "Educational material" means material or content used or distributed by a medical cannabis pharmacy in-person or online in a business or professional capacity. Educational material includes:~~

~~(i) live or recorded content of an actual educational event;~~

~~(ii) any printed educational material such as an exit bag, placard, employee identification tag, poster, fact sheet, book, pamphlet, flyer, business card;~~

~~(iii) online content such as websites or social media posts; and~~

~~(iv) business or professional mass communications sent via email, text, or social media applications for official educational purposes.~~

~~(b) "Educational material" does not mean the packaging or labeling of medical cannabis products or medical cannabis devices sold in a medical cannabis pharmacy.~~

~~(5) Institutional review board" or "IRB" means the same term as defined in Section 26-61-102.~~

~~(6) "Recreational disposition" means the following:~~

~~(a) slang or phrasing associated with the recreational use of cannabis;~~

~~(b) an image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;~~

~~(c) an image of a celebrity or other person whose target audience is children or minors;~~

~~(d) content that encourages, promotes, or otherwise creates an impression that the recreational use of cannabis is legal or acceptable, or that the recreational use of cannabis has potential health or therapeutic benefits;~~

~~(e) content that promotes excessive consumption; and~~

~~(f) content that is obscene or indecent.~~

~~(7) "Substantial evidence or substantial clinical data" means evidence that is supported by two or more clinical studies that meet the following criteria:~~

~~(a) was conducted under a study approved by an IRB;~~

~~(b) was conducted or approved by the federal government;~~

~~(c) is cited by the Department in educational materials posted on its website; or~~

~~(d) is of reasonable scientific rigor as determined by the Department.~~

##### R380-406-3. Medical Cannabis Pharmacy - General Operating Standards.

(1) In addition to general operating standards established in Title 26, Chapter 61a, Part 5, Utah Medical Cannabis Act, Medical Cannabis Pharmacy Operation, medical cannabis pharmacies shall comply with the operating standards established in this rule. Medical cannabis pharmacies shall:

(a) be well lit, well ventilated, clean, and sanitary;

(b) maintain a current list of employees working at the medical cannabis pharmacy;

(i) the list shall include employee name, Department registration license classification and license number, registration expiration date, and work schedule; and

(ii) the list shall be readily retrievable for inspection by the Department and may be maintained in paper or electronic form;

(c) have a counseling area to allow for confidential patient counseling;

(d) have current and retrievable editions of the following reference publications, in print or electronic format, and readily available and retrievable to medical cannabis pharmacy personnel:

(i) Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) ~~applicable administrative rules [R380-400 through R380-411, Utah Medical Cannabis Act Rules].~~

(2) A medical cannabis pharmacy shall not distribute medical cannabis product, or ~~[a-]~~ medical cannabis devices, to a medical cannabis cardholder, unless an employee who is a PMP is physically present and immediately available in the medical cannabis pharmacy.

(3) A medical cannabis pharmacy location shall be open for a cardholder to ~~[purchase]~~ buy a medical cannabis product, and medical device, for a minimum of 35 hours a week, except as authorized by the Department.

(4) A medical cannabis pharmacy that closes during normal hours of operation, shall implement procedures to notify a cardholder when the medical cannabis pharmacy will resume normal hours of operation. ~~[Such p]~~ Procedures may include~~[-]~~ telephone system messages and conspicuously posted signs.

(5) Deliveries from a cannabis processing facility or another medical cannabis pharmacy shall be carried out under the direct supervision of a PMP or pharmacy agent, who shall be present to accept the delivery. Upon delivery, the medical cannabis product

or medical cannabis devices~~[7]~~ shall immediately be placed in ~~[the]~~a limited access area of the medical cannabis pharmacy.

(6) A medical cannabis pharmacy shall protect, at all times, confidential cardholder data and information stored in the EVS~~[7]~~~~[such]~~ to ensure that access to and use of the data and information is limited to those individuals and purposes authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule.

(7) A medical cannabis pharmacy shall not dispense expired, damaged, deteriorated, misbranded, adulterated, or opened medical cannabis products or medical cannabis devices.

(8) A medical cannabis pharmacy license cannot be ~~[sold]~~assigned or transferred but a licensee may make changes to its ownership or company structure. When making a change to its ownership, a licensee shall not:

(a) make an ownership change by an interest of 2% or more without notification of the Department at least 10 days before the date of the change;

(b) make an ownership change by an interest of 50% or more without applying to the Department and receiving Department approval and payment of the fee authorized under Section 26-61a-109 that the Department sets in accordance with Section 63J-1-504.

(9) When applying to the Department for approval of an ownership change of more than 50%, the medical cannabis pharmacy shall submit to the Department:

(a) a description of how the medical cannabis pharmacy shall maintain its compliance with the minimum standards for licensure and operation of the medical cannabis pharmacy; and

(b) the results of a formal investigation, charge, claim or adverse action taken against the new owners or individuals with formal financial or management control who make up the new owners, during the past seven years, by any licensing jurisdiction, government agency, law enforcement agency, or court in any state.

(10) A medical cannabis pharmacy shall provide a copy of a certificate of analysis for a medical cannabis product to a medical cannabis cardholder or a recommending medical provider if:

(a) it is requested in writing; and

(b) the requestor signs a non-disclosure agreement upon request by the medical cannabis pharmacy.

#### **R380-406-4. Medical Cannabis Pharmacy -- Operating Plan.**

(1) Pursuant to ~~[Subs]~~Section 26-61a-301, Medical Cannabis Pharmacy License, a medical cannabis pharmacy license application shall include an operating plan that includes, at a minimum the following:

(a) ~~[any]~~information requested in the application;

(b) ~~[all]~~information listed in Section 26-61a-301, Medical Cannabis Pharmacy License;

(c) a plan to comply with ~~[all]~~applicable operating standards, statutes, and administrative rules, including:

(i) Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) applicable administrative rules.~~[R380-400 through R380-411, Utah Medical Cannabis Act Rules.]~~

(2) The Department may require the applicant for a medical cannabis pharmacy license~~[7]~~ to make a change to its operating plan before issuing a pharmacy license. The applicant shall submit a copy of its updated operating plan, with the required change, and receive Department approval of the plan~~[7]~~ before the Department awards the license.

(3) Once the Department issues a license, any change to a medical cannabis pharmacy's operating plan is subject to the approval of the Department. A medical cannabis pharmacy shall submit a

notice, in a manner determined by the Department, at least 14 days ~~[prior to]~~before the date that it plans to implement any change to its operating plan.

#### **R380-406-5. Medical Cannabis Pharmacy -- Operating Standards -- Pharmacist-In- Charge.**

(1) A medical cannabis pharmacy's pharmacist-in-charge (PIC) shall have the responsibility to oversee the medical cannabis pharmacy's operation, and that it is in compliance with Chapter 26, Title 61a, Utah Medical Cannabis Act and applicable administrative rules~~[Utah Administrative Rules R380-400 through R380-411, Utah Medical Cannabis Act Rules]~~. The PIC shall generally supervise the medical cannabis pharmacy, though the PIC is not required to be on site during ~~[all]~~business hours.

(2) A unique email address shall be established by the PIC, or responsible party, for the medical cannabis pharmacy; to be used for official notices, self-audits or medical cannabis pharmacy alerts, initiated by the Department. The PIC or responsible party shall notify the Department of the medical cannabis pharmacy's email address in the initial application for licensure.

(3) The duties of the PIC shall include:

(a) ensure that PMPs, and pharmacy agents, at the medical cannabis pharmacy appropriately interpret and distribute a recommendation from a recommending medical provider, in a suitable container, appropriately labeled for subsequent administration, or use by a patient;

(b) ensure that medical cannabis product and a medical cannabis devices are distributed safely, and accurately, with correct ~~[dosage parameters]~~dosing guidelines and directions of use as recommended by a recommending medical provider;

(c) ensure that medical cannabis product, and ~~[a]~~medical cannabis devices, ~~[is]~~are distributed with information and instruction as necessary for proper utilization;

(d) ensure that PMPs and pharmacy agents communicate to a cardholder, at their request, information concerning any medical cannabis product or medical cannabis devices distributed to the cardholder;

(e) ensure that a reasonable effort is made to ~~[obtain]~~get, protect, record, and maintain patient records;

(f) education and training of medical cannabis pharmacy personnel;

(g) establishment of policies for procurement of medical cannabis products, ~~[a]~~medical cannabis devices, and educational material sold at the facility;

(h) distribution and disposal of medical cannabis product and ~~[a]~~medical cannabis devices, from a medical cannabis pharmacy;

(i) appropriate storage of ~~[all]~~medical cannabis product and ~~[a]~~medical cannabis devices;

(j) maintain a complete and accurate ~~[a]~~record of transactions of the medical cannabis pharmacy necessary to maintain accurate control and accountability for materials required by applicable state laws;

(k) establish- effective control against theft or diversion of medical cannabis product or ~~[a]~~medical cannabis devices, and record of ~~[such]~~product;

(l) legal operation of the medical cannabis pharmacy, including inspections, and other requirements, of state laws governing the medical cannabis pharmacies;

(m) implementation of an ongoing quality assurance program, that monitors performance of the personnel at the medical cannabis pharmacy;



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(n) ensure that the point-of-sale (POS) is in working order;

(o) ensure that relevant information is submitted to the state's ICS and EVS in a timely manner;

(p) ensure that medical cannabis pharmacy personnel have appropriate licensure and registration;

(q) ensure that no medical cannabis pharmacy operates with a ratio of ~~[medical cannabis pharmacy medical provider]~~ PMPs to pharmacy agents that results in, or reasonably would be expected to result in, a reasonable risk of harm to public health, safety, and welfare;

(r) ensure that the PIC assigned to the medical cannabis pharmacy is recorded with the Department, and the Department is notified of a PIC change within 30 days of the change; and

(s) ~~[ensure with]~~in regard to the unique email address used for self-audits or medical cannabis pharmacy alerts, ensure that:

(i) the medical cannabis pharmacy uses a single email address; and

(ii) the medical cannabis pharmacy notifies the Department, on the form prescribed, of any change in the email address within seven calendar days of the change.

(4) A PMP cannot be designated as PIC~~[s]~~ for more than two medical cannabis pharmacies at one time.

### **380-406-6. Medical Cannabis Pharmacy -- Operating Standards -- Supervision.**

(1) A medical cannabis pharmacy is always under the full and actual charge of the medical cannabis pharmacy's PIC, but it shall be under the direct supervision of at least one supervising PMP, who is physically present at all times when a medical cannabis pharmacy is open to the public.

(2) A medical cannabis pharmacy PIC is not required to be in the medical cannabis pharmacy at all times, but shall be available for contact within a reasonable period with the supervising PMP.

(3) A medical cannabis pharmacy shall never operate with a supervision ratio of PMP to pharmacy agent that results in, or reasonably would be expected to result in, an unreasonable risk of harm to public health, safety, and welfare.

### **380-406-7. Medical Cannabis Pharmacy -- Security Standards.**

(1) A medical cannabis pharmacy shall comply with security standards established in Section 26-61a-501, Medical Cannabis Pharmacy Operation, and this rule.

(2) A medical cannabis pharmacy shall have security equipment sufficient to deter and prevent unauthorized entrance into ~~[the]~~ a limited access area~~[s]~~ of the medical cannabis pharmacy that includes equipment required in this ~~[S]~~ section.

(3) A medical cannabis pharmacy shall have a system to detect unauthorized intrusion~~[s]~~, which may include a signal system interconnected with a radio frequency method, such as cellular or private radio signals, or other mechanical or electronic device.

(4) A medical cannabis pharmacy shall be equipped with a secure lock on any entrance to the medical cannabis pharmacy.

(5) A medical cannabis pharmacy shall have electronic monitoring including:

(a) at least one 19-inch or greater call-up monitor;

(b) a printer, capable of immediately producing a clear still photo from any video camera image;

(c) a video camera with a recording resolution of at least 640 x 470, or the equivalent, which provide coverage of entrances to and exits from limited access areas; and entrances to and exits from

the building, and are capable of identifying any activity occurring in or adjacent to the building;

(d) a video camera shall either record continuously, 24 hours a day, 7 days a week or be motion activated;

(e) a video camera at each point-of-sale and product destruction or disposal location, which will allow for the identification of a medical cannabis cardholder, visitor, or pharmacy employee;

(f) a method for storing video recordings from the video camera for at least 45 calendar days;

(g) for locally stored footage, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner, to protect from employee tampering or criminal theft;

(h) access to footage stored on a remote server shall be restricted to protect from employee tampering;

(i) a failure notification system that provides an audible, and visual, notification of failure in the electronic monitoring system;

(j) sufficient battery backup for video camera and recording equipment, to support at least five minutes of recording in the event of a power outage;

(k) a date and time stamp embedded on ~~[all]~~ video camera recordings, which shall be set correctly; and

(l) a panic alarm in the interior of the facility, which is a silent security alarm system signal, generated by the manual activation of a device intended to signal a robbery in progress.

(6) Security measures implemented by a medical cannabis pharmacy to deter and prevent unauthorized entrance in areas containing products, theft of product, and to ensure the safety of employees and medical cannabis cardholders, shall include the following:

(a) store ~~[all]~~ medical cannabis product and ~~[a]~~ medical cannabis devices in a secure locked limited access area, in ~~[such]~~ a manner as to prevent diversion, theft, and loss;

(b) notwithstanding ~~([S]6)~~(a), a medical cannabis pharmacy may display, in a secure locked case, a sample of each product offered;

(i) the display case shall be transparent;

(ii) an authorized PMP, or pharmacy agent, may remove an example of medical cannabis, or medical cannabis device, from the case, and provide it to a cardholder for inspection; provided;

(A) the patient does not consume or otherwise use the sample;~~and~~

(B) the processor label from the original product container or an image showing the processor label is affixed to the sample's container with the unique identifying number that links the medical cannabis product to the ICS; and

(C) destruction of the medical cannabis product shall be done in compliance with applicable laws and the pharmacy's standard operating procedures.

(iii) inside the medical cannabis pharmacy, ~~[medical cannabis and]~~ medical cannabis product and medical cannabis devices, shall be stored in a limited access area during non-business hours;

(c) keep safes, vaults, and any other equipment, or areas used for storage, including ~~[prior to]~~ before disposal of product, securely locked and protected from entry; except for the actual time required to remove or replace medical cannabis product or medical cannabis devices;

(d) keep locks and security equipment in good working order, and shall test that ~~[such]~~ equipment is functioning properly at least two times per calendar year;

(e) prohibit keys, if any, from being left in the locks, or stored or placed, in a location accessible to any person other than specifically authorized personnel;

(f) prohibit accessibility ~~[of]~~to security measures, such as combination numbers, passwords, or electronic, or biometric security systems, to any person other than specifically authorized personnel;

(g) ensure that the outside perimeter of the building is sufficiently lit, to facilitate surveillance;

(h) ensure that ~~[all]~~medical cannabis product and medical cannabis devices are~~[is]~~ kept out of plain sight, and are~~[is]~~ not visible from a public place, outside of the medical cannabis pharmacy;

(i) develop emergency policies and procedures for securing ~~[all]~~each product following any instance of diversion, theft, or loss of product, and conduct an assessment to determine whether additional safeguards are necessary;

(j) at a medical cannabis pharmacy where a cash transaction is conducted, establish a procedure for safe cash handling and cash transportation, to a financial institution to prevent theft, loss, and associated risk to the safety of employees, customers and the general public;

(k) while inside the medical cannabis pharmacy, employee shall wear an identification tag, or similar form of identification, to clearly identify them to the public;

(l) including their position at the medical cannabis pharmacy, as a PMP or pharmacy agent; and

(l) prevent an individual from remaining on the premise of the medical cannabis pharmacy, if they are not engaging in activity expressly, or by necessary implication, permitted by Title 26, Chapter 61a, Utah Medical Cannabis Act.

(7) A medical cannabis pharmacy shall include the following areas of security:

(a) public waiting area;

(b) cardholder only area; and

(c) limited access area.

(8) A medical cannabis pharmacy shall allow only medical a cannabis cardholder, PMP, pharmacy agent, authorized vendor, contactor, and visitor, to have access to the cardholder area of the medical cannabis pharmacy.

(9) An outside vendor, contractor, and visitor~~[:]~~ must ~~[obtain]~~get a visitor identification badge, ~~[prior to]~~before entering the cardholder only, or limited access area of a medical cannabis pharmacy; to be worn at all times when on the premise of the medical cannabis pharmacy, and shall be escorted at all times by an employee authorized to enter the medical cannabis pharmacy. The visitor identification badge must be visibly displayed at all times, while in the facility. A visitor must be logged in and out, and that log shall be available for inspection by the Department at all times. The visitor identification badge shall be returned to the medical cannabis pharmacy upon exit.

(10) Product inside a medical cannabis pharmacy, shall be kept in a limited access area, inaccessible to any person other than a PMP, pharmacy agent, state employee~~[of the Department]~~, or an individual authorized by the medical cannabis pharmacy's PIC. The limited access area shall ~~[meet the following standards:~~

~~\_\_\_\_\_]~~(a) be identified by the posting of a sign, that shall be a minimum of 12" x 12", and states: "Limited Access Area", in lettering no smaller than one inch in height~~[:]and~~

~~\_\_\_\_\_]~~(b) clearly describe by the filing of a diagram of the licensed premise, in the form and manner determined by the Department, reflecting walls, partitions, counters, and areas of entry and exit, vegetation, flowering, storage, disposal, cardholder area, and public waiting area.

(11) If a cabinet or drawer is used as a limited access area, it is not required to have a "Limited Access Area" sign on it.

(12) Only a PMP, or a pharmacy agent, employed at the medical cannabis pharmacy~~[:]~~ shall have access to the medical cannabis pharmacy~~[:]~~ when the medical cannabis pharmacy is closed to the public.

~~[(12)]~~13) The medical cannabis pharmacy, or parent company, shall maintain a record of not less than five years, of the initials or identification codes that identify each PMP or pharmacy agent by name. The initial or identification code, shall be unique, to ensure that each PMP, or pharmacy agent, can be identified. An identical initial or identification code, shall not be used for~~[different]~~two or more ~~[a-]~~PMPs, or pharmacy agents.

### **R380-406-8. Medical Cannabis Pharmacy -- Operating Standards -- Inventory.**

(1) A medical cannabis pharmacy shall be equipped for orderly inventory, storage of medical cannabis product, and medical cannabis devices, in a manner to permit clear identification, separation, and easy retrieval of product; and an environment necessary to maintain the integrity of product inventory.

(2) A medical cannabis pharmacy shall use the state's ICS to establish a record of each transaction, ~~[and day's beginning acquisitions,]~~sale[s], and disposal~~[, and ending inventory]~~.

(3) A medical cannabis pharmacy shall input in the ICS information regarding the purchase of medical cannabis product, or medical cannabis devices, immediately after a transaction with a cardholder is closed, so reporting of purchases to the ICS across ~~[all]~~ medical cannabis pharmacies ~~[in Utah will be]~~is in real-time.

(4) ~~[At the close of each business day, a]~~A medical cannabis pharmacy shall ~~[reconcile the]~~establish and document daily and weekly inventory controls of medical cannabis product~~[:] and~~ ~~[each-]~~medical cannabis devices to help the pharmacy detect any diversion, theft, or loss of product in a timely matter~~[, with that medical cannabis pharmacy's inventory]~~.

~~\_\_\_\_\_]~~(5) A medical cannabis pharmacy's supervising PMP shall conduct an audit of a medical cannabis pharmacy's daily inventory, at least once a week. A PMP shall conduct annual comprehensive inventory of product, at a medical cannabis pharmacy. The PMP conducting the annual inventory shall document the time the inventory was taken, and shall sign and date the inventory with the date the inventory was taken. The signature of the PIC, and the date of the inventory, shall be documented within 72 hours, or three working days, of the completed annual inventory.

(5) A PMP at each medical cannabis pharmacy shall conduct a monthly inventory which shall include a reconciliation of each medical cannabis product and medical cannabis device stored at the pharmacy with the pharmacy's inventory record in the ICS. Pharmacy agents may assist a PMP with the monthly inventory. A monthly inventory shall include:

(a) the time and date of completing the inventory;

(b) a summary of the inventory findings; and

(c) the name and signature or initials of the PMP who conducted the inventory.

~~[(a)]~~6) If ~~[the audit-]~~a medical cannabis pharmacy employee identifies a reduction in the amount of medical cannabis product or medical cannabis devices in the medical cannabis pharmacy's inventory is not due to documented causes, the medical cannabis pharmacy shall determine where the loss occurred, and immediately take and document corrective action. The medical cannabis pharmacy shall immediately inform the Department of the loss by telephone, and provide written notice of the loss, and the

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corrective action taken within two business days after first discovery of the loss.

(b) If ~~the~~ a reduction in the amount of medical cannabis product, or ~~any~~ medical cannabis devices, in the inventory is due to criminal activity, or suspected criminal activity, the medical cannabis pharmacy shall immediately make a written report identifying the circumstances surrounding the reduction to the Department, and to law enforcement with jurisdiction where the suspected criminal acts occurred.

(e) If ~~the audit~~ a medical cannabis pharmacy employee identifies an increase in the amount of medical cannabis product, or medical cannabis devices, in the medical cannabis pharmacy's inventory, not due to documented causes, the medical cannabis pharmacy shall determine where the increase occurred and take and document corrective action.

(9) The PIC shall conduct and complete an annual comprehensive inventory of products at a medical cannabis pharmacy within 72 hours or three working days of the pharmacy's first annual comprehensive inventory. The annual comprehensive inventory shall include:

(a) the time and date of completing the inventory;

(b) a summary of the inventory findings; and

(c) the name and signature or initials of the PIC who conducted the inventory.

(6) Records of each ~~day's beginning inventory, weekly, monthly~~ inventory, and comprehensive annual inventory, shall be kept by the medical cannabis pharmacy for a period of five years ~~at the medical cannabis pharmacy where the medical cannabis and medical cannabis device is located~~. The records may be electronic or physical. If physical records are kept, the physical records must be located at the medical cannabis pharmacy where the medical cannabis products and medical cannabis devices are located. A ~~any~~ medical cannabis pharmacy intending to maintain such records at a location other than the medical cannabis pharmacy ~~must first send a written request to the Department. The request shall contain the medical cannabis pharmacy name and license number, and the name and address of the alternate location. The Department will~~ shall send written notification to the medical cannabis pharmacy documenting the approval, or denial, of the request. A copy of the Department's approval shall be maintained. An ~~any~~ ~~such~~ alternate location shall be secured and accessible only to authorized medical cannabis pharmacy employees.

~~(7) A medical cannabis pharmacy shall maintain the documentation required of this rule in a secure, locked location for five years from the date on the document. These records may be kept electronically if the method is approved by the Department, and the records are backed up each business day.~~

(8) A medical cannabis pharmacy shall provide ~~any~~ documentation required to be maintained in this rule to the Department for review upon request.

### **R380-406-9. Medical Cannabis Pharmacy -- Operating Standards -- Transportation.**

(1) Transport of medical cannabis from a medical cannabis pharmacy to another location shall occur only when:

(a) a home delivery medical cannabis pharmacy is delivering shipments of medical cannabis, or medical cannabis devices, to a cardholder's home address;

(b) a medical cannabis pharmacy, or cannabis production establishment, is transporting medical cannabis, or a medical

cannabis device, from a medical cannabis pharmacy facility to a cannabis production establishment facility, or waste disposal location to be disposed of; and

(c) a product recall is initiated and medical cannabis, or a medical cannabis device, must be returned from a medical cannabis pharmacy to the cannabis production establishment.

(2) Medical cannabis product and ~~a~~ medical cannabis devices to be returned to the cannabis production establishment shall be:

(a) logged into the ICS;

(b) stored in a locked container with clear and bold lettering: "Return"; and

(c) prepared for return in compliance with any guideline and protocol of the cannabis production establishment for collecting, storing, and labeling a returned product.

(3) A PMP or pharmacy agent accepting a shipment of medical cannabis, or medical cannabis device, at a medical cannabis pharmacy facility from a cannabis production establishment shall:

(a) ~~obtain~~ get a copy of the transport manifest and safeguard the manifest for recordkeeping;

(b) not delete, void, or change information provided on the transport manifest, upon arrival at the medical cannabis pharmacy;

(c) ensure that the medical cannabis product and medical cannabis devices received from a cannabis production establishment are as described in the transport manifest, and record the amount received into the ICS;

(d) clearly record on the manifest the ~~individual's~~ unique initial, or identification code of the medical cannabis pharmacy employee who compares the received inventory with the transport manifest, and the actual date and time of receipt of the medical cannabis product, or medical cannabis devices;

(e) if a difference between the quantity specified in the transport manifest and the quantity received occurs, document the difference in the ICS; and

(f) log in the ICS any change to ~~a~~ medical cannabis product, or medical cannabis devices, that may have occurred while in transport.

### **R380-406-10. Medical Cannabis Pharmacy -- Operating Standards -- Packaging.**

(1) Medical cannabis product in the following dosage form shall be delivered to a medical cannabis pharmacy, from a cannabis processing facility, or another medical cannabis pharmacy, in their final container:

(a) concentrated oil;

(b) liquid suspension;

(c) topical preparation;

(d) transdermal preparation;

(e) gelatinous cube;

(f) sublingual preparation; and

(g) resin or wax.

(2) Medical cannabis product in the following dosage form may be delivered to a medical cannabis pharmacy from a cannabis processing facility, in either a final container or a bulk container, to later be separated into a final packaging ~~prior to~~ before being dispensed to a cardholder:

(a) tablet;

(b) capsule; and

(c) unprocessed cannabis flower.



**R380-406-11. Medical Cannabis Pharmacy -- Operating Standards -- Cannabis Disposal and Waste.**

(1) A medical cannabis pharmacy's cannabis waste may be disposed of at either a medical cannabis pharmacy location, or a location of a cannabis production establishment, licensed by the UDAF.

(2) In addition to complying with standards for cannabis disposal and waste established in Sections 26-61a-501 and 26-61a-607, a medical cannabis pharmacy shall ensure compliance with the following standards ~~[established in R68-27-12.] [W]~~ when handling cannabis waste ~~[-, a medical cannabis pharmacy shall do the following]:~~

(a) designate a location in the limited access area of the medical cannabis pharmacy where cannabis waste shall be securely locked and stored;

(b) designate a lockable container, or containers, that are clearly and boldly labeled with the words "Not for Sale or Use";

(c) ensure logging of the medical cannabis product in the ICS at the time of disposal with appropriate information including:

(i) a description of and reason for the medical cannabis product being disposed;

(ii) date of disposal;

(iii) method of disposal; and

(iv) name and registration identification number of the agent responsible for the disposal ~~[-];~~

(d) wastewater generated during the cannabis waste disposal process shall be disposed of in compliance with applicable state laws and rules;

(e) cannabis waste generated from the cannabis plant, trim, and leaves is not considered hazardous waste unless it has been treated or contaminated with a solvent or pesticide;

(f) cannabis waste disposed of shall be rendered unusable;

(g) cannabis waste, which is not designated as hazardous, shall be rendered unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume or other methods approved by the Department;

(h) materials used to grind and incorporate with cannabis may be compostable or non-compostable;

(i) compostable waste is a cannabis waste to be disposed of as compost or in another organic waste method mixed with:

(i) food waste;

(ii) yard waste; or

(iii) vegetable-based grease or oils;

(i) compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

(i) paper waste;

(ii) cardboard waste;

(iii) plastic waste; or

(iv) soil.

**R380-406-12. Medical Cannabis Pharmacy -- Operating Standards -- Product Recall.**

(1) A recall may be initiated by a cannabis production establishment, a medical cannabis pharmacy, the Department, or the UDAF.

(2) A medical cannabis pharmacy's recall plan shall include, at a minimum:

(a) a designation of at least one employee who shall serve as the recall coordinator;

(b) if the recall is initiated by a medical cannabis pharmacy, the pharmacy will provide immediate notification [of] to the Department, UDAF, and the cannabis production establishment from which it obtained the cannabis product in question;

(i) notification shall occur within 24 hours upon becoming aware of a complaint about the medical cannabis product or medical cannabis device in question;

(c) a procedure for identifying and isolating recalled product to prevent or minimize distribution to patients;

(d) a procedure to retrieve and destroy recalled product; and

(e) a communication plan to notify those affected by the recall.

(3) The medical cannabis pharmacy shall track the total amount of affected medical cannabis product, and the amount of medical cannabis product returned to the medical cannabis pharmacy, as part of the recall.

(4) The medical cannabis pharmacy shall coordinate the destruction of the medical cannabis product with the Department and the UDAF, and allow the UDAF to oversee the destruction of the final product.

(5) A medical cannabis pharmacy shall notify the Department before initiating a voluntary recall.

**R380-406-13. Medical Cannabis Pharmacy -- Partial Filling.**

(1) A PMP or pharmacy agent who partially fills a recommendation for a medical cannabis cardholder shall specify in the ICS the following:

(a) date of partial fill;

(b) quantity supplied to cardholder;

(c) quantity remaining of the recommendation partially filled; and

(d) a brief explanation as to why the recommendation was partially filled.

**R380-406-14. Medical Cannabis Pharmacy -- Operating Standards -- Closing a Pharmacy.**

(1) At least 14 days ~~[prior to]~~ before the closing of a medical cannabis pharmacy, the ~~[pharmacist in charge]~~ PIC shall comply with the following:

(a) send written notice to the Department containing the following information:

(i) the name, address, and Department issued license number of the medical cannabis pharmacy;

(ii) - surrender the license issued to the medical cannabis pharmacy;

(iii) a statement attesting:

(A) a comprehensive inventory ~~[has been]~~ was conducted;

(B) the manner in which the medical cannabis product and medical cannabis devices will be ~~[were]~~ transferred or disposed of;

(C) the anticipated date of closing;

(D) the name, address, and Department issued license number of the medical cannabis pharmacy, or cannabis production establishment, acquiring the medical cannabis and medical cannabis devices from the medical cannabis pharmacy that is closing;

(E) the date of transfer when the medical cannabis product and medical cannabis devices will occur; and

(F) the name and address of the medical cannabis pharmacy to which the orders, including ~~[all]~~ any refill information, and patient records, ~~[were]~~ will be transferred;

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(b) post a closing notice in a conspicuous place at ~~[all]~~ public entrance doors to the medical cannabis pharmacy which shall contain the following information:

(i) the date of closing; and

(ii) the name, address, and telephone number of the medical cannabis pharmacy acquiring the recommendation orders, including ~~[all]~~ refill information and customer records of the medical cannabis pharmacy.

(2) If the medical cannabis pharmacy closed suddenly due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy, or emergency circumstances, and the PIC cannot provide notification 14 days ~~[prior to]~~ before the closing, the PIC shall provide notification to the Department of the closing, no later than 24 hours after the closing.

(3) If the PIC is not available to comply with the requirements of this section, the owner or legal representative shall be responsible for compliance with the provisions of this section.

(4) On the date of the closing, the PIC shall remove ~~[all]~~ medical cannabis product, and ~~[any]~~ medical cannabis devices, from the medical cannabis pharmacy by one or a combination of the following methods:

(a) transport them to a cannabis processing facility for credit or disposal; or

(b) transfer or sell them to a person who is legally entitled to ~~have~~~~possess drugs~~ medical cannabis products and medical cannabis devices, such as another medical cannabis pharmacy in the state of Utah.

~~[(5) The PIC shall transfer the orders for medical cannabis, and medical cannabis devices, to a licensed medical cannabis pharmacy in the state of Utah.]~~

~~[(6)]~~ The PIC shall remove signs, and notify the landlord of the property that it is unlawful to use the word "medical cannabis pharmacy", or any other word or combination of words of the same or similar meaning, or any graphic representation that would mislead, or tend to mislead the public that a medical cannabis pharmacy is located at this address.

### **R380-406-15. Medical Cannabis Pharmacy -- Abandonment of a License.**

(1) The following actions constitute abandonment of a medical cannabis pharmacy license:

(a) a medical cannabis pharmacy's failure to begin operations within one year after the day on which the Department issues an intent to award a medical cannabis pharmacy license.

### **R380-406-16. Medical Cannabis Pharmacy -- Operating Standards -- Drive-Thru and Curbside Service.**

(1) A medical cannabis cardholder may contact a medical cannabis pharmacy, either by phone or online, before the time of drive-thru or curbside service pick-up to make an order.

(2) A medical cannabis cardholder transaction may take place outside the medical cannabis pharmacy facility but it shall still occur within the total property boundary of the licensed entity. Drive-thru and curbside service transactions shall occur at a licensed location that is owned, leased, or rented by the licensed entity and shall not occur on a public sidewalk or an adjacent parking lot.

(3) If product is bought with cash, the cash must be taken into the medical cannabis pharmacy facility after each transaction. If a medical cannabis pharmacy obtains approval from the Division of Finance to accept customer payments through an electronic payment provider, a medical cannabis cardholder using drive-thru and

curbside pick-up service may make payments using the approved electronic payment provider.

(4) Medical cannabis products and medical cannabis devices, including those that are awaiting pick-up, shall be securely stored in the medical cannabis pharmacy facility until a medical cannabis cardholder arrives for pick-up. Under no circumstances may a medical cannabis product or medical cannabis device be stored outside of a medical cannabis pharmacy facility before a customer arrives to pick-up the product.

(5) A medical cannabis pharmacy's video surveillance shall enable the video recording of each medical cannabis cardholder transaction. This includes video surveillance of a cardholder, cardholder vehicle, medical cannabis pharmacy employee verifying the cardholder's valid form of photo identification, and the transfer and dispensing of an item bought by a cardholder. Video cameras shall record points of entry and exit of a parking lot and shall be angled to ensure the capture of clear and certain identification of a cardholder and their vehicle's license plate.

(6) The individual receiving the delivery of a product from the medical cannabis pharmacy employee via drive-thru or curbside pick-up shall be a cardholder. When drive-thru service is used, the medical cannabis cardholder verifying their ID to the medical cannabis pharmacy shall be visible to cameras and to the medical cannabis pharmacy employee who is helping them.

(7) Children under 18 may be present in a vehicle that arrives for drive-thru or curbside pick-up service.

(8) When a PMP's consultation with a medical cannabis cardholder is required, the consultation may be provided in-person, over the phone, or with another real-time communications device. It is the responsibility of the medical cannabis pharmacy to ensure the privacy of these consultations regardless of where or how the consultations happen.

(9) When a medical cannabis pharmacy employee transports a container of medical cannabis product to a medical cannabis cardholder via drive-thru or curbside service, the container shall be contained within a box or an opaque bag.

(10) When drive-thru service is used, a medical cannabis pharmacy may use a secure drive-thru drawer or pneumatic tube to transport medical cannabis product, valid photo identification, cash, and documents between a medical cannabis pharmacy employee and a medical cannabis cardholder.

### **R380-406-17. Medical Cannabis Pharmacy -- Operating Standards -- Educational Material.**

(1) A medical cannabis pharmacy shall comply with the operating standards related to educational material established in this rule.

(2) Educational material related to the use of medical cannabis that makes a statement relating to side effects, consequences, contraindications, and effectiveness shall present a true statement of the information.

(3) Educational material is false, lacking fair balance, or otherwise misleading if it:

(a) contains a representation or suggestion that a cannabis strain, brand, or product is better, more effective, useful in a broader range of conditions or patients or safer than other drugs or treatments including other cannabis strains or products, unless the claim has been demonstrated by substantial evidence or substantial clinical data;

(b) contains favorable information or opinions about a medical cannabis product previously regarded as valid but which

have been rendered invalid by contrary and more credible recent information;

(c) uses a quote or paraphrase out of context or without citing conflicting information from the same source, to convey a false or misleading idea;

(d) uses a study on individuals without a qualifying medical condition without disclosing that the subjects were not suffering from a qualifying medical condition;

(e) uses data favorable to a medical cannabis product derived from patients treated with a different product or dosages different from those legal in Utah; and

(f) contains favorable information or conclusions from a study that is inadequate in design, scope, or conduct to furnish significant support for the information or conclusions.

(4) Educational material shall not include:

(a) unsubstantiated health claims and other claims that are not supported by substantial evidence or substantial clinical data;

(b) claims that cannabis cures any medical condition;

(c) any statement, design, representation, picture or illustration portraying anyone under the age of 18, objects suggestive of the presence of anyone under the age of 18, or containing the use of a figure, symbol, or language that is customarily associated with or would appeal to anyone under the age of 18; and

(d) any false statement about a competitor's products.

(5) Notwithstanding the recreational disposition of some cannabis strains and medicinal dosage forms, a medical cannabis pharmacy may reference a cannabis strain or a medicinal dosage form in educational material.

(6) Beginning September 1, 2022, when posting information about a processed medical cannabis product online, a medical cannabis pharmacy shall list the concentration of each cannabinoid as a percentage and the total contained amount of each cannabinoid content measured in milligrams. When posting information about an unprocessed medical cannabis product on a website, the concentration of each cannabinoid shall be listed as a percentage. The total amount of each cannabinoid measured in milligrams is not required.

(7) A medical cannabis pharmacy may send electronic notifications via email or text to individuals over the age of 18 who have consented to receive notifications. The notifications may communicate information about a medical cannabis pharmacy's products, services, or educational events. These notifications do not constitute advertising prohibited in Section 26-61a-505.

#### **R380-406-18. Medical Cannabis Pharmacy -- Operating Standards -- Educational Events.**

(1) When hosting or participating in educational events, a medical cannabis pharmacy shall comply with educational event standards established in Section 26-61a-505, Advertising, and this rule.

(2) A medical cannabis pharmacy may give out educational material at an educational event but shall not give out marketing merchandise such as t-shirts, hats, or pens. If a medical cannabis pharmacy notices that a third-party is giving out or selling merchandise that appears to advertise for a medical cannabis pharmacy, the medical cannabis pharmacy shall immediately contact the third-party and request that the third-party cease and desist giving out or selling of the merchandise at the educational event.

(3) An educational event hosted by a third-party or a medical cannabis pharmacy that a medical cannabis pharmacy participates in may include a food vendor where food is available for purchase. If food is provided at no cost to the attendees at an

educational event that a medical cannabis pharmacy participates in, the food may be bought and provided by a third-party but it cannot not be bought or provided by a medical cannabis pharmacy. Food bought by a medical cannabis pharmacy and provided at no cost to participants of an educational event that a medical cannabis pharmacy is participating in constitutes a gift item which is prohibited under Section 26-61a-505.

(4) A medical cannabis pharmacy may get, at cost or no cost, a sponsorship or booth at an educational event hosted by a third-party if the primary purpose of the event is educational.

(5) Signage and displays used by a medical cannabis pharmacy at an educational event shall comply with educational material standards established in Section R380-406-17.

#### **R380-406-19. Medical Cannabis Pharmacy -- Business Name and Logo Standards.**

(1) Pursuant to Subsection 26-61a-505 (3)(b) and to ensure a medical cannabis pharmacy's name and logo have a medical rather than a recreational disposition, the name and logo of a medical cannabis pharmacy:

(a) may include terms and images associated with a medical disposition such as medical, medicinal, medicine, pharmacy, apothecary, wellness, therapeutic, health, care, cannabis, clinic, compassionate, relief, treatment, and patient;

(b) shall not include any term, statement, design representation, picture, or illustration associated with a recreational disposition or that appeals to children; and

(c) shall not include an emphasis on a psychoactive ingredient or a specific cannabis strain.

(2) A term associated with a recreational disposition that a medical cannabis pharmacy is prohibited from using in their name or logo includes: weed, pot, reefer, grass, hash, ganga, Mary Jane, high, buzz, haze, stoned, joint, bud, smoke, euphoria, dank, doobie, kush, frost, cookies, rec, bake, blunt, combust, bong, budtender, dab, blaze, toke, and 420.

#### **R380-406-20. Medical Cannabis Pharmacy -- Criteria and Process for Issuance of Additional Licenses.**

(1) The Department may consider the following factors as criteria when determining if additional medical cannabis pharmacy licenses shall be issued pursuant to Subsection 26-61a-305 (1)(d):

(a) high potential for growth in the number of medical cannabis card holders located in one or more regions of the state;

(b) access to medical cannabis home delivery service in the state or in certain regions of the state;

(c) commuting patterns and economic activity in certain regions of the state;

(d) driving distance for medical cannabis cardholders or potential medical cannabis cardholders residing in certain regions of the state from their home to the nearest medical cannabis pharmacy location; or

(e) the inadequate supply, quality, or variety of medical cannabis in the state or certain regions of the state.

(2) As the Department considers one or more factors described in Subsection (1), it shall consult with and consider input from the Utah Department of Agriculture and Food, the medical cannabis industry, and the public.

(3) The Department's process of consultation and consideration of input shall include meetings with stakeholders and holding of a public hearing during which it will accept public comment.

## NOTICES OF PROPOSED RULES

(4) If the Department determines that an additional medical cannabis pharmacy license should be issued, the Department shall accept applications for the license in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

**KEY:** medial cannabis, medical cannabis pharmacy, marijuana  
**Date of Last Change:** 2022~~June 10, 2020~~  
**Authorizing, and Implemented or Interpreted Law:** 63G-3; 26-1-5(1); 26-61a; 26-61a-303(2); 26-61a-305(1); 26-61a-501; 26-61-501(12); 26-61a-501(13); 26-61a-503(3); 26-61a-505(3); 26-61a-505(4); 26-61a-505(5); 26-61a-605(5);

### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R392-301</b>	<b>Filing ID</b> <b>54382</b>
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### Agency Information

<b>1. Department:</b>	Health	
<b>Agency:</b>	Disease Control and Prevention, Environmental Services	
<b>Room no.:</b>	Second Floor	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 142102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Karl Hartman	801-538-6191	khartman@utah.gov
Please address questions regarding information on this notice to the agency.		

### General Information

<b>2. Rule or section catchline:</b>
R392-301. Recreational Vehicle Park Sanitation
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Executive Order No. 2021-12 requires state agencies to amend rules that are inconsistent with the Administrative Rules' Rulewriting Manual for Utah. As required, the amendments to Rule R392-301 simplify this rule, remove outdated language and redundancies, and provide technical and conforming changes in accordance with the Rulewriting Manual for Utah.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the</b>

substantive differences between the repealed rule and the reenacted rule):

The amendments to Rule R392-301 provide technical and conforming changes throughout this rule and remove unnecessary and repetitive language.

In Section R392-301-3, added definitions for ANSI A119.5 and NFPA 1192.

In Section R392-301-14, the severability clause was moved from Section R392-301-4 to match the clause in most other rules promulgated under Title R392.

### 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 because the changes do not affect existing operations.

#### B) Local governments:

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

#### 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 because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

#### 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):

There is no fiscal impact on business because the amendment does not affect existing operations. Nathan Checketts, 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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Health, Nathan Checketts, 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 26-1-5	Section 26-15-2	Section 26-1-30
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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:** 04/14/2022

**10. This rule change MAY become effective on:** 04/21/2022

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**

<b>Agency head or designee, and title:</b>	Nathan Checketts, Executive Director	<b>Date:</b>	02/13/2022
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**R392. Health, Disease Control and Prevention, Environmental Services.**

**R392-301. Recreational Vehicle Park Sanitation.**

**R392-301-1. Authority and Purpose.**

(1) This rule is authorized under Sections 26-1-5, ~~26-1-30(9), 26-1-30(23), 26-7-1,~~ and 26-15-2, and Subsections 26-1-30(9), and 26-1-30(23).

(2) This rule establishes minimum standards for the sanitation, operation, and maintenance of a recreational vehicle park, as defined by this rule, and provides for the prevention and control of health hazards associated with a recreational vehicle park that are likely to affect individuals dwelling temporarily therein including risk factors contributing to injury, sickness, death, and disability.

**R392-301-2. Applicability.**

This rule applies to any person who owns or operates a recreational vehicle park, unless specifically exempted by this rule. This rule applies to the repair, maintenance, use, operation, and occupancy of recreational vehicle parks designed, intended for use, or otherwise used for temporary human habitation.

**R392-301-3. Definitions.**

For the purposes of this rule, ~~the following terms, phrases, and words shall have the meanings herein expressed~~:

(1) "ANSI A119.5" means the 2020 edition of the American National Standards Institute Park Model RV Standard, A119.5.

~~(1)~~ "Building Code" means International Building Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.

~~(2)~~ "Dependent recreational vehicle" means a recreational vehicle that is dependent upon a service building for toilet facilities, hand washing facilities, or shower or bathing facilities, and is not designed for connection to water, sewer, or electrical utilities.

~~(3)~~ "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that can cause infection, disease transmission, vermin infestation, or hazardous condition that requires immediate correction or cessation of operation to prevent injury, illness, or death.

([4]5) "Independent recreational vehicle" means a recreational vehicle equipped with electrical appliances, a water-flush toilet, and a sink and bath or shower ~~[which, to be functional, that may require connection to outside electrical, water, and sewer utilities to be functional].~~

([5]6) "Local health officer" means the health officer of the local health department having jurisdiction, or a designated representative.

(7) "NFPA 1192" means the 2021 edition of the National Fire Protection Association Standard on Recreational Vehicles, 1192.

([6]8) "Operator" means a person responsible for managing or operating a recreational vehicle park.

([7]9) "Plumbing Code" means International Plumbing Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.

([8]10) "Recreational vehicle" means a vehicular unit, other than a mobile home or tiny house, designed as a temporary dwelling for travel, recreational and vacation use, ~~[which]that~~ is either driven or is mounted on or pulled by another vehicle, including ~~[a]~~ a travel trailer, camp trailer, fifth-wheel trailer, folding tent trailer, truck camper, or motorhome.

([9]11) "Recreational vehicle park" ~~[-or "RV park"]~~ means any site, tract or parcel of land ~~[on which facilities have]~~that has been developed to provide temporary living quarters for two or more recreational vehicles ~~[-Such a park may be]~~, including any recreational vehicle park developed or owned by a private, public or non-profit organization catering to the public or restricted to the organizational or institutional members and their guests ~~[-only]~~.

([10]12) "Sanitary dump station" means a facility designed:

(a) in accordance with requirements set by Plumbing Code and the Utah Department of Environmental Quality, Division of Water Quality;

(b) to receive the discharge of wastewater from any holding tank or similar device installed in any recreational vehicle; and

(c) to discharge the contents, in an acceptable manner, to an approved wastewater disposal or treatment system.

([11]13) "Service building" means a structure within a recreational vehicle park that contains toilet, hand sink, and bathing facilities. It may also include laundry facilities, a vending area, or other service type facilities for [RV park]recreational vehicle park occupant use.

([12]14) "Tiny house" ~~[-for the purposes of this rule]~~ means a dwelling that is 400 square feet or less in floor area, constructed on a chassis with wheels. A tiny house is not a park model recreational vehicle as defined in Section 41-1a-101 or any other recreational vehicle type as defined in this rule.

([13]15) "Wastewater" means discharges from ~~[at]~~any plumbing facility~~[ies]~~, including rest rooms, kitchen, and laundry fixtures either separately or in combination.

#### **R392-301-4. General.**

(1)~~[(a) - F]~~ Except as in Subsection (2), this rule does not require a construction change in any portion of a [RV park]recreational vehicle park if the park was in compliance with the law in effect ~~[at the time]when~~ the park was constructed ~~[-except as in Subsection R392-301-4(1)(b)]~~.

([b]2) The local health officer may require construction changes if it is determined the [RV park]recreational vehicle park or portion thereof contains an imminent health hazard.

([2]3) The operator shall ~~[carry out the provisions]~~ensure any recreational vehicle park meets the requirements of this rule.

~~[(3) Severability. If any provision of this rule or its application to any person or circumstance is declared invalid, the application of such provision to other persons or circumstances, and the remainder of this rule, shall not be affected thereby.]~~

(4) The operator shall comply with ~~[all]~~applicable building, zoning, electrical, health, fire codes and ~~[all]~~any local ordinances.

(5) The operator shall provide the local health officer with contact information for a park representative who can be available to communicate with the local health officer during ~~[all]~~days and times that the [RV park]recreational vehicle park is occupied in the event of an imminent health hazard or emergency.

(6) A recreational vehicle park operator or agent shall select or construct a location for the facility that will provide adequate surface drainage. The operator shall make a reasonable effort to locate the facility away from any known existing public health nuisance.

(7) When an operator accommodates dependent recreational vehicles or tents, the operator shall construct and maintain a service building according to the requirements of Section R392-301-7.

(8) A recreational vehicle or a tiny house may be allowed in a [RV Park]recreational vehicle park only ~~[-when]~~if:

(a) a data plate or permanent label is attached to the ~~[structure]~~unit that includes:

(i) name of the manufacturer;

(ii) serial number or vehicle identification number ~~[(VIN)]~~ of the unit;

(iii) date of manufacture; and

(iv) a statement that the unit is designed and manufactured to NFPA 1192 or ANSI A119.5 standards; and ~~[-when]~~

(b) it has been certified by the Recreational Vehicle Industry Association; or

~~[(e) it has been]~~ inspected by a qualified third-party inspection company and certified to be in compliance with the standards in NFPA 1192 or ANSI A119.5.

(9) An electrical installation in a [RV park]recreational vehicle park shall comply with ~~[Utah Code]~~Title 15A, State Construction and Fire Codes Act.

#### **R392-301-5. Water Supply.**

(1) Potable water supply systems for use by recreational vehicle park occupants shall be designed, installed, and operated according to the requirements set forth by:

(a) Plumbing Code;

(b) The Utah Department of Environmental Quality, Division of Drinking Water under Title R309, Environmental Quality, Drinking Water; and

(c) Local health department regulations.

(2)~~[(a) - F]~~ Except as in Subsection (2)(b), the operator shall provide potable water to each site designed and intended for recreational vehicle use.

~~[(a)]b~~ ~~[This provision may be modified with approval by]~~ ~~[(b)]~~The local health officer may approve an alternate design if a service building is provided as in Subsection R392-301-4(7).

([b]3) Where individual water connections are not provided to sites, common-use water faucets shall:

(a) be accessible to [RV park]recreational vehicle park occupants, and located not more than 300 feet from any site ~~[-A]~~

~~threaded spigot is prohibited on any such common use water faucet providing potable water to a site.];~~

~~(b) not be equipped with or use a threaded spigot; and~~

~~(c) [The operator shall design and construct the area immediately around a common use water faucet (i.e. spigot)]be designed to promote surface drainage by using a constructed drain system such as a gravel pit, subsurface drywell, French drain, or seepage trench.~~

~~(4) The operator shall prevent water in [this]each area around a common-use faucet from flowing into traffic areas and surface waters, or from pooling, standing, or becoming stagnant. [This requirement does not apply to water connections in individual sites.]~~

~~([d]5) The operator shall protect water systems against the hazards of cross-connection, backflow, and interior surface contamination of attached hoses.~~

~~([3]6) In any recreational vehicle park or portion thereof where it is not feasible to pipe potable water into the area, an alternate supply of potable water may be permitted upon approval of the local health officer.~~

### **R392-301-6. Wastewater.**

~~(1) [All w]Wastewater shall be discharged to a public sanitary sewer system when[ever] practicable.~~

~~(a) Sewer systems for use by recreational vehicle park occupants shall be designed, installed, and operated according to the requirements set forth by:~~

~~(i) Plumbing Code;~~

~~(ii) The Utah Department of Environmental Quality, Division of Water Quality under Title R317, Environmental Quality, Water Quality;~~

~~(iii) local health department regulations; and~~

~~(iv) the local sewer district having jurisdiction.~~

~~(b) Where connection to a public sewer is not available, wastewater shall be discharged into an approved wastewater disposal system meeting the requirements of Title R317, Environmental Quality, Water Quality, and local health department regulations.~~

~~(c) The operator shall submit [all]-required plans for the construction or alteration of a wastewater disposal system in accordance with Title R317, Environmental Quality, Water Quality, [prior to]before commencing construction or alteration.~~

~~(2) [F]Except as in Subsection (3), and unless each site is connected to an approved sewer system, the operator shall provide a sanitary dump station[ unless all sites are connected to an approved sewer system. Unless a local health officer approves other means, the operator shall design and construct the sanitary dump station to] that includes the following:~~

~~(a) Easy ingress and egress from a service road for recreational vehicles and located not less than 50 feet from any site;~~

~~(b) The sewage inlet surrounded by a curbed concrete apron or trough of at least three feet by three feet, sloped to the inlet, and provided with a suitable hinged cover milled to fit tight;~~

~~(c) A means for flushing with pressurized water the immediate area and [the]each recreational vehicle wastewater holding tank[.s].~~

~~(3) The local health officer may approve alternate designs for a sanitary dump station.~~

~~([3]4) If the operator makes sewer service available to each designated site designed and intended to accommodate independent recreational vehicles, the operator shall design, install, operate, and maintain individual connections to the sewer system according to the requirements set by:~~

~~(a) Plumbing Code;~~

~~(b) the Utah Department of Environmental Quality, Division of Water Quality;~~

~~(c) local health department regulations; and~~

~~(d) local sewer district having jurisdiction.~~

~~([4]5) [When]If the operator makes sewer service available to an individual site, that sewer connection is not subject to the requirements of Subsection [R392-301-6](2).~~

~~([5]6) The operator shall provide tight-fitting covers for [all]each sewer riser[s].~~

~~([6]7) A trap is prohibited between the sewer riser and sewer lateral.~~

~~([7]8) The connection and connecting line between the recreational vehicle drain outlet and the sewer riser shall be watertight and self-draining.~~

~~([8]9) The rim of the sewer riser shall extend not more than 4 inches above adjacent ground surface elevations. Surface drainage shall be directed away from the sewer riser.~~

~~([9]10) The operator shall prohibit dependent recreational vehicles and tents in a recreational vehicle park unless [effective]means are provided and approved by the local health officer to collect, ~~[and]-contain, and properly dispose of dishwashing, bathing or other liquid waste material[-and to properly dispose of these wastes by means approved by the local health officer].~~~~

~~([10]11) If the operator provides laundering facilities, the equipment shall discharge wastewater as required in [Subsection R392-301-6(1)]this rule.~~

### **R392-301-7. Service Building.**

~~(1) [All]Each structure[s] used in a recreational vehicle park shall be of permanent construction[,-meeting] and meet the requirements of the Building Code.~~

~~(2) Each recreational vehicle park [in which sites are-]that has a site set aside for dependent recreational vehicles or tents, as in Subsection R392-301-4(7), shall be provided with at least one service building[or buildings] for the use of park occupants.~~

~~(3)(a)[ Service buildings shall meet the following requirements:~~

~~-----[b] Except as provided in Subsection [R392-301-7](3)(b)[(4)], separate toilet rooms within the service building shall be provided for each [sex]gender. [These]Toilet rooms shall be distinctly marked ["for men" and "for women" by]for each gender using signs printed in English, or marked with easily understood pictures or symbols.~~

~~(b) If a toilet room will be occupied by no more than one person at a time, can be locked from the inside, and contains at least one toilet, separate toilet rooms do not need to be provided for each gender.~~

~~([b]4) Each service building shall:~~

~~(a) have one toilet, one hand sink, and one bath fixture for each sex for each 15 sites set aside in Subsection R392-301-4(7), or fraction thereof[-];~~

~~[-----](i) Where a toilet room will be occupied by no more than one person at a time, can be locked from the inside, and contains at least one toilet, separate toilet rooms for each sex need not be provided.]~~

~~([e]b) [A service building shall]be located not less than 15 feet and not more than 500 feet from any site designated for dependent recreational vehicles[-];~~

~~([d]c) [A service building shall]be provided with adequate light, heat and ventilation[-];~~



## NOTICES OF PROPOSED RULES

([e]d) ~~[A service building shall]~~ be properly maintained in a clean and sanitary condition; and ~~[shall]~~

~~(e)~~ be constructed of smooth, moisture resistant finish materials to withstand frequent washing and cleaning.

~~(4) The operator shall maintain each service building in a clean and sanitary condition.~~

(5) Clean individual disposable towels shall be provided near each handwashing sink[s]. Alternate hand drying methods approved by the local health officer may be substituted for individual disposable towels.

(6) The operator shall provide soap and waste receptacles with lids in each service building.

(7) For each toilet room within a service building, the operator shall provide:

~~(a)~~ toilet tissue in suitable dispensers; and;

([b]a) at least one solid, easily cleanable, covered waste receptacle for the collection of solid waste; or

([e]b) at least one solid, easily cleanable, uncovered waste receptacle and a sanitary napkin receptacle.

### R392-301-8. Operation and Maintenance.

(1) The operator shall maintain ~~[all]~~each building[s], room[s], and piece of equipment, including furnishings and equipment in ~~[RV park]~~recreational vehicle park areas, and the grounds surrounding them, in a clean and operable condition, free of litter and debris.

(2) Where electric power is available, each service building[s] shall be equipped with outside lighting to ~~[indicate]~~show the location and entrance doorways~~[of each]~~.

(3) Where necessary, ~~[all]~~reasonable means shall be employed to eliminate or control infestations of vermin, vectors, or pests within ~~[all parts of a]~~ [RV park]recreational vehicle park~~[. This shall include]~~, including the use of approved screening or other approved control of outside openings in structures intended for occupancy.

(4) The operator shall maintain interior roads and parking areas in a manner that prevents harborage for vermin.

### R392-301-9. Food Service.

~~[When]~~If food service is provided for ~~[RV park]~~recreational vehicle park occupants, food service, storage, and preparation shall comply with the FDA Model Food Code as incorporated and amended in Rule R392-100, Food Service Sanitation, and local health department regulations.

### R392-301-10. Solid Wastes.

(1) The operator shall provide adequate containers to prevent the accumulation of solid waste in the ~~[RV park]~~recreational vehicle park.

(2) Solid waste generated at a ~~[RV park]~~recreational vehicle park or picnic area shall be:

~~(a)~~ stored in a leak-proof, non-absorbent container~~[, which shall be]; and~~

~~(b)~~ kept covered with a tight-fitting lid.

(3) ~~[All]~~Solid waste[s] shall be disposed with sufficient frequency and in such a manner as to prevent insect breeding, rodent harborage, or a public health nuisance.

### R392-301-11. Swimming Pools.

The operator shall comply with Rule R392-302, Design, Construction, and Operation of Public Pools as well as other local

health department regulations for ~~[all]~~each pool[s] or spa[s] made available to ~~[RV park]~~recreational vehicle park occupants or staff.

### R392-301-12. Inspections and Investigations.

(1)~~(a)~~ Upon presenting proper identification, the operator shall permit the local health officer to enter upon the premises of a recreational vehicle park to perform inspections, investigations, reviews, and other actions as necessary to ensure compliance with ~~[Rule R392-301]~~this rule.

~~(b)~~(2) The local health officer may not enter an occupied recreational vehicle without the express permission of the occupant except:

~~(a)~~ when a warrant is issued to ~~[a duly]~~an authorized public safety officer ~~[which]~~that authorizes the local health officer to enter~~[r]~~; or

~~(b)~~ when the operator and the local health officer determine that there exists an imminent risk to the life, health, or safety of the occupant.

### R392-301-13. Closing or Restricting Use of Recreational Vehicle Parks or Sites.

(1) If a local health officer deems a recreational vehicle park, site, space, or portion thereof to be an imminent health hazard, the park, site, or space may be closed or its use may be restricted, as determined by the local health officer.

(2) The operator shall restrict public access to the impacted area of any recreational vehicle park, site, or space closed or restricted to use by a local health officer within a reasonable time as ordered by the local health officer.

(3) ~~[It shall be unlawful for an operator to]~~The operator may not allow the public to utilize any recreational vehicle park, unit, space, or portion thereof that has been deemed unfit for use until written approval of the local health officer is given.

### R392-301-14. Severability.

If a provision of this rule, or its application to any person or circumstance is declared invalid, the application of such provisions to other persons or circumstances, and the remainder of this rule shall be given effect without the invalidated provision or application.

**KEY:** public health, recreation areas, RV parks, recreational vehicles

**Date of Last Change:** 2022~~[September 10, 2018]~~

**Notice of Continuation:** October 21, 2021

**Authorizing, and Implemented or Interpreted Law:** 26-1-5; 26-1-30(9); 26-1-30(23); ~~[26-7-1;]~~26-15-2

#### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

**Utah Admin. Code Ref (R no.):** R392-600

**Filing ID**  
54379

#### Agency Information

<b>1. Department:</b>	Health
<b>Agency:</b>	Disease Control and Prevention, Environmental Services
<b>Room no.:</b>	Second Floor



<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO BOX 142102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mark Jones	801-538-6191	markejones@utah.gov
Chris Nelson	801-538-6191	chrisnelson@utah.gov
Please address questions regarding information on this notice to the agency.		

## General Information

<b>2. Rule or section catchline:</b>
R392-600. Illegal Drug Operations Decontamination Standards
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
The amendments to Rule R392-600 remove outdated language, redundancies, and provide technical and conforming changes in accordance with the Rulewriting Manual for Utah.
<b>4. Summary of the new rule or change</b> (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 amendments to Rule R392-600 provide nonsubstantive technical and conforming changes throughout this rule and remove unnecessary and repetitive language. Due to the number of changes, this was submitted in a way to allow for public comment.

## Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
No anticipated cost or savings because the changes are nonsubstantive and do not affect existing operations.
<b>B) Local governments:</b>
No anticipated cost or savings because the changes are nonsubstantive and do not affect existing operations.

<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):																																
No anticipated cost or savings because the changes are nonsubstantive and do not affect existing operations.																																
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):																																
No anticipated cost or savings because the changes are nonsubstantive and do not affect existing operations.																																
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):																																
No anticipated cost or savings to any one person because the changes are nonsubstantive and do not affect existing operations.																																
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):																																
No anticipated compliance costs because the changes are nonsubstantive and do not affect existing operations.																																
<b>G) Comments by the department head on the fiscal impact this rule may have on businesses</b> (Include the name and title of the department head):																																
There is no fiscal impact on business because there are no changes to compliance requirements. Nathan Checketts, Executive Director																																
<b>6. A) Regulatory Impact Summary Table</b> (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.)																																
<b>Regulatory Impact Table</b>																																
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2022</th> <th>FY2023</th> <th>FY2024</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Other Persons</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td><b>Total Fiscal Cost</b></td> <td><b>\$0</b></td> <td><b>\$0</b></td> <td><b>\$0</b></td> </tr> <tr> <td><b>Fiscal Benefits</b></td> <td></td> <td></td> <td></td> </tr> </tbody> </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	<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>Fiscal Benefits</b>			
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## NOTICES OF PROPOSED RULES

State Government	\$0	\$0	\$0
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Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health, Nathan Checketts, has reviewed and approved this fiscal analysis.			

## Citation Information

<b>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:</b>		
Section 19-6-906		

## Public Notice Information

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (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.)	
<b>A) Comments will be accepted until:</b>	04/14/2022

<b>10. This rule change MAY become effective on:</b>	04/21/2022
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

<b>Agency head or designee, and title:</b>	Nathan Checketts, Executive Director	<b>Date:</b>	02/13/2022
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## R392. Health, Disease Control and Prevention, Environmental Services.

## R392-600. Illegal Drug Operations Decontamination Standards.

## R392-600-1. Authority and Purpose.

(1) This rule is authorized under Section 19-6-906.

(2) This rule sets decontamination and sampling standards and best management practices for the inspection and decontamination of property contaminated by illegal drug operations.

## R392-600-2. Definitions.

The following definitions apply in this rule:

(1) "Background concentration" means the level of a contaminant in soil, groundwater or other media up gradient from a facility, practice or activity that has not been affected by the facility, practice or activity; or other facility, practice or activity.

(2) "Certified Decontamination Specialist" or "Decontamination specialist" ~~means an individual who has met the standards for certification as a decontamination specialist and has a currently valid certificate issued by the Waste Management and Radiation Control, as defined under Utah Code Subsection 19-6-906(2)]~~ has the same meaning as defined in Section 19-6-902.

(3) "Chain-of-custody protocol" means a procedure used to document each person that has had custody or control of an environmental sample from its source to the analytical laboratory, and the time of possession of each person.

(4) "Characterize" means to determine the quality or properties of a material by sampling and testing to determine the concentration of contaminants, or specific properties of the material such as flammability or corrosiveness.

(5) "Combustible" means vapor concentration from a liquid that has a flash point greater than 100 degrees F.

(6) "Composite sample" means the combination of up to [3]three individual wipe, or "grab," [(grab)]samples into one submission for analysis by a laboratory. The composite sample result will be the average or standardized result in units of micrograms of methamphetamine per 100 square centimeters.

(7) "Confirmation sampling" means collecting samples by a certified decontamination specialist during a preliminary assessment or upon completion of decontamination activities. Only confirmation sampling can be used to confirm that contamination is below the decontamination standards outlined in this rule.

(8) "Contaminant" means a hazardous material.

(9) "Contamination" or "contaminated" ~~means: a) polluted by hazardous materials that cause property to be unfit for human habitation or use due to immediate or long-term health hazards; or b) that a property is polluted by hazardous materials as a result of the use, production, or presence of methamphetamine in excess of decontamination standards adopted by the Department of Health under Section 26-51-201, as defined under Utah Code Subsection 19-6-902(3)]~~ has the same meaning as defined in Section 19-6-902.

(10) "Corrosive" means any material [such as] or substance that increases or decreases the pH of a material and may cause degradation of the material including acetic acid, acetic anhydride, acetyl chloride, anhydrous ammonia[—(anhydrous)], ammonium hydroxide, benzyl chloride, dimethylsulfate, formaldehyde, formic acid, hydrogen chloride[?] or hydrochloric acid, hydrobromic acid, hydriodic acid, hydroxylamine, methylamine, methylene chloride also known as [(dichloromethane[?] or methylene dichloride[?]), methyl methacrylate, nitroethane, oxalylchloride, perchloric acid, phenylmagnesium bromide, phosphine, phosphorus oxychloride, phosphorus pentoxide, sodium amide or [(sodamide[?]), sodium metal, sodium hydroxide, sulfur trioxide, sulfuric acid, tetrahydrofuran, and thionyl chloride[—or any other substance that increases or decreases the pH of a material and may cause degradation of the material].

(11) "Decontamination" means treatment or removal of contamination by a decontamination specialist or owner of record to reduce concentrations of contaminants below the decontamination standards.

(12) "Decontamination standards" means the levels or concentrations of contaminants that must be met to demonstrate that contamination is not present or that decontamination has successfully removed the contamination.

(13) "Delineate" means to determine the nature and extent of contamination by sampling, testing, or investigating.

(14) "Easily cleanable" means an object and its surface that can be cleaned by detergent solution applied to its surface in a way that would reasonably be expected to remove dirt from the object when rinsed and to be able to do so without damaging the object or its surface finish.

(15) "Ecstasy" means 3,4-methylenedioxy-methamphetamine (MDMA).

(16) "EPA" means the United States Environmental Protection Agency.

(17) "EPA Method 8015B" means the EPA approved method for determining the concentration of various non-halogenated volatile organic compounds and semi-volatile organic compounds by gas chromatography/~~[F]~~ flame ionization detector.

(18) "EPA Method 6010B" means the EPA approved method for determining the concentration of various heavy metals by inductively coupled plasma.

(19) "EPA Method 8260B" means the EPA approved method for determining the concentration of various volatile organic compounds by gas chromatograph/~~[F]~~ mass spectrometer.

(20) "FID" means flame ionization detector.

(21) "Flammable" means vapor concentration from a liquid that has a flash point less than 100 degree F.

(22) "Grab Sample" means one sample collected from a single, defined area or media at a given time and location.

(23) "Hazardous materials" has the same meaning as "hazardous or dangerous materials" as defined in Section 58-37d-3; and includes any illegally manufactured controlled substances.

(24) "Hazardous waste" means toxic materials to be discarded as directed in 40 CFR 261.3.

(25) "HEPA" means high-efficiency particulate air and indicates the efficiency of an air filter or air filtration system.

(26) "Impacted groundwater" means water present beneath ground surface that contains concentrations of a contaminant above the UGWQS.

(27) "Impacted soil" means soil that contains concentrations of a contaminant above background or EPA residential ~~[R]~~ risk ~~[B]~~ based ~~[S]~~ screening ~~[C]~~ concentrations as contained in the document listed in Section R392-600-8.

(28) "LEL/O2" means lower explosive limit/oxygen.

(29) "Negative pressure enclosure" means an air-tight enclosure using a local exhaust and HEPA filtration system to maintain a lower air pressure in the work area than in any adjacent area and to generate a constant flow of air from the adjacent areas into the work area.

(30) "Non-porous" means resistant to penetration of liquids, gases, powders and includes non-permeable substance or materials, that are sealed such as, concrete floors, wood floors, ceramic tile floors, vinyl tile floors, sheet vinyl floors, painted drywall or sheet rock walls or ceilings, doors, appliances, bathtubs, toilets, mirrors, windows, counter-tops, sinks, sealed wood, metal, glass, plastic, and pipes.

(31) "Non-confirmation sampling" means collecting samples by any party other than a certified decontamination specialist.

(32) "Owner of record" means (a) The owner of property as shown on the records of the county recorder in the county where the property is located; and (b) may include an individual, financial institution, company, corporation, or other entity.

(33) "Personal protective equipment" means various types of clothing such as suits, gloves, hats, and boots, or apparatus such as facemasks or respirators designed to prevent inhalation, skin contact, or ingestion of hazardous chemicals.

(34) "PID" means photo ionization detector.

(35) "Porous" means material easily penetrated or permeated by gases, liquids, or powders such as carpets, draperies, bedding, mattresses, fabric covered furniture, pillows, drop ceiling or other fiber-board ceiling panels, cork paneling, blankets, towels, clothing, and cardboard or any other material that is worn or not properly sealed.

(36) "Preliminary assessment" means an evaluation of a property to define all areas that are contaminated and delineate the extent of contamination. The preliminary assessment consists of an on-site evaluation conducted by the decontamination specialist or owner of record to gather information to demonstrate that contamination is not present above the decontamination standards or to enable development of a workplan outlining the most appropriate method to decontaminate the property.

(37) "Properly disposed" means to discard at a licensed facility in accordance with all applicable laws and not reused or sold.

(38) "Property" means: (a) any property, site, structure, part of a structure, or the grounds, surrounding a structure; and (b) includes single-family residences, outbuildings, garages, units of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers, manufactured housing, shops, or booths.

(39) "Return air housing" means the main portion of an air ventilation system where air from the livable space returns to the air handling unit for heating or cooling.

(40) "Sample location" means the actual place where an environmental sample was obtained, including designation of the room, the surface [~~(f)~~ such as a wall, ceiling, or appliance], and the direction and distance from a specified fixed point [~~(f)~~ such as a corner, door, or light switch].

(41) "Services" means the activities performed by decontamination specialist in the course of decontaminating residual contamination from the manufacturing of illegal drugs or from the storage of chemicals used in manufacturing illegal drugs and includes not only the removal of any contaminants but inspections and sampling.

(42) "Toxic" means hazardous materials in sufficient concentrations that they can cause local or systemic detrimental effects to people.

(43) "UGWQS" means the Utah Ground Water Quality Standards established in Section R317-6-2.

(44) "VOA" means volatile organic analyte.

(45) "VOCs" means volatile organic compounds or organic chemicals that can evaporate at ambient temperatures used in the manufacture illegal drugs such as acetone, acetonitrile, aniline, benzene, benzaldehyde, benzyl chloride, carbon tetrachloride, chloroform, cyclohexanone, dioxane, ethanol, ethyl acetate, ethyl ether, Freon 11, hexane, isopropanol, methanol, methyl alcohol, methylene chloride, naphtha, nitroethane, petroleum ether, petroleum

## NOTICES OF PROPOSED RULES

distillates, pyridine, toluene, o-toluidine, and any other volatile organic chemical that may be used to manufacture illegal drugs.

(46) "Waste" means refuse, garbage, or other discarded material, either solid or liquid.

### **R392-600-3. Preliminary Assessment Procedures.**

(1) ~~[The local health department shall notify owner of record of test results reported to the local health department indicating that a property is potentially contaminated.]~~ If a test result indicates a property is potentially contaminated, the local health department shall notify the owner of record of the test results and:

(a) ~~[If]~~ if the test result ~~[s-were]~~ was from non-confirmation sampling, the owner of record may obtain confirmation sampling, performed by a certified decontamination specialist, within 10 days of receipt of the notice and provide the local health department with the confirmation sampling test results ~~[-]; or~~

(b) ~~[If]~~ if the test result ~~[s-were]~~ was from confirmation sampling, the local health department shall direct the owner of record to decontaminate the property as outlined in ~~[the following sections]~~ this rule.

(2)(a) If a decontamination is directed as in Subsection (1)(b), [The] the decontamination specialist or owner of record shall determine the nature and extent of damage and contamination of the property [from illegal drug operations] by performing a preliminary assessment [prior to] before beginning decontamination activities.

(b) Contamination may be removed [prior to] before approval of the work plan as necessary to abate an imminent threat to human health or the environment.

(c) If there was a fire or an explosion in the contaminated portion of the property that appears to have compromised its structural integrity, the decontamination specialist or owner of record shall obtain a structural assessment of the contaminated portion of the property [prior to] before initiating the preliminary assessment.

(3) To conduct the preliminary assessment, the decontamination specialist or owner of record shall:

(a) request and review copies of any law enforcement, state agency or other report regarding illegal drug activity or suspected illegal drug activity at the property;

(b) evaluate ~~[all]~~ available information obtained regarding the nature and extent of damage and contamination;

(c) determine the method of illegal drug manufacturing used;

(d) determine the chemicals involved in the illegal drug operation;

(e) determine specific locations where processing and illegal drug activity took place or was suspected and where hazardous materials were stored and disposed;

(f) use ~~[all]~~ available information to delineate areas of contamination;

(g) develop procedures to safely enter the property ~~[in order]~~ to conduct a preliminary assessment;

(h) wear appropriate personal protective equipment for the conditions assessed;

(i) visually inspect ~~[all]~~ each portion[s] of the property, including each area[s] outside of any impacted structure to document where each stained material[s] or surface[s] ~~are~~ is visible, drug production took place, hazardous material ~~[s-were]~~ was stored, and burn pit[s] or illegal drug operation trash pile[s] may have been or are currently present;

(j) determine whether the property contains a septic system on-site and if there has been a release to the system as a result of the illegal drug operations;

(k) determine the locations of the ventilation system components in the areas of contamination;

(l) conduct and document appropriate testing for corrosive, flammable, combustible, and toxic atmospheres during the initial entry in the contaminated portion of the property using ~~[instruments such as]~~ a LEL/O2 meter, pH paper, PID, FID, or equivalent equipment; and

(m) if decontamination is not anticipated due to the lack of supporting evidence of decontamination, obtain confirmation samples to demonstrate compliance with the decontamination standards using the methodology specified in this rule.

(4) If the preliminary assessment does not reveal the presence of contamination above the decontamination standards specified in this rule, the decontamination specialist or owner of record may request that the property be removed from the list of contaminated properties as specified in Section 19-6-903 provided that:

(a) a final report documenting the preliminary assessment is submitted to the local health department by the owner of record and decontamination specialist if one was involved in conducting the preliminary assessment; and

(b) the local health department concurs with the recommendations contained in the report ~~[specified in (a)]~~.

(5)(a) If the preliminary assessment reveals the presence of contamination, the decontamination specialist or owner of record shall proceed according to Sections R392-600-4 through R392-600-7.

(b) The contaminated portions of the property shall be kept secure against un-authorized access until the work plan has been submitted, any required permit is issued, and the property has been decontaminated to the standards established in this rule.

### **R392-600-4. Work Plan.**

(1) ~~[Prior to]~~ Before performing decontamination of the property, the decontamination specialist or owner of record shall prepare a written work plan that contains:

(a) complete identifying information of the property ~~[such as]~~ including:

(i) street address[-];

(ii) mailing address[-];

(iii) owner of record[-]; and

(A) legal description[-] and county tax or parcel identification number[-]; or

(B) vehicle identification number if the property is a mobile home, trailer, or boat;

(b) if applicable, the certification number of the decontamination specialist who will be performing decontamination services on the contaminated portion of the property;

(c) copies of the decontamination specialist's current certification;

(d) photographs of the property;

(e) a description of the areas of contamination, and areas that are considered not contaminated, including any information that may be available regarding locations where illegal drug processing was performed, hazardous materials were stored and stained materials and surfaces were observed;

(f) a description of contaminants that may be present on the property;

(g) results of any testing conducted for corrosive, flammable, combustible, and toxic atmospheres during the initial entry in the contaminated portion of the property, ~~[such as]~~

~~by~~including any use of a LEL/O2 meter, pH paper, PID, FID, or equivalent equipment;

(h) a description of the personal protective equipment to be used while in or on the contaminated portion of the property;

(i) the health and safety procedures that will be followed in performing the decontamination of the contaminated portion of the property;

(j) a detailed summary of the decontamination to be performed based on the findings and conclusions of the ~~[P]~~preliminary ~~[A]~~assessment, which summary shall include:

(i) ~~[all]~~each surface[s], material[s] or article[s] to be removed;

(ii) ~~[all]~~each surface[s], material[s] and article[s] to be cleaned on-site;

(iii) ~~[all]~~each procedure[s] to be employed to remove or clean the contamination, including areas of contamination as well as those areas that are not contaminated;

(iv) ~~[all]~~each location[s] where decontamination will commence;

(v) ~~[all]~~each containment and negative pressure enclosure plan[s]; and

(vi) each personnel decontamination procedure[s] to be employed to prevent the spread of contamination;

(k) the shoring plan, if an assessment of the structural integrity was conducted and it was determined that shoring was necessary, including a written description or drawing that shows the structural supports required to safely occupy the building during decontamination;

(l) a complete description of ~~[the]~~each proposed post-decontamination confirmation sampling location[s], parameter[s], technique[s] and quality assurance requirement[s];

(m) the name[s] of ~~[all]~~each individual[s] who gathered samples[-];

~~(n)~~ the analytical laboratory performing the testing[-] and a copy of ~~[the]~~each standard operating procedure[s] for the analytical method used by the analytical laboratory;

~~(o)~~ a description of disposal procedures and the anticipated disposal facility;

~~(p)~~ a schedule outlining time frames to complete the decontamination process;~~and~~

~~(q)~~ ~~[all]~~available information relating to the contamination and the property based on the findings and conclusions of the preliminary assessment[-]; and

(r) a reference to the appropriate subpart of Subsection (1) for each item required to be included in the work plan.

(2) ~~[Prior to]~~Before implementing the work plan, ~~[it must first be:]~~the decontamination specialist or owner of record shall ensure the plan is:

(a) approved in writing by the owner of record and, if one is involved, the decontamination specialist who will execute the work plan; and

(b) submitted to the local health department with jurisdiction over the county in which the property is located.

(3) The owner of record, and any decontamination specialist involved in executing the work plan, shall ~~[retain]~~keep the work plan for a minimum of three years after completion of the work plan and the removal of the property from the contaminated[-] properties list.

~~(4) All information required to be included in the work plan shall be keyed to or contain a reference to the appropriate subsection of this rule.]~~

### **R392-600-5. Decontamination Procedures.**

(1) The decontamination specialist~~[s]~~ and owner of record shall comply with ~~[all]~~applicable federal, state, municipal, and local laws, rules, ordinances, and regulations in decontaminating the property.

(2) The decontamination specialist or owner of record shall be present on the property during ~~[all]~~decontamination activities.

~~(3) The decontamination specialist and owner of record shall ensure that sampling and testing pursuant to this section is performed in accordance with EPA sampling and testing protocols.~~

~~(3)4) Except for porous materials from areas not contaminated, [The]the decontamination specialist or owner of record shall conduct the removal of the contamination from the property as outlined in Subsection (12). [except for porous materials from areas not contaminated that may be cleaned as outlined in subsection R392-600-5(11).]~~

~~(4)5) The decontamination specialist or owner of record shall [see]ensure that each door[s] or other opening[s] from areas requiring decontamination [shall be]is partitioned from[all] other areas with at least 4-mil plastic sheeting or equivalent before beginning decontamination to prevent contamination of portions of the property that have not been impacted by illegal drug operations.~~

~~(5)6(a) [Ventilation Cleaning Procedures.]The decontamination specialist or owner of record shall clean the ventilation system as outlined in Subsection (12).~~

~~(a)b) [Air]Each air register[s] shall be removed and cleaned[as outlined in subsection R392-600-5(11)].~~

~~(b)c) [All]Each air register opening[s] shall be covered by temporary filter media.~~

~~(e)d) A fan-powered HEPA filter collection machine shall be connected to the ductwork to develop negative air pressure in the ductwork.~~

~~(d)e) [Air lances, mechanical agitators, or rotary brushes shall be inserted into the ducts through the air register openings to loosen all dirt, dust and other materials.]Dirt, dust, and other material shall be loosened through the use of inserting an air lance, mechanical agitator, or rotary brush into the ducts through the air register openings.~~

~~(e)f) [The]Each air handler unit[s], including the return air housing, coils, fans, systems, and drip pan shall be cleaned[as required in subsection R392-600-5(11)].~~

~~(f)g) [All]Each porous lining[s] or filter[s] in the ventilation system shall be removed and properly disposed.~~

~~(g)h) The ventilation system shall be sealed off at [all]each opening[s] with at least 4-mil plastic sheeting, or other barrier of equivalent strength and effectiveness, to prevent recontamination until the contaminated portion of the property meets the decontamination standards in Subsections R392-600-6(2) and R392-600-6(3).~~

~~(6)7(a) [Procedures for Contaminated Areas.]The decontamination specialist or owner of record shall clean and process each contaminated area and surface in accordance Subsection (12) and Subsections R392-600-6(2) and R392-600-6(3).~~

~~(a)b) [All]Each stained material[s] from [the]an illegal drug operation[s] shall be removed and properly disposed, unless the decontamination specialist or owner of record determines that cleaning and testing can be performed and can demonstrate based on results of confirmation sampling and testing that the material[s] meets the decontamination standards [contained in subsections R392-600-6(2) and (3)]of this rule.~~

([b]c) [~~Each~~] Each non-porous surface[such as], including each floor[s], wall[s], ceiling[s], mirror[s], window, door[s], appliance[s], and non-fabric furniture, may be cleaned to the point of stain removal and left in place or removed and properly disposed. ~~After on-site cleaning, the decontamination specialist shall test all surfaces to verify compliance with the decontamination standards contained in R392-600-6(2) and (3).~~

(d) After on-site cleaning, the decontamination specialist or owner of record shall test each surface to verify compliance with the decontamination standards of this rule.

([e]e) [~~Each~~] Each exposed concrete surface[s];

(i) shall be [~~thoroughly~~] cleaned as outlined in [R392-600-5(11)] Subsection (12) and tested to meet the decontamination standards contained in Subsections R392-600-6(2) and R392-600-6(3); or

(ii) may be removed and properly disposed.

([f]f) [~~Each~~] Each appliance[s] shall be removed and properly disposed, unless the decontamination specialist or owner of record determines that cleaning and testing can be performed and can demonstrate, based on results of confirmation sampling and testing, that the material[s] meets the decontamination standards ~~[contained in subsections R392-600-6(2) and (3)] of this rule.~~

(i) For appliances that have insulation, a 100 square centimeter portion of the insulation shall be tested; and

(ii) if the insulation does not meet the decontamination standards of this rule, the appliance shall be removed and properly disposed.

(g) Only smooth and easily cleanable surfaces may be decontaminated on[-]site and only in accordance with [s] Subsection (12) [R392-600-5(11)]. ~~After on-site cleaning, the decontamination specialist shall test all surfaces to verify compliance with the decontamination standards contained in R392-600-6(2) and (3). For appliances such as ovens that have insulation, a 100 square centimeter portion of the insulation shall also be tested. If the insulation does not meet the decontamination standards contained in R392-600-6(2) and (3), the insulated appliances shall be removed and properly disposed.]~~

([f]i) [~~Porous~~] Each porous material[s] with no evidence of staining or contamination may be cleaned by HEPA vacuuming and one of the following methods:

(i) Steam cleaning: [~~H~~] hot water and detergent shall be injected into the porous material[s] under pressure to agitate and loosen any contamination. The water and detergent solution shall then be extracted from the porous material by a wet vacuum[-]; or

(ii) Detergent and water solution: porous material[s] shall be washed in a washing machine with detergent and water for at least 15 minutes. The porous material[s] shall be rinsed with water. This procedure shall be repeated at least two [~~additional~~] times using new detergent solution and rinse water.

([f]j) [~~Doors~~] Each door or other opening[s] to an area[s] with no visible contamination shall be partitioned from [~~all~~] other areas with at least 4-mil plastic sheeting or equivalent after being cleaned[-to avoid re-contamination].

([g]k) [~~S~~] Each spray-on acoustical ceiling[s] shall be left undisturbed, and shall be sampled and tested for asbestos and for contamination to determine whether the ceiling[s] meets the decontamination standards ~~[contained in R392-600-6(2) and (3)] of this rule[-, and if in need of removal, whether asbestos remediation protocols are applicable. If the materials exceed the standards, the decontamination specialist or owner of record shall properly remove and dispose of them.]~~ If testing shows asbestos or contamination

exceeds the standards of this rule or of Rule R307-801, Utah Asbestos Rule, the material shall be removed and properly disposed.

([7]8) [~~Structural Integrity and Security Procedures.~~

—] If, as a result of the decontamination, the structural integrity or security of the property is compromised, the decontamination specialist or owner of record shall take measures to remedy the structural integrity and security of the property.

([8]9(a) [~~Procedures for Plumbing, Septic, Sewer, and Soil.~~] The decontamination specialist or owner of record shall clean and decontaminate each plumbing fixture in accordance with this rule.

([a]b) [~~Each~~] Each plumbing inlet[s] to the a septic or sewer system, including sinks, floor drains, bathtubs, showers, and toilets, shall be visually assessed for [~~any~~] staining or other observable residual contamination.

(c) [~~Each~~] Each plumbing trap[s] shall be assessed for VOC concentrations with a PID or FID in accordance with [~~Section~~] Subsection R392-600-6(6)5).

(d) [~~Each~~] Each plumbing trap[s] shall be assessed for mercury vapors in accordance with [~~Section~~] Subsection R392-600-6(9) by using a mercury vapor analyzer unless the results of the preliminary assessment [~~indicate~~] show that contamination was unlikely to have occurred.

(e) If the VOC concentration[s] or mercury vapor concentration[s] exceeds the decontamination standards contained in Subsections R392-600-6(2) and R392-600-6(3), the accessible plumbing and traps where the excess levels are found shall be;

(i) removed and properly disposed[-]; or [~~shall be~~]

(ii) cleaned and tested to meet the decontamination standards contained in Subsections R392-600-6(2) and R392-600-6(3).

([b]9(a) The decontamination specialist or owner of record shall obtain documentation from the local health department or the local waste water company describing the sewer disposal system for the dwelling and include it in the final report. If the dwelling is connected to an on-site septic system, a sample of the septic tank liquids shall be obtained and tested for VOC concentrations unless the results of the preliminary assessment [~~indicate~~] show that contamination was unlikely to have occurred.

([e]b) If VOCs are not found in the septic tank sample or are found at concentrations less than UGWQS and less than 700 micrograms per liter for acetone, no additional work is required in the septic system area, unless requested by the owner of the property.

([f]c) If VOCs are found in the septic tank at concentrations exceeding the UGWQS or exceeding 700 micrograms per liter for acetone [~~the following applies~~] then:

(i) The decontamination specialist or owner of record shall investigate the septic system discharge area for VOCs, lead, and mercury unless there is clear evidence that mercury or lead was not used in the manufacturing of illegal drugs at the illegal drug operation[-];

(ii) The horizontal and vertical extent of any VOCs, mercury, and lead detected in the soil samples shall be delineated relative to background or EPA residential risk based screening concentrations contained in the document listed in Section R392-600-8.

(iii) If any of the VOCs, mercury, and lead used in the illegal drug operations migrated down to groundwater level, the decontamination specialist or owner of record shall delineate the vertical and horizontal extent of the groundwater contamination.

(iv) After complete characterization of the release, the decontamination specialist or owner of record shall remediate the

impacted soils to concentrations below background or EPA residential risk based screening concentrations as contained in the document listed in Section R392-600-8 and any impacted groundwater to concentrations below the UGWQS and below 700 micrograms per liter for acetone.

(v) The contents of the septic tank shall be removed and properly disposed.

((e)d) The decontamination specialist or owner of record shall also notify the Utah Department of Environmental Quality, Division of Water Quality, if a release has occurred as a result of illegal drug operations to a single[-]family septic system or a multiple family system serving less than 20 people.

~~[(f) All sampling and testing pursuant to this section shall be performed in accordance with EPA sampling and testing protocol.]~~

~~[(9)10(a) [Procedures for burn areas, trash piles and bulk wastes.~~

~~\_\_\_\_\_]~~The decontamination specialist or owner of record shall characterize, remove, and properly dispose of ~~[all]each~~ bulk waste[s] remaining from the activities of the illegal drug operations, including any burn area and trash or debris pile or pit, or other waste[s] impacted by compounds used by the illegal drug operation[s].

(b) The decontamination specialist or owner of record shall examine the property for evidence of any burn area[s], burn or trash pit[s], debris pile[s], and stained area[s] suggestive of contamination. The decontamination specialist or owner of record shall test any burn area[s], burn or trash pit[s], debris pile[s] or stained area[s] with ~~[appropriate soil sampling and testing equipment, such as]~~a LEL/O2 meter, pH paper, PID, FID, mercury vapor analyzer, or equivalent equipment to determine if the area is contaminated.

(c) If ~~[the]~~a burn area[s], burn or trash pit[s], debris pile[s], or stained area[s] ~~[are]~~ is not in a part of the property that has ~~[otherwise]~~been determined to be contaminated, the decontamination specialist shall recommend to the owner of the property that these areas be investigated.

(d) If ~~[the]~~a burn area[s], burn or trash pit[s], debris pile[s] or stained area[s] ~~[are]~~is part of the contaminated portion of the property, the decontamination specialist or owner of record shall investigate and remediate ~~[these areas]~~this area.

(e) The decontamination specialist or owner of record shall investigate each burn area[s], burn or trash pit[s], debris pile[s], or stained area[s] for the VOCs used by the illegal drug operation[s] and lead and mercury, unless there is clear evidence that mercury or lead was not used in the manufacturing of illegal drugs at the illegal drug operation[s].

(f) The decontamination specialist or owner of record shall delineate the horizontal and vertical extent of any VOCs, lead, or mercury detected in the soil samples relative to background concentrations or EPA residential risk based screening concentrations as contained in the document listed in Section R392-600-8.

(g) If any ~~[of the]~~compound[s] used by the illegal drug operation migrated into groundwater, the decontamination specialist or owner of record shall delineate the vertical and horizontal extent of the groundwater contamination relative to the UGWQS and relative to the maximum contaminant level of 700 micrograms per liter for acetone.

(h) After complete characterization of the release, the decontamination specialist or owner of record shall remediate any contaminated soil[s] to background or EPA residential risk based

screening concentrations as contained in the document listed in Section R392-600-8, and contaminated groundwater to concentrations at or below the UGWQS and at or below 700 micrograms per liter for acetone.

~~[(i) All sampling and testing conducted under this section shall be performed in accordance with current EPA sampling and testing protocol.]~~

~~[(10)11] [Decontamination procedures for motor vehicles.~~  
~~\_\_\_\_\_]~~If an illegal drug operation is encountered in a motor vehicle, the decontamination specialist or owner of record shall conduct a ~~[P]preliminary [A]assessment~~ in the manner described in this rule to determine if the vehicle is contaminated. If it is determined that the motor vehicle is contaminated and the vehicle cannot be cleaned in a manner consistent with this rule, the motor vehicle may ~~[no longer]not~~ be occupied~~[-The vehicle shall also] and shall~~ be properly disposed.

~~[(11)12(a) [Cleaning Procedure.~~  
~~\_\_\_\_\_]~~For ~~[all]each~~ item[s], surface[s] or material[s] that ~~[are]~~is identified as easily cleanable and for which the work plan indicates ~~[they]~~will be decontaminated on~~[-]site~~, the decontamination specialist or owner of record shall wash ~~[them]~~the item, surface, or material with a detergent and water solution ~~[and then thoroughly rinse them]~~followed by a thorough rinse.

~~\_\_\_\_\_]~~(b) This procedure shall be repeated at least two ~~[additional]~~times using new detergent solution and rinse water.

~~\_\_\_\_\_]~~(c) The decontamination specialist or owner of record shall test ~~[all]each~~ item, surface[s], or material where decontamination on~~[-]site~~ has been attempted to verify compliance with the decontamination standards in Subsections R392-600-6(2) and R392-600-6(3).

~~[(12)13(a) [Waste Characterization and Disposal Procedures.~~

~~\_\_\_\_\_]~~The Hazardous Waste Rules of R315-1 through R315-101, the Solid Waste Rules of R315-301 through R315-320 and the Illegal Drug Operations Decontamination Standards regulate the management and disposal of hazardous waste and contaminated debris generated during decontamination of an illegal drug operations. The decontamination specialist and owner of record shall ~~comply with these rules and meet the following criteria.]The~~ decontamination specialist and owner of record shall dispose of hazardous waste and contaminated debris generated during decontamination of an illegal drug operation in accordance with this rule and Title R315, Waste Management and Radiation Control, Waste Management.

~~[(b)]b) [No w]~~Waste, impacted material[s] or contaminated debris from ~~[the]~~a decontamination of an illegal drug operation[s] may not be removed from the site or waste stream for recycling or reuse without the written approval of the local ~~[H]health~~ ~~[D]department~~.

~~[(b)]c) [All]~~Each item[s] removed from ~~[the]~~an illegal drug operation[s] and waste generated during decontamination work shall be properly disposed.

~~[(e)]d) [All-1]~~Any liquid waste, powder[s], pressurized cylinder[s] and equipment used during the production of illegal drugs ~~[shall]may not~~ be characterized as household hazardous waste and shall be:

~~\_\_\_\_\_]~~(i) properly characterized by sampling or testing ~~[prior to]before~~ making a determination regarding disposal; or

~~\_\_\_\_\_]~~(ii) ~~[the waste shall simply be]~~considered hazardous waste and properly disposed~~[-, except the waste shall not be deemed to be household hazardous waste]~~.

# NOTICES OF PROPOSED RULES

((d)e) ~~[A]Each~~ impacted material[s] and contaminated debris that ~~[are]~~is not determined by the decontamination specialist or owner of record to be a hazardous waste may be considered a solid waste and properly disposed.

((e)f) ~~[All Infectious Waste]~~Any infectious waste shall be managed in accordance with ~~[F]federal, [S]state, and local requirements.~~

((f)14) The decontamination specialist and owner of record shall ensure that the disturbance, removal, and disposal of asbestos ~~[must be]~~is done in compliance with ~~[all Federal, State, and local requirements including the requirements for Asbestos Certification, Asbestos Work Practices and Implementation of Toxic Substances Control Act, Utah Administrative Code R307-801]~~Rule R307-801, Utah Asbestos Rule.

((g)15) The decontamination specialist and owner of record shall ensure that the removal and disposal of lead based paint ~~[must be]~~is done in compliance with ~~[all Federal, State, and local requirements including the requirements for Lead Based Paint Accreditation, Certification and Work Practice Standards, Utah Administrative Code R307-840]~~Rule R307-840, Lead-Based Paint Program Purpose, Applicability, and Definitions.

((h)16) The decontamination specialist and owner of record shall comply with ~~[all F]federal, [S]state, [Municipal, County or City codes, ordinances and]~~and local regulations pertaining to waste storage, manifesting, record keeping, waste transportation and disposal.

## R392-600-6. Confirmation Sampling and Decontamination Standards.

(1)(a) The decontamination specialist shall conduct confirmation sampling after decontamination to verify that concentrations are below the decontamination standards ~~[prior to]~~before the submittal of a final report.

(b) Samples are not required if a contaminated surface has been removed and replaced, unless there is evidence that the area has been re-contaminated.

(c) ~~[A]Each~~ decontaminated area[s] and material[s], area[s] not contaminated, and surface[s] that ~~[have]~~has not been removed shall be sampled for compliance with the standards in Table 1.

(2) If the decontamination standards are not achieved, the decontamination specialist or owner of record shall perform additional decontamination and the decontamination specialist shall re-sample to confirm the surface or area meets the decontamination standards specified in Table 1.

Table 1	
Compound	Decontamination Standard
Red Phosphorus	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue
Iodine Crystals	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue
Methamphetamine	Less than or equal to 1.0 microgram Methamphetamine per 100 square centimeters
VOCs in Air	Less than or equal to 1 ppm
Corrosives	Surface pH between 6 and 8
Ecstasy	Less than or equal to 0.1 microgram Ecstasy per 100 square centimeters

[TABLE 1]

COMPOUND	DECONTAMINATION STANDARD
Red Phosphorus	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue.
Iodine Crystals	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue.
Methamphetamine	Less than or equal to 1.0 microgram Methamphetamine per 100 square centimeters
VOCs in Air	Less than or equal to 1 ppm
Corrosives	Surface pH between 6 and 8
Ecstasy	Less than or equal to 0.1 microgram Ecstasy per 100 square centimeters

(3)(a) The decontamination specialist or owner of record shall ~~[also]~~conduct sampling and testing for ~~[all]~~each of the metals listed in Table 2 unless there is clear evidence that these metals were not used in the illegal drug operations.

(b) If any Table 2 contaminant[s-are] is present, the decontamination specialist or owner of record shall decontaminate the affected area[s] and the decontamination specialist shall sample ~~[until they]~~to confirm the surface or area meets the decontamination standards in Table 2.

Table 2	
Compound	Decontamination Standard
Lead	Less than or equal to 4.3 micrograms Lead per 100 square centimeters
Mercury	Less than or equal to 3.0 micrograms Mercury per cubic meter of air

[TABLE 2]

COMPOUND	DECONTAMINATION STANDARD
Lead	Less than or equal to 4.3 micrograms Lead per 100 square centimeters
Mercury	Less than or equal to 3.0 micrograms Mercury per cubic meter of air

(4)(a) ~~[Confirmation sampling procedures.]~~The decontamination specialist or owner of record shall ensure that confirmation sampling procedures are conducted in accordance with this rule.

((a)b) ~~[A]Each~~ sample location[s] shall be photographed.

((b)c) ~~[A]Each~~ sample[s] shall be obtained from an area[s] representative of the material[s] or surface[s] being tested.

(d) Each ~~[S]~~sample[s] shall be collected from a material[s] or surface[s] using wipe samples and shall be biased toward areas where contamination is suspected or confirmed or was known to be present ~~[prior to]~~before decontamination.

((e)e) ~~[A]Each~~ sample[s] shall be obtained, preserved, ~~[and]~~handled, and maintained under chain-of-custody protocol in accordance with industry standards for the type[s] of sample[s] and analytical testing to be conducted.

((f)f) The individual conducting the sampling shall wear a new pair of gloves to obtain each sample.



([e]g) ~~[A4]~~ Each piece of reusable sampling equipment shall be decontaminated ~~[prior to]~~ before sampling.

([f]h) ~~[A4]~~ Each piece of testing equipment shall be properly equipped and calibrated for the types of compounds to be analyzed.

([g]i) Cotton gauze, 3" x 3" 12-ply or 4" x 4" 8-ply, in sterile packages, shall be used for ~~[all]~~ each wipe sampling. The cotton gauze shall be:

(i) wetted with analytical grade methanol for the wipe sampling ~~[-. The cotton gauze shall be -]; and~~

(ii) blotted or wiped at least five times in two perpendicular directions within each sampling area.

([h]i) After sampling, each wipe sample shall be placed, and capped tightly, in a new clean sample container ~~[-and capped tightly. Recommended containers are 50 mL polypropylene disposable centrifuge tubes or 40 mL VOA glass vials. Plastic bags shall not be used. The sample container shall be properly labeled with at least the site or project identification number, date, time, and actual sample location. The sample container shall be refrigerated until delivered to an analytical laboratory.]- that is:~~

(i) not a plastic bag;

(ii) properly labeled with at least the:

(A) site or project identification number;

(B) date;

(C) time; and

(D) sample location; and

(iii) refrigerated until delivered to an analytical laboratory.

([i]k) Each sample shall be analyzed for methamphetamine, ephedrine, pseudoephedrine, and ecstasy, depending upon the type of illegal drug operation[s], using ~~[NIOSH]~~ the National Institute for Occupational Safety and Health Manual of Analytical Method (NMAM) 9106, 9109 or 9111 or equivalent method approved by the Utah Department of Health.

~~[-(5) Confirmation sampling.]-~~

([a]l) ~~A~~ ~~[G]~~ grab sample[s] or composite sample[s] ~~[are]~~ is allowed for confirmation sampling of a contaminated area[s].

([b]m) Three 10 cm. x 10 cm. areas, [c]100 square centimeters[?], shall be wipe sampled from each room of the property where an illegal drug operation[s] occurred, hazardous material[s] ~~[were]~~ was stored, and where staining or contamination ~~[are or were]~~ is or was present. The three samples shall be obtained from a non-porous section of the floor, one wall, and the ceiling in each room or any other location where contamination is suspected.

([e]n) Three 10 cm. x 10 cm. areas, [c]100 square centimeters[?], shall be wipe sampled from different areas of the ventilation system, unless the system serves more than one unit or structure. If the system serves more than one unit or structure, samples shall be collected from a representative distribution of the system as well as the corresponding areas that it serves until the contamination is delineated, decontaminated, and determined to be below the decontamination standards established in this rule.

([d]o) If there is a kitchen, three 10 cm. x 10 cm. areas, [c]100 square centimeters[?], shall be wipe sampled from ~~[the]~~ any surface[s] most likely to be contaminated including the counter top, sink, or stove top, and from the floor in front of the stove top or any other location where contamination is suspected.

([e]p) If there is a bathroom, three 10 cm. x 10 cm. areas, [c]100 square centimeters[?], shall be wipe sampled from ~~[the]~~ any surface[s] most likely to be contaminated including the counter top, sink, toilet, ~~[or the]~~ shower[?], or bath tub and any other location where contamination is suspected.

([f]q) If there are any appliances, one 10 cm. x 10 cm. area, [c]100 square centimeters[?], shall be wipe sampled from the exposed portion of each appliance. If multiple appliances are present, each wipe sample may be a composite of up to three 100 square centimeter areas on three separate appliances, provided that the surfaces most likely to be contaminated are tested.

([g]r) If there is any other enclosed space where an illegal drug operation[s] occurred, hazardous material[s] ~~[s were]~~ was stored, or where staining or contamination is present, three 10 cm. x 10 cm. areas, [c]100 square centimeters[?], shall be wipe sampled from the surfaces most likely to be contaminated.

~~[-(h) Each wipe sample shall be placed in a new clean sample container and capped tightly. Recommended containers are 50 mL polypropylene disposable centrifuge tubes or 40 mL VOA glass vials. Plastic bags shall not be used.]-~~

([6]5)(a) ~~[VOC sampling and testing procedures.]-~~ The decontamination specialist and owner of record shall ensure that VOC sampling and testing is conducted in accordance with this rule.

([a]b) A properly calibrated PID or FID capable of detecting VOCs shall be used for testing.

(c) The background concentration of VOCs shall be obtained by testing three exterior areas outside the areas of contamination and in areas with no known or suspected sources of VOCs. All VOC readings shall be recorded for each sample location.

([b]d) At least three locations in areas of contamination shall be tested for VOC readings. The testing equipment probe shall be held in the sample location for at least 30 seconds to obtain a reading.

([e]e) ~~[A4]~~ Each accessible plumbing trap[s] shall be tested for VOCs by holding the testing equipment probe in the plumbing pipe above the trap for at least 60 seconds.

([7]6)(a) ~~[Testing procedures for corrosives.]-~~ The decontamination specialist and owner of record shall ensure that testing for corrosives is conducted in accordance with this rule.

([a]b) Each [S] surface pH measurement[s] shall be made using deionized water and pH test strips with a visual indication for a pH between 6 and 8. The pH reading shall be recorded for each sample location.

([b]c) For any horizontal surface[s], deionized water shall be applied to the surface and allowed to stand for at least three minutes. The pH test strip shall then be placed in the water for a minimum of 30 seconds and read.

([e]d) For any vertical surface[s], a cotton gauze, 3" x 3" 12-ply or 4" x 4" 8-ply[?], in a sterile package[s], shall be wetted with deionized water and wiped over a 10 cm. x 10 cm. area at least five times in two perpendicular directions. The cotton gauze shall then be placed into a clean sample container and covered with clean deionized water. The cotton gauze and water shall stand in the container for at least three minutes ~~[prior to]~~ before testing. The pH test strip shall then be placed in the water for a minimum of 30 seconds and read.

([d]e) pH testing shall be conducted on at least three locations in each room within the areas of contamination.

([8]7)(a) ~~[Lead Sampling and Testing Procedures.]-~~ The decontamination specialist and owner of record shall ensure that,

~~[-(a) Unless]~~ unless there is clear evidence that lead was not used in the manufacturing of methamphetamine[?] or ecstasy at the illegal drug operation[s], lead sampling shall be conducted as follows:

(i) Cotton gauze, 3" x 3" 12-ply or 4" x 4" 8-ply, in a sterile package[s] shall be used for wipe sampling.

(ii) The cotton gauze shall be wetted with analytical grade 3 per cent nanograde nitric acid for the wipe sampling.

(iii) The cotton gauze shall be blotted or wiped at least five times in two perpendicular directions within each sampling area.

(~~iv~~) Three 10 cm. x 10 cm. areas, ~~[c]~~ 100 square centimeters~~],~~ shall be sampled in each room within the areas of contamination~~[-and].~~

(b) After sampling, each wipe sample shall be placed, and capped tightly, in a new clean sample container~~[-and capped tightly. The sample container shall be]~~ that is:

(i) properly labeled with;

(A) at least the site or project identification number~~[-];~~

(B) date~~[-];~~

(C) time~~[-];~~ and

(D) the actual sample location~~[-];~~ and

(ii) ~~[The sample container shall be]~~ delivered to an analytical laboratory that uses EPA Method 6010B or an equivalent method approved by the Utah Department of Health.

(c) The sample shall be analyzed for lead using EPA Method 6010B or equivalent.

(~~9~~)(a) ~~[Mercury Sampling and Testing Procedures.]~~ The decontamination specialist and owner of record shall ensure that sampling and testing for mercury is in accordance with this rule.

(~~a~~)b A properly calibrated mercury vapor analyzer shall be used for evaluating the decontaminated areas for the presence of mercury. ~~[A]~~Each mercury reading~~[s]~~ shall be recorded for each sample location.

(~~b~~)c At least three locations in each room within the areas of contamination shall be tested for mercury vapor readings. The testing equipment probe shall be held in the sample location for at least 30 seconds to obtain a reading.

(~~e~~)d ~~[A]~~Each accessible plumbing trap~~[s]~~ shall be tested for mercury by holding the testing equipment probe in the plumbing pipe above the trap for at least 60 seconds.

(~~10~~)(a) ~~[Septic tank sampling and testing procedures.]~~ The decontamination specialist and owner of record shall ensure that testing and sampling of a septic tank is done in accordance with

~~(a) All sampling and testing shall be performed in accordance with] current EPA sampling and testing protocol.~~

(b) The liquid in the septic tank shall be sampled with a new clean bailer or similar equipment.

(c) The liquid shall be decanted or poured with minimal turbulence into three new VOA vials properly prepared by the analytical laboratory.

(d) The VOA vials shall be:

(i) filled so that there are no air bubbles in the sealed container. If air bubbles are present, the vial must be emptied and refilled~~[-];~~

(ii) ~~[The sample vials shall be]~~ properly labeled with at least the date, time, and sample location~~[-];~~ and

(iii) ~~[The sample vials shall be]~~ refrigerated until delivered to the analytical laboratory~~[-];~~

(~~iii~~)e The sample shall be analyzed using EPA Method 8260 or equivalent.

(11) ~~[Confirmation sampling by Local Health Departments.]~~

~~\_\_\_\_\_]~~ The local health department may ~~[also]~~ conduct confirmation sampling after decontamination is completed and after the final report is submitted to verify that the property has been decontaminated to the standards outlined in this rule.

### R392-600-7. Final Report.

(1) ~~[A final report shall be.]~~ The decontamination specialist and owner of record shall ensure that the final report is:

(a) prepared by the decontamination specialist or owner of record upon completion of the decontamination activities;

(b) submitted to the owner of the decontaminated property and the local health department of the county in which the property is located; and

(c) retained by the decontamination specialist and owner of record for a minimum of three years.

(2) ~~[The final report shall]~~ decontamination specialist and owner of records shall ensure that the final report includes: ~~[the following information and documentation:]~~

(a) complete identifying information of the property, ~~[such as]~~ including street address, mailing address, owner of record, legal description, county tax or parcel identification number, or vehicle identification number if a mobile home or motorized vehicle;

(b) the name and certification number of the decontamination specialist who performed the decontamination services on the property;

(c) a detailed description of the decontamination activities conducted at the property, including any cleaning performed in areas not contaminated;

(d) a description of all deviations from the approved work plan;

(e) photographs documenting the decontamination services and showing each of the sample locations~~[-];~~

(f) a drawing or sketch of the areas of contamination that depicts the sample locations and areas that were decontaminated;

(g) a description of the sampling procedure used for each sample;

(h) a copy of the testing results from testing ~~[a]~~ each sample~~[s]~~, including testing for VOCs, corrosives, and if applicable, lead and mercury, and testing performed by an analytical laboratory;

(i) a written discussion interpreting the test results for ~~[a]~~ analytical testing on ~~[a]~~ each sample~~[s]~~;

(j) a copy of any asbestos sampling and testing result~~[s]~~;

(k) a copy of the analytical laboratory test quality assurance data on ~~[a]~~ each sample~~[s]~~ and a copy of the chain-of-custody protocol documents;

(l) a summary of the waste characterization work, any waste sampling and testing results, and transportation and disposal documents, including bills of lading, weight tickets, and manifests for ~~[a]~~ each material~~[s]~~ removed from the property;

(m) a summary of the decontamination specialist or owner of record's observation and testing of the property for evidence of burn areas, burn or trash pits, debris piles, or stained areas;

(n) a written discussion and tables summarizing the confirmation sample results with a comparison to the decontamination standards outlined in this rule; and

(o) an affidavit from the decontamination specialist and owner of record that the property has been decontaminated to the standards outlined in this rule.

(3) ~~[A]~~ Information required to be included in the final report shall be keyed to or contain a reference to the appropriate subsection of this rule.

### R392-600-8. Reference.

The ~~[document]~~ U.S. Environmental Protection Agency. Region 9: Superfund Preliminary Remediation Goals ~~[(PRG)]~~ Table, October 2004, is incorporated by reference.

**KEY:** illegal drug operations, methamphetamine decontamination  
**Date of Last Change:** 2022[August 24, 2018]  
**Notice of Continuation:** March 30, 2020  
**Authorizing, and Implemented or Interpreted Law:** 19-6-906

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R392-702	Filing ID 54381

#### Agency Information

<b>1. Department:</b>	Health	
<b>Agency:</b>	Disease Control and Prevention, Environmental Services	
<b>Room no.:</b>	Second Floor	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 142102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Karl Hartman	801-538-6191	khartman@utah.gov
Please address questions regarding information on this notice to the agency.		

#### General Information

2. Rule or section catchline:
R392-702. Cosmetology Facility Sanitation
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Executive Order No. 2021-12 requires state agencies to amend rules that are inconsistent with the Office of Administrative Rules' Rulewriting Manual for Utah. As required, the amendments to Rule R392-702 provide technical and conforming changes in accordance with the Rulewriting Manual for Utah. In addition, the local health officers, in coordination with a specific Utah legislator, have requested the addition of requirements regarding the posting of an informational notice, as defined in this 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):
The amendments to Rule R392-702 provide nonsubstantive technical and conforming changes

throughout this rule and remove superfluous and repetitive language.

In Section R392-702-3, added definitions for "Department," and "Informational Notice."

Section R392-702-4 was amended to require the operator of a certain type of higher risk cosmetology facility to obtain a free informational notice from the health department to post in the facility. This requirement does not apply to a facility with a current health permit (Salt Lake County issues cosmetology facility health permits).

#### 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 because the substantive change does not result in an added expense to the Utah Department of Health (UDOH). Providing signage is a normal duty already provided in other areas.
B) Local governments:
No anticipated cost or savings because the substantive changes do not result in a change in current practice or procedures at the local health departments. Providing signage is normal duty already provided in other areas.
C) Small businesses ("small business" means a business employing 1-49 persons):
No anticipated cost or savings because the signage can be obtained free of charge from the local health department or UDOH.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
No anticipated cost or savings because the signage can be obtained free of charge from the local health department or UDOH.
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 <b>agency</b> ):
No anticipated cost or savings because the signage can be obtained free of charge from the local health department or UDOH.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
No anticipated cost or savings because the signage can be obtained free of charge from the local health department or UDOH.

**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):

There is no fiscal impact on business because the signage can be obtained free of charge from the local health department or UDOH. Nathan Checketts, 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**

<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Health, Nathan Checketts, 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 26-15-2	Section 26-1-5	Section 26-1-30
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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:** 04/14/2022

**10. This rule change MAY become effective on:** 04/21/2022

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**

<b>Agency head or designee, and title:</b>	Nathan Checketts, Executive Director	<b>Date:</b>	02/13/2022
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**R392. Health, Disease Control and Prevention, Environmental Services.****R392-702. Cosmetology Facility Sanitation.****R392-702-1. Authority and Purpose.**

(1) This rule is authorized under Sections 26-1-5, 26-1-30[(23)], and 26-15-2.

(2) This rule establishes minimum standards for the sanitation, operation, and maintenance of a cosmetology facility, as defined by this rule, and provides for the prevention and control of health hazards associated with a cosmetology facility that are likely to affect public health including risk factors contributing to injury, sickness, death, and disability.

**R392-702-2. Applicability.**

(1) This rule applies to facilities in which one or more individuals are engaged in any of the following practices, unless specifically exempted:

- (a) barbering;
  - (b) barbering instruction;
  - (c) cosmetology/barbering;
  - (d) cosmetology/barbering instruction;
  - (e) electrology;
  - (f) electrology instruction;
  - (g) esthetics;
  - (h) master-level esthetics;
  - (i) esthetics instruction;
  - (j) hair design;
  - (k) hair design instruction;
  - (l) nail technology; or
  - (m) nail technology instruction.
- (2) This rule applies to the following school facilities:
- (a) a barbering school;
  - (b) a cosmetology/barbering school;
  - (c) an electrology school;

- (d) an esthetics school;
- (e) a hair design school; or
- (f) a nail technology school.
- (3) This rule does not apply to:
  - (a) physicians, surgeons, nurses, other medical persons, or morticians, if ~~[duly]~~ licensed to practice their respective professions in ~~[the State of]~~ Utah, and if engaged in the personal performance of the duties of their respective profession;
  - (b) a commissioned physician or surgeon serving in the armed forces of the United States or another federal agency;
  - (c) a person who visits the state to engage in instructional seminars, advanced classes, trade shows, or competitions of a limited duration;
  - (d) a person providing instruction in workshops, seminars, training meetings, or other educational programs whose purpose is to provide continuing professional development to licensed barbers, cosmetologists/barbers, hair designers, estheticians, master estheticians, electrologists, or nail technicians;
  - (e) an employee of a company that is primarily engaged in the business of selling products used in the practice of barbering, cosmetology/barbering, esthetics, master-level esthetics, electrology, or nail technology when demonstrating the company's products to a potential customer; or
  - (f) the practice of ear piercing; body art; body painting; body piercing; face painting; henna tattoos and permanent tattoos; threading; microblading; permanent makeup; tanning by UV radiation and spray tanning units; injectables; mortuary services; massage; body wraps when performed by a massage therapist; or hair braiding.

### **R392-702-3. Definitions.**

As used in this rule:

- (1) "Barber" means an individual who is licensed by the ~~[State of]~~ Utah Division of Occupational and Professional Licensing to perform barbering; or any person engaged in the practice of barbering for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.
- (2) "Chemical disinfectant" means:
  - (a) a solution of EPA-registered bactericidal, fungicidal, and virucidal disinfectants used according to manufacturer's directions; or
  - (b) a chlorine bleach solution in a concentration range of between 200 ppm and 500 ppm.
- (3) "Clean" means the condition of being visibly free from dirt, soil, debris, or other materials not intended to be a part of the object in question.
- (4) "Client" means any person who enters a cosmetology facility, or school facility as listed in Subsection R392-702-2(2), with the intent to receive cosmetology services.
- (5) "Cosmetologist/Barber" means an individual who is licensed by the ~~[State of]~~ Utah Division of Occupational and Professional Licensing to perform cosmetology or barbering; or any person engaged in the practice of cosmetology/barbering for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.
- (6) "Cosmetology facility" means any structure, dwelling, or business where cosmetology, barbering, or associated professional services, as listed in Subsection R392-702-2(1), are practiced.
- (7) "Department" means the Utah Department of Health.
- (8) "Disinfection" means the use of a chemical disinfectant to destroy pathogens on reusable implements and other non-porous,

nonliving surfaces or to prevent the growth of pathogenic organisms, which thereby renders an item safe for handling and use.

~~([8]9)~~ "Dwelling" means a building or structure that is intended or designed to be used, rented, leased, let or hired out for human habitation. A mobile vehicle or mobile structure ~~["mobile salon"]~~ is not a dwelling.

~~([9]10)~~ "Electrologist" means an individual who is licensed by the ~~[State of]~~ Utah Division of Occupational and Professional Licensing to engage in the practice of electrology; or any person engaged in the practice of electrology for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.

~~([10]11)~~ "Esthetician" means an individual who is licensed by the ~~[State of]~~ Utah Division of Occupational and Professional Licensing who engages in the practice of basic esthetics or master esthetics; or any person engaged in the practice of basic esthetics or master esthetics for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.

~~([11]12)~~ "Eyelash technician" means an individual who is engaged in the practice of eyelash technology and is licensed by the ~~[State of]~~ Utah Division of Occupational and Professional Licensing to engage in the practice of cosmetology/barbering or esthetics; or any person engaged in the practice of eyelash technology for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.

~~([12]13)~~ "Eyelash technology" means the application, removal, and trimming of threadlike natural or synthetic fibers to an eyelash, including the cleansing of the eye area and lashes.

~~([13]14)~~ "Foot bath" means any basin, tub, sink, or bowl using non-circulating water in the practice of cosmetology, esthetics, or nail technology.

~~([14]15)~~ "Hair braiding" has the same meaning as provided in Subsection 58-11a-102(18).

~~([15]16)~~ "Hair designer" means an individual who is licensed by the ~~[State of]~~ Utah Division of Occupational and Professional Licensing to engage in the practice of hair design; or any person engaged in the practice of hair design for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.

~~([16]17)~~ "Hot water" means water heated to a temperature of not less than 110° F ~~["(43.3° C)"]~~ at the outlet.

~~([17]18)~~ "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that can cause infection, disease transmission, vermin infestation, or hazardous condition that requires immediate correction or cessation of operation to prevent injury, illness, or death.

~~([18]19)~~ "Informational notice" means a notice developed by the department that contains:

- ~~(a) a local health department's contact information;~~
- ~~(b) a link to the website containing this rule;~~
- ~~(c) a list of specific provisions of this rule commonly found out of compliance in a cosmetology facility;~~
- ~~(d) a link or QR code to an official complaint form; and~~
- ~~(e) any other information the department determines relevant for encouraging sanitary conditions in a cosmetology facility.~~

~~(20)~~ "Licensed professional" means a barber, cosmetologist/barber, electrologist, esthetician, hair designer, nail

technician, as defined in this rule, or an instructor in a school facility as listed in Subsection R392-702-2(2).

(~~19~~21) "Linens" means towels, sheets, headbands, robes, capes, drapes and other reusable textiles commonly used in a cosmetology facility.

(~~20~~22) "Local health department" has the same meaning as provided in Subsection 26A-1-102(5).

(~~21~~23) "Local health officer" means the health officer of the local health department having jurisdiction, or a designated representative.

(~~22~~24) "Nail technician" means an individual who is licensed by the [~~State of~~]Utah Division of Occupational and Professional Licensing to engage in the practice of nail technology; or any person engaged in the practice of nail technology for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.

(~~23~~25) "Operator" means any licensed professional as defined in this rule, or any person who owns, leases, manages or controls, or who has the duty to manage or control a cosmetology facility.

(~~24~~26) "Pedicure" means any of the following:

(a) cleaning, trimming, softening, or caring for the nails or cuticles of the feet;

(b) the use of manual instruments or implements on the nails or cuticles of the feet;

(c) callus removal by sanding, buffing, or filing including electric filing; or

(d) massaging of the feet or lower portion of the leg.

(~~25~~27) "Plumbing Code" means International Plumbing Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.

(~~26~~28) "Plumbing fixture" means a receptacle or device that is connected to the water supply system of the premises; or discharges wastewater, liquid-borne waste materials, or sewage to the drainage system of the premises.

(~~27~~29) "Practice of barbering" has the same meaning as provided in Subsection 58-11a-102(29).

(~~28~~30) "Practice of basic esthetics" has the same meaning as provided in Subsection 58-11a-102(31).

(~~29~~31) "Practice of cosmetology/barbering" has the same meaning as provided in Subsection 58-11a-102(32).

(~~30~~32) "Practice of electrolysis" has the same meaning as provided in Subsection 58-11a-102(34).

(~~31~~33) "Practice of hair design" has the same meaning as provided in Subsection 58-11a-102(37).

(~~32~~34) "Practice of master-level esthetics" has the same meaning as provided in Subsection 58-11a-102(39).

(~~33~~35) "Practice of nail technology" has the same meaning as provided in Subsection 58-11a-102(40).

(~~34~~36) "Service Animal" has the same meaning as provided in Section 35.104 of the Americans with Disabilities Act Title II Regulations.

(~~35~~37) "Waxing" means a treatment in which superfluous hair is removed from a client's face or body by:

(a) covering the hair with a thin layer of soft wax after which a paper or fabric strip is applied and pressed firmly into the wax and then quickly pulled away, removing the wax and body hair; or

(b) covering the hair with a thin layer of heated hard wax after which the wax is allowed to cool, and is then quickly pulled away, removing the wax and body hair.

(~~36~~38) "Whirlpool foot spa" means any basin using circulating water, either in a self-contained unit or in a unit that is connected to other plumbing in the cosmetology facility. A drain-and-fill circulating foot spa is considered a self-contained whirlpool foot spa.

#### **R392-702-4. General Requirements.**

(1) Except as specified in Subsection [~~s R392-702-4(1)(a)~~] (~~2~~), this rule does not require a construction change in any portion of the cosmetology facility if the facility was operating in compliance with applicable laws and ordinances in effect [~~prior to~~]before enactment of this rule. A cosmetology facility that is newly established more than 90 days after the enactment date of this rule shall operate in full compliance with the rule.

(~~a~~2) The local health officer may require construction changes consistent with this rule if it is determined the cosmetology facility or portion thereof is dangerous, unsanitary, a nuisance or menace to life, health or property, or that it creates an imminent health hazard.

(~~2~~3) A cosmetology facility located in a private residence or dwelling shall be exempt from the requirements of Section R392-702-5.

(4) Any operator of a cosmetology facility involved in the practice of nail technology, waxing, eyelash extensions, or esthetics; or the instruction thereof, shall:

(a) obtain a free informational notice from:

(i) the local health department with jurisdiction over the cosmetology facility location; or

(ii) the department's website; and

(b) post the informational notice in a location that is readily visible to an individual entering the cosmetology facility.

(5) Subsection (4) does not apply to any cosmetology facility with a current permit issued by the local health department.

(6) The local health department may impose a fine in accordance with Section 26-23-6 for a violation of Subsection (4).

(7) The department shall revise and update the informational notice as needed.

#### **R392-702-5. Construction and Operating Requirements.**

(1)(a) [~~All~~ floors and interior walls in areas where licensed services are performed, including restrooms and areas where chemicals are mixed or stored, or where water may splash, shall be constructed with smooth, durable, non-porous, and easily cleanable materials, except that anti-slip applications or plastic floor coverings may be used for safety reasons. Carpet is permitted in all other areas.

(b) Subsection [~~R392-702-5~~](1)(a) does not apply to licensed cosmetic laser services. A commercial grade, low profile carpet may be used as an alternative in areas where only cosmetic laser devices are used.

(2) Except in a lobby or reception area, [~~all~~]tables, counters, chairs, and equipment in the cosmetology facility shall be constructed of durable, easily cleanable materials, and shall be maintained in good repair.

(3) The operator shall maintain floors, walls, ceilings, shelves, furniture, furnishings, and fixtures in good condition, clean and free from an accumulation of hair, nails, skin, wax, liquids, and other debris.

(4) The operator shall provide adequate covered waste receptacles conveniently located in the facility to contain debris and other solid waste and to prevent the accumulation of solid waste in or around the cosmetology facility or its premises.

(5)(a) ~~[All]~~ Plumbing in the facility shall comply with ~~[the provisions of]~~ Plumbing Code, including backflow prevention requirements.

(b) Plumbing fixtures shall be free from any cracks or disrepair that would prevent proper cleaning, and shall be maintained in a clean and operable condition.

(c) The water heater shall be of sufficient size to accommodate ~~[all]~~each attached appliance[s] and fixture[s] when used simultaneously.

(6) Each cosmetology facility, or adjacent common area, shall have a restroom that is accessible to operators and clients, and is equipped with:

(a) a toilet;

(b) a handwashing sink with hot and cold running water;

(c) liquid or foam soap and toilet tissue in suitable dispensers;

(d) ~~[S]~~single-use towels or an alternate hand drying method approved by the local health officer; and

(e) a solid, durable, and easily cleanable waste receptacle.

(7)(a) In addition to the handwashing sink required in Subsection ~~[R392-702-5]~~(6)(b), each operator shall have unobstructed access within the facility to at least one handwashing sink that is equipped with:

(i) hot and cold running water;

(ii) liquid or foam soap in a suitable dispenser;

(iii) ~~[S]~~single-use towels or an alternate hand drying method approved by the local health officer; and

(iv) a solid, durable, and easily cleanable covered waste receptacle;

(b) A shampoo bowl may be used as a handwashing sink when it meets the requirements of Subsection ~~[R392-702-5]~~(7)(a).

(c) A foot bath or whirlpool foot spa ~~[shall]~~may not be used as a handwashing sink.

(8)(a) A cosmetology facility shall be equipped with a closable cabinet, bin, or room for:

(i) storage of cleaning and disinfecting chemicals; and

(ii) storage of chemicals or products used in licensed practices.

(b) Any hazardous cleaning agents, chemicals, or employee medications located in the restroom shall be kept in a locked cabinet not accessible to the public.

(9) A cosmetology facility shall be equipped with a designated area for the storage of disinfected implements, and an area for the storage of clean towels and linens.

(10)(a) When not in use, ~~[all]~~each clean and disinfected implement[s], tool[s], and material[s] shall be stored in a designated area, separate from soiled implements and materials.

(b) An operator shall store personal items away from clean and disinfected implements and materials.

(11)(a) Each area having a nail station where a nail technician files or shapes an acrylic nail, as defined in rule by the Division of Occupational and Professional Licensing, shall comply with Section 15A-3-402.

(b) Cosmetologists/barbers, estheticians, and nail technicians shall limit the accumulation of strong, irritating vapors in a cosmetology facility by:

(i) ventilating any areas where such vapors originate;~~and~~

(ii) keeping ~~[all]~~the applicable chemical products in a separate room with a closable, tight-fitting door;and

(iii) closing the packages or containers of chemical products after use; or

(iv) selecting chemical products without strong, irritating vapors.

(12) The cosmetology facility shall be provided with a light source equivalent to at least 25 foot-candles ~~[(269 lux)]~~30 inches off the floor, except that at least 60 foot-candles ~~[(646 lux)]~~ shall be provided at the level where the licensed service is being performed and where instruments are disinfected.

(13) An operator shall perform services only in areas that are dedicated solely for licensed practice.

(14) A cosmetology facility located in a mobile vehicle or mobile structure ~~[(“mobile salon”)]~~shall operate in compliance with this rule, and with ~~[all]~~city and county laws, regulations, and ordinances regarding water storage, wastewater disposal, electrical and power supply, commercial motor vehicles, vehicle insurance, safety, noise, signage, parking, commerce, business, and ~~[all]~~other local government requirements. It is the responsibility of the operator to investigate applicable mobile cosmetology facility requirements in each jurisdiction where the mobile cosmetology facility operates, and to ensure compliance with the requirements.

#### **R392-702-6. General Cleaning, Sanitation, Operational, and Maintenance Requirements.**

(1)(a) An operator shall ~~[employ]~~use good personal hygiene habits while providing licensed services.

(b) Before providing any licensed service to a client, ~~[all]~~ operators shall thoroughly wash their hands with soap and water and dry them with single-use towels or an alternate hand drying method approved by the local health officer.

(c) An operator may use a liquid or foam hand sanitizer in lieu of handwashing when changing gloves or switching tasks while providing any licensed service to the same client.

(2)(a) Before disinfecting any surface or item, any visible debris and disposable parts shall be removed and the surface or item shall be washed with detergent and water or wiped with an all-purpose cleaning agent, rinsed thoroughly, and disinfected according to manufacturer's directions.

(b) Any cleaning agent or chemical disinfectant not in the original container shall have a legible label with the name of the agent and directions. If the original container with directions is available, directions are not required to be repeated on the new container label.

(3)(a) Except when washable or disposable covers are replaced after each client, equipment such as facial chairs, beds, and headrests shall be cleaned and disinfected after each client.

(b) Equipment such as chairs, counter surfaces, cupboards, drawers, mats, and dryers shall be maintained clean.

(4) Before use on a new client, any non-electric multi-use implements or tools intended to touch skin or hair shall be cleaned and disinfected in the following sequential manner:

(a) ~~[R]~~remove ~~[all]~~visible debris;

(b) ~~[C]~~clean with detergent and water;

(c) ~~[R]~~rinse with water;

(d) ~~[D]~~disinfect by:

(i) completely immersing the implement or tool, including handles, in a chemical disinfectant according to manufacturer's directions; or

(ii) spraying or wiping the implement or tool with a chemical disinfectant according to manufacturer's directions;~~and~~

(e) ~~[R]~~rinse with water; and

(f) ~~[D]~~dry before storing as specified in Subsection R392-702-5(10).

## NOTICES OF PROPOSED RULES

(5) At the conclusion of each client service, electric equipment including electric clippers, nail e-files, curling irons, flat irons, glass or metal electrodes, high frequency wands, esthetic machines, steamers, diffusers, wax pots and paraffin warmers, or other electric or electronic tools that cannot be immersed in liquid shall be cleaned and disinfected, including the equipment body, handle, and attached cord, ~~[prior to]~~before each use in the following sequential manner:

- (a) ~~[R]~~remove ~~[all]~~visible debris;
  - (b) ~~[D]~~disinfect with a chemical disinfectant spray or wipe according to the manufacturer's directions; and
  - (c) ~~[S]~~store as specified in Subsection R392-702-5(10).
- (6) Plastic guards and any nonmetal removable parts shall be removed, cleaned, and disinfected as required in Subsection ~~[R392-702-6]~~(4).

(7) Skin care machines and equipment shall be cleaned and disinfected according to the manufacturer's directions.

(8) Chemical disinfectants, including sprays and wipes, shall be prepared and used according to the manufacturer's directions, including contact time, safety precautions, dilution requirements if any, and proper disposal.

(9)(a) If concentrated chemical disinfectants must be diluted with water, measuring devices shall be readily available and used to ensure an effective solution is made.

(b) Unless otherwise directed by the disinfectant label, chemical disinfectant solutions shall be made at least weekly.

(c) Chemical disinfectant solutions shall be disposed of and replenished immediately if visible debris is present or if a lack of disinfection effectiveness is otherwise indicated.

(10) The operator may use a chlorine bleach solution as a chemical disinfectant when the following requirements are met:

(a) ~~[Prior to]~~before dilution by the operator, chlorine bleach ~~[shall]~~contains 5.25% to 6.15% sodium hypochlorite;

(b) ~~[B]~~bleach ~~[shall]~~contains no fragrances, thickeners, or foaming agents;

(c) ~~[C]~~chlorine test strips ~~[shall be]~~are accessible to the operator, and ~~[shall be]~~are used to verify chlorine concentration is between 200 and 500 ppm; and

(d) ~~[C]~~chlorine bleach ~~[shall not be]~~is not placed or stored near other chlorine-reactive chemicals used in cosmetology facilities ~~[e.g.]including~~ acrylic monomers, alcohol, ammonia, or other disinfecting products~~),~~ or near flame.

(11) Immediately after use on a single client, the operator shall dispose of single-use equipment, implements, tools, or porous items including ~~[but not limited to]~~ nail files, pedicure files, natural pumice, sanding bands, sleeves, heel and toe pumice, exfoliating blocks, buffer blocks, cotton swabs, cotton balls, cotton pads, sponges, gauze, cuticle pushers, disposable applicators, lancets, fabric strips, single-use gloves, neck strips, tissues, thread, disposable wipes, and disposable towels.

(12) Hair cuttings shall be removed from the floor and deposited in a waste receptacle after each haircut.

(13)(a) The operator shall comply with ~~[all]~~ manufacturer's directions for product and equipment use.

(~~[a]~~)b) When the manufacturer's directions require a patch test, the operator shall:

- (i) offer a patch test; and
- (ii) provide information to the client regarding the risk of potential adverse reactions to the product.

(14)~~[- The following additional requirements shall apply to waxing:]~~

~~\_\_\_\_\_]~~(a) Wax pots and paraffin warmers shall be kept covered and the exterior cleaned daily~~[;]~~.

(b) If debris is found in the wax pot or paraffin warmer, or if the wax or paraffin has been contaminated by contact with skin, unclean applicators, or double-dipping, the wax pot or paraffin warmer shall be emptied, the wax shall be discarded, and the pot or warmer shall be disinfected as required in Subsection ~~[R392-702-6]~~(5)~~[;]~~.

(c) Disposable spatulas and wooden sticks shall be dipped into the wax only once and then discarded without using the other end~~[;]~~.

(d) Applicators shall be dipped only once into the wax unless the wax is a single-service item and unused wax is discarded after each service~~[;]~~.

(e) Any surface touched by a used wax stick shall be cleaned and disinfected immediately after the service~~[; and]~~.

(f) Paraffin wax shall be portioned out for each client in a bag or other container, or dispensed in a manner that prevents contamination of the unused supply.

(15) Any solid waste that may create a nuisance or imminent health hazard that is generated at a cosmetology facility and stored on its exterior premises shall be stored in a leak-proof, non-absorbent container with a tight-fitting lid that shall be kept closed ~~[at all times]~~ except when placing waste in or emptying waste from the container.

(16) ~~[All s]~~Solid wastes shall be disposed with sufficient frequency and in such a manner as to prevent insect breeding, rodent harborage, or nuisance.

### **R392-702-7. Linens and Laundry Service.**

(1) The operator shall maintain a sufficient supply of clean linens, as defined in this rule, for each client's use.

(2)(a) Any linens used to cover or protect a client shall not be used for more than one client and shall be deposited in a vented container or hamper labeled "soiled" immediately after use, and not used again until laundered.

(b) The operator shall launder used linens either by regular commercial laundering or by a noncommercial laundering process that includes washing with detergent and hot water in a washing machine, drying on hot with no moisture remaining, and immediately storing in accordance with Subsection ~~[R392-702-7]~~(3).

(c) A laundry washing machine located in a cosmetology facility shall only be used for washing soiled linens.

(d) Plastic or nylon capes and aprons shall be washed in a laundry washing machine and:

- (i) dried on any setting in a dryer; or
  - (ii) disinfected with a spray disinfectant.
- (e) Clean linens shall not come in contact with soiled linens at any time.

(3) After washing and drying as required, the operator shall maintain and store ~~[all]~~ linens in a clean and sanitary manner at a location free from the likelihood of contamination by vermin, wastewater, filth, or toxic chemicals in either:

- (a) a clean, closed cabinet;
- (b) a clean, solid, and easily cleanable closed container; or
- (c) a designated room on a clean shelf.

(4) Laundry carts, baskets, and hampers shall be constructed with smooth, durable, non-porous, and easily cleanable materials, and shall be maintained in good condition. Washable laundry bags and liners are permitted.



(5) If laundry is processed at the cosmetology facility, the operator shall use the following procedures to prevent cross[-] contamination from laundry hampers, carts, or baskets:

(a) ~~[Any-]~~visible debris ~~[shall be]~~is cleaned from laundry carts and baskets;

(b) ~~[C-]~~carts and baskets used to store or transport used linens ~~[shall be]~~are disinfected each day of use with a chemical disinfectant; and

(c) ~~[S-]~~separate containers ~~[including carts, baskets, hampers, and laundry bags, etc.] shall be~~are designated and used for storing and transporting clean and soiled linens.

#### **R392-702-8. Specific Health and Sanitation Requirements -- Practice of Nail Technology.**

(1) Before performing any nail technology services, nail technicians shall wash their hands with soap and water. After which, nail technicians shall clean the areas of the client's body on which the service is to be performed.

(2) Manicure tables and surfaces that may contact the client's hands, wrists, or arms shall be cleaned and disinfected ~~[prior to]~~before use for each client.

(3)(a) The nail technician shall portion products from multi-use containers into individual-use containers for each client, as required by manufacturer's directions and recognized industry standards.

(b) When finger bowls or reusable containers are used during nail technology services, they shall be replaced with cleaned and disinfected containers for each client.

(4) ~~[Prior to]~~Before use for each client, the operator shall clean and disinfect each whirlpool foot spa in the following sequential manner:

(a) ~~[All-]~~water ~~[shall be]~~is drained and ~~[all-]~~visible debris ~~[shall be]~~is removed from the spa basin;

(b) ~~[T-]~~the spa basin ~~[shall be]~~is cleaned with detergent, rinsed with clean water, and drained; and

(c) ~~[A-]~~after cleaning, the whirlpool foot spa ~~[shall be]~~is disinfected with chemical disinfectant according to manufacturer's directions for 10 minutes or the time stated on the label as follows:

(i) ~~[Fill-]~~the spa basin is filled with clean water;

(ii) ~~[Add-]~~the appropriate amount of chemical disinfectant is added;

(iii) ~~[Turn-]~~the unit is turned on to circulate the chemical disinfectant for the entire contact time[-]; and

(iv) ~~[A-]~~after disinfection, ~~[drain and rinse-]~~the whirlpool foot spa is drained and rinsed with clean water.

(5) ~~[Prior to]~~Before use for each client, the operator shall clean and disinfect each non-circulating foot bath, as defined in this rule, in the following sequential manner:

(a) ~~[D-]~~drain the foot bath and remove any visible debris;

(b) ~~[S-]~~scrub the foot bath with a clean brush, detergent, and water;

(c) ~~[R-]~~rinse the foot bath with clean water;

(d) ~~[D-]~~disinfect the foot bath with a chemical disinfectant according to the manufacturer's directions for 10 minutes or the time stated on the label;

(e) ~~[R-]~~rinse the foot bath with clean water; and

(f) ~~[A-]~~allow the foot bath to air dry if not placed immediately back into service.

(6) At the conclusion of each business day, the operator shall clean and disinfect each used whirlpool foot spa in the following sequential manner:

(a) ~~[R-]~~remove the filter screen, inlet jets, and ~~[all-]~~other removable parts from the basin and clean out any debris trapped behind or in them[-];

(b) ~~[U-]~~using a brush, scrub the parts described in Subsection ~~[R392-702-8-](6)(a)~~ with detergent[-];

(c) ~~[R-]~~rinse the parts described in Subsection ~~[R392-702-8-](6)(a)~~ with clean water and place them back into the basin apparatus[-];

(d) ~~[F-]~~fill the basin with clean water and add a chemical disinfectant, following label directions[-];

(e) ~~[T-]~~turn the unit on and circulate the system with the chemical disinfectant solution for 10 minutes or the time stated on the label[-]; and

(f) ~~[A-]~~after disinfection, drain the spa basin, rinse with clean water, and air dry.

(7)(a) A local health officer may exempt an operator from the requirements of Subsection ~~[R392-702-8-](5)~~ when the operator uses a removable spa basin liner in a non-circulating foot bath when the liner is discarded after each client.

(b) The operator shall adhere to the requirements of Subsections ~~[R392-702-8-](4)~~ and ~~[R392-702-8-](6)~~ even when using a removable spa basin liner in a whirlpool foot spa.

(8)(a) Before soaking a client's feet in a foot bath or whirlpool foot spa, the operator shall examine the client's feet and legs for any condition that may weaken the skin barrier.

(b) If open sores or skin wounds are present, including insect bites, scratches, or scabbed-over wounds, the operator shall explain to the client that the foot bath or whirlpool foot spa should not be used.

(9) Only electric files or machines specifically designed and manufactured for use in the practice of nail technology may be used in any cosmetology facility for performing nail technology services. Craft, hardware, and hobby, or other similar type tools, or kitchen utensils shall not be used under any circumstances.

(10) After each use on a single client, diamond, carbide, and metal bits shall be:

(a) cleaned of ~~[all-]~~visible debris by either:

(i) using a brush;

(ii) using an ultrasonic cleaner according to manufacturer's directions; or

(iii) immersing the bit in acetone for 10 minutes; and ~~[then]~~

(b) disinfected by complete immersion in a chemical disinfectant according to manufacturer's directions.

#### **R392-702-9. Specific Health and Sanitation Requirements -- Practice of Basic and Master Esthetics.**

(1) Estheticians shall wash their hands with soap and water ~~[prior to]~~before performing any licensed services on a client. Gloves shall be worn during any type of extraction.

(2) Equipment, multi-use implements, and tools and materials shall be properly cleaned and disinfected after servicing each client as described in Section R392-702-6.

(3) The following items that are used during services shall be replaced with clean items for each client:

(a) disposable and cloth towels;

(b) hair caps;

(c) headbands;

(d) brushes;

(e) gowns;

(f) makeup brushes; and

(g) other items used for a similar purpose.

## NOTICES OF PROPOSED RULES

(4)(a) Items subject to possible cross contamination such as creams, cosmetics, astringents, lotions, removers, waxes, moisturizers, masks, oils and other preparations shall be used in a manner so as not to contaminate the remaining product.

(b) Applicators shall not be re-dipped in product.

(c) The following [Permitted] procedures are permitted to avoid cross contamination[-are]:

(i) [Disposing]dispose of the remaining product before beginning services on each client;

(ii) [Using]use a single-use disposable applicator device to apply product and disposing of such device after use;

(iii) [Using]use an applicator bottle to apply the product; and

(iv) [Dispensing]dispense product from a multi-use container into a separate container for single client use.

(5) An esthetician shall not dispense any service product directly from a container with ungloved fingers[-].

### **R392-702-10. Specific Health and Sanitation Requirements -- Eyelash Extension Services.**

(1) The practice of eyelash extension services shall only be performed by a licensed cosmetologist/barber, ~~or~~ esthetician[-] or master esthetician.

(2) Eyelash technicians shall wash their hands thoroughly with soap and water ~~[prior to]~~ before performing any licensed services on a client.

(3) Equipment, implements, and materials including eyelash stands, holders, pallets, and trays shall be cleaned and disinfected in accordance with Section R392-702-6 ~~[prior to]~~ before providing any licensed service.

(4) Glue pallets and holders shall be:

(a) used on only one client, and disposed according to Subsection R392-702-6(11) after each client; or

(b) cleaned and disinfected in accordance with Subsection R392-702-6(4) before use with each client.

(5) Reusable items that are used during services shall be replaced with clean items for each client, including ~~[-but not limited to]~~:

(a) cloth towels;

(b) hair caps, headbands, and gowns; and

(c) brushes and spatulas that contact skin or products from multi-use containers.

(6) An operator shall use only properly labeled semi-permanent glue and semi-permanent glue remover, intended and approved for use on humans around the eyes, in accordance with the manufacturer's directions.

(7) Eyelash extensions shall be stored in a clean, closed container or sealed in the original packaging, and shall be kept in a clean, dry, debris-free storage area.

(8)(a) Contaminated eyelash extensions shall not be used or reused on a client.

(b) When removing eyelashes from the container or package to portion out eyelashes for a service, an eyelash technician shall use disinfected scissors, blade, or other tool to snip a portion of a strip, or a disinfected tweezer to portion out the lashes for each service.

### **R392-702-11. Prohibited Products and Practices.**

(1) Operators shall not use any of the following substances or products in performing cosmetology services:

(a) Methyl Methacrylate Liquid Monomers ~~[-a.k.a.]~~ (MMA);

(b) ~~[R]~~ razor-type callus shavers designed and intended to cut or shave growths of skin such as corns and calluses, ~~[-e.g.]including~~ credo blades or "microplanes," ~~[-]~~ unless licensed with the Utah Division of Professional Licensing as a Master Esthetician;

(c) ~~[S]~~ styptic pencil, alum, or other astringent in stick or lump form ~~[-( except that [A]alum or other astringents in powder or liquid form are acceptable[-])]; and~~

(d) ~~[F]~~ fumigants such as formalin ~~[-(or formaldehyde[-]) tablets or liquids.~~

(2) Multiple-use roll-on wax is prohibited. Single-use roll-on wax cartridges are acceptable but shall be disposed of immediately after service. Roll-on wax cartridges warming in a wax heater shall have an intact seal. The heating unit is subject to the requirements of Subsection R392-702-6(5), and shall be cleaned and disinfected after each use.

(3) UV sterilizers or light boxes shall not be used as an infection control device in a cosmetology facility. This does not apply to UV dryers or ultraviolet lamps used to dry or cure nail products.

(4) Electric or battery-operated equipment or implements not specifically manufactured for use on humans are prohibited.

(5) Live fish, leeches, snails, and other living creatures shall not be used in the practice of cosmetology/barbering, esthetics, or nail technology.

(6)(a) Only service animals assisting persons with disabilities are permitted in a cosmetology facility. Pets, emotional support animals, comfort animals, and therapy animals are not permitted.

(b) Animal beautification or pet grooming services shall not be performed in a cosmetology facility.

(7) An operator shall not perform licensed cosmetology services on a client if:

(a) the operator has a known contagious disease of a nature that may be transmitted by performing the procedure, unless the operator takes medically approved measures to prevent transmission of the disease; or

(b) ~~[T]~~ the client has a known contagious disease of a nature that may be transmitted by performing the procedure, unless the operator takes medically approved measures to prevent transmission of the disease.

### **R392-702-12. Food Service.**

When food or beverage service is provided for cosmetology clients, food service, storage, and preparation shall comply with the FDA Model Food Code as incorporated and amended in Rule R392-100, Food Service Sanitation, and local health department regulations.

### **R392-702-13. Inspections and Investigations.**

(1) Upon presenting proper identification, the operator shall permit the ~~[L]~~ local ~~[H]~~ health ~~[O]~~ officer to enter upon the premises of a cosmetology facility to perform inspections, investigations, and other actions as necessary to ensure compliance with this rule ~~[Rule R392-702]~~.

(2) The operator shall have access to all cosmetology facility space, including leased space, and shall provide the ~~[L]~~ local ~~[H]~~ health ~~[O]~~ officer with access to all cosmetology facility space.

### **R392-702-14. Closing or Restricting Use of a Cosmetology Facility.**

(1) If a local health officer deems a cosmetology facility or portion thereof to be an imminent health hazard, the cosmetology

facility may be closed or its use may be restricted, as determined by the local health officer.

(2) The operator shall restrict public access to the impacted area of any cosmetology facility closed or restricted to use by a local health officer within a reasonable time as ordered by the local health officer.

(3) It shall be unlawful for an operator to allow the public to utilize any cosmetology facility or portion thereof that has been deemed unfit for use until written approval of the local health officer is given.

**KEY:** cosmetologist/barber, hair salon, nail salon, esthetician

**Date of Last Change:** 2022|~~March 30, 2020~~

**Authorizing, and Implemented or Interpreted Law:** 26-1-5; 26-1-30(23); 26-15-2

#### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R414-312</b>	<b>Filing ID</b> <b>54388</b>
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#### Agency Information

<b>1. Department:</b>	Health
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 143102
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102
<b>Contact person(s):</b>	
<b>Name:</b>	<b>Phone:</b> <b>Email:</b>
Craig Devashrayee	801-538-6641 cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.	

#### General Information

<b>2. Rule or section catchline:</b>
R414-312. Adult Expansion Medicaid
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The purpose of this change is to update and clarify provisions of the Adult Expansion Medicaid program.
<b>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):</b>

This amendment updates and clarifies eligibility and enrollment requirements for the Adult Expansion Medicaid program.

#### Fiscal Information

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

###### A) State budget:

There is no impact to the state budget as this change simply updates and clarifies current requirements for the Adult Expansion Medicaid program.

###### B) Local governments:

There is no impact on local governments because they neither fund nor determine eligibility for the Adult Expansion Medicaid program.

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

There is no impact on small businesses as this change simply updates and clarifies current requirements for the Adult Expansion Medicaid program.

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

There is no impact on non-small businesses as this change simply updates and clarifies current requirements for the Adult Expansion Medicaid program.

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

There is no impact on Medicaid providers and Medicaid members as this change simply updates and clarifies current requirements for the Adult Expansion Medicaid program.

###### 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 as this change simply updates and clarifies current requirements for the Adult Expansion Medicaid 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):

Businesses will see neither costs nor revenue as this change simply updates and clarifies current requirements for the Adult Expansion Medicaid program. Nate Checketts, 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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Health, Nate Checketts, 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 26-1-5	Section 26-18-3	
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 04/14/2022

**10. This rule change MAY become effective on:** 04/21/2022

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**

<b>Agency head or designee, and title:</b>	Nate Checketts, Executive Director	<b>Date:</b>	02/28/2022
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-312. Adult Expansion Medicaid.**

**R414-312-1. Introduction and Authority.**

(1) This rule is authorized by Sections 26-1-5 and 26-18-3 and allowed under Subsection 1115(f) of the Social Security Act.

(2) This rule establishes eligibility requirements for enrollment ~~[under]in the [Primary Care Network 1115 Demonstration Waiver for Adults, also known as the]~~ Adult Expansion Medicaid program.

**R414-312-2. Definitions.**

The definitions in Rules R414-1 and R414-301 apply to this rule. In addition, the following definitions apply.

~~[(1)]~~ In addition, the following definitions apply:

~~[(a)]~~ "Certification [P]period" means the 12-month time frame in which an individual is eligible for coverage based on an approved application or review.

~~[(b)]~~ "Community Engagement" means incentivized participation in community engagement activities to improve Medicaid enrollee health and well-being.

~~[(c)]~~ "Employer-sponsored health plan" means a health insurance plan offered by an employer [either directly or through the Utah Health Exchange.]

~~[(d)]~~ "Medically [F]frail" means an individual as described in 42 CFR 440.315(f).

~~[(e)]~~ "Qualified [H]health [P]plan" means a health plan that meets [all of]the following:

~~[(i)]~~ a) the plan covers physician visits, hospital inpatient services, pharmacy, well-child exams, and child immunizations;

~~[(ii)]~~ b) the network deductible is \$4,000 or less per person;

~~[(iii)]~~ c) the plan pays at least 70% of an in-network inpatient stay after the deductible;

~~[(iv)]~~ d) the plan does not cover abortion services, or the plan only covers abortion services when the life of the mother would be endangered if the fetus were carried to term, or in the case of incest or rape; [and]

~~[(v)]~~ e) the employer pays at least 50% of the premium for the primary-insured individual[-]; and

f) the lifetime maximum benefits must be at least \$1,000,000.

#### **R414-312-4. General Eligibility Requirements.**

Unless otherwise stated, the provisions in Rule R414-302 and Section R414-306-4 apply to all applicants and enrollees.

(1) The following individuals are not eligible for Adult Expansion Medicaid:

(a) ~~[Individuals eligible for any Medicaid program without a spenddown,]~~with the exception of the Targeted Adult Medicaid program, individuals eligible for other Medicaid programs without a ~~spenddown~~; or

(b) ~~[I]~~individuals eligible for or receiving Medicare.

(2) An individual must be at least 19 years old and not yet 65 years old to enroll in Adult Expansion Medicaid.

(a) The month in which an individual turns 19 years old is the first month in which the individual may enroll in Adult Expansion Medicaid.

(b) An individual may only enroll in Adult Expansion Medicaid through the month in which the individual turns 65 years old.

~~[(3) The eligibility agency may only enroll applicants during an open enrollment period. The Department may limit the number it enrolls and may stop enrollment at any time.~~

~~[(4) The eligibility agency shall waive the open enrollment requirement if the enrollee completes a review within three months of case closure as outlined in Section R414-308-6.]~~

~~[(5)(3) Eligibility for Adult Expansion Medicaid does not require a resource test. [A resource test is not required.~~

~~(6) Recipients are required as a condition of eligibility, to participate in community engagement (CE) activities, unless found to meet an exemption or good cause criteria.~~

~~(a) A recipient must complete the following to meet the participation requirement for CE activities:~~

~~(i) register for work through the state system;~~

~~(ii) complete an assessment of training needs;~~

~~(iii) complete the job training modules as determined to be relevant by the training needs assessment; and~~

~~(iv) apply for employment with at least 48 employers, either directly or through the State's automated employment application submission process.~~

~~(b) A recipient must complete CE activities within three months of the month following the approval or renewal of medical coverage.~~

~~(c) A recipient who fails to complete the CE requirements will lose eligibility for the remainder of the certification period unless the recipient qualifies for an exemption or demonstrates good cause. If a recipient does not claim good cause before the start of the sanction, the sanction will remain in effect.~~

~~(i) A beneficiary will lose eligibility the first day of the month following proper notice.~~

~~(ii) An individual shall not be eligible for coverage until one of the following occurs:~~

~~(iii) the individual participates with all CE activities. The eligibility agency requires a new application if the individual is sanctioned more than one calendar month;~~

~~(iv) the individual meets an exemption;~~

~~(v) the individual qualifies for a different Medicaid program; or~~

~~(vi) a new certification period begins.~~

~~(d) A recipient who meets one of the following exemptions is not required to participate in CE activities, and will remain exempt throughout the certification period:~~

~~(i) is 60 years of age or older;~~

~~(ii) is pregnant or within the 60-day post-partum period;~~

~~(iii) cannot physically or mentally meet the participation requirements as determined by a medical professional or documented through other data sources;~~

~~(iv) is responsible for the care of a dependent child who is under six years of age. Only one parent may claim the exemption per child;~~

~~(v) is responsible for the care of a person with a disability as defined by the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, the Rehabilitation Act of 1973, Section 504, or the Patient Protection and Affordable Care Act of 2010, Section 1557. Only one parent may claim this exemption per individual;~~

~~(vi) is a member of a federally recognized tribe;~~

~~(vii) has applied for and is awaiting an eligibility determination for unemployment insurance benefits, or is receiving unemployment insurance benefits and has registered for work at the Department of Workforce Services;~~

~~(viii) participates regularly in a substance use disorder treatment program, which includes intensive outpatient treatment;~~

~~(ix) is enrolled at least half-time in any school that includes college, university, and vocational training or apprenticeship programs;~~

~~(x) participates in refugee employment services offered by the State, which include vocational training and apprenticeship programs, case management, and employment planning;~~

~~(xi) is a recipient of the State's Family Employment Program and is working with an employment counselor;~~

~~(xii) is a beneficiary who complies with or is exempt from the Supplemental Nutrition Assistance Program;~~

~~(xiii) is a beneficiary who complies with the Temporary Assistance for Needy Families employment requirements; or~~

~~(xiv) works at least 30 hours a week, or works and earns the federal minimum wage earned by working 30 hours a week.~~

~~(e) The Department shall consider a recipient compliant, who does not meet an exemption, but demonstrates good cause not to participate with CE activities throughout the certification period. The following are circumstances for good cause:~~

~~(i) The beneficiary or an immediate family member who lives in the home with the beneficiary experiences a hospitalization or serious illness;~~

~~(ii) There are fewer than 48 employers in the beneficiary's geographic area that could potentially offer employment to the beneficiary, or from whom the beneficiary could reasonably expect to accept an offer of employment.~~

~~(iii) The beneficiary:~~

~~(A) has a disability as defined by the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, the Rehabilitation Act of 1973, Section 504, or the Patient Protection and Affordable Care Act of 2010, Section 1557, and cannot meet the requirements for reasons related to that disability;~~

~~(B) has an immediate family member in the home with a disability under federal disability rights laws, and cannot meet the requirements for the reasons related to the disability of the family member;~~

~~(C) experiences severe inclement weather, including a natural disaster, and therefore cannot meet the requirements;~~

~~(D) experiences the birth or death of a family member who lives with the beneficiary;~~

~~(E) has a family emergency or other life-changing event;~~

~~(F) has no access to the internet or transportation to a place where the requirements can be completed; or~~

~~(G) is the primary caretaker of a child who is six years of age or older, and cannot meet the requirements due to childcare responsibilities.~~

~~(iv) The Department shall grant the beneficiary a good-cause exemption upon meeting the requirements.~~

~~(f) If the Department grants an exemption, the following provisions apply:~~

~~(i) If the beneficiary reports the exemption and verifies it timely, the effective date of coverage is the first day of the month of report;~~

~~(ii) If the beneficiary does not timely report or verify the exemption, the effective date of coverage is the first day of the month in which the beneficiary verifies the exemption.]~~

~~[(7)4] A [recipient]member is required as a condition of eligibility, to enroll or remain enrolled in a qualified health insurance plan offered by [an]the member's employer.[The employer-sponsored insurance (ESI) must meet the qualified health plan requirements as described in Section R414-312-2.~~

~~(a) The following individuals are not required to participate in ESI:~~

~~(i) a member of a federally recognized tribe;~~

~~(ii) an individual who is under 26 years of age and on a parent's health insurance plan; and~~

~~(iii) an individual who is already enrolled in a non-qualified health plan.~~

~~(b) A recipient must enroll in ESI within 30 days of receiving the approval notice, or be sanctioned from receiving Adult Expansion coverage.~~

~~(c) The Department shall sanction an individual who does not participate in ESI from receiving Adult Expansion coverage for a period of 12 consecutive months.~~

~~(d) The 12-month sanction period applies even when the individual moves from another eligibility program.~~

~~(i) The Department may only lift a sanction if the individual enrolls in ESI coverage, or if one of the following occurs:~~

~~(A) The employer no longer offers ESI;~~

~~(B) The employer no longer offers a qualified health insurance plan; or~~

~~(C) The recipient loses health insurance due to termination or loss of job, and reports the change within 10 business days.~~

~~(e) If the Department lifts a sanction, the following apply:~~

~~(i) If the beneficiary reports the exemption and verifies it timely, the effective date of coverage is the first day of the month of report;~~

~~(ii) If the beneficiary does not timely report or verify the exemption, the effective date of coverage is the first day of the month in which the beneficiary verifies the exemption.]~~

#### **R414-312-5. Enrollment in Employer-Sponsored Insurance Requirements.**

The Department may require individuals with access to a qualified health plan through their employer to enroll. The employer-sponsored insurance (ESI) must meet the qualified health plan requirements as described in Section R414-312-2.

(1) The following individuals are not required to participate in ESI:

(a) a member of a federally recognized tribe;

(b) an individual who is under 26 years of age and on a parent's health insurance plan; and

(c) an individual who is already enrolled in a non-qualified health plan.

(2) A member must enroll in ESI within 30 days of receiving the approval notice, and provide proof of enrollment and the premium start date within the following 15 days or be sanctioned from receiving adult expansion coverage.

(a) The Department shall sanction an individual who does not participate in ESI from receiving adult expansion coverage for a period of 12 consecutive months.

(b) An individual may qualify for a different medical assistance program during the sanction period. If so, the sanction does not apply to that assistance program. The 12-month sanction period, however, continues to apply to the Adult Expansion program if the individual loses other eligibility and could only qualify under the Adult Expansion program.

(3) Individuals whose assistance ends due to an ESI sanction may reapply at any time.

(4) The Department may only lift a sanction and approve Adult Expansion coverage if the individual verifies one of the following:

(a) enrollment in ESI coverage;

(b) the employer no longer offers ESI;

(c) the employer no longer offers a qualified health insurance plan; or

(d) the member no longer has access to health insurance due to termination or loss of job.

(5) If the Department lifts a sanction, a beneficiary must report the exemption and verify it timely for the effective date of coverage to be the first day of the month of report or month of reapplication.

(6) If a beneficiary does not report timely or verify an exemption, the effective date of coverage is the first day of the month in which the beneficiary verifies the exemption.

(7) The Department may reimburse an individual for ESI premiums. If the employer deducts the health insurance premium in a month before the effective date, the Department may send the first ESI reimbursement payment in the month the premium is paid, but not before the application date. The Department shall send subsequent ESI premium reimbursements on a monthly basis.

#### **R414-312-[5]6. Application, Eligibility Reviews, and Improper Medical Assistance.**

[The provisions of]Rule R414-308 appl[y]ies to all applicants and enrollees.

#### **R414-312-[6]7. Household Composition and Income Provisions.**

(1) The eligibility agency shall use [the provisions of]Section R414-304-5 to determine household composition and countable income.

(2) Section R414-304-12 applies to the budgeting of income through the [M]modified [A]adjusted [G]gross [F]income (MAGI) methodology.

(3) For an individual to be eligible to enroll in Adult Expansion Medicaid, the individual must have countable income at or below 133% of the federal poverty level (FPL).

#### **R414-312-[7]8. Public Health Emergency Provisions.**

The Adult Expansion Medicaid Program will be administered in accordance with the emergency provisions for Coronavirus (COVID-19) set forth in Section R414-304-17 and Section R414-308-11.

**KEY:** Medicaid, adult expansion, eligibility  
**Date of Last Change:** 2022|September 22, 2020|  
**Authorizing, and Implemented or Interpreted Law:** 26-18

## NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R426-2</b>	<b>Filing ID</b> <b>54386</b>
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### Agency Information

<b>1. Department:</b>	Health	
<b>Agency:</b>	Family Health and Preparedness, Emergency Medical Services	
<b>Room no.:</b>	404	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 142004	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2004	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Guy Dansie	801-560-1544	gdansie@utah.gov

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

### General Information

#### 2. Rule or section catchline:

R426-2. Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews

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

Amendments are required as per S.B. 109 passed in the 2021 General Session. See <https://le.utah.gov/~2021/bills/static/SB0109.html>

#### 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 proposed rule amendments eliminate requirements for the Utah Department of Health (UDOH) to license emergency medical dispatchers, and updates requirements for designated emergency medical dispatch centers.

### Fiscal Information

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

##### A) State budget:

There will be a small impact to the state budget. The amendments reflect statutory changes that no longer require licenses for emergency medical dispatchers. The result will be a loss of the fees for processing. In Utah there are approximately 270 emergency medical dispatchers licensed annually. Past fees for licensing were \$30 per person. A loss of 270 x \$30 = \$8,100 will result for the UDOH since licenses are no longer required.

There will be a cost saving in reduced licensing fees for the Utah Department of Public Safety since they will no longer need to license approximately 35 emergency medical dispatchers. \$30 x 35 = \$1,050.

The difference will result in a net impact of approximately \$7,050 loss of revenue for the state budget.

##### B) Local government:

A fiscal impact to local governments that operate designated emergency medical dispatch centers would be a cost savings. They would be able to reduce the number of fingerprint submissions and background checks for emergency medical dispatchers. Currently, there are 235 locally employed emergency medical dispatchers licensed annually. A cost savings for local governments would be approximately 235 x \$30 = \$7,050 since licensing fees are no longer required.

Fingerprinting and background checks are reduced by approximately 140 per year. The current fee is \$65.25 for fingerprints and background checks. Fees paid for emergency medical dispatchers are approximately 140 x \$65.25 = \$9,135 for processing.

A total cost saving for local governments is approximately \$16,185.

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

No fiscal impacts to small businesses. There are no small businesses that currently own or operate a designated medical dispatch center.

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

No fiscal impacts to non-small businesses. There are no non-small businesses that currently own or operate a designated medical dispatch center.

##### E) Persons other than small businesses, non-small businesses, or 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**):



Slight fiscal impacts to persons other than small businesses, non-small businesses, state, or local government entities. The impact would be a result in less fingerprinting and background checks performed by UDOH for emergency medical dispatchers. Fingerprinting and background checks would be reduced by approximately 140 per year. Fees collected and paid as a pass-through cost are approximately  $140 \times \$65.25 = \$9,135$  for processing. This will impact administrative revenues from collected fees passed through to the Federal Bureau of Investigation for the background checks.

**F) Compliance costs for affected persons:**

There are no impacts to compliance costs for affected persons. This does not impact the public callers who use 911 emergency call centers that are also designated emergency medical dispatch centers.

**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):

There are no businesses that currently own or operate a designated medical dispatch center; therefore, businesses will see neither revenue nor cost as a result of this change. Nathan Checketts, 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**

<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$7,050	\$7,050	\$7,050
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$9,135	\$9,135	\$9,135
<b>Total Fiscal Cost</b>	<b>\$16,185</b>	<b>\$16,185</b>	<b>\$16,185</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$16,185	\$16,185	\$16,185
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$16,185</b>	<b>\$16,185</b>	<b>\$16,185</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The amendments reflect statutory changes that no longer require licenses for emergency medical dispatchers. The proposed amendments include new emergency medical dispatcher and designated medical dispatch center requirements. The amendments are proposed after receiving input of 911 centers, EMS Rules Task Force, and approval by the EMS Committee.

UDOH licenses are no longer required. All Emergency Medical Dispatchers will require certification by the dispatch center's selective medical dispatch system vendor. The training and certification program shall conform to the state EMS Committee recommendations for standards.

There will be a small impact to the state budget because emergency medical dispatchers will no longer be licensed. The result will be a loss of the fees at \$30 per person for processing approximately 270 emergency medical dispatchers licensed annually ( $270 \times \$30 = \$8,100$ ). The Utah Department of Public Safety will have a cost savings since it will no longer need to license approximately 35 emergency medical dispatchers.  $\$30 \times 35 = \$1,050$ . The difference will result in a net impact of approximately \$7,050 loss or cost for the state budget.

There are no businesses that currently own or operate a designated medical dispatch center. Therefore, businesses will see neither revenue nor cost as a result of this change. Nathan Checketts, Executive Director

**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:**

Title 26, Chapter 8a		
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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.)

<b>A) Comments will be accepted until:</b>	04/14/2022
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<b>10. This rule change MAY become effective on:</b>	04/21/2022
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

<b>Agency head or designee, and title:</b>	Nathan Checketts, Executive Director	<b>Date:</b>	08/12/2021
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#### R426. Health, Family Health and Preparedness, Emergency Medical Services.

##### R426-2. Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews.

###### R426-2-100. Authority and Purpose.

(1) This rule is established under Title 26 Chapter 8a. It describes types of providers that require a designation, the application process for obtaining a designation and minimum designation requirements.

(2) The rule also establishes criteria for critical incident stress management and the process for quality assurance reviews.

###### R426-2-200. EMS Provider Designation Types.

(1) The following type of provider shall obtain a designation from the Department:

- (a) Quick Response ~~[Unit]~~ Provider;
- (b) Emergency Medical Service Dispatch Center; or
- (c) Nonemergency Secured Behavioral Health Transport.

###### R426-2-300. Quick Response ~~[Unit]~~ Provider Minimum Designation Requirements.

(1) A quick response ~~[unit]~~ provider shall meet the following minimum designation requirements:

- (a) vehicles~~[(s)]~~, equipment, and supplies that meet Department requirements;
- (b) describe locations~~[(s)]~~ for stationing its vehicles~~[(s)]~~, equipment and supplies;
- (c) a current dispatch agreement with a designated Emergency Medical Service Dispatch Center;
- (d) a Department-endorsed training officer;
- (e) a current plan of operations, which shall include:
  - (i) the name~~[s]~~, EMS ~~[ID Number]~~ license number, and license level of ~~[all]~~ personnel;
  - (ii) operational procedures; and
  - (iii) a description of how the designated provider proposes to interface with other licensed and designated EMS providers.

(f) A current agreement with a Department-certified off-line medical director who will perform the following:

- (i) develop and implement patient care standards which include written standing orders and triage, treatment, pre-hospital protocols, and~~[for]~~ pre-arrival instructions to be given by designated emergency medical dispatch centers;
- (ii) ensure the qualification of field licensed EMS personnel involved in patient care and dispatch through the provision of ongoing continuing medical education programs and appropriate review and evaluation;

(iii) develop and implement an effective quality improvement program, including medical audit, review, and critique of patient care;

(iv) annually review triage, treatment, and transport protocols and update them as necessary;

(v) suspend from patient care, pending Department review, a field EMS personnel or dispatcher who does not comply with local medical triage, treatment and transport protocols, pre-arrival instruction protocols, or who violates ~~[any of the]~~ EMS rules, or who the medical director determines is providing emergency medical service in a careless or unsafe manner~~[-]~~;

(vi) notify the Department within one business day of any imposed suspensions; and

(vii) attend meetings of the local EMS Council, if one exists, to ~~[participate in the coordination and]~~ coordinate operations of local EMS providers~~[-]~~;

(g) ~~[Have]~~ provide current treatment protocols approved by the certified off-line medical director for the designated service level;

(h) provide ~~[the Department with]~~ a copy of its certificate of insurance; and

(i) provide ~~[the Department with]~~ a letter of support from the licensed ambulance providers~~[(s)]~~ in the geographical service area~~[-]~~ and

~~\_\_\_\_\_ (j) not be disqualified for reasons including:  
\_\_\_\_\_ (i) violation of Subsection 26-8a-504; or  
\_\_\_\_\_ (ii) a history of disciplinary action relating to an EMS license, permit, designation or certification in this or any other state.]~~

###### R426-2-400. Emergency Medical Service Dispatch Center Minimum Designation and Certified Emergency Medical Dispatcher Requirements.

(1) Designated emergency medical service dispatch centers shall have~~[Have in effect]~~ a selective medical dispatch system that meets EMS Committee approval, and uses local dispatch protocols approved by the off-line medical director ~~[which includes]~~ including:

- (a) systemized caller interrogation questions;
- (b) systemized pre-arrival instructions;
- (c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration;
- (d) use protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration;
- (e) provide pre-hospital arrival instructions by a ~~[licensed]~~ certified Emergency Medical Dispatcher (EMD);
- (f) have a current updated plan of operations including:
  - (i) plan of operations to be used in a disaster or emergency;
  - (ii) communication systems; and
  - (iii) aid agreements with other designated medical service dispatch centers;
- (g) a current agreement with a Department-certified off-line medical director;
- (h) an ongoing medical call review quality assurance program; and

(i) a licensed emergency medical dispatcher roster including ~~[licensed]~~ certified EMD staff names, ~~[Department license]~~ certification numbers and expiration dates~~[-]~~ and ~~dispatch system training certification number and expiration dates.]~~

(2) EMDs shall be certified by the dispatch center's selective medical dispatch system vendor. Before authorization of a training and certification program by the vendor of a qualified

medical dispatch system, the vendor must meet the certification requirements approved by the EMS Committee. Certification requirements shall include:

- (a) successful completion of the certification course and related testing;
- (b) keep documentation of having completed a training course, utilizing the 2020 American Heart Association emergency cardiovascular care guidelines, in high-quality telephone cardiopulmonary resuscitation (T-CPR). The instruction shall incorporate recognition protocols for out-of-hospital cardiac arrest (OHCA) CPR instructions for callers, and continuous education;
- (c) certified EMDs shall be included in the Department's license management system for compliance monitoring and may adjust state EMS grant revenues based on failure to comply with the requirements of this section;
- (d) meet background screening requirements as described in Section 26-8a-310.5; and
- (e) be at least 18 years of age or older.

**R426-2-500. Nonemergency Secured Behavioral Health Transport Minimum Designation Requirements.**

- (1) Vehicles~~[(s)]~~, equipment, and supplies that meet the current requirements of the Department for designated nonemergency secured behavioral health transport providers as found on the Bureau of EMS and Preparedness' website.
- (2) Meet staffing requirements as set forth by the EMS Committee. During transport each designated nonemergency secured behavioral health transport vehicle shall be staffed with two personnel~~[, with at least one who has]~~. One or both staff shall have ~~obtained~~ completed required training as approved by Department policy for mental health patient de-escalation and American Heart Association cardiopulmonary resuscitation or equivalent.

**R426-2-600. Designation Applications.**

- (1) Any person applying for designation shall submit to the Department:
  - (a) ~~[A]~~ applications fees~~[-]~~;
  - (b) ~~[C]~~ complete application on Department ~~[approved]~~ forms~~[-]~~; and
  - (c) ~~[D]~~ documentation verifying that the provider meets the minimum requirements for the designation.
- (2) The Department may determine if clarifying information is needed for approval or processing. The Department will provide needed requirements to the applicant.
- (3) A provider applying for re-designation should submit an application as described above 90 days ~~[prior to]~~ before the expiration of its designation ~~[in order]~~ to avoid a lapsed period~~[- of time.]~~
- (4) A designation may be issued for up to a four-year period.

**R426-2-700. Quick Response ~~[Unit]~~ Provider Designation Applications.**

- (1) A Quick Response ~~[Unit]~~ Provider shall provide:
  - (a) name of the organization and its principles;
  - (b) name of the person or organization financially responsible for the service and documentation from that entity accepting responsibility;
  - (c) if the applicant is privately owned, they shall submit certified copies of the document creating the entity;
  - (d) a description of the geographical area of service; and
  - (e) a demonstrated need for the service.

**R426-2-800. Emergency Medical Service Dispatch Center Designation Applications.**

- (1) An Emergency Medical Service Dispatch Center shall provide:
  - (a) name of the organization and its principles;
  - (b) name of the person or organization financially responsible for the service provided by the designee and documentation from that entity accepting responsibility;
  - (c) if the applicant is privately owned, they shall submit certified copies of the document creating the entity;
  - (d) a description of the geographical area of service; and
  - (e) a demonstrated need for the service.

**R426-2-900. Nonemergency Secured Behavioral Health Transport Designation Applications.**

- (1) A designated nonemergency secured behavioral health transport provider shall provide to the Department:
  - (a) name of the organization and its principles;
  - (b) name of the person or organization financially responsible for the service and documentation from that entity accepting responsibility; and
  - (c) if the applicant is privately owned, they shall submit certified copies of the document creating the entity.
- (2) Provide a current plan of operations, which shall include:
  - (a) a description of operational procedures;
  - (b) description~~[(s)]~~ of how the designated non~~[-]~~emergency secured behavioral health transport will interface with hospitals, emergency receiving facilities, licensed mental health facilities, and EMS providers;
  - (c) a list of current insurance carriers and health facilities in which the designated provider has current contracts;
  - (d) written policies that address under what circumstances a transport will be declined for medical or payment purposes;
  - (e) a written protocol to activate 911 if an emergency medical situation arises; and
  - (f) procedures for patient care.
- (3) Provide a written policy of how the designated nonemergency secured behavioral health transport will report patient care data to the Department.
- (4) Provide a copy of its certificate of insurance or if seeking application, provide proof of the ability to obtain insurance to respond to damages due to operation of a vehicle in the and following minimum amounts:
  - (a) liability insurance in the amount of \$1,000,000 for each individual claim; and
  - (b) liability insurance in the amount of \$1,000,000 for property damage from any one occurrence.
- (5) A designated nonemergency secured behavioral health transport provider shall obtain the insurance from an insurance company authorized to write liability coverage in Utah or through a self-insurance program and shall:
  - (a) provide the Department with a copy of its certificate of insurance demonstrating compliance with this section;
  - (b) direct the insurance carrier or self-insurance program to notify the Department of all changes in insurance coverage within 60 days; and
  - (c) provide the Department with a copy of its certificate of insurance indicating coverage at or above \$1,000,000 for liability.
- (6) ~~[Prior to]~~ Before approval of the designation, all vehicles will be inspected and permitted by the Department and shall meet the requirements in Subsection R426-4-300(5).

~~[(7) Not be disqualified for any of the following reasons:  
(a) violation of Subsection 26-8a-504; or  
(b) a history of disciplinary action relating to an EMS license, permit, designation or certification in this or any other state.]~~

#### **R426-2-1000. Denial or Revocation of Designation.**

(1) The Department may deny an application for a designation for any of the following reasons:

(a) failure to meet requirements as specified in the rules governing the service;

(b) failure to meet vehicle, equipment, or staffing requirements;

(c) failure to meet requirements for renewal or upgrade;

(d) conduct during the performance of duties relating to its responsibilities as an EMS provider that is contrary to accepted standards of conduct for EMS personnel described in Sections 26-8a-502 and 26-8a-504;

(e) failure to meet agreements covering training standards or testing standards;

(f) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state~~[-]~~;

(g) a history of criminal activity by the licensed or designated provider or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;

(h) falsifying or misrepresenting any information required for licensure or designation or by the application for either;

(i) failure to pay the required designation or permitting fees or failure to pay outstanding balances owed to the Department;

(j) failure to submit records and other data to the Department as required by statute or rule;

(k) misuse of grant funds received under Section 26-8a-207; and

~~(l) violation of [OSHA or other] federal standards [that it is] required [to meet in the provision of the] for the provision of EMS service.~~

(2) An applicant who has been denied a designation may request a Department review by filing a written request for reconsideration within ~~[thirty]~~30 calendar days of the issuance of the Department's denial.

#### **R426-2-1100. Application Review and Approval.**

(1) If the Department finds that an application for designation is complete and that the applicant meets ~~[all]~~ requirements, it may approve the designation.

#### **R426-2-1200. Change in Designated Level of Service.**

(1) A quick response ~~[unit]~~provider may apply to provide a higher designated level of service by:

(a) submitting the applicable fees; and

(b) submitting an application on Department~~[-approved]~~ forms to the Department.

(2) As part of the application, the applicant shall provide:

(a) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;

(b) an updated plan of operations demonstrating the applicant's ability to provide the higher level of service;

(c) a written assessment of the performance of the applicant's field performance by the applicant's off-line medical director; and

(d) provide the Department with a letter of support from the licensed providers~~[(s)]~~ in the geographical service area.

(3) If the Department finds that the applicant has demonstrated the ability to provide the upgraded service, it shall issue a new designation reflecting the higher level of service.

#### **R426-2-1300. Critical Incident Stress Management and Peer Support Training.**

(1) The Department may establish a critical incident stress management (CISM) team to meet its public health responsibilities.

(2) The Department's CISM team may conduct stress debriefings, defusings, demobilizations, education, and other critical incident stress interventions upon request for persons who have been exposed to one or more stressful incidents in the course of providing emergency services.

(3) The Department's CISM team may assist the Department in approving peer support training for licensed EMS personnel.

(4) Individuals who serve on the CISM team shall complete Department~~[-]~~approved initial and ongoing training.

(5) While serving as a CISM team member, the individual is acting on behalf of the Department. ~~[All-]~~Records collected by the CISM team are Department records. CISM team members ~~[shall maintain all information in strict confidence]~~may not share Department identifiable personal information related to activities under Subsection (2).

(6) The Department may reimburse a CISM team member for travel expenses incurred in performing ~~[his or her]~~their duties in accordance with state finance mileage reimbursement policy.

(7) The Department will maintain a list of individuals who have successfully completed an approved peer support training program.

(8) Individuals who perform peer support functions may receive legal protections to not be compelled to disclose information as described in ~~[Utah Code-]~~Section 78B-5-9. ~~[-Part 9-]~~

(9) Individuals who perform peer support functions for a licensed or designated EMS provider ~~[should]~~shall be familiar with peer support policies for the licensed or designated EMS provider with whom they are employed or otherwise serving.

#### **R426-2-1400. Quality Assurance Reviews.**

(1) The Department may conduct quality assurance reviews of licensed and designated providers and training programs on an annual basis or more frequently as necessary to enforce this rule.

(2) The Department shall conduct a quality assurance review ~~[prior to]~~before issuing a new license or designation.

(3) The Department may conduct quality assurance reviews on ~~[all-]~~personnel, vehicles, facilities, communications, equipment, documents, records, methods, procedures, materials and ~~[all-]~~other attributes or characteristics of the designated provider.

(a) The Department will provide a written copy to the designated provider.

(b) The designated provider shall correct deficiencies within 30 days unless otherwise directed by the Department.

(c) The designated provider shall immediately notify the Department on a Department-approved form when the deficiencies have been corrected.

#### **KEY: emergency medical services**

**Date of Last Change: 2022[September 11, 2019]**

**Notice of Continuation: October 9, 2018**

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

**NOTICE OF PROPOSED RULE****TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R426-5</b>	<b>Filing ID 54387</b>
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**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Family Health and Preparedness, Emergency Medical Services	
<b>Room no.:</b>	404	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 142004	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2004	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Guy Dansie	801-560-1544	gdansie@utah.gov

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

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

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

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

The reason for this change is to comply with amended statutory changes in Title 26, Chapter 8a, due to S.B. 53 and S.B. 109 passed in the 2021 General Session.

**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 rule amendment removes outdated language for the licensing of emergency medical dispatchers and adds language for the licensing of a behavioral emergency service technician also known as a crisis response technician (CRT).

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

There will be a small impact to the state budget. The amendments reflect statutory changes that no longer

require licenses for emergency medical dispatchers. The result will be a loss of the fees for processing. In Utah there are approximately 270 emergency medical dispatchers licensed annually. Past fees for licensing were \$30 per person. A loss of  $270 \times \$30 = \$8,100$  will result for the Utah Department of Health, since licenses are no longer required for emergency medical dispatchers.

There will be a cost saving will result in reduced licensing fees for the Utah Department of Public Safety since they will no longer need to license approximately 35 emergency medical dispatchers.  $\$30 \times 35 = \$1,050$ .

The difference will result in a net impact of approximately \$7,050 loss or cost for the state budget.

The rule amendments will add licensing and associated background check fees for behavioral emergency service technicians or CRTs. The estimated license fee revenues will be 36 new licenses  $\times \$30 = \$1,080$  for FY 2023, and 108 new licenses  $\times \$30 = \$3,240$  for FY 2024.

A possible net cost of \$7,050 for FY 2022, a possible net cost of \$5,970 for FY 2023, and a possible net cost of \$3,810 for FY 2024.

**B) Local governments:**

A fiscal impact to local governments that operate designated emergency medical dispatch centers would be a cost savings. They would be able to reduce the number of fingerprint submissions and background checks for emergency medical dispatchers. Currently, there are 235 locally employed emergency medical dispatchers licensed annually. A cost savings for local governments would be approximately  $235 \times \$30 = \$7,050$  since licensing fees are no longer required.

Fingerprinting and background checks are reduced by approximately 140 per year. The current fee is \$65.25 for fingerprints and background checks. Fees paid for emergency medical dispatcher are approximately  $140 \times \$65.25 = \$9,135$  for processing.

A total cost saving for local governments is approximately \$16,185.

Local governments may choose to license personnel for the behavioral emergency services technician also known as a CRT. Since this is not mandated, there is no direct fiscal impact for local governments.

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

No small business participating in these amendments and there is no impact for small businesses.

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

The non-small businesses may choose to license personnel for the behavioral emergency services technician also known as a CRT. Since this is not mandated, there is no direct fiscal impact for non-small businesses.

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

Persons other than small businesses, non-small businesses, state, and local government entities may choose to license personnel for the behavioral emergency services technician also known as a CRT. Since this is not mandated, there is no direct fiscal impact for persons other than small businesses, non-small businesses, state, or local governmental entities.

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

The creation of a licensed behavioral emergency services technician also called a CRT might reduce unnecessary transports for patients who may be evaluated on scene and determined that a transport is not needed. This is a new requirement and supporting data for cost savings has not been established.

**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 establishes requirements for training, certification, endorsements, uniform standards for EMS service providers and licensing EMS personnel and sets out. The amendments are made to comply with statutory changes to Title 26, Chapter 8a, made S.B. 53 and S.B. 109 (2021). The amendment removes outdated language for the licensing of emergency medical dispatchers and adds language for the licensing of a behavioral emergency service technician also known as a CRT. There is no fiscal impact to business because licensing personnel for the behavioral emergency services technician also known as a CRT is voluntary. Nate Checketts, 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	\$7,050	\$5,970	\$3,810
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$	\$	\$
<b>Total Fiscal Cost</b>	<b>\$7,050</b>	<b>\$5,970</b>	<b>\$3,810</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$16,185	\$16,185	\$16,185
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$16,185</b>	<b>\$16,185</b>	<b>\$16,185</b>
<b>Net Fiscal Benefits</b>	<b>\$9,135</b>	<b>\$10,215</b>	<b>\$12,375</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Health, Nathan Checketts, has approved this 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:**

Title 26, Chapter 8a		
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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.)

<b>A) Comments will be accepted until:</b>	04/14/2022
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<b>10. This rule change MAY become effective on:</b>	04/21/2022
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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**

<b>Agency head or designee, and title:</b>	Nathan Checketts, Executive Director	<b>Date:</b>	02/13/2022
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**R426. Health, Family Health and Preparedness, Emergency Medical Services.****R426-5. Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards.****R426-5-100. Authority and Purpose.**

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

~~(1) Authority for this rule is found in Title 26, Chapter 8a, Utah Emergency Medical Services Act.~~

~~(2) The purpose of this rule is to:~~

~~(a) Describe requirements for training, certification, endorsements, and licensing of individuals who provide emergency medical services.~~

~~(b) Provide uniform minimum standards to be met by those providing emergency medical services within the state.~~

**R426-5-110. Definitions as Used in this Rule.**

~~(1) "Advanced Emergency Medical Technician" (AEMT) as defined in Subsection R426-1-200(1).~~

~~(2) "Committee" as defined in Subsection 26-8a-102(5).~~

~~(3) "Crisis Response Technician" (CRT) is a person who provides "Behavioral Emergency Services" as defined in Subsection 26-8a-102(4)(a)(b).~~

~~(4) "Department" as defined in Subsection R426-1-200(13).~~

~~(5) "Emergency Medical Responder" (EMR) as defined in Subsection R426-1-200(16).~~

~~(6) "Emergency Medical Services" (EMS) as defined in Subsection R426-1-200 (20).~~

~~(7) "Emergency Medical Technician" (EMT) as defined in Subsection R426-1-200(17).~~

~~(8) "Emergency Medical Technician Intermediate Advanced" (EMT-IA) as defined in Subsection R426-1-200(18).~~

~~(9) "Paramedic" as defined in Subsection R426-1-200(41).~~

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

~~(1) The Department may license an individual as an EMR, EMT, AEMT, EMT-IA, Paramedic, or CRT[EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD] who meets the requirements in this rule.~~

~~(2) The Committee adopts as the standard for EMR, EMT, AEMT, EMT-IA, and Paramedic[EMR, EMT, AEMT, EMT-IA, or Paramedic] training and competency [in the state, the United States Department of Transportation's National Emergency Medical Services Education Standards,] the National Association of State EMS Officials. National EMS Scope of Practice Model 2019 (Report No. DOT HS 812-666). Washington, DC: National Highway Traffic Safety Administration.~~

~~(3) An EMR, EMT, AEMT, EMT-IA, Paramedic, or CRT[EMR, EMT, AEMT, or Paramedic] may perform the skills [as described in the EMS National Education Standards,] to their level of licensure, as adopted in this section.~~

~~(4) A CRT may perform skills including crisis response triage, discussion of available resources, and referral to appropriate mental health professions as determined by Department- approved training and local mental health authority approved protocols in the corresponding response area.~~

**R426-5-300. EMS Individual Licensure for [EMR, EMT, AEMT, EMT-IA, and Paramedic] [EMR, EMT, AEMT, EMT-IA, Paramedic, and CRT].**

~~(1) The Department may license an EMR, EMT, AEMT, EMT-IA, Paramedic, or CRT[EMR, EMT, EMT-IA, AEMT, or Paramedic] for a two-year period.~~

~~(2) An individual who wishes to become licensed as an EMR, EMT, AEMT, EMT-IA, Paramedic, or CRT[EMR, EMT, AEMT, EMT-IA, or Paramedic] shall:~~

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

~~(b) be able to perform the functions listed in the National EMS Education Standards referenced in Subsection R426-5-200(2)[adopted in this rule] as verified by personal attestation and successful accomplishment by [certified] Department-endorsed EMS [F]instructors[ during the course];~~

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

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

~~(e) submit to and pass a background investigation, including an FBI background investigation;~~

~~(f) retain documentation of having completed a Department approved [CPR]cardiopulmonary resuscitation course within the prior two years that is consistent with the [most current]2020 American Heart Association Guidelines for the level of Adult and Pediatric Healthcare Cardiopulmonary Resuscitation (CPR) and Emergency Cardiac Care (ECC) Basic Life Support (BLS); and~~

~~(g) retain tuberculosis[TB] test results.~~

~~(3) An individual who wishes to become licensed as a CRT shall:~~

~~(a) successfully complete a Department-approved CRT course as described in this rule;~~

~~(b) be able to perform the functions as described in Subsection R426-5-200 (4);~~

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

~~(d) submit to and pass a background investigation, including an FBI background investigation; and~~

~~(e) retain tuberculosis test results.~~

~~[(3)](4) Age requirements:~~

~~(a) EMR may [certify]be licensed at 16 years of age or older;[and]~~

~~(b) EMT, AEMT, EMT-IA and Paramedic may [certify]be licensed at 18 years of age or older[; and]~~

~~(c) CRT may be licensed at 21 years of age or older.~~

~~[(4)](5) Within two years after the official course end date, the applicant for EMR, EMT, AEMT, EMT-IA, Paramedic, or CRT licensure shall successfully complete the Department's approved National Registry of Emergency Medical Technician's written and~~

practical EMR, EMT, AEMT, EMT-IA, or Paramedic examinations, or reexaminations, if necessary.

~~[(5)](6)~~ Licensed personnel shall retain and submit upon request by the Department any documentation required for licensure.

~~[(6)](7)~~ An individual who wishes to enroll in an AEMT, EMT-IA, or Paramedic course shall have as a minimum a Utah EMT license, and the license ~~[- This license or other equivalent state license or certification approved by the Department]~~ shall remain current until new license level is obtained.

(8) An individual who wishes to enroll in a CRT course shall be a licensed EMS provider or a law enforcement officer for at least two years before enrollment, or have at least two years of equivalent experience before enrollment into a CRT course or program.

(9) Upon successful completion of the program, written verification of the successful candidates shall be submitted to the Department for review.

~~[(7)](10)~~ The Department may extend time limits for an individual who has unusual circumstances or hardships.

#### **R426-5-310. Emergency Medical Dispatcher (EMD) Individual Licensure.**

~~(1) The Department may license an EMD for a two-year period.~~

~~(2) An individual who wishes to become licensed as an EMD shall:~~

~~(a) successfully complete and become certified in a Department approved EMD protocol system by the system vendor no later than July 1, 2020;~~

~~(b) submit to and pass a criminal background investigation and screening clearance;~~

~~(c) retain documentation of having completed a Department approved CPR course within the prior two years. CPR training shall be kept current during licensure.~~

~~(3) An EMD may be licensed at 18 years of age or older.]~~

#### **R426-5-400. Licensure at a Lower Level.**

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

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

(b) the individual successfully completes ~~[all]~~ other application and testing requirements for an AEMT.

#### **R426-5-500. License Challenges for EMT or AEMT.**

~~(1) [The Department may license an individual as an EMT or AEMT, in consecutive order; individuals with military medical training, a registered nurse licensed in Utah, a nurse practitioner licensed in Utah, a physician assistant licensed in Utah, or a physician licensed in Utah who:]~~ The Department may license an individual as and EMT or AEMT, in consecutive order, who has military medical training, a Utah registered nurse license, a Utah nurse practitioner license, a Utah physician assistant license, or a Utah physician license, and:

(a) ~~[is able to]~~ can demonstrate knowledge, proficiency, and competency to perform ~~[all]~~ the functions listed in the National EMS Education Standards as described in Subsection R426-5-200(2) as verified by personal attestation and successful demonstration to a

currently certified course coordinator and an off-line medical director;

(b) has a knowledge of:

(i) medical control protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of an EMT or AEMT respectively;

(c) maintains and submits documentation of having completed a CPR course within the prior two years that is consistent with the ~~[most current version of the] 2020 American Heart Association Guidelines for [a] Adult and Pediatric Healthcare Professional [CPR and ECC BLS] Cardiopulmonary Resuscitation and Emergency Cardiovascular Care Basic Life Support; and~~

(d) is 18 years of age or older.

(2) To become licensed as either an EMT or AEMT, the individual ~~[applicant]~~ shall:

(a) submit the applicable fees and a completed application, including social security number, signature, and ~~[r]~~ proof of current Utah license as a ~~[(R)]~~registered ~~[(N)]~~nurse, a ~~[(P)]~~physician ~~[(A)]~~assistant, or a ~~[(M)]~~medical ~~[(D)]~~doctor, or military transcripts for training;

(b) successfully complete the Department ~~[-]~~ approved written and practical EMT or AEMT examinations, or reexaminations, if necessary; and

(c) submit to and pass a background screening clearance as per Section R426-5-3200.

(3) The Department may license as a CRT an individual with military mental health training, or a licensed mental health professional in Utah, who:

(a) can demonstrate knowledge, proficiency and competency to perform the functions as verified by personal attestation and successful demonstration to a county mental health authority or designee;

(b) has a knowledge of:

(i) crisis response protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of a CRT;

(c) maintains and submits documentation of having completed a cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Adult and Pediatric Healthcare Professional Cardiopulmonary Resuscitation and Emergency Cardiovascular Care Basic Life Support; and (d) is 21 years of age or older. R426-5-510. License Challenges for CRT.

(4) To become licensed as a CRT, the individual shall:

(a) submit the applicable fees and a completed application, including social security number, signature, and proof of current Utah license as a mental health professional, or military transcripts for training;

(b) successfully complete the Department approved written and practical CRT examinations, or reexaminations, if necessary; and

(c) submit to and pass a background screening clearance as per Section R426-5-3200.

#### **R426-5-600. License Renewal Requirements for EMR, EMT, AEMT, EMT-IA, and Paramedic.**

(1) The Department may renew an individual license for a two-year period or for a shorter period as modified by the Department to standardize renewal cycles.

(2) An individual seeking ~~[recertification]~~ license renewal shall:

## NOTICES OF PROPOSED RULES

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

(b) submit to and pass a background screening clearance as per Section R426-5-3200;

(c) retain documentation of having completed a ~~[CPR]~~cardiopulmonary resuscitation course within the prior two years that is consistent with the ~~[most current]~~2020 version of the American Heart Association Guidelines for the level of Adult and Pediatric Healthcare Professional ~~[CPR and ECC BLS]~~Cardiopulmonary Resuscitation and Emergency Cardiovascular Care Basic Life Support. ~~[CPR]~~Cardiopulmonary Resuscitation shall be kept current during licensure; and

(d) provide documentation of completion of Department-approved ~~[CME]~~continuing medical education requirements.

(3) The EMR, EMT, AEMT, EMT-IA and Paramedic shall complete the required ~~[CME]~~continuing medical education hours, as outlined in the Department's Renewal Protocol for EMS Personnel Manual. The hours shall be completed throughout the prior two years.

(4) The EMR, EMT, AEMT, EMT-IA, or Paramedic shall complete and provide documentation upon request of demonstrating the psychomotor skills listed in the ~~[current]~~2019 National EMS Education Standards at their level of licensure.

(5) An EMR, EMT, AEMT, EMT-IA, or Paramedic who is affiliated with a licensed or designated EMS provider shall have the licensed or designated EMS provider's training officer submit a letter verifying the completion of the renewal requirements. An EMR, EMT, AEMT, EMT-IA, or Paramedic who is not affiliated with a licensed or designated EMS provider shall provide upon the request of the Department verification of ~~[all]~~renewal requirements directly to the Department.

(6) An AEMT, EMT-IA or Paramedic shall obtain verification from a certified off-line medical director recommending the individual for renewal verifying the individual has demonstrated proficiency in the psychomotor skills listed in the ~~[current]~~2019 National EMS Education Standards at their license level.

(7) Individuals are responsible to complete and submit ~~[all]~~required renewal material to the Department at one time, no later than 30 days and no earlier than six months ~~[prior to]~~before the individual's current license expiration date. Renewal material submitted less than 30 days may result in a license expiration. The Department processes renewal material in the order received.

(8) A Department approved entity who provides ~~[CME]~~continuing medical education may compile and submit renewal materials on behalf of an EMR, EMT, AEMT, EMT-IA, or Paramedic; however, the individual EMR, EMT, AEMT, EMT-IA, or Paramedic is responsible for a timely and complete submission.

(9) The Department may not lengthen an individual's license period to more than the two[-] years, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when the license expired.

### R426-5-700. License Renewal Requirements for ~~[EMD]~~CRT.

~~[(1) The Department may renew an individual license for a two year period or for a shorter period as modified by the Department to standardize renewal cycles.~~

~~[(2) An individual seeking renewal shall:~~

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

~~[(b) submit to and pass a background screening clearance as per R426-5-3100;~~

~~[(c) retain documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for the level of Adult and Pediatric Healthcare Professional CPR and ECC BLS. CPR shall be kept current during licensure;~~

~~[(d) a minimum of a two-hour course in critical incident stress management (CISM);~~

~~[(e) successfully complete certification in a Department approved EMD protocol system; and]~~

~~[(3) An EMD-](1) A CRT applying for renewal shall [have the communications center supervisor or Department endorsed training officer of the designated medical dispatch center submit a letter verifying the completion of renewal requirements.]be in good standing with the local mental health authority. The local mental health authority or designee may revoke a CRT's license upon written request to the Department.~~

~~[(2) Complete Department approved continuous education requirements of no less than 8 hours every two years.~~

~~[(4)](3) Individuals are responsible to complete and submit [all]required renewal material to the Department at one time, no later than 30 days and no earlier than one year [prior to]before the individual's current license expiration date. Renewal material submitted less than 30 days may result in license expiration. The Department processes renewal material in the order received.~~

~~[(5)](4) The Department may shorten [an individual's]a CRT's license period.~~

~~[(6)](5) The Department may not lengthen an individual's license period to more than two years unless the individual is a member of the National Guard or reserve component of the armed forces and was on active duty when their license expired.~~

### R426-5-800. Reciprocity for EMR, EMT, AEMT, and Paramedic.

(1) The Department may license an individual as an EMR, EMT, AEMT, or Paramedic who is licensed or certified by another state or certifying body if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

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

(a) ~~[S]~~submit the applicable fees and a completed application, including social security number to the Department and complete ~~[all of]~~the following within two years of submitting the application;

(b) submit to and pass a background screening clearance as per R426-5-3200;

(c) retain documentation of having completed a ~~[CPR]~~cardiopulmonary resuscitation course within the prior two years that is consistent with the ~~[most current]~~2020 version of the American Heart Association Guidelines for the level of Adult and Pediatric Healthcare Professional ~~[CPR and ECC]~~Cardiopulmonary Resuscitation and Emergency Cardiovascular Care ~~[and BLS]~~Basic Life Support. A Paramedic candidate shall also retain documentation of successful completion of ~~[ACLS]~~Advanced Care Life Support or equivalent. ~~[All-]~~AEMT, EMT-IA, and Paramedic licensed personnel shall retain documentation of PEPP, PALS, or equivalent courses within the prior two years;

(d) successfully complete the National Registry of Emergency Medical Technician's written and practical EMR, EMT, AEMT, or Paramedic examinations, or reexaminations, if necessary; and



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

#### **R426-5-810. Reciprocity for CRT.**

(1) The Department may license an individual as an CRT who is licensed or certified by another state or certifying body if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

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

(a) Submit the applicable fees and a completed application, including social security number to the Department and complete the following within two years of submitting the application;

(b) submit to and pass a background screening clearance as per Section R426-5-3200;

(c) retain documentation of having completed a CPR course within the prior two years that is consistent with the 2020 version of the American Heart Association Guidelines for the level of Adult and Pediatric Healthcare Professional Cardiopulmonary Resuscitation and Emergency Cardiovascular Care Basic Life Support; and

(d) submit a current certification or license from one of the states of the United States or its possessions, or current registration and the name of the training institution.

#### **R426-5-900. Lapsed Licenses.**

(1) An individual whose EMR, EMT, AEMT, EMT-IA, Paramedic, or ~~[EMD]~~CRT license has expired for less than one year may, within one year after expiration, complete ~~[all]~~ renewal requirements, pay a late licensure fee. Individuals ~~[applying for EMR, EMT, AEMT, or Paramedic licensure also]~~ may be required to successfully pass the Department's approved written examination to become licensed. The individual's new expiration date will be two years from the previous expiration date.

(2) An individual whose license for EMR, EMT, AEMT, EMT-IA, or Paramedic has expired for more than one year shall:

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

(b) successfully complete the applicable Department's approved written examination;

(c) complete ~~[all]~~ renewal requirements; and

(d) the individual's new expiration date will be two years from the completion of ~~[all]~~ renewal materials.

(3) An individual whose license for CRT has expired for more than one year shall:(a) submit a letter of recommendation including results of an oral examination, from a county mental health director or designee, verifying proficiency in behavioral health care skills at the licensure level;(b) successfully complete the applicable Department's approved written examination;(c) complete renewal requirements; and(d) the individual's new expiration date will be two years from the completion of renewal materials.

~~[(3)]~~(4) An individual whose certification or license has lapsed, is not authorized to provide care as an EMR, EMT, AEMT, EMT-IA, Paramedic, or ~~[EMD]~~CRT until the individual completes the renewal process.

**KEY: emergency medical services**

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

**Notice of Continuation: November 16, 2021**

**Authorizing, and Implemented or Interpreted Law: 26-1-30; 268a-302**

#### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

<b>Utah Admin. Code Ref (R no.):</b>	<b>R982-301</b>	<b>Filing ID</b>	<b>54389</b>
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#### **Agency Information**

<b>1. Department:</b>	Workforce Services	
<b>Agency:</b>	Administration	
<b>Building:</b>	Olene Walker Building	
<b>Street address:</b>	140 E 300 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 45244	
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0244	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amanda B. McPeck	801-526-9653	ampeck@utah.gov

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

#### **General Information**

##### **2. Rule or section catchline:**

R982-301. Councils

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

This rule is no longer necessary. This rule was originally enacted pursuant to Section 35A-1-206 which directed the Department of Workforce Services (Department) to enact rules defining small and large employers. Section 35A-1-206 has since been amended to define the members of the State Workforce Development Board without reference to rule. This rule also explains board member's conflict of interest reporting requirements. The requirements are sufficiently addressed in Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act (Act). There is no need for this rule to reiterate the requirements in the Act. This rule also defines remote attendance in board meetings. The board has since enacted a resolution regarding electronic meetings as required by the Section 52-4-207 of the Open and Public Meetings Act and this rule is no longer necessary.

##### **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 is repealed in its entirety. Please note that the Notice of Effective Date of this repeal may be filed after the date shown in Box 10. The Notice of Effective Date may be filed at any time between April 21, 2022, and July 6, 2022.

### 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 Department's provision of administrative support to and the composition of the State Workforce Development Board will not change with the repeal of this rule.

##### B) Local governments:

There is no anticipated cost or savings to local governments. The Department's provision of administrative support to and the composition of the State Workforce Development Board will not change with the repeal of this rule.

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

There is no anticipated cost or savings to small businesses. The Department's provision of administrative support to and the composition of the State Workforce Development Board will not change with the repeal of this rule.

##### 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 Department's provision of administrative support to and the composition of the State Workforce Development Board will not change with the repeal of this rule.

##### 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 other persons. The Department's provision of administrative support to and the composition of the State Workforce Development Board will not change with the repeal of this rule.

##### 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. The repeal of this rule requires no action or compliance by any persons.

#### 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 rule repeal will not result in a fiscal impact to businesses. Casey Cameron, 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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

#### B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Workforce Services, Casey Cameron, 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:

Subsection 35A-1-104(1)	Subsection 35A-1-206(2)(a) (iv)(A)	Subsection 35A-1-206(2)(a) (iv)(B)
Subsection 35A-2-103(2)(a)(i)	Subsection 35A-2-103(2)(a)(ii)	

## 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.)

<b>A) Comments will be accepted until:</b>	04/14/2022
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<b>10. This rule change MAY become effective on:</b>	05/10/2022
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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

<b>Agency head or designee, and title:</b>	Casey Cameron, Executive Director	<b>Date:</b>	03/01/2022
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## R982. Workforce Services, Administration.

### ~~R982-301. Councils.~~

#### ~~R982-301-101. General Definitions.~~

~~1. Employer. This rule adopts the definition of employer as used in Section 35A-4-203 except that for purposes of this rule, and for purposes of membership on the State Council on Workforce Services, also known as the State Workforce Investment Board an employer shall be a for-profit enterprise.~~

~~2. Median sized employer. The median sized employer shall be calculated, based on the previous calendar year, by the~~

~~Workforce Research and Analysis Division each June 30. The median sized employer is determined by arranging the establishments in an array by number of employees including the number of employees in each employer size interval, and choosing the employer in the array that employs the middle number of employees.~~

~~3. Attendance. Pursuant to Subsection 35A-2-103(6)(b), a council member may be considered present at the meeting when given permission by the council chair to participate in the business of the meeting by videoconference or teleconference.~~

~~4. Conflict of Interest. Prior to voting on any matter before a council, a council member must disclose and declare for the council records any direct financial benefit the member would receive from a matter being considered by the council.~~

### ~~R982-301-102. State Council on Workforce Services.~~

~~1. Authority. As required by Subsections 35A-1-206(2)(a)(iv)(A) and 35A-1-206(2)(a)(iv)(B), this rule defines Small Employers and Large Employers for membership on the State Council on Workforce Services.~~

~~2. Definitions.~~

~~a. "Small employer" means an employer who employs fewer employees than the median sized employer in the state.~~

~~b. "Large employer" means an employer who employs a number of employees that is greater than or equal to the median sized employer in the state.~~

~~c. "Median Sized Employer" as used in R982-301-102(2)(a) and R982-301-102(2)(b) is based solely on the number of employees an employer has in his/her employ in the state during the calendar year.~~

~~d. "Rural employer" means an employer whose primary worksite is located in a rural area outside the Wasatch Front as determined by the Department.~~

~~e. Council membership shall include a large and a small rural employer.~~

### ~~KEY: councils~~

~~Date of Last Change: August 18, 2011~~

~~Notice of Continuation: May 31, 2017~~

~~Authorizing, and Implemented or Interpreted Law: 35A-1-104(1); 35A-1-206(2)(a)(iv)(A); 35A-1-206(2)(a)(iv)(B); 35A-2-103(2)(a)(i); 35A-2-103(2)(a)(ii)~~

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End of the Notices of Proposed Rules Section



## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends April 14, 2022.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through July 13, 2022, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

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The Changes in Proposed Rules Begin on the Following Page

**NOTICE OF CHANGE IN PROPOSED RULE**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R434-30</b>	<b>Filing ID: 54219</b>
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**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Family Health and Preparedness, Primary Care and Rural Health	
<b>Room no.:</b>	4163	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 142005	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2005	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ashley Moretz	801-350-1546	amoretz@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>
R434-30. Primary Care Grant Program
<b>3. Publication date of previous proposed rule or change in proposed rule:</b>
01/15/2022 (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the January 15, 2022, issue of the Utah State Bulletin, on page 40. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)
<b>4. Reason for this change (Why is the agency submitting this filing?):</b>
The public comments included several recommended changes for clarity or consistency, which were deemed to be appropriate.
The allowable costs for "equipment" were proposed for amendment as well. The Advisory Committee recommended that the award ceiling for Referral Network grants be increased.

**5. Summary of this change (What does this filing do?):**

Minor, nonsubstantive changes have been made for clarity or consistency. The cost for allowable "equipment" purchases is being increased from \$1,000 to \$5,000. The annual award ceiling for Referral Network grants is being increased from \$25,000 to \$35,000.

**Fiscal Information****6. Aggregate anticipated cost or savings to:****A) State budget:**

None--State government will not receive or be required to expend any funds as a result of the amendment.

**B) Local government:**

None--Local governments will not receive or expend any additional funding as a result of the amendment because they are not eligible to participate in the program.

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

None--Small businesses will not receive or be required to expend any funds as a result of the amendment because participation in the program is voluntary.

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

None--Non-small businesses will not receive or be required to expend any funds as a result of the amendment because participation in the program is voluntary.

**E) Persons other than small businesses, non-small businesses, or 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*):**

None--Participation in the program is voluntary for persons other than small businesses, non-small businesses, state, or local government entities.

**F) Compliance costs for affected persons:**

None--Participation in the program is voluntary for potentially affected persons.

**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):**

The proposed amendment will have no fiscal impact on businesses. Nate Checketts, Executive Director

**7. 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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

#### B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

#### Citation Information

**8. 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:**

Title 26, Chapter 10b		
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#### Public Notice Information

**10. 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:** 04/14/2022

**11. This rule change MAY become effective on:** 04/21/2022

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

<b>Agency head or designee, and title:</b>	Nate Checketts, Executive Director	<b>Date:</b>	03/01/2022
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#### R434. Health, Family Health and Preparedness, Primary Care and Rural Health.

##### R434-30. Primary Care Grant Program.

##### R434-30-1. Authority and Purpose.

This rule is required by Section 26-10b-104. It implements the Primary Care Grant Program under Title 26, Chapter 10b, Access to Health Care.

##### R434-30-2. Definitions.

The definitions in Section 26-10b-101 apply. In addition:

(1) "Equipment" is defined as: capital equipment that:

(a) costs \$[+]5,000 or more, or is a group of items costing less than \$[+]5,000 each, when combined makes up one functional unit with a combined cost of \$[+]5,000 or greater;

(b) has a life span of three years or more;

(c) is non-expendable material; and

(d) is not consumed.

(2) "Office" means the Utah Department of Health, Division of Family Health and Preparedness, Bureau of Emergency Medical Services and Preparedness, Office of Primary Care and Rural Health.;

(3) "Children who are not eligible for Medicaid or CHIP" means individuals who are age 18 years and under and for whom at least one of the following apply:

(a) who have applied for Medicaid or CHIP coverage and have been denied;

(b) ~~[whose parents refuse to apply for CHIP for their children;~~

~~(c) ]who have been informed that they have lost Medicaid or CHIP coverage;~~

~~(d) who are served before CHIP begins accepting applications];~~ or

~~([e])~~ who receive a service not covered by CHIP, Medicaid, other public health care coverage, or private insurance.

(4) "Children who have insurance" means individuals who are age 18 years and under and who are eligible for CHIP, Medicaid, other public health care coverage, or private insurance, either on their own or through their parents' health care coverage.



## NOTICES OF CHANGES IN PROPOSED RULES

(5) "Follow-up Patient Visit" means face-to-face contact after an initial patient visit between an eligible individual and the awarded agency's provider who exercises independent judgment in providing services to the eligible individual and where the services provided under the Primary Care Grant Program are rendered and recorded in the eligible individual's records.

(6) "Initial Patient Visit" means any person, or member of a family, served by the awarded agency for the first time within three years, who is considered medically underserved.

(7) "Innovative" means whether the aspects are new, different, or more efficient, while also providing significant benefit to the community and the underserved populations served by the project.

(8) "Low-income" means individuals at or below 200% of the Federal Poverty Level, as established and published annually by the U.S. Department of Health and Human Services.

(9) "Medically Underserved" means geographic areas or populations with limited access to primary healthcare services.

(10) "Referral to CHIP" means an individual who is age 18 years and under or parents of an individual 18 years and under who has been informed of the availability of CHIP and Medicaid and provided information to contact the Department, Bureau of Eligibility Services local office, outreach location, or telephone unit for determination of their eligibility for Medicaid or CHIP.

(11~~[9]~~) "Sliding fee scale" means a system of patient co-payment or fee per clinical visit, which varies by income and other variables, such as family size.

(12~~[4]~~) "Sustainable" means a project or service that can be continued without Primary Care Grant Program funds.

(13~~[2]~~) "Underinsured" means individuals with public or private insurance that does not cover necessary health care services, resulting in out-of-pocket expenses that exceed their ability to pay; or individuals who are denied full coverage plans from work; have health insurance plans which only cover the worker and not the family or extended family; or have health insurance plans with high deductibles or co-insurance.

(14~~[3]~~) "Uninsured" means individuals who lack public or private insurance and who are unable to afford health insurance or are denied paid health care through their employer;

### **R434-30-3. Grant Application Process and Content.**

(1) The department shall solicit grant applications by issuing a request for grant applications. Applicants responding to the request for grant applications under this program shall submit their grant application as directed in the grant application guidance issued by the Office.

(2) The content of grant applications is defined in Subsection 26-10b-102(3) and Section 26-10b-103.

### **R434-30-4. Additional Criteria for Awarding Grants.**

(1) In addition to the criteria listed in Section 26-10b-104, the Office shall consider the:

(a) reasonableness of the cost of the services to be given relative to fees charged by community providers providing the same services;

(b) degree to which comprehensive primary health care services are provided~~[—comprehensively]~~, extent to which

supplemental services are provided, and extent to which services are conveniently located;

(c) ~~[demonstrated ability and intent of]~~inclusion of a written plan from applicant to systematically review the quality of care;

(d) commitment of applicant to sustain or enhance primary health care capacity for underserved~~[, disadvantaged, and vulnerable]~~ populations;

(e) degree to which the grant application is feasible, clearly described, innovative, and ready to be implemented;

(f) existing or future partnerships, collaborative efforts, use of volunteers, or other resources that an applicant will use to complete the project's objectives; and

(g) applicant's plan for the care of the target populations if funding becomes unavailable in the future.

### **R434-30-5. Disbursement and Usage.**

(1) Awards to applicants can be made for one year, and the total maximum allowable award amount is \$100,000.

(2) Awards cannot be used to:

(a) purchase equipment;

(b) fund research;

(c) cover inpatient substance use disorder treatment costs;

(d) cover staff travel or transportation costs. However, travel expenditures may be granted to mobile clinics with a reasonable justification and explanation of costs; or

(e) replace other existing funding sources.

(3) Any pharmaceutical costs are considered part of the charge per encounter;

(4) Agencies awarded funding shall:

(a) ensure that continuity of services is maintained for the full grant period; and

(b) use awarded funding to provide primary health care services for the full grant period.

### **R434-30-6. Eligibility.**

(1) Recognized referral networks that provide primary health care are eligible to apply for grant funding under this section, as funding permits, for up to a maximum of:

(a) ~~[\$]70,000~~ for two years at up to ~~[\$2]35,000~~ per year; or

(b) ~~[\$2]35,000~~ for one year.

(2) Grant applications will be open to public entities and community based organizations.

(3) Each applicant may submit more than one application, if they have separate distinct projects. However, one site cannot request more than \$100,000 total per year for delivery of primary care services, and \$50,000 for community education and outreach contracts under Section 26-10b-107.

**KEY: primary health care, medically underserved, grants**

**Date of Last Change: 2022**

**Notice of Continuation: October 12, 2017**

**Authorizing, and Implemented or Interpreted Law: 26-10b-104(4)**

**End of the Notices of Changes in Proposed Rules Section**



## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at [adminrules.utah.gov](http://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.):	R251-107	Filing ID: 50349
Effective Date:	02/24/2022	

#### Agency Information

1. Department:	Corrections	
Agency:	Administration	
Street address:	14717 S Minuteman Drive	
City, state and zip:	Draper, UT 84020	
Contact person(s):		
Name:	Phone:	Email:
Matt Anderson	801-545-5589	mattanderson@utah.gov

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

#### General Information

2. Rule catchline:
R251-107. Executions

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 63G-3-201, 64-13-10, 77-19-10, and 77-19-11, in which the Department shall adopt and enforce rules governing procedures for the execution of judgments of death and attendance of persons at the execution. The purpose of this rule is to address public safety and security within prison facilities prior to, during, and immediately following an execution.

### 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, supporting, or opposing this rule.

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

The purpose of this rule is to address public safety and security within prison facilities prior to, during, and immediately following an execution. Therefore, this rule should be continued.

#### Agency Authorization Information

Agency head or designee, and title:	Brian Nielson, Executive Director	Date:	02/24/2022
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### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R251-305	Filing ID: 50361
Effective Date:	02/24/2022	

#### Agency Information

1. Department:	Corrections	
Agency:	Administration	
Street address:	14717 S Minuteman Drive	
City, state and zip:	Draper, UT 84020	
Contact person(s):		
Name:	Phone:	Email:

## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Matt Anderson	801-545-5589	mattanderson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R251-305. Visiting at Community Correctional Centers
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Sections 63G-3-201, 64-13-10, and 64-13-17. The purpose of this rule is to provide the Department of Correction's (Department) rules governing visitation at Community Correctional Centers.
<b>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:</b>
No comments have been received, supporting, or opposing this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The purpose of this rule is to provide the Department's rules governing visitation at Community Correctional Centers. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Brian Nielson, Executive Director	<b>Date:</b>	02/24/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	R251-306	<b>Filing ID:</b>	50356
<b>Effective Date:</b>	02/24/2022		

**Agency Information**

<b>1. Department:</b>	Corrections
<b>Agency:</b>	Administration
<b>Street address:</b>	14717 S Minuteman Drive
<b>City, state and zip:</b>	Draper, UT 84020

<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Matt Anderson	801-545-5589	mattanderson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R251-306. Sponsors in Community Correctional Centers
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Sections 63G-3-201, 64-13-10, and 64-13-17. The purpose of this rule is to provide the Department of Correction's (Department) policy for sponsors accompanying offenders of Community Correctional Centers into the community and to explain the process of applying to be a sponsor.
<b>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:</b>
No comments have been received, supporting, or opposing this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The purpose of this rule is to provide the Department's policy for sponsors accompanying offenders of Community Correctional Centers into the community and to explain the process of applying to be a sponsor. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Brian Nielson, Executive Director	<b>Date:</b>	02/24/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	R251-703	<b>Filing ID:</b>	50360
<b>Effective Date:</b>	02/24/2022		

**Agency Information**

<b>1. Department:</b>	Corrections
<b>Agency:</b>	Administration
<b>Street address:</b>	14717 S Minuteman Drive

<b>City, state and zip:</b>	Draper, UT 84020	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Matt Anderson	801-545-5589	mattanderson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R251-703. Vehicle Direction Station
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized under Sections 63G-3-201, 64-13-14, and 64-13-10. The purpose of this rule is to define the Department of Correction's (Department) policy, procedure, and requirements for the operation of the Vehicle Direction Stations located at the South Point and Central Utah Correctional facilities.
<b>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:</b>
No comments have been received, supporting, or opposing this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The purpose of this rule is to define the Department's policy, procedure, and requirements for the operation of the Vehicle Direction Stations located at the South Point and Central Utah Correctional facilities. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Brian Nielson, Executive Director	<b>Date:</b>	02/24/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	R251-705	<b>Filing ID:</b>	50370
<b>Effective Date:</b>	02/24/2022		

**Agency Information**

<b>1. Department:</b>	Corrections	
<b>Agency:</b>	Administration	
<b>Street address:</b>	14717 S Minuteman Drive	
<b>City, state and zip:</b>	Draper, UT 84020	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Matt Anderson	801-545-5589	mattanderson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R251-705. Inmate Mail Procedures
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Sections 63G-3-201 and 64-13-10, and Subsection 64-13-17(4), which allows the Utah Department of Corrections (UDC) to adopt standards and rules in accordance with its responsibilities. The purpose of this section is to establish the UDC's policies and procedures for processing mail received in the Division of Prison Operations (DPO) Mail Unit.
<b>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:</b>
No comments have been received, supporting, or opposing this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The purpose of this section is to establish the UDC's policies and procedures for processing mail received in the DPO Mail Unit. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Brian Nielson, Executive Director	<b>Date:</b>	02/24/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	R251-706	<b>Filing ID:</b>	50363
<b>Effective Date:</b>	02/24/2022		

## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

## Agency Information

<b>1. Department:</b>	Corrections	
<b>Agency:</b>	Administration	
<b>Street address:</b>	14717 S Minuteman Drive	
<b>City, state and zip:</b>	Draper, UT 84020	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Matt Anderson	801-545-5589	mattanderson@utah.gov
Please address questions regarding information on this notice to the agency.		

## General Information

<b>2. Rule catchline:</b>
R251-706. Inmate Visiting
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Sections 63G-3-201, 64-13-10, and 64-13-17. The purpose of this rule is to provide the Department of Correction's (Department) policies, procedures, and requirements for inmate visitation at the Division of Prison Operations (DPO).
<b>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:</b>
No comments have been received, supporting, or opposing this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The purpose of this rule is to provide the Department's policies, procedures, and requirements for inmate visitation at the DPO. Therefore, this rule should be continued.

## Agency Authorization Information

<b>Agency head or designee, and title:</b>	Brian Nielson, Executive Director	<b>Date:</b>	02/24/2022
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## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R251-707</b>	<b>Filing ID:</b> 50362
<b>Effective Date:</b>	02/24/2022	

## Agency Information

<b>1. Department:</b>	Corrections	
<b>Agency:</b>	Administration	
<b>Street address:</b>	14717 S Minuteman Drive	
<b>City, state and zip:</b>	Draper, UT 84020	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Matt Anderson	801-545-5589	mattanderson@utah.gov
Please address questions regarding information on this notice to the agency.		

## General Information

<b>2. Rule catchline:</b>
R251-707. Legal Access
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Sections 63G-3-201, 64-13-7, 64-13-10, and 64-13-17, which allow the Department of Corrections to adopt procedures in accordance with its responsibilities. The purpose of this rule is to provide the policy and procedures for inmates under the control of Division of Prison Operations (DPO) regarding access to courts and counsel.
<b>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:</b>
No comments have been received, supporting, or opposing this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The purpose of this rule is to provide the policy and procedures for inmates under the control of DPO regarding access to courts and counsel. Therefore, this rule should be continued.

## Agency Authorization Information

<b>Agency head or designee, and title:</b>	Brian Nielson, Executive Director	<b>Date:</b>	02/24/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R251-710	Filing ID: 50382
Effective Date:	02/24/2022	

**Agency Information**

<b>1. Department:</b>	Corrections	
<b>Agency:</b>	Administration	
<b>Street address:</b>	14717 S Minuteman Drive	
<b>City, state and zip:</b>	Draper, UT 84020	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Matt Anderson	801-545-5589	mattanderson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R251-710. Search
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized under Sections 63G-3-201 and 64-13-10, and Subsections 64-13-14(1) and 64-13-17(2). The purpose of this rule is to provide the Department of Correction's (Department) policy, procedures, and requirements for conducting searches.
<b>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:</b>
No comments have been received, supporting, or opposing this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The purpose of this rule is to provide the Department's policy, procedures, and requirements for conducting searches. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Brian Nielson, Executive Director	<b>Date:</b>	02/24/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R380-60	Filing ID: 50887
Effective Date:	03/01/2022	

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	430	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Heather Borski	801-538-9998	hborski@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R380-60. Local Health Department Emergency Protocols
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 58-1-307 requires the Department of Health (Department) to make a rule to coordinate response by local health departments including protocols to administer, dispense, and distribute vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance in the event of a national, state, or local emergency
<b>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:</b>
The Department has not received any written comments.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is required by statute. It provides key standards and instruction for ensuring a consistent and effective response for issues related to Public Health during a public emergency. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Heather Borski, Deputy Director	<b>Date:</b>	03/01/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R414-1A</b>	<b>Filing ID:</b>	<b>50948</b>
<b>Effective Date:</b>	<b>03/01/2022</b>		

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143101	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3101	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R414-1A. Medicaid Policy for Experimental, Investigational or Unproven Medical Practices
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26-18-3 requires the Department of Health (Department) to implement the Medicaid program through administrative rules, and Section 26-1-5 authorizes the Department to adopt rules that carry out provisions of the Medicaid program.
<b>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:</b>
The Department did not receive 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:**

The Department has determined that this rule is necessary because it implements Medicaid policy for experimental, investigational, or unproven medical practices by referencing Section 1 of the Utah Medicaid Provider Manual. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Nate Checketts, Executive Director	<b>Date:</b>	02/28/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R414-307</b>	<b>Filing ID:</b>	<b>53083</b>
<b>Effective Date:</b>	<b>03/01/2022</b>		

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143101	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3101	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R414-307. Eligibility for Home and Community-Based Services Waivers
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26-18-3 requires the Department of Health (Department) to implement the Medicaid program through administrative rules. In addition, 42 CFR 435.217 specifies who may qualify for home and community-based services (HCBS), and Section 1924 of the Social Security



Act sets forth provisions on how to apply income and resources for certain institutionalized spouses.

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

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

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

The Department has determined that this rule is necessary because it establishes general eligibility requirements for HCBS waivers, sets forth eligibility for institutionalized individuals and community spouses, and specifies who may become eligible for each HCBS waiver under the Medicaid program. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Nate Checketts, Executive Director	<b>Date:</b>	02/28/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R590-142</b>	<b>Filing ID:</b>	<b>54185</b>
<b>Effective Date:</b>	<b>02/28/2022</b>		

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

**2. Rule catchline:**

R590-142. Continuing Education 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:**

Section 31A-2-201 authorizes the Insurance Commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-23a-202 authorizes the Insurance Commissioner to prescribe the continuing education requirements for a producer and a consultant. Section 31A-23b-205 authorizes the Insurance Commissioner to require a navigator to complete training and pass a test to obtain a license. Section 31A-23b-206 authorizes the Insurance Commissioner to prescribe the continuing education requirements for a navigator. Section 31A-26-206 authorizes the Insurance Commissioner to prescribe the continuing education requirements for an adjuster.

**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 is necessary because it specifies how continuing education (CE) courses are approved by the Department. This rule also sets standards for the issuance and filing of the certificate for CE credit. This rule makes clear the standards that all licensees must meet to receive the CE hours required by law. It also helps build the professionalism of those who work in the insurance industry and improves the accuracy of insurance information delivered to consumers. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	02/28/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R657-27</b>	<b>Filing ID:</b>	<b>51749</b>
<b>Effective Date:</b>	<b>02/17/2022</b>		

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Wildlife Resources	
<b>Room no.:</b>	Suite 2110	
<b>Building:</b>	DNR – Salt Lake Complex	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146301	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6301	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R657-27. License Agent Procedures
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Under Section 23-19-15, this rule provides the application procedures, standards, and requirements for wildlife license agents.
<b>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:</b>
No written comments supporting or opposing Rule R657-27 were received since April 2017, when this rule was last reviewed.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Rule R657-27 provides the application procedures, standards, and requirements for wildlife license agents. The Division of Wildlife Resources (DWR) oversees 300+ license agents, this rule is required to keep consistency among the agents and to ensure they are following Wildlife guidelines with the issuance of hunting licenses and permits. This rule is necessary for continued success of this program. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	J. Shirley, Division Director	<b>Date:</b>	02/17/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R657-50</b>	<b>Filing ID: 51766</b>
<b>Effective Date:</b>	<b>02/17/2022</b>	

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Wildlife Resources	
<b>Room no.:</b>	Suite 2110	
<b>Building:</b>	DNR – Salt Lake Complex	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146301	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6301	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R657-50. Error Remedy
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Under Sections 23-14-19, 23-19-1, and 23-19-38, this rule is established to provide guidelines for identifying and resolving errors resulting in the: a) rejection of a wildlife document application; b) denial of a wildlife document; and c) incorrect issuance of a wildlife document. This rule provides standards and procedures in the identification and resolution of Division of Wildlife Resources (DWR) errors, third party errors, and petitioner errors.
<b>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:</b>
No written comments supporting or opposing Rule R657-50 were received since April 2017 when this rule was last reviewed.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Rule R657-50 provides the DWR a guideline for identifying and correcting errors that are made throughout DWR



programs. This rule provides standards and criteria for resolving errors. This rule is necessary for continued success of DWR. Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	J Shirley, Division Director	<b>Date:</b>	02/17/2022
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R746-1</b>	<b>Filing ID: 51954</b>
<b>Effective Date:</b>	<b>02/28/2022</b>	

#### Agency Information

<b>1. Department:</b>	Public Service Commission	
<b>Agency:</b>	Administration	
<b>Building:</b>	Heber M. Wells Building	
<b>Street address:</b>	160 E 300 S, 4th Floor	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 4558	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4558	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Yvonne Hogle	801-530-6709	yhogle@utah.gov

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

#### General Information

<b>2. Rule catchline:</b>
R746-1. Public Service Commission Administrative Procedures 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:

This rule is enacted under Sections 54-1-1, 54-1-3, 54-1-6, 54-3-21, 54-4-1, 54-4-1.5, 54-4-2, 54-7-17, and Title 63G, Chapter 4. One of the functions of the Public Service Commission (Commission) that these statutes expressly reference is rulemaking powers. Section 54-1-1 states that the Commission is charged with discharging the duties and exercising the legislative, adjudicative, and rulemaking powers committed to it by law. The Commission's rulemaking powers are conferred throughout Title 54, as set forth in the statutes referenced above. For example, pursuant to Section 54-4-4.1, the Commission may, "by rule" or order, adopt any method of rate regulation that is consistent with Title 54, is in the public interest, and is just and reasonable. The other referenced statutes that confer to the Commission duties and obligations to regulate utilities require that rules be enacted in order to exercise such duties and obligations.

#### 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:

In order for the Commission to discharge its duties and exercise the legislative, adjudicative, and rulemaking powers conferred throughout Title 54, it must adjudicate ratemaking, complaints, and other similar matters related to public utilities. The Public Service Commission Administrative Procedures Act Rule applies to such matters and therefore, is necessary to undertake efficient and orderly processing and adjudication of such matters. Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Thad LeVar, PSC Chair	<b>Date:</b>	02/28/2022
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**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Government Operations

#### Administration

No. 54066 (Repeal) R13-10: State Entities' Posting of Financial Information to the Utah Public Finance Website  
Published: 11/15/2021  
Effective: 02/28/2022

#### Facilities Construction and Management

No. 54077 (Amendment) R23-1: Procurement Rules with Numbering Related to the Procurement Code  
Published: 11/15/2021  
Effective: 02/24/2022

### Agriculture and Food

#### Horse Racing Commission (Utah)

No. 54180 (Amendment) R52-7: Horse Racing  
Published: 01/01/2022  
Effective: 02/23/2022

#### Plant Industry

No. 54259 (Amendment) R68-24: Industrial Hemp License for Growers  
Published: 01/15/2022  
Effective: 02/23/2022

No. 54179 (Amendment) R68-27: Cannabis Cultivation  
Published: 01/01/2022  
Effective: 02/23/2022

No. 54178 (Amendment) R68-28: Cannabis Processing  
Published: 01/01/2022  
Effective: 02/23/2022

No. 54220 (Amendment) R68-29: Quality Assurance Testing on Cannabis  
Published: 01/15/2022  
Effective: 02/23/2022

No. 54181 (Amendment) R68-30: Independent Cannabis Testing Laboratory

Published: 01/01/2022  
Effective: 02/23/2022

#### Regulatory Services

No. 54191 (Amendment) R70-560: Inspection and Regulation of Cottage Food Production Operations  
Published: 01/01/2022  
Effective: 02/23/2022

### Auditor

#### Administration

No. 54112 (Amendment) R123-6-3: Allocation of Money in the Property Tax Valuation Agency Fund  
Published: 12/15/2021  
Effective: 02/18/2022

### Commerce

#### Administration

No. 54254 (New Rule) R151-5: Administration of the Office of the Property Rights Ombudsman's Land Use Fund  
Published: 01/15/2022  
Effective: 02/22/2022

#### Occupational and Professional Licensing

No. 54258 (Amendment) R156-15a: State Construction Code Administration and Adoption of Approved State Construction Code Rule  
Published: 01/15/2022  
Effective: 02/22/2022

No. 54140 (Amendment) R156-60b: Marriage and Family Therapist Licensing Act Rule  
Published: 12/15/2021  
Effective: 03/07/2022

## NOTICES OF RULE EFFECTIVE DATES

### Environmental Quality

#### Drinking Water

No. 54090 (Amendment) R309-200-5: Primary Drinking Water Standards

Published: 12/01/2021

Effective: 03/31/2022

No. 54089 (Amendment) R309-530: Facility Design and Operation: Alternative Surface Water Treatment Methods

Published: 12/01/2021

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### Governor

#### Economic Opportunity

No. 54264 (Repeal) R357-23: Business Expansion and Retention Initiative

Published: 01/15/2022

Effective: 02/23/2022

### Health

#### Disease Control and Prevention, Health Promotion

No. 54142 (Repeal) R384-205: Opiate Overdose Outreach Pilot Program

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#### Disease Control and Prevention, Environmental Services

No. 54166 (Amendment) R392-300: Recreation Camp Sanitation

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No. 54143 (Amendment) R392-400: Temporary Mass Gathering Sanitation

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No. 54165 (Amendment) R392-501: Temporary Labor Community Sanitation

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No. 54173 (Repeal and Reenact) R392-700: Indoor Tanning Facility Sanitation

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#### Family Health and Preparedness, Children with Special Health Care Needs

No. 54203 (Amendment) R398-2: Newborn Hearing Screening: Early Hearing Detection and Intervention (EHDI) Program

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No. 54206 (Amendment) R398-4: Cytomegalovirus Public Health Initiative

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No. 54202 (Amendment) R398-5: Birth Defects and Critical Congenital Heart Disease Reporting

Published: 01/01/2022

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No. 54091 (Amendment) R398-20: Early Intervention

Published: 12/01/2021

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

No. 54271 (Amendment) R414-10: Physician Services

Published: 01/15/2022

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No. 54192 (New Rule) R414-524: American Rescue Plan Act, Home and Community-Based Services Enhanced Funding

Published: 01/01/2022

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#### Family Health and Preparedness, Licensing

No. 54267 (Amendment) R432-5: Nursing Care and Pediatric Respite Care Facility Construction

Published: 01/15/2022

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No. 54051 (Amendment) R432-700: Home Health Agency Rule

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### Cultural and Community Engagement

#### STEM Action Center

No. 53877 (New Rule) R459-1: Education Computing Partnerships

Published: 11/15/2021

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### Human Services

#### Administration

No. 54253 (Amendment) R495-879: Parental Support for Children in Care

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#### Administration, Administrative Services, Licensing

No. 54008 (Repeal and Reenact) R501-8: Outdoor Youth Programs

Published: 11/01/2021

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#### Administration, Administrative Services, Licensing

No. 54008 (Change in Proposed Rule) R501-8: Outdoor Youth Programs

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Recovery Services

No. 54236 (Amendment) R527-10: Disclosure of Information to the Office of Recovery Services  
Published: 01/15/2022  
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No. 54235 (Amendment) R527-35: Non-IV-A Fee Schedule  
Published: 1/15/2022  
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No. 54237 (Amendment) R527-39: Applicant/Recipient Cooperation  
Published: 01/15/2022  
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No. 54234 (Amendment) R527-56: In-Kind Support  
Published: 01/15/2022  
Effective: 02/22/2022

No. 54247 (Amendment) R527-201: Medical Support Services  
Published: 01/15/2022  
Effective: 02/22/2022

No. 54230 (Amendment) R527-231: Review and Adjustment of a Child Support Order  
Published: 01/15/2022  
Effective: 02/22/2022

No. 54231 (Amendment) R527-250: Emancipation and a Child's Age of Majority  
Published: 01/15/2022  
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No. 54265 (Amendment) R527-254: Limitations on the Collection of Arrears  
Published: 01/15/2022  
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No. 54014 (Repeal) R527-255: Substantial Change in Circumstances  
Published: 01/15/2022  
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No. 54239 (Amendment) R527-258: Enforcing Child Support When the Obligor is an Ex-Prisoner or in a Treatment Program  
Published: 01/15/2022  
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No. 54233 (Amendment) R527-260: Driver License Suspension for Failure to Pay Support  
Published: 01/15/2022  
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No. 54232 (Amendment) R527-475: State Tax Refund Intercept  
Published: 01/15/2022  
Effective: 02/22/2022

No. 54238 (Amendment) R527-936: Third Party Liability, Medicaid  
Published: 01/15/2022  
Effective: 02/22/2022

Services for People with Disabilities

No. 54224 (Amendment) R539-1: Eligibility  
Published: 01/15/2022  
Effective: 02/22/2022

No. 54226 (Repeal and Reenact) R539-2: Service Coordination  
Published: 01/15/2022  
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No. 54227 (Repeal and Reenact) R539-3: Rights and Protections  
Published: 01/15/2022  
Effective: 02/22/2022

No. 54225 (Amendment) R539-5: Self-Administered Services  
Published: 01/15/2022  
Effective: 02/22/2022

No. 54229 (Amendment) R539-9: State Supported Employment Program  
Published: 01/15/2022  
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Juvenile Justice Services

No. 54073 (New Rule) R547-2: Credit for Good Behavior  
Published: 11/15/2021  
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No. 54221 (Amendment) R547-6: Youth Parole Authority  
Published: 01/15/2022  
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No. 54068 (Amendment) R547-11: Guidelines for the Transfer to the Department of Corrections of a Minor Provisionally Housed in a Juvenile Justice Services Secure Care Facility  
Published: 11/15/2021  
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No. 54223 (Amendment) R547-15: Formula for Reform Savings  
Published: 01/15/2022  
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Natural Resources

Oil, Gas and Mining; Non-Coal

No. 54196 (Amendment) R647-1-106: Definitions  
Published: 01/01/2022  
Effective: 02/24/2022

## NOTICES OF RULE EFFECTIVE DATES

Oil, Gas and Mining; Oil and Gas  
No. 54197 (Amendment) R649-3-23: Well Workover and  
Recompletion  
Published: 01/01/2022  
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No. 54198 (Amendment) R649-5-3: Noticing and Approval  
of Injection Wells  
Published: 01/01/2022  
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No. 54200 (Amendment) R649-8-11: Form 10, Monthly Oil  
and Gas Production Report  
Published: 01/01/2022  
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No. 54199 (Amendment) R649-8-17: Form 15, Designation  
of Workover or Recompletion  
Published: 01/01/2022  
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### Pardons (Board of)

Administration  
No. 53946 (Amendment) R671-301: Personal Appearance  
Published: 12/15/2021  
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No. 53947 (Amendment) R671-303: Information Received,  
Maintained or Used by the Board  
Published: 12/15/2021  
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No. 53948 (Amendment) R671-304: Hearing Record  
Published: 12/15/2021  
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No. 53949 (Amendment) R671-305: Board Decisions and  
Orders  
Published: 12/15/2021  
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No. 53950 (Amendment) R671-310: Rescission Hearings  
Published: 12/15/2021  
Effective: 02/16/2022

No. 53951 (Amendment) R671-316: Redetermination  
Published: 12/15/2021  
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### Workforce Services

Administration  
No. 54268 (Amendment) R982-502-10: Terms of  
Guarantee  
Published: 01/15/2022  
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Employment Development  
No. 53955 (Amendment) R986-700: Child Care Assistance  
Amendment  
Published: 10/01/2021  
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No. 53955 (Change in Proposed Rule) R986-700: Child  
Care Assistance Amendment  
Published: 12/01/2021  
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### Homeless Services

No. 54289 (New Rule) R988-200: Homeless Shelter Cities  
Mitigation Restricted Account  
Published: 01/15/2022  
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### Housing and Community Development

No. 54290 (Repeal) R990-102: Homeless Shelter Cities  
Mitigation Restricted Account  
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**End of the Notices of Rule Effective Dates Section**