

UTAH STATE BULLETIN

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

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

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

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <https://rules.utah.gov/> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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EXECUTIVE DOCUMENTS

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

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

PROCLAMATION

WHEREAS, since the close of the 2023 General Session of the 65th Legislature of the state of Utah, certain matters have arisen which require immediate legislative attention; and

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

NOW, THEREFORE, I, Spencer J. Cox, governor of the state of Utah, by virtue of the authority vested in me by the Constitution and Laws of the state of Utah, do by this Proclamation call the Senate only of the 65th Legislature of the state of Utah into the Sixth Extraordinary Session at the Utah State Capitol in Salt Lake City, Utah, on the 3rd day of January 2024, at 4:30 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the state of Utah since the close of the 2023 General Session of the Legislature of the state of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the state of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 2nd day of January 2024.

(State Seal)

Spencer J. Cox
Governor

ATTEST:

Deidre M. Henderson
Lieutenant Governor

2024-06E

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between December 16, 2023, 12:00 a.m., and January 02, 2024, 11:59 p.m. are included in this, the January 15, 2024, 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 February 14, 2024. 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 May 14, 2024, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the **RULE ANALYSIS** for each rule.*

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

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R70-410	Filing ID: 56267

Agency Information

1. Department:	Agriculture and Food	
Agency:	Regulatory Services	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state, and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state, and zip:	Salt Lake City, UT 84114-6500	
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Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R70-410. Grading and Inspection of Small Shell Egg Producers
3. Purpose of the new rule or reason for the change:
This change is being made based on feedback from small egg producers requesting that any references to quality assurance be removed from this rule based on the Department of Agriculture and Food's (Department) limited authority to regulate the temperature, cleaning, and sanitation of eggs from small egg producers sold to a restaurant.
Additional changes are also needed to make this rule text more consistent with the requirements of the Rulewriting Manual for Utah.
4. Summary of the new rule or change:
In Section R70-410-5, the title has been changed to remove a reference to quality assurance. Quality assurance language has also been removed from Subsection R70-410-5(2).

Specific language has also been added to clarify that this rule only applies to eggs sold by small producers to restaurants.

Additional nonsubstantive changes have been made throughout this rule to make the text more consistent with the requirements of the Rulewriting Manual for Utah.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There are no anticipated costs or savings to the state budget because the rule changes clarify the Department's existing practice of regulating only the temperature, cleaning, and sanitation of eggs sold by small producers to restaurants.
B) Local governments:
Local governments do not produce or regulate eggs in the state and will not be impacted by the rule changes.
C) Small businesses ("small business" means a business employing 1-49 persons):
The rule changes will not impact small businesses because the changes will clarify the Department's existing practices.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
Non-small businesses will not be impacted by the rule changes because the changes are clarifying the Department's existing practices.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
The rule changes will not impact other persons because the changes clarify existing practice.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
Compliance costs, requirements, and fees charged by the Department will not change.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Utah Department of Agriculture and Food, Craig W Butters, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 4-4-102	Subsection 4-4-107(5)	

Public Notice Information

8. 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:	02/14/2024

9. This rule change MAY become effective on:	02/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Craig W Butters, Commissioner	Date:	12/12/2023
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R70. Agriculture and Food, Regulatory Services.**R70-410. Grading and Inspection of Small Shell Egg Producers.****R70-410-1. Purpose and Authority.**

(1) Promulgated under the authority of Section 4-4-102.

(2) Pursuant to Subsection 4-4-107(5), this rule applies to the temperature, cleaning, and sanitization of shell eggs sold by a small egg producer to a restaurant.

R70-410-2. Definitions.

(1) "Best by date" means a date that shows when a product will be of the best flavor or quality. It is not a purchase or safety date.

(2) "Check" means an individual egg ~~[that has]~~with a broken shell or a crack in the shell, but its shell membranes are intact and its contents do not leak.

(3) "Department" or "UDAF" means the Utah Department of Agriculture and Food.

(4) "Dirty" means an individual egg that has an unbroken shell with adhering dirt or foreign material, prominent stains, or moderate stains covering more than 1/32 of the shell surface if localized, or one-sixteenth of the shell surface if scattered.

(5) "FD and C color" means the color additives approved for use in human food ~~[stated]~~in 21 CFR Parts 73 and 74.

(6) "Leaker" means an individual egg that has a crack or breaks in the shell and shell membranes to the extent that the egg contents are exuding or free to exude through the shell.

(7) "Loss" means an egg that is inedible, cooked, frozen, contaminated, sour, musty, or an egg that contains a large blood spot, large meat spot, bloody white, green white, rot, stuck yolk, blood ring, embryo chick at or beyond the blood ring state, free yolk in the white, or other foreign material.

(8) "Plant" means any building, machinery, apparatus, or fixture, used for the storing, grading, or packing of shell eggs.

(9) "Potable water" means water that has been approved by the Utah Department of Health and Human Services or any agency or laboratory acceptable to the department as safe for drinking and food processing.

(10) "Premises" means a tract of land with a building or part of a building with its grounds or appurtenances.

(11) "Producer" means a person who owns, operates, or both a poultry house containing laying hens that produce shell eggs for human consumption.

(12) "Product" or "products" means shell eggs of domesticated chicken.

(13) "Pull date" means a date placed on the egg container label after which the eggs should not be sold.

(14) "Restricted" means eggs classified as checks, dirties, incubator rejects, inedibles, leakers, ~~[and]~~or loss.

(15) "Shell eggs" means intact shell eggs of domesticated chickens.

- (16) "Small producer" means a producer of shell eggs:
- (a) ~~having~~ that has less than 3,000 layers;
 - (b) ~~selling~~ that sells only to an ultimate consumer; and
 - (c) who is exempt from 21 CFR, Chapter 1, Part 118, Production, Storage, and Transpiration of Shell Eggs.
- (17) "Ultimate consumer" means the same as the term ~~is~~ defined in Subsection 4-4-103(11).

R70-410-3. Handling and Disposition of Restricted Eggs.

(1) ~~A small egg producer shall dispose of~~ ~~restricted eggs~~ ~~shall be disposed of~~ at the point and time of segregation.

~~(a) Checks and dirties.~~

~~(i)a~~ A small egg producer shall ensure that ~~C~~ checks and dirties ~~shall be~~ are shipped to an official egg breaking plant for further processing of egg products.

~~(i)i~~ Dirties may be shipped to a shell eggplant for cleaning.

~~(ii)i~~ Checks and dirties ~~shall~~ may not be sold to restaurants ~~unless the sales are specifically exempted by the~~ Egg Products Inspection Act, 21 U.S.C. Sec. 1033, et seq. ~~specifically exempts the sales and is not prohibited by state law.~~

(b) A small egg producer shall ensure that ~~E~~ leakers, loss, and inedible eggs ~~shall be~~ are destroyed for human food purposes at the grading station or point of segregation by being:

(i) discarded and intermingled with refuse, including shells, papers, or trash;

(ii) processed into an industrial product or animal food at the grading station; or

(iii) denatured or de-characterized with an approved denaturant.

(A) Leakers, loss, and inedible eggs shipped under government supervision and received under government supervision at a plant making industrial products or animal food need not be denatured or de-characterized before shipment.

(B) Leakers, loss, and inedible eggs may be shipped in shell form if they are properly labeled and denatured by adding FD and C color to the shell or by applying a substance that will penetrate the shell and de-characterize the egg meat.

(c) A small egg producer shall ensure that ~~F~~ incubator rejects, eggs that have been subjected to incubation, ~~may~~ are not ~~be~~ moved in shell form and ~~must be~~ are crushed and denatured or de-characterized at the point and time of removal from incubation.

~~(d)i~~ Blood type loss that has not diffused into the albumen may be moved to an official egg products plant in shell form without adding FD and C color to the shell provided they are properly labeled and moved directly to the egg products plant.

~~(e)2~~ A small egg producer shall ensure that ~~C~~ containers used for eggs not intended for human consumption ~~shall be~~ are labeled with the word "inedible" on the outside of the container.

~~(f)3~~ A small egg producer may use ~~O~~ other methods of disposition ~~may be used only~~ when approved by the department.

R70-410-4. Packaging.

(1) A person ~~shall~~ may not pack eggs into packaging that does not bear the required labeling, including identifying the responsible ~~party~~ entity, or transport or sell eggs in that packaging.

(2) Any person who, without earlier authorization, acquires possession of packaging that bears a brand belonging to someone else shall, at their own expense, return the container to the registered owner within 30 days.

R70-410-5. Small Egg Producer Facility ~~and Quality Assurance Rules~~ Temperature, Cleaning, and Sanitation Rules.

~~(1) Facilities.~~

~~(a)1~~ Small egg producers that sell to restaurants shall establish a designated work area separate from domestic living areas.

~~(i)a~~ Acceptable designated work areas may be an area in the basement, garage, or outbuilding.

~~(i)b~~ Unacceptable work areas are domestic living areas, kitchens, laundry rooms, and bathrooms.

~~(b)c~~ A small egg producer's ~~The~~ designated work area needs a sanitary work surface that is smooth, durable, and easily cleanable.

(i) The work surface shall be cleaned and sanitized before each use.

(ii) Any sinks, drain boards, or other equipment used for the egg handling operation must be cleaned and sanitized before each use.

~~(e)d~~ ~~The~~ A small egg producer ~~premises~~ shall ~~be kept~~ keep premises clean and free of rodent harborage areas.

~~(f)i~~ Designated storage areas ~~are~~ needed for new packaging materials, utensils, and equipment that ~~may be~~ is used for egg handling practices. These items ~~must~~ shall be protected from contamination, including moisture, strong odors, dust, and insects.

~~(f)ii~~ Egg handling practices that require ~~P~~ potable water ~~is needed for egg handling practices~~. Individual water wells need an annual bacteriological test, including coliform bacteria. Commercially bottled water may be used.

~~(f)iii~~ Hand washing stations ~~must~~ shall be conveniently located in the egg handling work area and provided with soap and paper towels.

~~(g)iv~~ Toilet rooms ~~must~~ shall be accessible to employees.

~~(h)v~~ ~~A~~ A designated refrigerator is needed.

(B) The refrigerator ~~is not needed~~ does not need to be new or of a commercial type and may be placed in the designated work area.

(C) The refrigerator ~~must~~ shall be equipped with a suitable thermometer to routinely verify that the 40 degrees Fahrenheit (2) to 45 degrees F egg storage temperature is maintained.

~~(2) Egg quality assurance.~~

~~(a) Each small egg producer that sells to restaurants shall develop an egg quality assurance plan that, at least, includes:~~

~~(i) chicks and pullets shall be bought from hatcheries that are National Poultry Improvement Plan (NPIP) "US Salmonella Enteritidis Clean" status or equivalent state plan;~~

~~(ii) testing the flock for Salmonella enteritidis with environmental drag swab sampling once per year per flock;~~

~~(iii) a plan on how eggs will be handled if a Salmonella enteritidis positive test is identified;~~

~~(iv) basic bio security protocols for the chicken houses; and~~

~~(v) records shall be kept and monitored regularly for newly received chicks.~~

~~(b) Small egg producers that sell to restaurants shall immediately report positive Salmonella and Avian Influenza tests to the office of the State Veterinarian.~~

~~(c) Small egg producers that sell to restaurants may have their flocks participate in the NPIP program by contacting the department, Division of Animal Industry.]~~

~~[(3) Egg handling.]~~ (2) A [S]small egg producer[s] that sells to restaurants shall:

(a) ensure each employee thoroughly washes their hands ~~[are thoroughly washed]~~ before starting egg handling and during egg handling to minimize cross-contamination of cleaned eggs;

(b) maintain clean and dry nest boxes, change nest material as needed to reduce dirty eggs, and gather eggs at least once daily;

(c) clean eggs as needed soon after collecting;

(i) ~~[e]~~Cleaning eggs refrigerated below 55 degrees F may cause shells to crack or check~~[?]~~.

(ii) ~~[m]~~Minimal cleaning protects the natural protective covering on the shell~~[?]~~.

~~[(iii)d]~~ ensure employees use acceptable egg cleaning methods includ[e]ing:

~~[(A)i]~~ dry cleaning by lightly sanding the stains or minimal dirty areas with sandpaper;

~~[(B)ii]~~ using potable water in a hand spray bottle and immediately wiping dry with a single service paper towel; or

~~[(C)iii]~~ briefly rinsing with running water spray and immediately wiping dry with a single service paper towel;

~~[(d)e]~~ ensure that the wash water ~~[shall be]~~is at least 90 degrees F, which is warm to the touch, and ~~[shall be]~~at least 20 degrees warmer than the temperature of the eggs to be washed; and

~~[(e)f]~~ refrigerate ~~[the]~~cleaned eggs immediately to 45 degrees F or less.

~~[(f)3]~~ Small egg producers that sell to restaurants may not use [U]unacceptable cleaning methods, includ[e]ing submerging shell eggs in water or any other solution or using cleaners that are not food grade and approved for shell egg cleaning.

~~[(a)]~~ The porous eggshell is not impervious to odors, chemicals, and off flavors.

~~[(i)b]~~ The cleaned eggs can be packaged later.

~~[(ii)4]~~ Small egg producers that sell to restaurants shall [S]store packaged eggs at 45 degrees F or less.

~~[(4) Packaging and labeling.]~~

~~[(a)5(a)]~~ Small egg producers that sell to restaurants shall use clean new packaging[~~—Packaging may be bought~~] purchased online, through group buying, small farm co-operatives, or similar methods.

(b) Small egg producers that sell to restaurants shall use self-adhesive attractive labels that include the information required in Subsection 4-4-108(1).

~~[(5)6]~~ ~~[Distribution.—]~~Small egg producers that sell to restaurants shall transport refrigerated egg packages, cartons, or both in an easily cleanable, portable cooler with frozen gel packs to maintain 45 degrees F or less temperature until the small egg producer distributes the eggs ~~[are distributed]~~ to a restaurant.

~~[(6)7]~~ ~~[Inspection.—]~~Each small egg producer that sells to restaurants ~~[is subject to]~~shall allow the department to inspect their facility upon request ~~[inspections by the department]~~or as part of a department of health investigation under Subsections 4-4-107(2) and 4-4-107(3).

KEY: food inspections, eggs, chickens

Date of Last Change: ~~[February 27, 2023]~~2024

Notice of Continuation: January 11, 2021

Authorizing, and Implemented or Interpreted Law: 4-4-102

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R131-2	Filing ID: 56243
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Agency Information

1. Department:	Capitol Preservation Board (State)	
Agency:	Administration	
Room number:	120 State Capitol	
Building:	State Capitol Building	
Street address:	350 N State Street	
City, state and zip:	Salt Lake City, UT 84114	
Mailing address:	PO Box 142110	
City, state and zip:	Salt Lake City, Utah 84114-2110	
Contact persons:		
Name:	Phone:	Email:
Dana Jones	801-538-1189	danajones@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R131-2. Capitol Hill Complex Facility Use

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

The Capitol Hill Complex Facility Use Rule has not been amended since 2016. Since 2016, there have been numerous changes at the Utah State Capitol, such as termination of café operations in the State Room and replacement of the State Office Building with the North Capitol Building, requiring an update of this rule.

Additionally, changes in technology (i.e. the proliferation of personal motorized transportation devices) require an update of this rule.

4. Summary of the new rule or change:

The changes to Rule R131-2 update the rule to:

- 1) permit emotional support animals and law enforcement animals in Capitol Hill Facilities;
- 2) prohibit objects in exterior windows in areas under the jurisdiction of the Capitol Preservation Board (CPB);
- 3) establish a minimum for appropriate dress at the Capitol Hill Complex;
- 4) regulate the use of personal motorized transportation devices at the Capitol Hill Complex;
- 5) address the fact that there is no longer a café in the State Room at the Capitol Hill Complex; and
- 6) address the fact that the State Office Building is being replaced by the North Capitol Building.

Fiscal Information

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

A) State budget:

There are no anticipated costs or savings to the state budget.

CPB is largely funded by user fees charged for the use of Capitol Hill Facilities (such as weddings). The changes in this rule are not expected to result in either an increase or decrease in those revenues, nor will the changes in this rule increase or decrease the costs of administration of the Capitol Hill Complex.

B) Local governments:

This rule change will not have a fiscal impact on local governments.

This rule is limited by definition to the Capitol Hill Complex, which is state property under state jurisdiction.

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

This rule change will not have a fiscal impact on small businesses.

The only small businesses potentially impacted by this rule are the café operator and authorized caterer and the changes made to the portions of this rule potentially impacting those entities neither increase nor decrease the cost of compliance.

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

This rule change will not have a fiscal impact on non-small businesses.

The only non-small businesses potentially impacted by this rule are the café operator and authorized caterer and the changes made to the portions of this rule potentially impacting those entities neither increase nor decrease the cost of compliance.

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

The changes to this rule are not anticipated to have any fiscal impact on persons other than small businesses, non-small businesses or state, or local government entities.

The only persons other than small businesses, non-small businesses or state, or local government entities potentially impacted by the changes to this rule are individual users of the Capitol Hill Complex and the changes to this rule neither increase nor decrease the cost of compliance for users of the Capitol Hill Complex.

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

The amended rule is not anticipated to increase or decrease any compliance costs for affected persons.

Potentially impacted entities are small businesses, non-small businesses, state or local government entities and individual users of the Capitol Hill Complex.

The changes to this rule neither increase nor decrease the cost of compliance for small businesses, non-small businesses, state or local government entities or individual users of the Capitol Hill Complex.

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

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Capitol Preservation Board, Dana Jones, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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		
63C-9-301(3)(a)		

Public Notice Information

8. 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:	02/14/2024
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9. This rule change MAY become effective on:	02/21/2024
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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.

Agency Authorization Information

Agency head or designee and title:	Dana Jones, Executive Director	Date:	12/26/2023
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R131. Capitol Preservation Board (State), Administration.

R131-2. Capitol Hill Complex Facility Use.

R131-2-1. Purpose and Application.

(1) The purpose of this rule is to define conditions for public access and use of the Capitol Hill Complex and to establish procedures for receiving and deciding complaints regarding the access or use of the Capitol Hill Complex.

(2) Except as expressly stated ~~herein~~ in this rule, or in ~~[f]Rule~~ R131-11, this ~~[f]Rule~~ R131-2 does not apply to a ~~[f]Free [s]Speech [a]Activity[ies]~~. A ~~Free [s]Speech [a]Activity[ies]~~ conducted at the Capitol Hill Complex ~~are~~ is governed by ~~[f]Rule~~ R131-11.

R131-2-2. Authority.

~~[(+)]~~The State Capitol Preservation Board adopts this Capitol Hill Complex Facility Use Rule pursuant to Section 63C-9-301.

R131-2-3. Definitions.

As used in this ~~[f]Rule~~ R131-2:

(1) "Board" means the State Capitol Preservation Board created by Section 63C-9-201.

(2) "Capitol Hill Complex" means all grounds, monuments, parking areas, buildings, including the Capitol, and other man-made and natural objects within the area bounded by 300

North Street, Columbus Street, 500 North Street, and East Capitol Boulevard. Capitol Hill Complex also includes:

(a) the White Community Memorial Chapel and the Council Hall Travel Information Center building and their grounds and parking areas;

(b) the Daughters of the Utah Pioneers museum and buildings, grounds and parking areas, and other state[-]_owned property included within the area bounded by Columbus Street, North Main Street, and Apricot Avenue;

(c) state owned property included within the area bounded by Columbus Street, Wall Street, and 400 North Street; and

(d) state owned property included within the area bounded by Columbus Street, West Capitol Street, and 500 North Street.

(3) "Capitol Hill Facilities" means all buildings on the Capitol Hill Complex, including the Capitol, exterior steps, entrances, streets, parking areas and other paved areas of the Capitol Hill Complex.

(4) "Capitol Hill Grounds" means landscaped and unpaved public areas of the Capitol Hill Complex. Maintenance and utility structures and related areas are not considered Capitol Hill Grounds for ~~the purpose of~~ any public use.

(5) "Catering Service~~[(s)]~~" means the serving of food and ~~or~~ beverages ~~on~~ at the Capitol Hill Complex.

(6) "Commercial Activities" means ~~[e]Events~~ that are sponsored or conducted for the promotion of commercial products or services, and include advertising, private parties, private company or organization meetings, and any other non-public organization ~~[e]Event~~. Commercial ~~[a]Activities~~ do not include a ~~[p]Private[-] Activity, [e]Community [s]Service[-] Activities, a [s]State [s]Sponsored[-] Activity or a [f]Free [s]Speech [activities]Activity~~.

(7) "Community Service Activities" means ~~[e]Events~~ that are sponsored by governmental, quasi-governmental and charitable organizations, city and county government departments and agencies, public schools, and charitable organizations held to support or recognize the public or charitable functions of such sponsoring group. To the extent the ~~[e]Event~~ is sponsored by a private charitable organization, the organization must have an Internal Revenue Code Section 501(c)(3) active status and the ~~[e]Event~~ must be related to such status.

(8) "Event" or "Events" are ~~[e]Commercial[-] Activities, [e]Community [s]Service[-] Activities, a [p]Private[-] Activity, and [s]State [s]Sponsored [a]Activities~~ involving one or more persons. Events may include banquets, receptions, award ceremonies, weddings, colloquia, concerts, dances, and seminars. A ~~[f]Free [s]Speech [a]Activity~~ is not an ~~[e]Event~~ for purposes of ~~[f]Rules~~ R131-2 and R131-10. The term "activity" or "activities" may be substituted in this rule for the term "~~[e]Event~~" or "~~[e]Events~~."

(9) "Executive Director" means the ~~[e]Executive [d]Director~~ appointed by the Board under Section 63C-9-102, or a designee supervised by the ~~[e]Executive [d]Director~~.

(10) "Facility Use Application" (~~[f]Application[f]~~) means a form approved by the ~~[e]Executive [d]Director~~ used to apply to reserve Capitol Hill Facilities or Capitol Hill Grounds for an ~~[e]Event~~.

(11) "Facility Use Permit" (~~[f]Permit[f]~~) means a written permit issued by the ~~[e]Executive [d]Director~~ authorizing the use of an area of the Capitol Hill Complex for an ~~[e]Event~~ in accordance with this rule.

(12) "Free Speech Activity" is as defined in ~~[f]Rule~~ R131-11.

(13) "Cafe Operator" means ~~the Capitol Hill~~ a cafe operator ~~located on the first floor of the East Senate Building~~ who ~~is~~ may from time to time be under contract with the Board to provide food ~~or beverages on a semi-permanent basis at a designated location at the Capitol Hill Complex~~~~in the State Room~~ and who may be allowed to cater in other areas on the Capitol Hill Complex.

(14) "Opaque" means impenetrable to sight.

(15)~~(4)~~ "Private Activity" means an ~~e~~Event sponsored by private individuals, businesses or organizations that ~~is~~are not ~~a~~Commercial Activities or ~~e~~Community ~~s~~Service ~~activity~~Activities.

(16)~~(5)~~ "Authorized Caterer" means a person or entity authorized to provide catering services on the Capitol Hill Complex, and is not the Cafe Operator.

(17)~~(6)~~ "Solicitation" is as defined in ~~f~~Rule R131-10.

(18)~~(7)~~ "State" means the state of Utah and any of its agencies, departments, divisions, officers, legislators, members of the judiciary, persons serving on state boards or commissions, and their employees ~~of the above entities and persons~~.

(19)~~(8)~~ "State Sponsored Activity" means any event sponsored by the state that is related to official state business. Official state business does not include award ceremonies, lobbying activities, retirement parties, or similar social parties, social activities, or social events. Management retreats may be considered a State Sponsored Activity if it has a supporting agenda and documentation establishing that the primary purpose of the retreat is to conduct official state business. ~~In order to~~ To be considered a State Sponsored Activity, such activity must obtain written approval from the Executive Director ~~and or the Board's Budget Development and Board Operations Subcommittee~~.

(19)~~(20)~~ "User~~(s)~~" means any person that uses the ~~facilities or grounds~~Capitol Hill Complex as well as any applicant for a ~~f~~Facility ~~u~~Use ~~p~~Permit.

R131-2-4. Facility Use Permit - Application.

(1) Each ~~person or group~~User seeking to hold an ~~e~~Event or ~~s~~Solicitation at the Capitol Hill Complex shall submit a completed Facility Use Application at least ~~fourteen~~14 calendar days ~~prior~~before to the anticipated date of the ~~e~~Event or Solicitation. Applications may not be submitted, and facilities will not be scheduled, more than 365 calendar days before the date of the ~~e~~Event or Solicitation. An applicant may only make one application for one continuous ~~e~~Event or Solicitation at a time. For a State Sponsored ~~Activities~~Activity that involves a reoccurring meeting schedule, one application may be used for all the reoccurring meetings. For all ~~e~~Events, other than a State Sponsored ~~Activities~~Activity or Free Speech ~~Activities~~Activity, there shall be a non-waivable and non-refundable application processing fee, which shall be paid at the time of submission of the application.

(2) The ~~e~~Executive ~~d~~Director shall provide a Facility Use Permit Application form. The form shall request, and applicants shall provide all necessary information, including all material aspects of the proposed ~~e~~Event or ~~s~~Solicitation. This necessary information is required even if the ~~A~~applicant requests a waiver. The application shall include the following information:

(a) the applicant's organization's name, address, telephone number and email address ~~and facsimile number~~;

(b) the names and addresses of the person~~(s)~~ responsible for supervising the ~~e~~Event during set up, take down, clean up and the duration of the ~~e~~Event;

(c) the nature of the applicant; ~~ie~~such as individual, business entity, governmental department or other;

(d) the name and address of the legally recognized agent for service of process;

(e) a specific description of the area of the Capitol Hill ~~f~~Facility ~~and~~or Capitol Hill ~~g~~Grounds being requested for use;

(f) the type of proposed activity and the number of anticipated participants;

(g) the dates and times of the proposed activity and a description of the schedule and agenda of the ~~e~~Event or Solicitation;

(h) a complete description of equipment and apparatus to be used for the ~~e~~Event or Solicitation;

(i) any other special considerations or accommodations being requested; and

(j) whether the applicant requests exemption or waiver of any requirement of this rule or provision of the Facility Use Application.

(3) In addition, the applicant shall submit with the Facility Use Application:

(a) documentation supporting any requested exemption or waiver;

(b) proof of liability insurance covering the applicant and the ~~e~~Event or Solicitation in the amount as identified in the Schedule of Costs and Fees as referred to in ~~rule~~Subsection R131-2-7(1)(a);

(c) a deposit and down payment in the amounts as identified in the Schedule of Costs and Fees as described in ~~rule~~Subsection R131-2-7(1)(a) for the type of ~~e~~Event or Solicitation proposed; and

(d) other information as requested by the ~~e~~Executive ~~d~~Director.

(4) Applications shall be reviewed by the ~~e~~Executive ~~d~~Director for completeness, activity classification, costs, and fees.

(5) Priority for use of the Capitol Hill Complex will be given to applications for a ~~s~~State ~~s~~Sponsored ~~activities~~Activity. During the ~~actual~~hours of legislative sessions, priority will be given to a ~~f~~Free ~~s~~Speech ~~activities~~Activity over ~~e~~Commercial Activities, ~~e~~Community ~~s~~Service Activities, and a ~~p~~Private ~~activities~~Activity. Otherwise, applications will be approved, and requested facilities reserved, on a first-come, first-serve basis.

R131-2-5. Facility Use Permit - Denial - Appeal - Cancellation - Revocation - Transfer.

(1) Within ten working days of receipt of a completed application, the ~~e~~Executive ~~d~~Director shall issue a Facility Use Permit or notice of denial of the application.

(2) The ~~e~~Executive ~~d~~Director may deny an application if:

(a) the application does not comply with the applicable rules;

(b) the ~~e~~Event or Solicitation would conflict or interfere with a ~~s~~State ~~s~~Sponsored ~~a~~Activity, a time or place reserved for a ~~f~~Free ~~s~~Speech ~~activities~~Activity, the operation of state business, or a legislative session; ~~and~~or

(c) the ~~e~~Event or Solicitation poses a safety or security risk to persons or property.

(3) The ~~e~~Executive ~~d~~Director may place conditions on the approval that alleviates such concerns.

(4)(a) If the applicant disagrees with a denial of the application or conditions placed on the approval, the applicant may appeal the ~~e~~Executive ~~d~~Director's determination by delivering the written appeal and reasons for the disagreement to the ~~e~~Executive

[d]Director within five working days of the issuance of the notice of denial or approval with conditions.

(b) Within ten working days after the [e]Executive [d]Director receives the written appeal, the [e]Executive [d]Director may modify or affirm the determination.

(c) If the matter is still unresolved after the issuance of the [e]Executive [d]Director's reconsideration determination, the applicant may appeal the matter, in writing, within ten working days to the Board's ~~[Budget Development and Board Operations Subcommittee]~~ Chairperson, or their designee, who will determine the process of the appeal.

(d) The applicant may appeal the ~~[Subcommittee Chair's]~~ Chairperson's, or the Chairperson's designee's, determination in writing within ten working days of receipt of the written determination, by submitting a written appeal at the Board's office. The Board shall consider the appeal at its next regularly scheduled meeting.

(5) Facility Use Permits are non-transferable. The purpose, time, place, and other conditions of the Facility Use Permit may not be changed without the advance written consent of the [e]Executive [d]Director. At least ~~[thirty]~~ 30 calendar days' advance written notice is required for the applicant to request a change in the date, time ~~and~~ or place of the [e]Event or [s]Solicitation. If there is no conflict with another scheduled [e]Event or [s]Solicitation, the [e]Executive [d]Director may adjust the Facility Use Permit in regard to the date, time ~~and~~ or place based upon the request.

(6) An [e]Event or Solicitation may be re-scheduled if the [e]Executive [d]Director determines that ~~an~~ the [e]Event or Solicitation will conflict with a governmental function, [f]Free [s]Speech [a]Activity or [s]State [s]Sponsored [a]Activity.

(a) The [e]Executive [d]Director may revoke any issued [p]Permit if this [f]Rule R131-2, any applicable law, or any provision of the [p]Permit is being violated. The [p]Permit may also be revoked if the safety or health of any person is threatened.

(b) The applicant may cancel the [p]Permit and receive a full refund of fees and any deposits if written notice of cancellation is received by the [e]Executive [d]Director at least 30 calendar days ~~[prior to]~~ before the scheduled [e]Event or Solicitation. Failure to timely cancel the [e]Event or Solicitation will result in the forfeiture of any deposit and fees.

R131-2-6. General Requirements for Use of the Capitol Hill Complex.

These are the requirements for use of the Capitol Hill Complex. ~~[This rule R131-2-6 shall apply to free speech activities, all other activities, groups and individuals using the Capitol Hill Complex.]~~ Pursuant to ~~[Utah Code]~~ Subsection 53-8-105(9), the Highway Patrol shall enforce the state law and rules governing the use of the Capitol Hill Complex.

(1) General Requirements.

(a) ~~[These are the requirements for use of the Capitol Hill Complex.]~~ This ~~[rule]~~ Section R131-2-6 shall apply to a [f]Free [s]Speech ~~[activities,]~~ Activity, ~~[all other activities, groups and individuals using the Capitol Hill Complex]~~ and to all Events, Solicitations and Users.

(b) ~~On [Except for]~~ state holidays, the Capitol building will be open to the general public ~~[Monday through Saturday]~~ from 7[8:00] a.m. to 6[8:00] p.m. ~~Otherwise the Capitol building will be open to the general public Monday through Thursday from 7 a.m. until 8 p.m. and on Friday through Sunday from 7[8:00] a.m. to 6[00] p.m.~~ A Free [s]Speech ~~[activities]~~ Activity may be conducted beyond the times identified in this subsection, as specified in [f]Rule R131-

11. Unless otherwise authorized, Capitol Hill Facilities and Capitol Hill Grounds, including the Capitol Rotunda, are available for permitted use, activities, or events from 8[:00] a.m. to 11[:00] p.m. The hours that the Capitol building, Capitol Hill Facilities and Capitol Hill Grounds, including the Capitol Rotunda, are open to the public or available for permitted use, activities, or events, may be modified by the Board.

(c) Activities, except for a [f]Free [s]Speech ~~[activities]~~ Activity, may be specifically denied during legislative sessions.

(d) No [e]Event or Solicitation may disrupt or interfere with any legislative session, legislative meeting, or the conduct of any state or governmental business, meeting or proceeding on the Capitol Hill Complex. No person shall unlawfully intimidate or interfere with persons seeking to enter or exit any facility, or use of the Capitol Hill Complex.

(e) Levels of audible sound generated by any individual or group, indoors or on the plaza between the Rebecca D. Lockhart House Building and Senate Building[s], whether amplified or not, ~~[shall]~~ may not exceed 85 decibels or a more restrictive limit established by applicable laws or ordinances. All outdoor [e]Events ~~[shall]~~ may not exceed noise limits established by applicable laws or ordinances.

(f) Fire exits, staircases, doorways, roads, sidewalks, hallways, and pathways ~~[shall]~~ may not be blocked, and the efficient flow of pedestrian traffic ~~[shall]~~ may not be obstructed at any time.

(g) Alteration and damage to the Capitol Hill Grounds including grass, plants, shrubs, trees, paving, or concrete is prohibited.

(h) No object or substance of any kind shall be placed on or in the Capitol Plaza fountain. Any specie placed in the fountain is the property of the state. Standing on or in the fountain is prohibited. Harassing waterfowl in the fountain is prohibited.

(i) All costs to repair any damage or replace any destruction, regardless of the amount or cost of restoration or refurbishing, shall be at the expense of the person[~~f~~][~~s~~][~~t~~] responsible for such damage or destruction.

(j) The consumption, distribution, or open storage of alcoholic beverages is prohibited. There shall also be compliance with ~~[Utah Code]~~ Section 32B-4-415.

(k) Service animals, emotional support animals and law enforcement animals are permitted in Capitol Hill Facilities, but the presence of other animals in Capitol Hill Facilities is allowed only with advance written permission of the [e]Executive [d]Director. Service animals, emotional support animals, law enforcement animals and domestic pets are permitted on the Capitol Hill Grounds. ~~[Owners/caretakers]~~ Users are responsible for the safety ~~[to]~~ of their animals, other Users ~~[persons]~~, the Capitol Hill ~~[g]~~ Grounds and Capitol Hill ~~[f]~~ Facilities. Pet waste stations are provided on the Capitol Hill Grounds. A User whose animal defecates on the Capitol Hill Grounds shall immediately clean up all feces and place it in a waste station. A User whose animal defecates or urinates in Capitol Hill Facilities shall immediately clean it up. Any animal acting aggressively or which attacks, chases, or worries a User or other animal at the Capitol Hill Complex or which reasonably appears to constitute a danger or nuisance to the Capitol Hill Complex or Users shall be immediately removed from the Capitol Hill Complex.

(l) Camping is prohibited on the Capitol Hill Complex.

(m) Littering is prohibited.

(n) Commercial [s]Solicitation as defined in [f]Rule R131-10 is prohibited except as provided in [f]Rule R131-10.

(o) The use of a personal space heater is prohibited, except as provided in Subsection (i).

(i) Any person with a medical related condition may obtain approval by the Executive Director to use a personal space heater provided the person submits a signed statement by a Utah licensed physician verifying that the medical related condition requires a change in the standard room temperature and the use of the space heater meets the specifications in Subsection (ii).

(ii) If a space heater is approved by the Executive Director, the space heater ~~shall~~may not exceed 900 watts at its highest setting, be equipped with a self-limiting element temperature setting for the ceramic elements, have a tip-over safety device, be equipped with a built-in timer not to exceed eight hours per setting, be equipped with a programmable thermostat, and be equipped with an overheat protection feature.

(p) Tables, chairs, furniture, art, and other objects in the Capitol ~~[B]~~building shall only be moved by the ~~[Board's]~~Executive Director's staff. No outside furniture, including tables or chairs, shall be allowed in the Capitol ~~[B]~~building or any other Capitol Hill [facility]Facilities [on the Capitol Hill Complex] without the advance written approval of the Executive Director.

(q) Temporary enclosures including privacy changing tents, are prohibited, without the advance written approval of the Executive Director, provided this rule does not prohibit the use of construction trailers or temporary toilets by authorized contractors.

(2) Decorations.

(a) All cords must be taped down with 3M #471 tape or equivalent as determined by the ~~[e]~~Executive [d]Director.

(b) There shall be no posting or affixing of placards, banners, or signs to any part of the Capitol Hill Complex~~[any building or on the grounds]~~. All signs or placards used at the Capitol Hill Complex shall be hand~~[-]~~held.

(c) No adhesive material, except for tape as provided in Subsection (a), wire, nails, or fasteners of any kind may be used on the Capitol Hill Complex~~[buildings or grounds]~~.

(d) Nothing may be used as a decoration, or be used in the process of decorating, that marks or damages structure~~[t]~~s.

(e) All decorations and supporting structures shall be temporary.

(f) Any writing or use of ink, paint or sprays applied to any area of any building is prohibited.

(g) Users may not decorate the inside or outside of any Capitol Hill [facility]Facilities or any portion of the Capitol Hill [g]Grounds without the advance written approval of the Executive Director. Users must submit any decoration requests in writing to the Executive Director at least ten working days in advance.

(h) Signs, posters, decorations, displays, or other media shall ~~[be in compliance with]~~follow the state law regarding Pornographic and Harmful Materials and Performance, Section 76-10-1201 et seq.

(i) Leaving any item~~[t]~~s against the exterior or interior walls, pillars, busts, statues, portraits or staircases of the Capitol building is prohibited.

(j) Balloons are not allowed inside the Capitol building.

(k) In areas subject to the jurisdiction of the Board, excepting curtains, blinds, or other window treatments approved in writing by the Executive Director, no objects, signs, flags, posters, stickers, or banners may be affixed to or placed, exhibited or displayed in, on or about the exterior windows of a building in any manner that such are visible from the outside of the building and may not hinder, obscure, or block in any manner the view of emergency personnel in identifying the source or location of a fire.

(3) Set up~~[t]~~ and Clean up.

(a) All deliveries and loading~~[t]~~ or unloading of materials shall be limited to routes and elevators as specified by the ~~[e]~~Executive [d]Director.

(b) All decorations, displays and exhibits shall be taken down by the designated end time of the event in a manner that is least disruptive to state business.

(c) Users shall leave all Capitol Hill [f]Facilities and the Capitol Hill [g]Grounds in ~~[its]~~their original condition and appearance.

(4) Parking.

(a) Parking is limited. All posted parking restrictions on the Capitol Hill Complex, including reserved parking stalls, shall be observed. Except when necessary to avoid conflict with other traffic, or in compliance with law, the directions of a peace officer, or a traffic-control device, a person may not stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers in a parking space identified as reserved for specific users, without:

(i) Approval of the Executive Director; and

(ii) A properly displayed placard or other identifying marker approved by the Executive Director to ~~[indicate]~~show this approval.

(b) Parking for large vehicles or trailers shall require the prior approval of the ~~[e]~~Executive [d]Director, which approval may be withheld if the large vehicle or trailer may interfere with the access or use of the Capitol Hill Complex.

(c) Except as expressly allowed by the ~~[e]~~Executive [d]Director, overnight parking is prohibited.

(5) Compliance with Laws.

(a) Users shall conform to all applicable and constitutional laws and requirements, including health, safety, fire, building and other codes and similar requirements. Occupancy limits as posted in or applicable to any public area will dictate, unless otherwise limited for public safety, the number of persons who can assemble in the public areas. Under no circumstance will occupancy limits be exceeded. State Capitol security personnel shall use reasonable efforts to ensure compliance with occupancy, safety, and health requirements.

(b) Safety requirements as used in this rule include safety and security requirements made known to the ~~[e]~~Executive [d]Director by the Utah Department of Public Safety or the federal government for the safety and security of special events ~~[and]~~or persons on the Capitol Hill Complex.

(c) "No Smoking" statutes, rules, and policies, including the Utah Indoor Clean Air Act, Title 26, Chapter 38, ~~[Utah Code]~~ shall be observed.

(d) The following are all prohibited: Open flames; flammable fluids; candles with flames; burning incense; smoke; fog machines; disseminating dust, powder, glitter, or confetti; and explosives; except that a gelled alcohol food warming fuel used for food preparation or warming, whether catered or not, is allowed provided that it is in:

(i) a one~~[-]~~ounce capacity container (29.6 ml) on a noncombustible surface; or

(ii) a container on a noncombustible surface, not exceeding one quart (946.g ml) capacity with a controlled pouring device that will limit the flow to a one ounce (29.6 ml) serving.

(e) All persons must obey all applicable firearm laws, rules, and regulations.

(6) Security and Supervision.

(a) The Facility Use Application shall be reviewed by the senior ranking officer in charge of security for the Capitol Hill Complex, who shall determine the total number of uniformed security officers required for the proposed [e]Event based upon the nature of the [e]Event and the risk factors that are reasonably anticipated. Such determination by the senior ranking officer may increase the minimum number of required officers stated in this subsection. At a minimum: one uniformed security officer shall be required for any [e]Event consisting of 1-399 participants; two uniformed security officers shall be required for any [e]Event consisting of 400 or more participants. The applicant shall pay, in addition to all other required fees, the cost of the providing of all required security officers. These security fees may not be waived. This ~~[subparagraph]~~subsection ~~[shall]~~does not apply to a [f]Free [s]Speech ~~[activities]~~Activity or a [s]State [s]Sponsored ~~[activities]~~Activity.

(b) At least one representative of the applicant identified in the application and [p]Permit shall be present during the entire activity[;].

(c) The activity sponsor ~~or~~ ~~[(p)]Permit holder[;]~~ is responsible for restricting the area of use by participants to the specified room and rest room areas of the reserved facilities.

(d) The activity sponsor ~~or~~ ~~[(p)]Permit holder[;]~~ shall control entrances to allow only authorized persons to enter any permitted facility or grounds.

(7) Photography, Portraits, ~~[and]~~ Video~~[;]~~ and Filming.

(a) Any photography, videotaping or filming, shall require advance notice to, and permission from the [e]Executive [d]Director for scheduling.

(b) Any photography, videotaping or filming, which includes wedding participants and family portraits, and which may take place anywhere ~~[in the facilities or grounds of]~~on the Capitol Hill Complex, will be required to comply with this [R]rule.

(i) Such photography, videotaping or filming, may be scheduled by the [e]Executive [d]Director on Tuesday from 3 p.m. to 6 p.m., Friday from 12 ~~noon~~~~[p.m.]~~ to 6 p.m., and Saturday from 8 a.m. to 4 p.m. The [e]Executive [d]Director may allow a different time than specified ~~[herein]~~in this subsection upon written request and if the [e]Executive [d]Director determines that such other time can be accommodated by any necessary state personnel and does not conflict with state business and any other scheduled [e]Events. The [e]Executive [d]Director may reschedule as needed to accommodate [e]Events and state business whether scheduled or not.

(ii) ~~[In regard to i)]~~Inside the Capitol building, such photography, videotaping or filming may occur in the following areas: the East grand stairs, the West grand stairs, and the center of the Rotunda or other areas as approved by the [e]Executive [d]Director.

(iii) A processing fee shall be required for such photography, videotaping or filming. Additionally, a deposit may be required to cover the costs of any anticipated cleanup by the state after the ~~[session]~~photography, videotaping or filming. These fees shall be described in the ~~[Fee]~~Schedule of Costs and Fees approved by the Board.

(c) Any photography, videotaping or filming that is for ~~[the purpose of]~~promoting any private business purposes, including television commercials, movies, and photography for business advertising, shall be required to submit a Facility Use Application, pay the required fee from the ~~[Fee]~~Schedule of Costs and Fees approved by the Board, and the time and location must be approved by the Executive Director.

(d) Unless specifically endorsed by an authorized official of the ~~state~~~~[State of Utah]~~, any photography, videotaping or filming ~~[shall]~~may not expressly or impliedly indicate any [S]state ~~[of Utah]~~ endorsement of any product, service, or any other aspect of the depiction.

(e) This subsection (7) ~~[shall]~~does not apply to tourists and does not apply to the extent it is the exercise of a [f]Free [s]Speech ~~[a]~~Activity.

(8) Liability.

(a) The state, Board, [e]Executive [d]Director and their designees, employees and agents ~~[shall]~~may not be deemed in default of any issued [p]Permit, or liable for any damages if the performance of any or all of their obligations under the [p]Permit are delayed or become impossible because of any act of God, terrorism, war, riot or civil disobedience, epidemic, strike, lock-out or labor dispute, fire, or any other cause beyond their reasonable control.

(b) Except as required by law, the state ~~[shall]~~may not be held responsible for any property damage or loss, nor any personal injury sustained during, or as a result of, any use, activity, ~~[or e]Event,~~ or Solicitation.

(c) Users~~[;]~~ or applicants shall be responsible for any personal injury, vandalism, damage, loss, or other destruction of property caused by the [u]User or applicant or an attendee at the User's or applicant's [e]Event.

(9) Indemnification. Individuals and organizations using the Capitol Hill Complex do so at their own risk and shall indemnify and hold harmless the state from and against any ~~[and all]~~suits, damages, claims or other liabilities due to personal injury or death, and from damage to or loss of property arising out of or resulting from the conduct of such use or activities on the Capitol Hill Complex.

(10) Food Services, Cafe Operator and Authorized Caterer Requirements.

(a) In General. Catering services on the Capitol Hill Complex shall be exclusively provided by the Cafe Operator and Authorized Caterer for those areas of the Capitol Hill Complex under the jurisdiction of the Board and to the extent expanded by the Legislative Management Committee or the Governor's Office, whichever ~~[is applicable]~~applies. Multiple Authorized Caterers may be approved by the Executive Director. The Cafe Operator shall be responsible for all activities in the kitchen, servery, dining and conference rooms associated with the dining room of a cafe which may be located on the Capitol Hill Complex in an area to be designated by the Board (the "Cafe")~~[-known as the "State Room," and located on the first floor of the East Senate Building]~~. The Cafe Operator shall have the exclusive right to provide food and beverages in the ~~[State Room]~~Cafe, but may give permission for an Authorized Caterer to provide food and beverages in the ~~[State Room]~~Cafe.

(b) Authorized Caterer Requirements. ~~[In order to]~~To qualify as an Authorized Caterer, an application must be approved by the Executive Director based on meeting the following requirements:

(i) Quality Control Policies. The Authorized Caterer must have quality control policies that ~~meet the requirements established by the Executive Director~~are consistent with those set forth in the ~~contract between the Board and the Cafe Operator~~. The Executive Director shall provide a form describing the minimum standards.

(ii) Application Form. A person or entity seeking to be an Authorized Caterer shall complete an application form approved by the Executive Director.

(iii) Insurance. A Certificate of Insurance shall be provided to the Executive Director for all ~~[of]~~the following insurance

and such insurance shall be maintained throughout the term of the catering event and for at least one year thereafter:

(A) The Authorized Caterer shall maintain Commercial General Liability insurance with per occurrence limits of at least \$1,000,000 and general aggregate limits of at least \$2,000,000. The ~~[selected]~~ Authorized Caterer shall also maintain, if applicable to the Authorized Caterer's operations or the specific activity, Business Automobile Liability insurance covering the Authorized Caterer's owned, non-owned, and hired motor vehicles ~~and/or Professional Liability (errors and omissions) insurance~~ with liability limits of at least \$1,000,000 per occurrence. Such insurance policies shall be endorsed to be primary and not contributing to any other insurance maintained by the Board or the ~~[S]tate of Utah~~.

(B) The ~~Executive Director~~ ~~[Budget Development and Board Operations Subcommittee]~~ reserves the right at any time to require additional coverage from that required in this ~~[R]ule~~, at the Authorized Caterer's expense for the additional coverage, based upon the specific risks presented by any proposed ~~[e]Event~~ and as recommended by the ~~[S]tate's Risk Manager~~.

(C) The Authorized Caterer shall maintain all employee related insurances, in the statutory amounts, such as unemployment compensation, worker's compensation, and employer's liability, for its employees or volunteers involved in performing services pursuant to the Event. Such worker's compensation and employer's liability insurance shall be endorsed to include a waiver of subrogation against the ~~[S]tate of Utah~~, the Board, its agents, officers, directors, and employees. The Authorized Caterer shall also maintain "all risk" property insurance at replacement cost applicable to the Authorized Caterer's property and ~~its~~ equipment.

(D) The Authorized Caterer's insurance carriers and policy provisions must be acceptable to the ~~[S]tate's~~ ~~[of Utah's]~~ Risk Manager and remain in effect ~~[for the duration of]~~ during the catering ~~[e]Event~~ and for at least one ~~[-]~~ year thereafter. The Board shall be named as an additional insured on the Commercial General Liability ~~[the Professional Liability]~~ insurance ~~[and all other required insurance]~~ policy ~~[ies]~~. The Authorized Caterer will cause any of its subcontractors, who provide food, beverages, equipment, or materials or perform services related to the catering service ~~[s]~~, to also maintain the insurance coverages and provisions ~~[listed above]~~ required of the Authorized Caterer.

(E) The Authorized Caterer shall submit certificates of insurance as evidence of the ~~[above]~~ required coverage to the Executive Director ~~[prior to any]~~ before entering into a contract related to the catering ~~[e]Event~~. Such certificates shall provide the ~~[Board]~~ Executive Director with ~~[thirty]~~ ~~[-]~~ ~~[30]~~ calendar days written notice ~~[prior to]~~ before the cancellation or material change of the applicable coverage, as evidenced by return receipt or certified mail, sent to the office of the Executive Director.

(iv) Indemnification: The Authorized Caterer shall hold harmless, defend and indemnify the ~~[S]tate of Utah~~, the Board and its officers, employees, and agents from and against any ~~[and all]~~ acts, errors or omissions which may cause damage to property or person ~~[s]~~, claims, losses, damages to the ~~[facilities or grounds of the]~~ Capitol Hill Complex, causes of action, judgments, damages and expenses including ~~[but not limited to]~~ attorney's fees because of bodily injury, sickness, disease or death, or injury to or destruction of tangible property or any other injury or damage resulting from or arising out of the negligent acts or omissions or willful misconduct of the Authorized Caterer, or its agents, employees subcontractors or anyone for whom the Authorized Caterer may be liable, except where such claims, losses, causes of action, judgments, damages and

expenses result solely from the negligent acts or omissions or willful misconduct of the Board, its officers, employees or agents.

(v) Record Keeping and Audit Rights: The Authorized Caterer shall maintain accurate accounting records for all goods and services provided ~~[s]~~ and shall retain all such records for a period of at least three ~~[-]~~ ~~[-]~~ years from the date of the catering service. Upon reasonable notice and during normal business hours, the Board, or any of its ~~[duly]~~ authorized representatives, shall have access to and the right to audit any records or other documents pertaining to the Authorized Caterer. The Board's audit rights shall extend for a period of at least three ~~[-]~~ ~~[-]~~ years from the date of the catering service.

(vi) Equal Opportunity: The Authorized Caterer ~~[shall]~~ ~~may~~ not unlawfully discriminate against any employee, applicant for employment, or recipient of services.

(vii) Taxes: The Authorized Caterer shall be responsible for and pay all taxes which may be levied or incurred against the Authorized Caterer, including taxes levied or incurred against Authorized Caterer's income, inventory, property, sales, or other taxes.

(viii) Tax ~~[es]~~ Exemption: ~~[Board is Exempt.]~~ The Board is exempt from ~~[S]tate of Utah~~ sales and excise taxes. Exemption certification information appears on all purchase orders issued by the Board and such taxes will not apply to the Board.

(ix) Suspension ~~[-]~~ or Debarment. The Authorized Caterer must notify the Executive Director within ~~[40]~~ ~~ten~~ calendar days if debarred or suspended by any governmental entity.

(x) Comply with Facility Use Rules. The Authorized Caterer shall comply with all ~~[of]~~ the Facility Use Rules enacted by the Board. Upon submission of any evidence to the ~~Executive Director~~ ~~[Budget Development and Board Operations Subcommittee]~~ that the Authorized Caterer has not complied with a rule enacted by the Board, the Authorized Caterer shall be removed from eligibility for providing any catering service on the Capitol Hill Complex for a period ~~[of time]~~ as determined by the ~~[Subcommittee]~~ Executive Director and consistent with ~~[the Board's rules on suspension and debarment]~~ Section 63G-6a-904.

(xi) Inspection. The Board or the Executive Director reserves the right to inspect the Authorized Caterer's facilities and operations with respect to use, safety, sanitation, and the maintenance of premises which shall be maintained at a level satisfactory to the Board.

(xii) ~~[Energy]~~ Utilities. The Authorized Caterer shall exercise due care to keep utility services at a minimum, conserve the use of energy ~~[ies]~~ and water, and control the resulting costs.

(xiii) Food Handlers Permits. All ~~[of]~~ the Authorized Caterer's employees must have a current Food Handlers Permit. Documentation shall be promptly provided upon request of the Executive Director that establishes ~~[d]~~ that all employees and temporary employees have valid Food Handlers Permits.

(xiv) The Authorized Caterer must have a locally grown food quality assurance program ~~[similar to that required of the Cafe Operator]~~ which covers the food or products that are not provided by nationally recognized vendors.

(xv) Fees and costs associated with catering services, including the Cafe Operator or the Authorized Caterer, shall be the responsibility of the ~~[A]~~ applicant and cannot be waived.

(xvi) Security.

(A) An Authorized Caterer shall provide to the Executive Director at least 24 hours in advance of any catered ~~[e]Event~~, a list of all full-time and part-time employees that will be involved with the catering service on the Capitol Hill Complex.

(B) The ~~[A]~~applicant shall be assessed a fee to provide for the presence of at least one Board employee to be present and to assist with ingress and egress from the Capitol Hill Complex, set ~~[-]~~up, coordination and assurance of appropriate performance under this ~~[R]~~rule as well as timely and appropriate clean~~[-]~~up after the event. This fee cannot be waived.

(11) Public Notices, Employee Postings, Required Use of Bulletin Boards.

(a) Notices of Capitol Hill Complex meetings, information or announcements related to state or ~~[f]~~ other governmental business shall be posted at ~~[e]~~Executive ~~[d]~~Director approved locations. If any posting is to be done by a person not officed in the Capitol Hill Complex, the ~~[e]~~Executive ~~[d]~~Director shall be notified ~~[prior to]~~before the posting for approval of the location~~[f]~~s and duration of the posting. Such persons are also responsible to remove the notices after the related meeting or activity within 24-48 hours.

(b) Posting of handbills, leaflets, circulars, advertising, or other printed materials by state employees officed in the Capitol Hill Complex shall be on ~~[e]~~Executive ~~[d]~~Director approved bulletin boards.

(12) Dress. Appropriate apparel shall be worn at all times by Users of the Capitol Hill Complex.

(a) Appropriate apparel means, at a minimum, apparel that fully covers with opaque material:

(i) the chest, which shall mean the front surface of the human body between the neck and the abdomen;

(ii) the pubic area and genitals; and

(iii) the anus and buttocks, including the cleft of the buttocks.

(b) Users shall wear shoes, boots, sandals or equivalent footwear at all times while at the Capitol Hill Complex.

(c) A User breast feeding, including breast feeding in any location where the User otherwise may rightfully be, does not under any circumstance constitute an act prohibited by this rule, irrespective of whether or not the breast is covered during or incidental to feeding.

(d) This rule does not prohibit the exposure of any body part of a user as a result of or incidental to a disability or medical emergency.

(13) No user or person shall operate an "electric assisted bicycle," "electric personal assistive mobility device," "moped," "motor assisted scooter," "motorcycle," "motor-driven cycle," "mini-motorcycle," "autocycle," or "off-highway vehicle," as those terms are defined in Section 41-6a-102.

(14~~[2]~~) Enforcement of Rules.

(a) A violation of a rule in ~~[any provision of]~~Rules R131-1 through R131-16 relating to the use of the Capitol Hill Complex is an infraction under ~~[Utah Code]~~Subsection 63C-9-301(3)(b). If an act violating a rule subject to ~~[Utah Code]~~Subsection 63C-9-301(3)(b) also amounts to an offense subject to a greater penalty under Title 32B, Alcoholic Beverage Control Act, Title 41, Motor Vehicles, Title 76, Utah Criminal Code, ~~[Utah Code]~~Section 76-8-301, ~~[f]~~Interference with Public Servant~~[y]~~, ~~[Utah Code]~~Section 76-9-102, ~~[f]~~Disorderly Conduct~~[y]~~, or other provision of state law, ~~[Utah Code]~~Subsection 63C-9-301(3)(b) does not prohibit prosecution and sentencing for the more serious offense;

(b) In addition to any punishment allowed under ~~[Utah Code]~~Subsection 63C-9-301(3)(b), pursuant to ~~[Utah Code]~~Subsection 63C-9-301(3)(d), a person who violates a rule adopted by the Board is subject to a civil penalty not to exceed \$2,500 for each violation, plus the amount of any ~~[actual]~~ damages, expenses,

and costs related to the violation of the rule that are incurred by the state; and

(c) The law enforcement or security officer may issue a warning citation or pursue other lawful:

(i) Civil or criminal enforcement;

(ii) removal from the Capitol Hill Complex;

(iii) make an arrest; ~~[and]~~ or

(iv) cancel the subject ~~[e]~~Event or activity.

~~(15~~[3]~~)~~ Waivers.

The Executive Director may waive the requirements of ~~[any provision of]~~Section R131-2-6 provided that ~~[the provision of Rule]~~Section R131-2-6 does not specifically ~~[indicate]~~state that it is non-waivable, upon being presented with compelling reasons that the waiver will substantially benefit the public of the state ~~[of Utah]~~ and that Capitol Hill Complex and Users of the Capitol Hill Complex~~[the facilities, grounds and persons]~~ will be appropriately protected. Any approved waiver must still require compliance with ~~[all other provisions of]~~this ~~[R]~~rule. The waiver request must be submitted in writing to the Executive Director and must accompany any required Facility Use Application. Conditions may be placed on any approved waiver by the Executive Director to assure the appropriate protection of the Capitol Hill Complex and Users of the Capitol Hill Complex~~[facilities, grounds and persons]~~. An appeal of a denial or the conditions of such waiver may be filed and processed similarly to the denial of a Facility Use Application as described in Section R131-2-5.

R131-2-7. Fees and Charges.

(1) Fees.

(a) Application Fee. There shall be an application fee for a Facility Use Permit to cover the cost of processing the application, as specified on the Board's ~~[fee-s]~~Schedule of Costs and Fees. This fee is separate from rental and other fees.

(b) Rental of Space Fee. Persons using the Capitol Hill Complex pursuant to a Facility Use Permit shall be charged a rental of the space fee as specified on the Board's ~~[fee-s]~~Schedule of Costs and Fees.

(c) Security Fee. A security fee shall also be assessed as provided in this ~~[R]~~rule, as specified on the Board's ~~[fee-s]~~Schedule of Costs and Fees.

(d) Rental of Equipment fee. A rental of equipment fee shall be assessed as specified on the Board's ~~[fee-s]~~Schedule of Costs and Fees.

(e) Room Setup Fees. The Board's ~~[fee-s]~~Schedule of Costs and Fees shall provide for room setup fees.

(f) Additional Board Staff fee. If an ~~[A]~~applicant requests that additional Board staff be present for an ~~[e]~~Event, then an additional fee shall be assessed.

(g) Authorized Caterer Fee. Any fee or costs of an Authorized Caterer are the responsibility of the ~~[A]~~applicant. The ~~[S]~~state~~[-of Utah]~~, the Capitol Preservation Board, State Officials, employees, and anyone for whom the ~~[S]~~state may be liable, shall have no liability~~[to]~~ ~~[whatsoever]~~ for such fee or costs owed to the Authorized Caterer.

(h) A "Schedule of Costs and Fees" is available during regular working hours at the ~~[e]~~Executive ~~[d]~~Director's office. This Schedule of Costs and Fees shall include all the fees referred to in this ~~[Rule]~~Section R131-2-7. Additionally, fees may be assessed for technology assistance, recording, insurance coverage, cleaning, and repairs. The Schedule of Costs and Fees may have special fees for ~~[e]~~Community ~~[s]~~Service ~~[a]~~Activities, state employee events, including state employee recognition events, state retirement events,

or state employee holiday~~[7]~~ or social events. There are no fees for a ~~[f]~~Free ~~[s]~~Speech ~~[a]~~Activity~~[ies]~~, except costs for requested use of state equipment or supplies shall be assessed in accordance with the Schedule of Costs and Fees. State Sponsored Activities ~~[shall]~~may not be required to pay any fees under this ~~[R]~~rule.

R131-2-8. Specific Facilities.

~~[(1)]~~The following applies to all ~~[e]~~Events and ~~[s]~~Solicitations, except for a ~~[f]~~Free ~~[s]~~Speech ~~[a]~~Activity~~[ies]~~.

(a) Use of caucus rooms, committee rooms, the House of Representatives or Senate Chambers will be separately administered by the legislative branch. Requests for all other rooms must be submitted in writing to the ~~[e]~~Executive ~~[d]~~Director for scheduling and staffing. If the requested room is under the control of the Governor, the judiciary, or other elected officials or appointed officials, the ~~[e]~~Executive ~~[d]~~Director shall forward the request to the appropriate representative of such branch of government or elected or appointed official. The ~~[e]~~Executive ~~[d]~~Director will notify the applicant of the approval or denial of the requested space by the approving organization.

~~(b) [The State Office Building auditorium shall be available to all state entities on a first come, first serve basis for governmental functions. All state entities shall reserve this facility in advance with the executive director.]~~

~~(c) After hours access to the State Office Building shall be through the first floor south doors.~~

~~(d)]~~During legislative sessions, legislative meetings or other legislative activities, use of the legislative space will be subject to the applicable legislative rules.

~~[(e)]~~The Gold Room and all other areas controlled by the Governor in the Capitol building shall be available in accordance with Section 67-1-16.

R131-2-9. Use of White Community Memorial Chapel.

(1) ~~[In addition to the provisions above,]~~The following rules for the White Community Memorial Chapel shall also be observed:

(a) Fire Marshal occupancy limits ~~[shall]~~may not be exceeded.

(b) The kitchen is for the exclusive use of the ~~[Preferred]~~Authorized Caterer. No ~~[P]~~private ~~[C]~~caterer shall be allowed to use the White Community Memorial Chapel and its grounds. Users may use the full rest room facilities.

(c) The White Community Memorial Chapel will be available from 7~~[:00]~~ a.m. until ~~[12:00]~~midnight, seven days a week, 365 days a year unless otherwise specified by the Board~~[s Budget Development and Board Operations Subcommittee]~~.

(d) If no wedding or ~~[e]~~Event is scheduled the day before the scheduled wedding or ~~[e]~~Event, the applicant may be allowed to use the White Community Memorial Chapel the day before from noon to midnight for rehearsal or decorative purposes for an additional fee as identified on the Board's ~~[fee s]~~Schedule of Costs and Fees.

(e) All users must complete the Facility Use Permit Application and comply with all the ~~[p]~~Permit requirements listed under ~~[rules]~~Section R131-2-4~~[and R131-10]~~.

R131-2-10. Procedure for Receiving and Deciding Complaints Regarding the Access or Use of the Capitol Hill Complex.

(1) Any person that has a complaint regarding the access or use of the Capitol Hill Complex may file such complaint in writing ~~[to]~~with the ~~[e]~~Executive ~~[d]~~Director.

(2) The ~~[e]~~Executive ~~[d]~~Director will issue a written determination within ~~[thirty]~~30 calendar days of the filing of the complaint or such longer time period as agreed to by the complainant.

(3) If the ~~[e]~~Executive ~~[d]~~Director does not issue a determination within the time period for such determination, or if the complainant does not agree with the Executive Director's determination, then the complainant may file a written appeal no later than ten calendar days after the expiration of such time period. The written appeal shall be delivered to the office of the ~~[e]~~Executive ~~[d]~~Director and shall be considered by the Chairperson of the Board's Budget Development and Board Operations Subcommittee chair in a manner determined appropriate by the chair or the Chairperson's designee.

(4) The ~~[e]~~Chairperson or the Chairperson's designee, as applicable, will issue a written determination within ~~[thirty]~~30 calendar days of the filing of the appeal or such longer time period as agreed to by the complainant.

(5) If the ~~[e]~~Chairperson or the Chairperson's designee, as applicable, does not issue a determination within the time period for the ~~[e]~~Chairperson's determination or if the complainant does not agree with the Chairperson or Chairperson's designee's determination, the complainant may file a written appeal to the Board no later than ten calendar days after the expiration of such time period. The written appeal to the Board shall be delivered to the office of the ~~[e]~~Executive ~~[d]~~Director.

(6) Upon the filing of a timely appeal to the Board, the appeal shall be scheduled to be heard at the next regularly scheduled meeting of the Board.

(7) This is considered to be an administrative remedy for complaints regarding the access or use of the Capitol Hill Complex, and to the extent allowed by law, shall be considered an administrative remedy that must be ~~[pursued]~~exhausted ~~[prior to]~~before any legal action.

R131-2-11. Fees and Charges During Legislative Session.

During the regular Utah Legislative Session, from the hours of 7~~[:00]~~ a.m. to 5:30 p.m., Monday through Friday, the facility use fees for specific rooms and spaces shall be reduced as follows:

(1) Facilities on Capitol Hill are available on a first~~[-]~~come first~~[-]~~serve basis~~[as defined in this Rule R131-2]~~, subject to preemption for State Sponsored Activities and any need to reserve or close off spaces for security reasons as advised by the Department of Public Safety.

(a) Subject to ~~[all the other provisions of]~~this ~~[Rule]~~Section R131-2-11, the following rooms may be reserved with no room rental being assessed:

- (i) Kletting Room located in the Senate Building;
- (ii) Olmstead Room located in the Senate Building;
- (iii) ~~[Spruce]~~Aspen Room located in the Senate Building;
- (iv) Beehive Room located in the Senate Building;
- (v) Seagull Room located in the Senate Building;
- (vi) Copper Room located in the Senate Building;
- (vii) Room 105 located in the Capitol; and [Rooms B110 and 1112 in the State Office Buildings]
- (viii)~~[-]~~ Room 130, the Multipurpose/Public Lounge located in the Capitol;

~~(ix)]~~ Room 170 located in the Capitol~~[and~~

~~(x)]~~ Room 210 located in the Capitol~~].~~

(b) These rooms identified in Subsection R131-2-11~~[(2)]~~(a) may be reserved when the Utah Legislature is meeting in regular session in 4~~[-]~~hour blocks~~[7]~~ a day for a maximum of ~~[8]~~eight total hours per week, and not concurrently.

~~[(c) The use of the State Room in the East Senate Building is to be for public use except for certain hours established by the Executive Director when the public does not ordinarily use the State Room.]~~

(2) ~~[The State Office Building Auditorium may be reserved during the time the Utah Legislature is meeting in regular session in two hour blocks one day a week, but is subject to the same rental fees that would apply at other times of the year and priority shall be provided to those events that are related to the regular session of the Utah Legislature.]~~

~~[(3)]~~ The Capitol Rotunda or Hall of Governors facilities may be reserved during the hours the Utah Legislature is meeting in regular session with no fee for the space rental itself being assessed subject to the following:

(a) The reservation shall be for a maximum of two hours which must be in one block of hours; and

(b) Priority shall be given to those ~~[e]~~ Events that are related to the regular session of the Utah Legislature.

~~[(4)]~~ This ~~[Rule]~~ Section R131-2-11 does not prohibit the rental of these rooms for the standard fees when rental is beyond the time restrictions set forth in this ~~[Rule]~~ Section R131-2-11.

(a) ~~[Notwithstanding any other provision of this Rule R131-2-11,]~~ Registration, ~~[(A)]~~ application~~[(s)]~~, ~~[(J)]~~ janitorial and all other associated set up and security fees that would apply if the rental was not during the Utah Legislature's regular session, shall be assessed.

(b) Those persons or entities reserving or using the facilities shall leave the space as they found it in a clean and orderly manner and comply with ~~[all other provisions of]~~ the Facility Use Rule~~[s]~~, R131-2.

(c) The janitorial fee will only be assessed if, in the opinion of the Executive Director, ~~[that]~~ the work required to prepare the room for the next user is beyond ~~[that]~~ what is expected and reasonable. Charges for any such required janitorial services shall be assessed in half hour increments of \$50~~[(4)]~~ per hour per janitorial worker.

(d) The ~~[R]~~ registration or ~~[(A)]~~ application~~[(s)]~~ fee shall be assessed at the rate of one rental even if the ~~[R]~~ registration or ~~[(A)]~~ application~~[(s)]~~ includes more than one reservation. Multiple reservations on one application form for reservations during the Utah Legislature's regular session are encouraged ~~[in order]~~ to best coordinate all the reservations.

KEY: public buildings, facilities use

Date of Last Change: ~~[July 22, 2016]~~ 2024

Notice of Continuation: January 16, 2020

Authorizing, and Implemented or Interpreted Law: 63C-9-101 et seq.

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R414-90	Filing ID: 56258
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Agency Information

1. Department:	Health and Human Services
Agency:	Integrated Healthcare
Building:	Cannon Health Building

Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R414-90. Diabetes Self-Management Training

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

The purpose of this change is to clarify policy for diabetes self-management training.

4. Summary of the new rule or change:

This amendment clarifies eligibility, access, coverage, and reimbursement for diabetes self-management training.

It also makes other technical changes.

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 solely clarifies existing Medicaid policy.

B) Local governments:

There is no impact on local governments as this change solely clarifies existing Medicaid policy.

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

There is no impact on small businesses as this change solely clarifies existing Medicaid policy.

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 solely clarifies existing Medicaid policy.

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 to other persons or entities as this change solely clarifies existing Medicaid policy.

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 to a single person or entity as this change solely clarifies existing Medicaid policy.

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

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

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

Businesses will see no fiscal impact as this change solely clarifies existing Medicaid policy.

Citation Information

6. 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 26B-1-213	Section 26B-3-108	
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Public Notice Information

8. 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: 02/14/2024

9. This rule change MAY become effective on: 02/21/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	12/13/2023
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R414. Health and Human Services, [Health Care Financing, Coverage and Reimbursement Policy] Integrated Healthcare.

R414-90. Diabetes Self-Management Training.

R414-90-1. Introduction and Authority.

[Diabetes self-management training is an educational program that teaches individuals how to successfully manage and control diabetes.] Diabetes self-management training, as outlined in this rule, is a component of the [Utah] Medicaid State Plan and is authorized by 42 CFR 440.130 [and Section 26-18-3].

R414-90-2. Definitions.

"Diabetes self-management training or (DSMT)" means an educational program that teaches individuals how to manage and control diabetes successfully.

R414-90-[2]3. [Client] Member Eligibility Requirements.

[Diabetes self-management training] DSMT services are available to categorically and medically needy individuals. [is available to Traditional Medicaid clients, Non-Traditional Medicaid clients, and Primary Care Network (PCN) clients who are diabetic and receive a physician referral for services.]

R414-90-[3]4. Program Access Requirements.

(1) [Diabetes self-management training] DSMT is limited to services approved by a physician, under a comprehensive plan [that is] essential to ensure successful diabetes self-management by the individual [patient] member.

(2) Only qualified providers may provide DSMT. Qualified providers for the [diabetes self-management training] DSMT program include registered nurses, registered pharmacists, and [certified] registered dietitians licensed by the state. These providers are required to be [certified] accredited or recognized by the American Diabetes Association (ADA) [of Diabetes Educators]

~~(AADE)~~ or Association of Diabetes Care and Education Specialists (ADCES) ~~approved through the Utah Department of Health as diabetes instructors~~.

(3) ~~Diabetes self-management training~~ A home health agency (HHA) may only provide DSMT ~~services provided by a home health agency, may only be provided by~~ through a licensed health care provider who is ~~certified~~ accredited or recognized by an ~~American Diabetes Association (ADA)~~ program ~~or approved through the Utah Department of Health~~ or ADCES program.

(4) ~~Home Health Agency~~ HHA participation in ~~diabetes self-management training~~ DSMT is limited to ~~providing services to the patient~~ members who ~~is~~ receive ~~ing~~ other skilled services in the home based on a physician order and plan of care ~~when the home is the most appropriate site for the care provided~~.

R414-90-45. Service Coverage.

(1) Patient assessment for the ~~diabetes self-management~~ DSMT program shall include[s]:

- (a) a review of medical history[s];
- (b) risk factors[s];
- (c) health status[s];
- (d) resource utilization[s];
- (e) knowledge and skill level[s]; and
- (f) cultural barriers to effective diabetes self-management.

(2) ~~Diabetes self-management training~~ DSMT is limited to a maximum of ~~10 hours~~ ten sessions of outpatient services as ordered by a physician.

(3) ~~Diabetes self-management training~~ DSMT is limited to training presented by a qualified provider within an ~~certified~~ accredited or recognized program that meets ~~all of~~ the standards of the National Diabetes Advisory Board covering ~~the 15 ADA~~ seven ADA and ADCES self-care core curriculum content areas. The program must also be ~~recognized by the American Association of Diabetes Educators~~ accredited by the ADA or recognized by the ADCES ~~or be certified by the Utah Department of Health~~.

(4) ~~Diabetes self-management training~~ DSMT includes group sessions, but must shall allow for direct, face-to-face interaction between the educator and the ~~patient~~ member.

(5) Diabetes self-management training must be sufficient in length to meet the goals of the member's basic comprehensive plan of care. Individual sessions must be sufficient in number and designed to meet the individual's cultural and learning needs.

~~(6) A maximum of 10 sessions per year may be approved by a physician and through prior authorization.~~

~~(7) Repeating any or all of a diabetes self-management program. A member who repeats any part of a DSMT program may only be treated for new conditions that arise or changes in health status is limited to new conditions or a change in the health status of the client that warrants the need for new training.~~

~~(8) Medicaid also covers~~ the following DSMT services ~~are also covered~~:

- (a) annual eye examination that includes dilation;
- (b) annual physical;
- (c) glycosylated hemoglobin laboratory test with foot examination;
- (d) blood sugar review; and
- (e) blood pressure reading every 3 ~~three~~ to 4 ~~four~~ months.

~~(9) Medicaid~~ Diabetes self-management training does not cover charges for facility use.

R414-90-56. Reimbursement Methodology.

(1) ~~Medicaid payments for approved~~ ~~diabetes self-management training~~ DSMT are based on the established Medicaid fee schedule, unless a DSMT provider bills for a lower amount ~~is billed. The fee schedule was established after internal and external consultation with diabetes experts. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services~~.

(2) Diabetic glucose monitoring is part of the global maternity payment. Providers may not submit additional billing for:

- (a) an office visit;
- (b) DSMT; or
- (c) nutritional medical counseling for diabetic glucose monitoring during a member's pregnancy.

KEY: Medicaid

Date of Last Change: 2024 ~~January 19, 2005~~

Notice of Continuation: November 7, 2023

Authorizing, and Implemented or Interpreted Law: 26B-1-5213; 26B-1483-3108

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R432-40	Filing ID: 56270
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Agency Information

1. Department:	Health and Human Services	
Agency:	Health Care Facility Licensing	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R432-40. Long Term Care Immunizations

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

The purpose of this amendment is to modify and replace outdated language with the Rulewriting Manual for Utah standards, update citations in response to S.B. 38 in the 2023 General Session for statute recodification, and re-

title rules to the new division titles that are consistent with the Rulewriting Manual for Utah standards.

4. Summary of the new rule or change:

The revisions include more specific language consistent with the Rulewriting Manual for Utah.

Additionally, this amendment updates titles and citations due to the recodification of the Department of Health and Human Services' (Department) statute.

Substantive changes were made upon recommendation of the Office of Epidemiology to align with current processes and standards.

The substantive changes clarify terminology and make clear distinctions between client and staff requirements.

Fiscal Information

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

A) State budget:

This change will not impact the current process for licensure and re-licensure surveys.

No change to the state budget is expected because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.

Substantive changes offer clarity but do not change any requirements.

B) Local governments:

This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.

These facilities are regulated by the Department and not local governments. There will be no change in local business licensing or any other item(s) with which local government is involved.

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

There are no fiscal impacts to small businesses resulting from the changes in this proposed rule because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.

Substantive changes offer clarity but do not change any requirements.

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

There are no fiscal impacts to small businesses resulting from the substantive or nonsubstantive changes in this rule content because this amendment modifies and replaces outdated language with the Rulewriting Manual for Utah standards.

Substantive changes offer clarity but do not change any requirements.

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 will be no fiscal impacts on any other persons as a result of this proposed rule.

This rule amendment does not introduce any new processes that will incur a cost for affected persons.

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

This rule amendment does not introduce any new processes that will incur a cost for affected persons.

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

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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 26B-2-202		

Public Notice Information

8. 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:	02/14/2024

9. This rule change MAY become effective on:	02/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	12/27/2023
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R432. Health and Human Services, ~~[Family Health and Preparedness]~~ Health Care Facility Licensing.**R432-40. Long-Term Care Facility Immunizations.****R432-40-1. Purpose and Authority.**

(1) The purpose of this rule is to require long-term care facility licensees to have policies and procedures in place to protect vulnerable patients and residents from vaccine-preventable illnesses

(2) This rule is ~~[adopted pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.]~~ authorized by Sections 26B-2-202 and R386-705-4.

R432-40-2. Definitions.

As used in this rule:

(1) "Long-term care facility" means a nursing care facility, small health care facility, assisted living type I and type II, intermediate care facility for the intellectually disabled, ~~[and]~~ and a swing bed unit of a general acute hospital.

(2) "Pneumococcal vaccination" means use of Advisory Committee on Immunization Practices (ACIP) recommended vaccines to prevent pneumococcal disease, including pneumococcal conjugate vaccines PCV 13, PCV15, or PCV20, or the 23-valent pneumococcal polysaccharide vaccine (PPSV23) administered per the ACIP recommendations.~~[Recommendations may be found in the 15-Valent Pneumococcal Conjugate Vaccine and 20-Valent Pneumococcal Conjugate Vaccine Among U.S. Adults: Updated Recommendations of the Advisory Committee on Immunization Practices—United States, 2022 which is incorporated by reference.]~~

(3) "Resident" means anyone admitted to a long-term care facility.

(4) "Current Reporting Period" means from October 1 of the previous year to March 31 of the reporting year.

(5) "Current Influenza Season" means from September of the previous year, or sooner if available, through March of the reporting year.

R432-40-3. Policy, Procedures, and Employee Training.

(1) Each licensee shall implement written policies and procedures that include:

(a) a comprehensive assessment and immunization program for residents and employees;

(b) how and when to offer~~[provide the]~~ influenza, pneumococcal, and COVID-19 vaccinations according to ACIP recommendations;

(c) standing orders from a qualified health care practitioner to ensure residents obtain influenza, pneumococcal, and COVID-19 vaccinations unless exempted as outlined in Section R432-40-4;~~[and]~~

(d) collection and recording of resident-specific immunization history information for each resident~~[admitted to the facility]; and~~

(e) the collection and recording of employee influenza and COVID-19 vaccination records on site.

(2) The licensee shall ensure that employees responsible for assessing, documenting, and reporting according to this rule complete an online training regarding Rule R432-40, as well as an overview of reporting requirements upon hire.

R432-40-4. Vaccination Offer and Exemptions.

(1)~~(a)~~ Each licensee shall ~~[make an]~~ offer influenza ~~[immunization]vaccination [available]~~ to each employee during the ~~[recommended vaccine]current influenza season and COVID-19 vaccination according to ACIP recommendations within three months of becoming eligible.~~

~~(a)~~~~(b)~~ The licensee shall be deemed to have ~~[made]~~ offered influenza ~~[immunization]~~and COVID-19 vaccination ~~[available]~~ if the licensee documents that each employee on staff had the opportunity to receive an influenza ~~[immunization]~~and COVID-19 vaccination under their existing health plan coverage.

~~(b)~~~~(c)~~ If the employee does not have health plan coverage for influenza ~~[immunization]~~and COVID-19 vaccination, then the licensee shall be deemed to have ~~[made]~~ offered influenza ~~[immunization]~~and COVID-19 vaccination ~~[available]~~ if the licensee documents that each employee on staff had the opportunity to receive ~~[an]~~ influenza ~~[immunization]~~and COVID-19 vaccination at a cost to the employee that is at or below that charged by their local health department.

(2) Each licensee shall offer to each resident:

(a) influenza vaccination during the current influenza season;

(b) pneumococcal vaccination for those who do not have a record of having received prior pneumococcal vaccination, or are eligible for a subsequent pneumococcal vaccination as recommended by the ACIP within three months of becoming eligible; and

(c) COVID-19 vaccination at the interval recommended by the manufacturer within three months of becoming eligible according to ACIP recommendations.

(2)3 Each licensee shall document circumstances beyond its control that prevent it from ~~[providing immunizations]~~offering vaccinations, ~~[such as]~~including ~~[non-]~~the lack of availability of the vaccine. If the licensee cannot obtain the necessary vaccines, they shall provide documentation and request an alternative plan from the local health department or Utah Department of Health and Human Services (DHHS).

(3)4 The following are exempt from the influenza, COVID-19, and pneumococcal ~~[immunizations]~~vaccinations:

(a) a resident, or the resident's responsible person if the resident cannot act for themselves, who has refused the [immunization]vaccine after having been [given]offered the opportunity to be [immunized]vaccinated;

(b) an employee who has refused the [immunization]vaccine after having been [given]offered the opportunity to be [immunized]vaccinated; or

(c) a resident or employee who has a condition contraindicated for [immunization]vaccination according to [the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practice—]ACIP recommendations for influenza vaccine, COVID-19 vaccine, or [for-]pneumococcal vaccine.

(4)5 For each resident and employee who is not immunized, the licensee shall document in the resident's ~~[or]~~and employee's file the reason for not becoming immunized.

(a) The licensee shall [make]offer influenza, COVID-19, and pneumococcal [immunizations]vaccinations annually [available]to [all]each resident[s and employees] who has[ve] claimed an exemption.

(b) The licensee shall offer influenza and COVID-19 vaccinations annually to each employee who has claimed an exemption.

(b)c The licensee shall document the following:

(i) each refusal to receive influenza, COVID-19, and pneumococcal [immunizations]vaccination; and

(ii) each medical contraindication to influenza, COVID-19, and pneumococcal [immunizations]vaccine.

R432-40-5. Reporting of Data.

[—] (1) By April 30 of each year, each licensee shall report to the Department the number of residents who have received influenza, COVID-19, and pneumococcal vaccinations from October 1 of the prior year to March 31 of the reporting year, even if the residents are no longer in the facility.

(2) By April 30 of each year, each licensee shall report to the Department the number of current and past employees who have received influenza and COVID-19 vaccinations from October 1 of the prior year to March 31 of the reporting year.]

(1) By April 30 of each year, each licensee shall report to the DHHS Immunization Program:

(a) the number of residents in their facility during the reporting period who received an influenza vaccination at any time during the current influenza season, even if the residents are no longer in the facility;

(b) the number of residents in their facility during the reporting period who have ever received a pneumococcal vaccination, even if the residents are no longer in the facility;

(c) the number of residents in their facility during the reporting period who received a COVID-19 vaccination according to ACIP recommendations, even if the residents are no longer in the facility;

(d) the number of employees on staff during the reporting period who received an influenza vaccination at any time during the current influenza season, even if the employees are no longer employed by the facility at the time of reporting; and

(e) the number of employees on staff during the reporting period who received a COVID-19 vaccination according to ACIP recommendations, even if the employees are no longer employed by the facility at the time of reporting.

(2) By April 30 of each year, each licensee shall report to the DHHS Immunization Program to the DHHS Immunization Program:

(a) the number of residents in their facility during the reporting period who declined an offered influenza vaccination, even if the residents are no longer in the facility;

(b) the number of residents in their facility during the reporting period who declined an offered pneumococcal vaccination, even if the residents are no longer in the facility;

(c) the number of residents in their facility during the reporting period who declined an offered COVID-19 vaccination, even if the residents are no longer in the facility;

(d) the number of employees on staff during the reporting period who declined an offered influenza vaccination, even if the employees are no longer employed by the facility at the time of reporting; and

(e) the number of employees on staff during the reporting period who declined an offered COVID-19 vaccination, even if the employees are no longer employed by the facility at the time of reporting.

R432-40-6. Civil Money Penalty.

In accordance with Section 26B-1-224, [F]the [D]department may assess up to a \$5,000 civil money penalty for failure to maintain and report annual vaccination data to the [Department,]DHHS Immunization Program, by April 30 of each year. The [D]department may assess up to a \$100 civil money penalty per resident or employee who, for reasons under the control of the facility, does not obtain appropriate vaccinations or if the facility does not have documentation of a refusal or medical contraindication.

KEY: health care facilities, vaccinations

Date of Last Change: 2024[May 5, 2023]

Notice of Continuation: January 24, 2022

Authorizing, and Implemented or Interpreted Law: [26-24]26B-2-202

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:

R501-15

Filing ID:
56269

Agency Information

1. Department:	Health and Human Services	
Agency:	Human Services Program Licensing	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R501-15. Therapeutic Schools
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to update citations in response to S.B. 38 in the 2023 General Session for statute recodification, and re-title rules to the new division titles and content consistent with the Rulewriting Manual for Utah standards.
4. Summary of the new rule or change:
This amendment updates titles and citations due to the recodification of the Department of Health and Human Services' (Department) statute and ensures language consistent with the Rulewriting Manual for Utah.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This change will not impact the current process for licensure and re-licensure surveys.
No change to the state budget is expected because no new processes or requirements are introduced, and this amendment only updates statutory citations and titles and ensures Rulewriting Manual for Utah compliance.
B) Local governments:
This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment updates citations, titles, and ensures Rulewriting Manual for Utah compliance.
These facilities are regulated by the Department and not local governments. There will be no change in local

business licensing or any other item(s) with which local government is involved.

There are no fiscal impacts to local governments resulting from the changes in this rule content.

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

No change to small business is expected because no new processes or requirements are introduced.

This amendment only updates titles and statutory citations and ensures compliance with the Rulewriting Manual for Utah standards.

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

No change to non-small businesses is expected because no new processes or requirements are introduced.

This amendment only updates titles and statutory citations and ensures compliance with the Rulewriting Manual for Utah standards.

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 change to other persons is expected because no new processes or requirements are introduced.

This amendment only updates titles and statutory citations and ensures compliance with the Rulewriting Manual for Utah standards.

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

No compliance costs for affected persons are expected because no new processes or requirements are introduced and this amendment only updates titles and statutory citations; and ensures compliance with the Rulewriting Manual for Utah standards.

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

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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 26B-2-104

Public Notice Information

8. 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:	02/14/2024
9. This rule change MAY become effective on:	02/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	12/27/2023
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R501. ~~[Human Services, Administration, Administrative Services, Licensing]~~ Health and Human Services, Human Services Program Licensing.

R501-15. Therapeutic Schools.

R501-15-1. Authority and Purpose.

(1) ~~[This rule is authorized under]~~ Section [62A-2-106] 26B-2-104 authorizes this rule and establishes basic health and safety standards for therapeutic schools.

(2) This rule ~~[ese rules are intended to]~~ supplements the general provisions required of each human services program in Rule R501-1.

R501-15-2. Scope.

(1) Each therapeutic school provider shall comply with this rule and Rules R501-1, and R501-14~~[, and R710-4]~~.

(2) Before offering any residential treatment services, each therapeutic school shall comply with Rule R501-19 and obtain a residential treatment license.

R501-15-3. Definitions.

The terms used in this rule are defined in Sections ~~[62A-2-101]~~ 26B-2-101 and R501-1-3.

R501-15-4. Administration.

(1) Each therapeutic school provider shall develop, maintain, and follow a current policy and procedure manual, ~~[which shall]~~ that includes:

(a) ~~[except as described in Title 53G, Chapter 9, Part 3, Immunization Requirements,]~~ a requirement that a client may not attend a therapeutic school unless the school ~~[has been presented]~~ receives a certificate of immunization for the client from a licensed physician or an authorized representative of the state or local health department stating that the client has received immunization ~~[as required by]~~ in accordance with Rule R396-100;

(b) a procedure for quarterly evaluation and assessment of the needs of each client; ~~[and]~~

(c) an emergency transportation plan describing how the therapeutic school provider will ~~[shall]~~ safely transport each client to the client's legal guardian within 48 hours once the plan has been initiated~~[,];~~

~~[(2)]~~ ~~[d]~~ ~~[The manual described in this section shall include]~~ a detailed description~~[s]~~ of the therapeutic school's client admission, exclusion, and expulsion criteria and procedures; ~~[including]~~

~~[(a)]~~ e a requirement that the therapeutic school provider ~~[shall]~~ may not admit or provide services to an individual who:

(i) within the past two years, has attempted suicide or made serious self-harm gestures requiring medical or therapeutic treatment;

(ii) has a mental health diagnosis of psychosis, schizophrenia, severe depression, mental retardation, or a severe mental illness requiring medical or therapeutic treatment;

(iii) is violent, highly combative, or physically or sexually aggressive;

(iv) presents substantial security risks;
 (v) requires medical detoxification;
 (vi) lacks the ability to engage in a rational decision-making process or exhibits severely impaired judgment; or
 (vii) has a history of repeated runaway attempts or incidents; and
 ([b]f) a requirement that the school shall expel a client who exhibits high[-]risk behavior or conditions, including a client who:
 (i) attempts suicide or makes serious self-harm gestures requiring medical or therapeutic treatment;
 (ii) has a psychosis, schizophrenia, severe depression, mental retardation, or a severe mental illness requiring medical or therapeutic treatment;
 (iii) is violent, highly combative, or physically or sexually aggressive;
 (iv) presents substantial security risks;
 (v) requires medical detoxification;
 (vi) lacks the ability to engage in a rational decision-making process or exhibits severely impaired judgment;
 (vii) runs away or has attempted to run away more than two times;
 (viii) uses or attempts to use illegal substances more than two times; or
 (ix) exhibits any other behavioral or emotional conditions that require more intense supervision and treatment than that permitted in a therapeutic school[?].
(2) Each therapeutic school provider's policy and procedure manual shall outline the provider's:
 ([e]a) ~~[the school's]~~academic accreditation[?]; or disclosure that the school is not accredited;
 ([e]b) ~~[the school's]~~curriculum;
 ([e]c) ~~[the school's]~~criteria for awarding course credit, and whether credits are transferable;
 ([f]d) ~~[the school's]~~policy on grading, progress assessment, and testing;
 ([g]e) ~~[the]~~academic and career counseling~~[- provided by the school];~~
 ([h]f) ~~[each school]~~academic activit[y]ies~~[- and method];~~
 ([i]g) ~~[each school]~~graduation requirements;
 ([j]h) ~~[each school]~~post-graduation planning service;
 ([k]i) ~~[each school]~~method of providing on-site specialized structure and supervision;
 ([l]j) ~~[each]~~methods for providing off-site specialized structure and supervision;
 ([m]k) ~~[each service or treatment related to]~~policy for services and treatment for managing a client's~~[- disability, emotional development, behavioral development, familial development, or social development];~~
 (i) disability;
 (ii) emotional development;
 (iii) behavioral development;
 (iv) familial development; and
 (v) social development;
 ([n]l) ~~[each]~~behavior management practice;
 ([o]m) ~~[each]~~individual, group, or family counseling service;
 ([p]n) ~~[each therapeutic]~~school rules;
 ([q]o) ~~[each]~~food service policy and weekly menu;
 ([r]p) ~~[each]~~physical education and recreational activity policy;
 ([s]q) [a-]client rights statement;

([t]r) ~~[a statement on]~~policy regarding permitted and prohibited items and dangerous weapons[?]; that:

(i) is developed in consideration of the age and behavioral characteristics of the client population the program serves; and
 (ii) describes how dangerous weapons are stored and any circumstances when they may be accessible to a client;

([u]s) [a-]client grievance policy and appeal process for the grievance policy; and

([v]t) contact information for the [Ø]office of [L]icensing.

(3) Each therapeutic school provider shall provide the client manual described in this section to each client and each client's legal guardian before the therapeutic school provider may accept any payment or process any application to provide services.

R501-15-5. Financial Requirements.

(1) Each therapeutic school provider shall provide an itemized accounting of expenditures made on behalf of a client before requiring reimbursement from the client's guardian.

(2) Each therapeutic school provider shall maintain an accurate log of each fund deposited and each withdrawal made for the personal use of each client.

R501-15-6. Staff Requirements.

(1) Each owner and board member of a therapeutic school shall successfully complete a minimum of eight hours of annual training relating to therapeutic school services.

(2) Each therapeutic school provider shall ensure a [A] therapeutic director or equally qualified acting director ~~[shall be]~~is immediately available to staff by telephone and able to arrive on-site within one hour after a staff telephone call for assistance.~~[- and shall]~~

(3) Each therapeutic school provider shall ensure the therapeutic director or qualified acting director:

(a) ~~[be]~~is at least 25 years of age;

(b) has~~[ve]~~ a [B]bachelor's degree in social work or a related field, or a minimum of three years of documented training or experience in providing therapeutic school or residential treatment services; and

(c) has~~[ve]~~ a minimum of two years of therapeutic school or residential treatment program supervisory experience.

~~(3)4~~ [A]Each therapeutic school provider shall ~~[always have]~~ensure there is at least one direct care supervisor or supervisor designee on duty at all times.

(5) Each therapeutic school provider shall ensure[A] supervisor or supervisor designee[- shall]:

(a) has~~[ve]~~ a minimum of six months of experience providing services to children in out-of-home placements; and

~~[- (b) meet each requirement for direct care staff as described in Section R501-1-14; and]~~

([e]b) meets each qualification, including requirements for education, experience, licensing or certification, and current annual continuing education and training directly related to providing:

(i) specialized structure and supervision of clients; and

(ii) services or treatment related to a client's disability, emotional development, behavioral development, familial development, or social development.

~~(4)6~~ [A]Each therapeutic school provider shall maintain a staff manual~~[- which shall]~~ that includes:

(a) specific job descriptions for each staff position;

(b) staff qualifications for each staff position, including requirements for education, experience, and licensing or certification;

(c) a requirement for continuing education, competency and proficiency, and job-specific training; and

(d) the required training for staff who will work with clients with a history of failing to function at home or school.

~~([5]7)~~ Each therapeutic school provider shall ensure ~~[At all times,]~~ at least two direct care staff are on duty to ~~[shall]~~ provide direct supervision to clients at all times.

~~([6]8)(a)~~ Each therapeutic school provider shall ensure that ~~e[ach]~~ each client who has earned the privilege of unsupervised time off-site ~~[shall be required to]~~ engages in two-way communication with on-~~[duty]~~ direct care staff once every four hours.

~~(b)~~ Each therapeutic school provider shall develop and adhere to a policy that outlines steps for staff to take ~~[specifies what measures shall be taken]~~ if a client fails to check-~~[in]~~ in with staff once every four hours ~~[as required by this subsection]~~.

~~([7]9)~~ Each therapeutic school provider may not include ~~s[upport]~~ support staff ~~[shall not be included]~~ in the minimum ~~[staff to client]~~ staff-to-client ratios.

~~(8)~~ A therapeutic school shall document and explain, to the satisfaction of the office, any waking hour direct care staff to client ratio that does not meet the following minimum staffing requirements:

~~(a)~~ where eight or fewer clients are present, there shall be at least two direct care staff on duty;

~~(b)~~ where there are at least nine, but no more than 24 clients present, there shall be at least three direct care staff on duty;

~~(c)~~ where there are at least 25, but no more than 48 clients present, there shall be at least four direct care staff on duty;

~~(d)~~ where there are at least 49, but no more than 96 clients present, there shall be at least five direct care staff on duty; and

~~(e)~~ where 97 or more clients are present, at least six direct care staff shall be on duty and there shall be a staff-to-client ratio of one direct care staff per 20 clients.]

~~(10)(a)~~ Each therapeutic school provider shall ensure the following minimum waking hour staff-to-client ratios are followed:

~~(i)~~ two direct care, on-duty staff for eight or fewer clients present;

~~(ii)~~ three direct care, on-duty staff for nine to 24 clients present;

~~(iii)~~ four direct care, on-duty staff for 45 to 48 clients present;

~~(iv)~~ five direct care, on-duty staff for 49 to 96 clients present; and

~~(v)~~ six direct care, on-duty staff for more than 97 clients present with a ratio of no less than one direct care, on-duty staff for every 20 clients present.

~~(b)~~ Each therapeutic school provider shall comply with waking hour direct care staff-to-client ratios listed in this subsection unless authorized by the office to modify the required ratios.

~~(9)~~ A therapeutic school shall document and explain, to the satisfaction of the office, any sleeping hour direct care staff to client ratio that does not meet the following minimum requirements:

~~(a)~~ where no more than 48 clients are present, there shall be at least two direct care staff on duty; and

~~(b)~~ where 49 or more clients are present, there shall be at least three direct care staff on duty and there shall be a staff to client ratio of one direct care staff per 40 clients.]

~~(11)(a)~~ Each therapeutic school provider shall ensure the following minimum sleeping hour staff-to-client ratios are followed:

~~(i)~~ two direct care, on-duty staff for 48 clients present; and

~~(ii)~~ three direct care, on-duty staff for 49 or more clients present with no less than one direct care, on-duty staff for every 40 clients present.

~~(b)~~ Each therapeutic school provider shall comply with sleeping hour direct care staff-to-client ratios listed in this subsection unless authorized by the office to modify the required ratios.

R501-15-7. Client Services.

(1) Each therapeutic school provider shall ensure each service plan ~~[shall]~~ includes a quarterly assessment of the ~~[adequacy]~~ effectiveness of the therapeutic school's policy, procedure, and practice in ~~[providing for]~~ meeting each client's needs.

(2) Each therapeutic school provider shall provide each client's legal guardian with a copy of each service plan within two weeks after the service plan is developed or updated.

(3) Each therapeutic school provider that must travel more than 30 miles to an emergency room or 24-hour urgent care facility shall ~~[retain the on-call services of]~~ ensure a medical practitioner and a licensed mental health therapist are on-call to the program.

(4) Upon admission, each therapeutic school provider shall inform each client ~~[shall be informed]~~ of the right to consult with a medical practitioner or a licensed mental health therapist.

~~(5)(a)~~ Each client shall receive an immediate medical assessment by a certified wilderness responder, certified EMT or medical practitioner for the following: ~~[who has a serious illness, who sustains a serious injury, or who requests the services of a medical practitioner, shall receive an immediate assessment by a certified wilderness first responder, certified EMT, or medical practitioner.]~~

~~(i)~~ a serious illness;

~~(ii)~~ a serious injury; or

~~(iii)~~ upon client request to see a medical practitioner.

~~([6]b)~~ Each therapeutic school provider shall attach the ~~[written]~~ medical assessment documentation to an incident report.

~~([7]6)~~ Each therapeutic school provider shall post ~~[E]~~ each monthly schedule of activities ~~[shall be posted]~~ in the common area and in the office ~~[and filed]~~ and retain~~[ed]~~ each activity schedule for at least one year.

~~([8]7)~~ Each therapeutic school provider's academic curriculum shall ~~[either be accredited by an accrediting]~~ receive accreditation by an entity recognized by the Utah State Board of Education, or the school shall present an educational service plan and educational funding plan in accordance with Section ~~[62A-2-408-]~~ 26B-2-116.

~~([9]8)~~ Each therapeutic school provider shall provide the school's curriculum ~~[shall be provided]~~ to each client and the client's legal guardian ~~[prior to]~~ before accepting any payment or processing any application to provide services.

~~([10]9)~~ Each therapeutic school provider shall review and update the school's curriculum ~~[shall be reviewed and updated annually]~~ annually.

~~(1[+]0)~~ Each therapeutic school provider shall provide ~~[Each modification to the]~~ any modifications to the curriculum ~~[shall be provided]~~ to each client and the client's legal guardian within two weeks of any curriculum change.

~~(1[2]1)~~ Each therapeutic school provider shall monitor and document each client's academic progress and communicate the progress to the client's legal guardian each month.

R501-15-8. Physical Environment.

(1) Each therapeutic school provider shall provide indoor common areas for group activities, ~~[such as]~~ that may include a

gymnasium[s], recreation area[s], cafeteria[s], classrooms, library[ies], and lounge[s].

(2) ~~[Each common area space in a therapeutic school shall contain at least 30 square feet per client.]~~ Each therapeutic school provider shall comply with the following regarding the physical aspects of the facility:

(a) each common area space contains at least 30 square feet per client;

~~[(3)b] [Each therapeutic school shall maintain] there are at least three feet between beds and two feet at the end of each bed[-];~~

~~[(4)c] [E]ach bedroom ceiling [shall be -]is at least [7]seven feet [in height.]high;~~

~~[(5)d] [E]ach multiple[-]-occupant bedroom [shall] contains at least 50 square feet per client, and each single occupant bedroom [shall -]contains at least 80 square feet per client, [-]excluding storage space; and~~

~~[-] (6) Storage space shall not be counted when calculating square footage requirements.]~~

~~[(7)e] [E]ach client [shall have -]has at least 30 cubic feet of private storage space.~~

~~[(8)3] [A-]Each therapeutic school provider shall provide [each client with -]a school desk or table, light, and chair for each client.~~

~~[-] (9) A therapeutic school's client manual shall describe which dangerous weapons are permitted and which dangerous weapons are prohibited.~~

~~(a) Each determination of permitted and prohibited dangerous weapons shall be made in accordance with the age and behavioral characteristics of the client population to be served.~~

~~(b) Each therapeutic school's client manual shall describe how dangerous weapons shall be stored and the circumstances under which they may be accessible to clients.]~~

R501-15-9. Penalties.

Any person found in noncompliance with any provision of this rule may be subject to the penalties enumerated in Section 26B-2-208 and Rule R380-600.

KEY: human services, therapeutic schools

Date of Last Change: [January 21, 2022]2024

Notice of Continuation: November 30, 2020

Authorizing, and Implemented or Interpreted Law: [62A-2-406]26B-2-104

NOTICE OF PROPOSED RULE

TYPE OF FILING: Repeal and Reenact

Rule or Section Number:	R590-167	Filing ID: 56266
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Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	Suite 2300
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorville, UT 84129

Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R590-167. Individual, Small Employer, and Group Health Benefit Plan Rule

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

This rule is being changed in compliance with Executive Order No. 2021-12.

During the five-year review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.

4. Summary of the new rule or change:

The majority of the changes are being done to fix style issues to bring this rule text more in line with the Rulewriting Manual for Utah standards.

Other changes make the language of this rule clearer, remove the Penalties section (old R590-167-13), and update the Severability section (new R590-167-13) to use the Department's current language.

The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

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

A) State budget:

There is no anticipated cost or savings to the state budget.

The changes are largely clerical in nature and will not change how the Department functions.

B) Local governments:

There is no anticipated cost or savings to local governments.

The changes are largely clerical in nature and will not affect local governments.

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

There is no anticipated cost or savings to small businesses.

The changes are largely clerical in nature and will not affect small businesses.

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

There is no anticipated cost or savings to non-small businesses.

The changes are largely clerical in nature and will not affect non-small businesses.

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

There is no anticipated cost or savings to any other persons.

The changes are largely clerical in nature.

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

There are no compliance costs for any affected persons.

The changes are largely clerical in nature.

G) 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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026

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

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 31A-2-201	Section 31A-2-212	Section 31A-30-104
Section 31A-30-106	Section 31A-30-106.1	Section 31A-30-117

Public Notice Information

8. 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:	02/14/2024
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9. This rule change MAY become effective on:	02/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	12/18/2023
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R590. Insurance, Administration.

R590-167. Individual, Small Employer, and Group Health Benefit Plan Rule.

~~R590-167-1. Authority, Purpose and Scope.~~ (1) Authority.

~~This rule is intended to implement the provisions of Chapter 30, Title 31A, the Individual and Small Employer Health Insurance Act, referred to in this rule as the Act. The commissioner's authority to enforce this rule is provided under Subsections 31A-2-201(3)(a), 31A-30-106(1)(k), and 31A-30-106.1(10).~~

~~(2) Purpose.~~

~~(a) The general purposes of the Act and this rule are:~~

~~(i) to enhance the availability of health insurance coverage to individuals and small employers;~~

~~(ii) to regulate and prevent abuse in insurer rating practices and establish limits on differences in rates between health benefit plans;~~

~~(iii) to ensure renewability of coverage;~~

~~(iv) to establish limitations on the use of preexisting condition exclusions;~~

~~(v) to prescribe the manner in which case characteristics may be used;~~

~~(vi) to regulate the use and establishment of separate classes of business;~~

~~(vii) to provide for portability; and~~

~~(viii) to improve the overall fairness and efficiency of the individual and small employer health insurance market.~~

~~(b) The Act and this rule are intended to:~~

~~(i) promote broader spreading of risk in the individual and small employer marketplace; and~~

~~(ii) regulate rating practices for all health benefit plans sold to individuals and small employers, whether sold directly or through associations or other groupings of individuals and small employers.~~

~~(3) Scope.~~

~~Carriers that provide health benefit plans to individuals and small employers are intended to be subject to all of the provisions of this rule.~~

R590-167-2. Definitions.

In addition to the definitions in Sections 31A-1-301 and 31A-30-103, the following definitions shall apply for the purposes of this rule:

(1) "Associate member of an employee organization" means any individual who participates in an employee benefit plan, as defined in 29 U.S.C. Section 1002(1), that is a multi-employer plan, as defined in 29 U.S.C. Section 1002(37A), other than the following:

(a) an individual, or the beneficiary of such individual, who is employed by a participating employer within a bargaining unit covered by at least one of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained; or

(b) an individual who is a present or former employee, or a beneficiary of such employee, of the sponsoring employee organization, of an employer who is or was a party to at least one of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained, or of the employee benefit plan, or of a related plan.

(2) "Change in a Rating Factor" means the cumulative change with respect to such factor considered over a 12-month period. If a covered carrier changes rating factors with respect to more than one case characteristic in a 12-month period, the carrier shall consider the cumulative effect of all such changes in applying the 10% test.

(3) "Change in Rating Method" means:

(a) a change in the number of case characteristics used by a covered carrier to determine premium rates for health benefit plans in a class of business;

(b) a change in the manner or procedures by which insureds are assigned into categories for the purpose of applying a case characteristic to determine premium rates for health benefit plans in a class of business;

(c) a change in the method of allocating expenses among health benefit plans in a class of business; or

(d) a change in a rating factor with respect to any case characteristic if the change would produce a change in premium for any individual or small employer that exceeds 10%.

(4) "New entrant" means an eligible employee, or the dependent of an eligible employee, who becomes part of an employer group after the initial period for enrollment in a health benefit plan.

(5) "Risk characteristic" means a rating factor other than a case characteristic allowed under Sections 31A-30-106 or 31A-30-106.1, as applicable, including exact age, gender, family composition, the health status, claims experience, duration of coverage, or any similar characteristic related to the demographics or the health status or experience of an individual, a small employer or of any member of a small employer.

(6) "Risk load" means the percentage above the applicable base premium rate that is charged by a covered carrier to a covered insured to reflect the risk characteristics of the covered individuals.

R590-167-3. Applicability and Scope.

(1) This rule shall apply to any health benefit plan which:

(a) meets one or more of the conditions set forth in Subsections 31A-30-104(1) and (2);

(b) provides coverage to a covered insured located in this state, without regard to whether the policy or certificate was issued in this state; and

(c) is in effect on or after the effective date of this rule.

(2)(a) If a small employer has employees in more than one state, the provisions of the Act and this rule shall apply to a health benefit plan issued to the small employer if:

(i) the majority of eligible employees of such small employer are employed in this state; or

(ii) if no state contains a majority of the eligible employees of the small employer, the primary business location of the small employer is in this state.

(b) In determining whether the laws of this state or another state apply to a health benefit plan issued to a small employer described in Subsection R590-167-3(2)(a), the provisions of the subsection shall be applied as of the date the health benefit plan was issued to the small employer for the period that the health benefit plan remains in effect.

(c) If a health benefit plan is subject to the Act and this rule, the provisions of the Act and this rule shall apply to all individuals covered under the health benefit plan, whether they reside in this state or in another state.

(3) A carrier that is not operating as a covered carrier in this state may not become subject to the provisions of the Act and this rule solely because an individual or a small employer that was issued a health benefit plan in another state by that carrier moves to this state.

R590-167-4. Establishment of Classes of Business.

(1) A covered carrier that establishes more than one class of business pursuant to the provisions of Section 31A-30-105 shall maintain on file for inspection by the commissioner the following information with respect to each class of business so established:

_____ (a) a description of each criterion employed by the carrier, or any of its agents, for determining membership in the class of business;

_____ (b) a statement describing the justification for establishing the class as a separate class of business and documentation that the establishment of the class of business is intended to reflect substantial differences in expected claims experience or administrative costs related to the reasons set forth in Section 31A-30-105; and

_____ (c) a statement disclosing which, if any, health benefit plans are currently available for purchase in the class and any significant limitations related to the purchase of such plans.

_____ (2) For policies issued or renewed on or after January 1, 2011, a covered carrier may not establish a separate class of business without a prior approval of the commissioner.

_____ (3) In order to receive an approval to establish a separate class of business under Subsection R590-167-4(2) the covered carrier shall submit a filing in compliance with R590-220 that includes:

_____ (a) a written request to establish a separate class of business;

_____ (b) description of all criteria employed by the carrier, or any of its agents, for determining membership in the class of business;

_____ (c) disclosure of which health benefit plans will be available for purchase in the class and any significant limitations related to the purchase of such plans; and

_____ (d) demonstrate to the satisfaction of the commissioner that the use of a separate class of business is necessary due to substantial differences in either expected claims experience or administrative costs related to the following reasons:

_____ (i) the covered carrier uses more than one type of system for the marketing and sale of health benefit plans to covered insureds;

_____ (ii) the covered carrier has acquired a class of business from another covered carrier;

_____ (iii) the covered carrier provides coverage to one or more association groups;

_____ (e) a list of previously approved classes of business; and

_____ (f) for each class of business used prior to January 1, 2011, a certification that the continued use of the class of business is necessary due to conditions specified in Subsection R590-167-4(3)(d).

_____ (4) A carrier may not directly or indirectly use group size as a criterion for establishing eligibility for a class of business.

R590-167-5. Transition for Assumptions of Business from Another Carrier.

_____ (1)(a) A covered carrier may not transfer or assume the entire insurance obligation, risk, or both of a health benefit plan covering an individual or a small employer in this state unless:

_____ (i) the transaction has been approved by the commissioner of the state of domicile of the assuming carrier;

_____ (ii) the transaction has been approved by the commissioner of the state of domicile of the ceding carrier;

_____ (iii) the carrier has provided notice to the commissioner of this state at least 60 days prior to the date of the proposed assumption. The notice shall contain the information specified in Subsection R590-167-5(1)(c)(i) for the health benefit plans covering individuals and small employers in this state; and

_____ (iv) the transaction otherwise meets the requirements of this section.

_____ (b) A carrier domiciled in this state that proposes to assume or cede the entire insurance obligation, risk, or both of one or more health benefit plans covering covered individuals from or to another

carrier shall make a filing for approval with the commissioner at least 60 days prior to the date of the proposed assumption. The commissioner may approve the transaction, if the commissioner finds that the transaction is in the best interests of the individuals insured under the health benefit plans to be transferred and is consistent with the purposes of the Act and this rule. The commissioner may not approve the transaction until at least 30 days after the date of the filing; except that, if the carrier is in hazardous financial condition, the commissioner may approve the transaction as soon as the commissioner deems reasonable after the filing.

_____ (c)(i) The filing required under Subsection R590-167-5(1)(b) shall:

_____ (A) describe the class of business, including any eligibility requirements, of the ceding carrier from which the health benefit plans will be ceded;

_____ (B) describe whether the assuming carrier intends to maintain the assumed health benefit plans as a separate class of business, pursuant to Subsection R590-167-5(3), or will incorporate them into an existing class of business, pursuant to Subsection R590-167-5(4). If the assumed health benefit plans will be incorporated into an existing class of business, the filing shall describe the class of business of the assuming carrier into which the health benefit plans will be incorporated;

_____ (C) describe whether the health benefit plans being assumed are currently available for purchase by individuals or small employers;

_____ (D) describe the potential effect of the assumption, if any, on the benefits provided by the health benefit plans to be assumed;

_____ (E) describe the potential effect of the assumption, if any, on the premiums for the health benefit plans to be assumed;

_____ (F) describe any other potential material effects of the assumption on the coverage provided to the individuals and small employers covered by the health benefit plans to be assumed; and

_____ (G) include any other information required by the commissioner.

_____ (ii) A covered carrier required to make a filing under Subsection R590-167-5(1)(b) shall also make an informational filing with the commissioner of each state in which there are individual or small employer health benefit plans that would be included in the transaction. The informational filing to each state shall be made concurrently with the filing made under Subsection R590-167-5(1)(b) and shall include at least the information specified in Subsection R590-167-5(1)(c)(i) for the individual or small employer health benefit plans in that state.

_____ (d)(i) If the assumption of a class of business would result in the assuming covered carrier being out of compliance with the limitations related to premium rates contained in Sections 31A-30-106 or 31A-30-106.1, the assuming carrier shall make a filing with the commissioner pursuant to Subsection 31A-30-105(3) seeking an extended transition period.

_____ (ii) An assuming carrier seeking an extended transition period may not complete the assumption of health benefit plans covering individuals or small employers in this state unless the commissioner grants the extended transition period requested pursuant to Subsection R590-167-5(1)(d)(i).

_____ (iii) Unless a different period is approved by the commissioner, an extended transition period shall, with respect to an assumed class of business, be for no more than 15 months and, with respect to each individual small employer, shall last only until the anniversary date of such employer's coverage, except that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to 12 months if the

~~anniversary date occurs within three months of the date of assumption of the class of business.~~

~~———— (2)(a) Except as provided in Subsection R590-167-5(2)(b), a covered carrier may not cede or assume the entire insurance obligation, risk, or both for an individual or small employer health benefit plan unless the transaction includes the ceding to the assuming carrier of the entire class of business which includes such health benefit plan.~~

~~———— (b) A covered carrier may cede less than an entire class of business to an assuming carrier if:~~

~~———— (i) one or more individuals or small employers in the class have exercised their right under contract or state law to reject, either directly or by implication, the ceding of their health benefit plans to another carrier. In that instance, the transaction shall include each health benefit plan in the class of business except those health benefit plans for which an individual or a small employer has rejected the proposed cession; or~~

~~———— (ii) after a written request from the transferring carrier, the commissioner determines that the transfer of less than the entire class of business is in the best interests of the individual or small employers insured in that class of business.~~

~~———— (3) A covered carrier that assumes one or more health benefit plans from another carrier and intends to maintain such health benefit plans as a separate class of business, shall submit a filing requesting approval to establish a separate class of business as provided in Subsection R590-167-4(3). The assumption shall not take place prior to approval of the request by the commissioner.~~

~~———— (4) A covered carrier that assumes one or more health benefit plans from another carrier and intends to incorporate them into an existing class of business shall comply with the following provisions:~~

~~———— (a) Upon assumption of the health benefit plans, such health benefit plans shall be maintained temporarily as a separate class of business, deemed to be approved by the commissioner under Subsection 31A-30-105(2)(b)(ii). A covered carrier may exceed the limitation contained in Subsection 31A-30-105(4) due solely to such assumption.~~

~~———— (b) During the 15-month period following the assumption, each of the assumed individual or small employer health benefit plans shall be transferred by the assuming covered carrier into a single class of business operated by the assuming covered carrier. The assuming covered carrier shall select the class of business into which the assumed health benefit plans will be transferred in a manner such that the transfer results in the least possible change to the benefits and rating method of the assumed health benefit plans.~~

~~———— (c) The transfers authorized in Subsection R590-167-5(4)(b) shall occur with respect to each individual or small employer on the anniversary date of the individual's or small employer's coverage, except that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to 12 months if the anniversary date occurs within three months of the date of assumption of the class of business.~~

~~———— (d) A covered carrier making a transfer pursuant to Subsection R590-167-5(4)(b) may alter the benefits of the assumed health benefit plans to conform to the benefits currently offered by the carrier in the class of business into which the health benefit plans have been transferred.~~

~~———— (e) The premium rate for an assumed individual or small employer health benefit plan may not be modified by the assuming covered carrier until the health benefit plan is transferred pursuant to Subsection R590-167-5(4)(b). Upon transfer, the assuming covered carrier shall calculate a new premium rate for the health benefit plan~~

~~from the rate manual established for the class of business into which the health benefit plan is transferred. In making such calculation, the risk load applied to the health benefit plan shall be no higher than the risk load applicable to such health benefit plan prior to the assumption.~~

~~———— (f) During the 15-month period provided in this subsection, the transfer of individual or small employer health benefit plans from the assumed class of business in accordance with this subsection may not be considered a violation of Subsections 31A-30-106(3)(a) or 31A-30-106.1(8)(a), as applicable.~~

~~———— (5) An assuming carrier may not apply eligibility requirements, including minimum participation and contribution requirements, with respect to an assumed health benefit plan, or with respect to any health benefit plan subsequently offered to an individual or small employer covered by such an assumed health benefit plan, that are more stringent than the requirements applicable to such health benefit plan prior to the assumption.~~

~~———— (6) The commissioner may approve a longer period of transition under Subsection R590-167-5(4) upon application of a covered carrier. The application shall be made within 60 days after the date of assumption of the class of business and shall clearly state the justification for a longer transition period.~~

~~———— (7) Nothing in this section or in the Act is intended to:~~

~~———— (a) reduce or diminish any legal or contractual obligation or requirement, including any obligation provided in Section 31A-14-213, of the ceding or assuming carrier related to the transaction;~~

~~———— (b) authorize a carrier that is not admitted to transact the business of insurance in this state to offer or insure health benefit plans in this state; or~~

~~———— (c) reduce or diminish the protections related to an assumption reinsurance transaction provided in Section 31A-14-213 or otherwise provided by law.~~

R590-167-6. Restrictions Relating to Premium Rates.

~~———— (1) A covered carrier shall develop a separate rate manual for each class of business. Base premium rates and new business premium rates charged to individuals and small employers by the covered carrier shall be computed solely from the applicable rate manual developed pursuant to this subsection. To the extent that a portion of the premium rates charged by a covered carrier is based on the carrier's discretion, the manual shall specify the criteria and factors considered by the carrier in exercising such discretion.~~

~~———— (2)(a) A covered carrier may not modify the rating method, as defined in Section R590-167-2, used in the rate manual for a class of business until the change has been approved as provided in this subsection. The commissioner may approve a change to a rating method if the commissioner finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the Act and this rule.~~

~~———— (b) A carrier may modify the rating method for a class of business only after filing an actuarial certification. The filing shall clearly request approval for a change in rating method and contain at least the following information:~~

~~———— (i) the reasons the change in rating method is being requested;~~

~~———— (ii) a complete description of each of the proposed modifications to the rating method;~~

~~———— (iii) a description of how the change in rating method would affect the premium rates currently charged to individuals and small employers in the class of business, including an estimate from a qualified actuary of the number of groups or individuals, and a description of the types of groups or individuals, whose premium~~

rates may change by more than 10% due to the proposed change in rating method, not including general increases in premium rates applicable to all individuals and small employers in a health benefit plan;

~~(iv) a certification from a qualified actuary that the new rating method would be based on objective and credible data and would be actuarially sound and appropriate;~~

~~(v) a certification from a qualified actuary that the proposed change in rating method would not produce premium rates for individuals and small employers that would be in violation of Sections 31A-30-106, 31A-30-106.1, and 31A-30-106.5; and~~

~~(vi) a request for approval for a change in rating method must be submitted as a separate filing. The filing description must state in the first line of the first paragraph, "REQUEST FOR APPROVAL FOR CHANGE IN RATING METHOD."~~

~~(3) The rate manual developed pursuant to Subsections 31A-30-106(4), 31A-30-106.1(13), and R590-167-6(1) shall specify the case characteristics and rate factors to be applied by the covered carrier in establishing premium rates for the class of business.~~

~~(a) A covered carrier offering a health benefit plan to an individual may not use case characteristics other than those specified in Subsection 31A-30-106(1)(f) without the prior approval of the commissioner. A covered carrier seeking such an approval shall make a filing with the commissioner for a change in rating method under Subsection R590-167-6(2)(b). Tobacco use is not an allowable case characteristic. Tobacco use is an allowable risk characteristic when utilized in compliance with Subsection 31A-30-106(1)(b).~~

~~(b)(i) A covered carrier offering or renewing a health benefit plan to a small employer, may not use case characteristics other than:~~

~~(A) age band, as specified in Subsection 31A-30-106.1(6)(a), applicable to the age of the employee;~~

~~(B) geographic area;~~

~~(C) family composition tier, as specified in Subsection 31A-30-106.1(6)(e);~~

~~(D) gender, as specified in in Subsection 31A-30-106.1(6)(d);~~

~~(E) Medicare coordination, as specified in Subsection 31A-30-106.1(6)(e); and~~

~~(F) wellness programs, as specified in Subsection 31A-30-106.1(6)(f).~~

~~(ii) For any geographic area used as a case characteristic by a covered carrier, base rates for any small employer health benefit plan shall be subject to the following limitations:~~

~~(A) for any age band, the ratio of the base rate for the family tier to the base rate for employee only tier, shall not exceed the ratio in Subsection 31A-30-106.1(8); and~~

~~(B) for any family composition tier, the ratio of the base rate for any age band to the base rate for "less than 20" age band, may not exceed the following:~~

~~(I) 1.22 for age band 20 to 24;~~

~~(II) 1.34 for age band 25 to 29;~~

~~(III) 1.46 for age band 30 to 34;~~

~~(IV) 1.60 for age band 35 to 39;~~

~~(V) 1.80 for age band 40 to 44;~~

~~(VI) 2.20 for age band 45 to 49;~~

~~(VII) 2.80 for age band 50 to 54;~~

~~(VIII) 3.60 for age band 55 to 59;~~

~~(IX) 4.25 for age band 60 to 64; and~~

~~(X) 5.00 for age band over 65.~~

~~(c) A covered carrier shall use the same case characteristics in establishing premium rates for each health benefit plan in a class~~

of business and shall apply them in the same manner in establishing premium rates for each such health benefit plan. Case characteristics shall be applied without regard to the risk characteristics of an individual or small employer.

~~(d) The rate manual shall clearly illustrate the relationship among the base premium rates charged for each health benefit plan in the class of business. If the new business premium rate is different than the base premium rate for a health benefit plan, the rate manual shall illustrate the difference.~~

~~(e) Differences among base premium rates for health benefit plans shall be based solely on the reasonable and objective differences in the design and benefits of the health benefit plans and may not be based in any way on the nature of an individual or small employer that choose or are expected to choose a particular health benefit plan. A covered carrier shall apply case characteristics and rate factors within a class of business in a manner that assures that premium differences among health benefit plans for identical individuals or small employers vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and are not due to the nature of the individuals or small employers that choose or are expected to choose a particular health benefit plan.~~

~~(f) The rate manual shall provide for premium rates to be developed in a two-step process.~~

~~(i) In the first step, a base premium rate shall be developed for the individual or small employer without regard to any risk characteristics. The base rates shall reflect only the allowable case characteristics. The base rates for an individual health benefit plan offered to two individuals with the same case characteristics shall be identical. The base rates for a small employer health benefit plan offered to two small employer groups with the same case characteristics shall be identical.~~

~~(ii) In the second step, the resulting base premium rate may be adjusted by a risk load, subject to the provisions of Sections 31A-30-106, 31A-30-106.1, and 31A-30-106.5, to reflect the risk characteristics.~~

~~(g) Each rate manual developed pursuant to Subsection R590-167-6(1) shall be maintained by the carrier for a period of six years. Updates and changes to the manual shall be maintained with the manual.~~

~~(4)(a) Except as provided in Subsection R590-167-6(4)(b), a premium charged to an individual or small employer for a health benefit plan may not include a separate application fee, underwriting fee, or any other separate fee or charge.~~

~~(b) A carrier may charge a separate fee with respect to an individual or small employer health benefit plan, but only one fee with respect to such plan, provided the fee is no more than \$5 per month per individual or employee and is applied in a uniform manner to each health benefit plan in a class of business.~~

~~(5) The restrictions related to changes in premium rates in Subsections 31A-30-106(1)(e) and 31A-30-106.1(3) shall be applied as follows:~~

~~(a) A covered carrier shall revise its rate manual each rating period to reflect changes in base premium rates and changes in new business premium rates.~~

~~(b)(i) If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate shall be deemed to be the change in the base premium rate for the purposes of Subsections 31A-30-106(1)(e) and 31A-30-106.1(3).~~

~~(ii) If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan shall be considered a health benefit plan into which the covered carrier is no longer enrolling new individuals or small employers for the purposes of Subsections 31A-30-106(1)(e) and 31A-30-106.1(3).~~

~~(iii) Trend increases are limited to a 12-month period. If an insurer chooses to use trend in the rate manual, a new filing must be submitted for each 12-month period. The detailing of the rate calculation must specify how trend is being implemented, by plan or calendar year, and how the rates are determined.~~

~~(c) If, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan in the same class of business by more than 20%, the carrier shall make a filing with the commissioner containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing shall be made 30 days before the beginning of the rating period.~~

~~(d) A covered carrier shall keep on file for a period of at least six years the calculations used to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period.~~

~~(6)(a) Except as provided in Subsection R590-167-6(6)(b), a change in premium rate for an individual or small employer shall produce a revised premium rate that is no more than the following:~~

~~(i) the base premium rate for the individual or small employer, as shown in the rate manual as revised for the rating period, multiplied by:~~

~~(ii) one plus the sum of:~~

~~(iii) the risk load applicable to the individual or small employer during the previous rating period; and~~

~~(iv) 15% prorated for periods of less than one year.~~

~~(b) In the case of a health benefit plan into which a covered carrier is no longer enrolling new individuals or small employers, a change in premium rate for an individual or small employer shall produce a revised premium rate that is no more than the following:~~

~~(i) the base premium rate for the individual or small employer, given its present composition and as shown in the rate manual in effect for the individual or small employer at the beginning of the previous rating period, multiplied by:~~

~~(ii) one plus the lesser of:~~

~~(A) the change in the base rate; or~~

~~(B) the percentage change in the new business premium for the most similar health benefit plan into which the covered carrier is enrolling new individuals or small employers, multiplied by:~~

~~(iii) one plus the sum of:~~

~~(A) the risk load applicable to the individual or small employer during the previous rating period; and~~

~~(B) 15%, prorated for periods of less than one year.~~

~~(c) Notwithstanding the provisions of Subsections R590-167-6(6)(a) and (b), a change in premium rate for an individual or small employer may not produce a revised premium rate that would exceed the limitations on rates provided in Subsections 31A-30-106(1)(b) and 31A-30-106.1(2)(b).~~

~~(7)(a) A representative of a Taft Hartley trust, including a carrier upon the written request of such a trust, may file in writing with the commissioner a request for the waiver of application of the provisions of Subsections 31A-30-106.1(1) through 31A-30-106.1(6) with respect to such trust.~~

~~(b) A request made under Subsection R590-167-6(7)(a) shall identify the provisions for which the trust is seeking the waiver and shall describe, with respect to each provision, the extent to which application of such provision would:~~

~~(i) adversely affect the participants and beneficiaries of the trust; and~~

~~(ii) require modifications to one or more of the collective bargaining agreements under or pursuant to which the trust was or is established or maintained.~~

~~(c) A waiver granted under Subsection 31A-30-104(5) shall not apply to an individual who participates in the trust because the individual is an associate member of an employee organization or the beneficiary of such an individual.~~

R590-167-7. Application to Reenter State.

~~(1) A carrier that has been prohibited from writing coverage for individuals or small employers in this state pursuant to Subsection 31A-30-107.3 may not resume offering health benefit plans to individuals or small employers in this state until the carrier has made a petition to the commissioner to be reinstated as a covered carrier and the petition has been approved by the commissioner. In reviewing a petition, the commissioner may ask for such information and assurances as the commissioner finds reasonable and appropriate.~~

~~(2) In the case of a covered carrier doing business in only one established geographic service area of the state, if the covered carrier elects to nonrenew a health benefit plan under Subsections 31A-30-107(3)(e) or 107.1(3)(e), the covered carrier shall be prohibited from offering health benefit plans to individuals or small employers in any part of the service area for a period of five years. In addition, the covered carrier may not offer health benefit plans to individuals or small employers in any other geographic area of the state without the prior approval of the commissioner. In considering whether to grant approval, the commissioner may ask for such information and assurances as the commissioner finds reasonable and appropriate.~~

R590-167-8. Qualifying Previous Coverage.

~~A covered carrier shall not deny, exclude, or limit benefits because of a preexisting condition without first ascertaining the existence and source of previous coverage. The covered carrier shall have the responsibility to contact the source of such previous coverage to resolve any questions about the benefits or limitations related to such previous coverage. Previous coverage may be coverage that continues after the issuance of the new health benefit plan. The previous carrier shall fully cooperate in furnishing the needed information required by this section.~~

R590-167-9. Restrictive Riders.

~~A restrictive rider, endorsement or other provision that violates the provisions of Section 31A-30-107.5 may not remain in force. A covered carrier shall immediately provide written notice to those individuals or small employers whose coverage will be changed pursuant to this section.~~

R590-167-10. Status of Carriers as Covered Carriers.

~~(1) Prior to marketing a health benefit plan, a carrier shall make a filing with the commissioner indicating whether the carrier intends to operate as a covered carrier in this state under the terms of the Act and of this rule. Such filing will indicate if the covered carrier intends to market to individuals, small employers or both, and be signed by an officer of the company.~~

~~_____ (2) Except as provided by Subsection R590-167-10(3), a carrier may not offer health benefit plans to individuals, small employers, or continue to provide coverage under health benefit plans previously issued to individuals or small employers in this state, unless the filing provided pursuant to Subsection R590-167-10(1) indicates that the carrier intends to operate as a covered carrier in this state.~~

~~_____ (3) If a carrier does not intend to operate as a covered carrier in this state, the carrier may continue to provide coverage under health benefit plans previously issued to individuals and small employers in this state only if the carrier complies with the following provisions:~~

~~_____ (a) the carrier complies with the requirements of the Act with respect to each of the health benefit plans previously issued to individuals and small employers by the carrier;~~

~~_____ (b) the carrier provides coverage to each new entrant to a health benefit plan previously issued to an individual or small employer by the carrier;~~

~~_____ (c) the carrier complies with the requirements of Sections 31A-30-106 and 31A-30-106.1 and this rule as they apply to individuals and small employers whose coverage has been terminated by the carrier and to individuals and small employers whose coverage has been limited or restricted by the carrier; and~~

~~_____ (d) the carrier files a letter of intent indicating the carrier does not intend to operate as a covered carrier in this state and will maintain the business in compliance with the Act and this rule.~~

~~_____ (4) If the filing made pursuant Subsection R590-167-10(3) indicates that a carrier does not intend to operate as a covered carrier in this state, the carrier shall be precluded from operating as a covered carrier in this state, except as provided for in Subsection R590-167-10(3), for a period of five years from the date of the filing. Upon a written request from such a carrier, the commissioner may reduce the period provided for in the previous sentence if the commissioner finds that permitting the carrier to operate as a covered carrier would be in the best interests of the individuals and small employers in the state.~~

R590-167-11. Actuarial Certification and Additional Filing Requirements.

~~_____ (1) Actuarial Certification.~~

~~_____ (a) An actuarial certification shall be filed annually and meet the requirements of Subsections 31A-30-106(4)(b) or 31A-30-106.1(9)(b), or both, as applicable, and the following:~~

~~_____ (i) the actuarial certification shall be a written statement that meets the requirements of Title 31A Chapter 30, R590-167, and the applicable standards of practice as promulgated by the Actuarial Standards Board;~~

~~_____ (ii) the actuary must state that he or she meets the qualifications of Subsection 31A-30-103(1);~~

~~_____ (iii) the actuarial certification shall:~~

~~_____ (A) contain the following statement: "I, (name), certify that (name of covered carrier) is in compliance with the provisions of Title 31A Chapter 30, and R590-167, based upon the examination of (name of covered carrier), including review of the appropriate records and of the actuarial assumptions and methods utilized by (name of covered carrier) in establishing premium rates for applicable health benefit plans;"~~

~~_____ (B) list and describe each written demonstration used by the actuary to establish compliance with Title 31A Chapter 30 and R590-167; and~~

~~_____ (C) include a list of all affiliated insurers, define each class of business which includes the commissioner's approval date if more~~

~~than one class of business exists, and the SERFF filing number for each applicable rate manual filing.~~

~~_____ (b) The actuarial certification shall be filed no later than April 1 of each year.~~

~~_____ (c) The actuarial certification required by Subsections 31A-30-106(4)(b) and 31A-30-106.1(13)(b) and this subsection, applies only to an individual or small employer health benefit plan issued prior to March 23, 2010, and has maintained grandfathered status.~~

~~_____ (2) Rating Manual.~~

~~_____ (a) For every health benefit plan subject to the Act and this rule, the carrier shall file with the commissioner a copy of the applicable rating manual, for both new business and renewal rates, which includes:~~

~~_____ (i) signed certification by an actuary that to the best of the actuary's knowledge and judgment the rate filing is in compliance with the applicable laws and rules of the State of Utah;~~

~~_____ (ii) a complete and detailed description of how the final premium, including any fees, is calculated from the rating manual;~~

~~_____ (iii) all changes and updates, which includes a complete and detailed description of how the final premium, including any fees, is calculated from the rating manual;~~

~~_____ (iv) an identification of the carrier's classes of business as described in Subsection R590-167-4(1);~~

~~_____ (v) all information required by 45 CFR 154.215(b)(1);~~

~~_____ (vi) for a rate increase subject to review as required by 45 CFR 154.200(a)(1), all information required by 45 CFR 154.215(b)(2); and~~

~~_____ (vii) all information required by the Utah Accident and Health Comprehensive Health Insurance Rate Filing Checklist.~~

~~_____ (b) The rate manual shall be filed:~~

~~_____ (i) with an initial product filing; or~~

~~_____ (ii) within 30 days prior to use for an existing health benefit plan.~~

R590-167-12. Records.

~~_____ (1) Except as provided in Subsection R590-167-12(2), records submitted to the commissioner under this rule shall be maintained by the commissioner as protected records under Title 63G, Chapter 2, Government Records Access and Management Act.~~

~~_____ (2) The commissioner finds the following to be considered a public record as defined in Subsection 63G-2-103:~~

~~_____ (a) the status of a filing described herein and submitted to the department; and~~

~~_____ (b) all information submitted as required by Subsections R590-167-11(2)(v) and (vi), and R590-220-10(2)(b)(iii)(I).~~

R590-167-13. Penalties.

~~_____ A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

R590-167-14. Severability.

~~_____ If any provision of this rule or the application of it to any person or circumstance is, for any reason, held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances will not be affected by the invalid provision.]~~

R590-167-1. Authority.

~~_____ This rule is promulgated by the commissioner pursuant to Sections 31A-2-201, 31A-2-212, 31A-30-104, 31A-30-106, 31A-30-106.1, and 31A-30-117.~~

R590-167-2. Purpose and Scope.

- (1) The purpose of this rule is to:
- (a) enhance the availability of health insurance coverage to individuals and small employers;
 - (b) regulate and prevent abuse in insurer rating practices and establish limits on differences in rates between health benefit plans;
 - (c) ensure renewability of coverage;
 - (d) establish limitations on the use of preexisting condition exclusions;
 - (e) prescribe the way case characteristics may be used;
 - (f) regulate the use and establishment of separate classes of business;
 - (g) provide for portability;
 - (h) improve the overall fairness and efficiency of the individual and small employer health insurance market;
 - (i) promote broader spreading of risk in the individual and small employer marketplace; and
 - (j) regulate rating practices for all health benefit plans sold to an individual and a small employer, whether sold directly or through an association or another group of individuals and small employers.
- (2)(a) This rule applies to a health benefit plan that:
- (i) meets one or more of the criteria in Subsections 31A-30-104(1) and 31A-30-104(2); and
 - (ii) provides coverage to a covered insured in Utah.
- (b) A carrier that issues a health benefit plan to an individual or small employer is not subject to this rule solely because an individual or a small employer that was issued a health benefit plan in another state moves to Utah.

R590-167-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-30-103. Additional terms are defined as follows:

- (1) "Act" means Title 31A, Chapter 30, Individual, Small Employer, and Group Health Insurance Act.
- (2) "Change in a rating factor" means the cumulative change of a rating factor over a 12-month period.
- (3) "Change in rating method" means:
 - (a) a change in the number of case characteristics used to determine health benefit plan premium rates in a class of business;
 - (b) a change in the manner or procedure by which an insured is assigned into a category for applying a case characteristic to determine health benefit plan premium rates in a class of business;
 - (c) a change in the method of allocating expenses among health benefit plans in a class of business; or
 - (d) a change in one or more rating factors for any case characteristic if the change produces a change in premium for an individual or small employer that exceeds 10%.
- (4) "New entrant" means an eligible employee, or a dependent of an eligible employee, who becomes part of a small employer group after the initial period for enrollment in a health benefit plan.
- (5) "Risk characteristic" means a rating factor related to the demographics, health status, or experience of an individual, a small employer, or a member of a small employer group, other than a case characteristic under Section 31A-30-106 or 31A-30-106.1, as applicable, including:
 - (a) exact age;
 - (b) gender;
 - (c) family composition;
 - (d) health status;
 - (e) claims experience;
 - (f) duration of coverage; or
 - (g) any similar characteristic.

- (e) claims experience;
 - (f) duration of coverage; or
 - (g) any similar characteristic.
- (6) "Risk load" means the percentage above the base premium rate charged by a covered carrier to a covered insured reflecting the risk characteristics of the covered individual.

R590-167-4. Establishment of Classes of Business.

(1) A covered carrier with more than one class of business under Section 31A-30-105 shall maintain, for inspection by the commissioner, the following information with respect to each class of business:

- (a) a description of all criteria used by the covered carrier or its agents to determine membership in the class of business;
- (b) a statement justifying the establishment of each separate class of business and documentation that the establishment of each class of business reflects substantial differences in expected claims experience or administrative costs; and
- (c) a statement disclosing each health benefit plan currently available for purchase in the class and any significant limitations related to the purchase of such plans.

(2) For policies issued or renewed on or after January 1, 2011, a covered carrier may not establish a separate class of business without the commissioner's prior approval.

(3) To establish a separate class of business under Subsection (2), a covered carrier shall submit a filing in compliance with Rule R590-220 that includes:

- (a) a written request to establish a separate class of business;
- (b) a description of all criteria used by the covered carrier, or its agents, to determine membership in the class of business;
- (c) a disclosure of each health benefit plan that will be available for purchase in the class and any significant limitations related to the purchase of such plans;
- (d) a statement demonstrating that the use of a separate class of business is necessary due to substantial differences in either expected claims experience or administrative costs related to the covered carrier:
 - (i) using more than one system for the marketing and sale of a health benefit plan to covered insureds;
 - (ii) acquiring a class of business from another covered carrier; or
 - (iii) providing coverage to one or more association groups;
- (e) a list of previously approved classes of business; and
- (f) for each class of business used before January 1, 2011, a certification that the continued use of the class of business is necessary under Subsection (3)(d).

(4) A covered carrier may not, directly or indirectly, use group size as a criterion for establishing eligibility for a class of business.

R590-167-5. Transition for Assumptions of Business from Another Carrier.

(1)(a) A covered carrier may not transfer or assume the entire insurance obligation, risk, or both, of a health benefit plan covering an individual or a small employer in Utah unless:

- (i) commissioner of the state of domicile of the assuming carrier approves the transaction;
- (ii) the commissioner of the state of domicile of the ceding carrier approves the transaction;
- (iii) the covered carrier provides notice to the commissioner at least 60 days before the date of the proposed

assumption, containing the information specified in Subsection (1)(c)(i) for a health benefit plan covering individuals and small employers in Utah; and

(iv) the transaction meets the requirements of this Section R590-167-5.

(b)(i) A covered carrier domiciled in Utah proposing to assume or cede the entire insurance obligation, risk, or both, of one or more health benefit plans covering covered individuals from or to another carrier shall file for approval with the commissioner at least 60 days before the date of the proposed assumption.

(ii) The commissioner may approve the transaction if the commissioner finds that the transaction is in the best interest of the individuals insured under the health benefit plans to be transferred and is consistent with the purposes of the act and this rule.

(iii) The commissioner may not approve the transaction until at least 30 days after the date of the filing, except that if the carrier is in a hazardous financial condition, the commissioner may approve the transaction as soon as the commissioner finds reasonable after the filing.

(c)(i) The filing required under Subsection (1)(b) shall:

(A) describe the class of business, including any eligibility requirements of the ceding carrier;

(B) describe whether the assuming carrier will:

(I) maintain the assumed health benefit plans as a separate class of business under Subsection (3); or

(II) incorporate the health benefit plans into an existing class of business under Subsection (4);

(C) describe the class of business the health benefit plans will be incorporated into;

(D) describe whether the assumed health benefit plans are currently available for purchase by individuals or small employers;

(E) describe the effect of the assumption on the benefits provided by the health benefit plans;

(F) describe the effect of the assumption on the health benefit plans' premiums; and

(G) describe any other material effect of the assumption on the coverage provided to the individuals and small employers covered by the assumed health benefit plans.

(ii)(A) A covered carrier required to make a filing under Subsection (1)(b) shall make an informational filing with the commissioner of each state where there is an individual or small employer health benefit plan included in the transaction.

(B) The informational filing to each state shall be made concurrently with the filing made under Subsection (1)(b) and shall include at least the information specified in Subsection (1)(c)(i) for the individual or small employer health benefit plans in that state.

(2)(a) Except as provided in Subsection (2)(b), a carrier may not cede or assume the entire insurance obligation, risk, or both, of an individual or small employer health benefit plan unless the transaction cedes to the assuming carrier the entire class of business.

(b) A covered carrier may cede less than an entire class of business to an assuming carrier if:

(i)(A) one or more individuals or small employers in the class of business exercise their right under contract law or state law to reject the ceding of their health benefit plan to another carrier; and

(B) the transaction includes each health benefit plan in the class of business except those health benefit plans for which an individual or a small employer has rejected the proposed cession; or

(ii) after a written request from the ceding carrier, the commissioner determines that the transfer of less than the entire class of business is in the best interest of the individuals or small employers insured in that class of business.

(3) A carrier that assumes one or more health benefit plans from a covered carrier and maintains the health benefit plans as a separate class of business shall submit a filing requesting approval to establish a separate class of business.

(4) A carrier that assumes one or more health benefit plans from a covered carrier and incorporates the health benefit plans into an existing class of business shall comply with this Subsection (4).

(a) The assumed health benefit plans shall be transferred into a single class of business operated by the assuming carrier.

(b) The assuming carrier shall select the class of business the assumed health benefit plans will be transferred into in a manner that results in the least possible change to the benefits and rating method of the assumed health benefit plans.

(c) A transfer under Subsection (4)(b) shall occur on the anniversary date of a health benefit plan, except that the transfer period may be extended beyond the first anniversary date up to 12 months, if the anniversary date occurs within three months of the date of assumption.

(d) An assuming carrier making a transfer under Subsection (4) may alter the benefits of the assumed health benefit plans to conform with the benefits offered by the carrier in the class of business the health benefit plans are transferred into.

(e)(i) The assuming carrier may not modify the premium rate for the assumed health benefit plans until the health benefit plans are transferred under Subsection (4).

(ii) The assuming carrier shall calculate a new premium rate for the health benefit plans from the rate manual established for the class of business the health benefit plans are transferred into.

(iii) The risk load applied to the health benefit plan may not be higher than the risk load applied to the health benefit plan before the assumption.

(f) During the 15-month period under Subsection (4)(b), the transfer of health benefit plans from the assumed class of business does not violate Subsection 31A-30-106(3)(a) or 31A-30-106.1(8)(a).

(5) An assuming carrier may not apply eligibility requirements, including minimum participation and contribution requirements, to an assumed or subsequently offered health benefit plan, that are more stringent than the requirements applicable to the health benefit plan before assumption.

(6) The act and Section R590-167-5 do not:

(a) reduce any legal or contractual obligation or requirement, including an obligation under Section 31A-14-213, of the ceding or assuming carrier related to the transaction;

(b) authorize a carrier not admitted to transact the business of insurance to offer or insure a health benefit plan in Utah; or

(c) reduce the protections of an assumption reinsurance transaction under Section 31A-14-213 or otherwise provided by law.

(8) Once a health benefit plan has been assumed, the assuming carrier is considered a covered carrier.

R590-167-6. Restrictions on Premium Rates.

(1)(a) A covered carrier shall develop a separate rate manual for each class of business.

(b) Base premium rates and new business premium rates charged to an individual or a small employer shall be computed solely from the applicable rate manual.

(c) To the extent that a portion of the premium rate is based on the carrier's discretion, the rate manual shall specify the criteria and factors considered by the covered carrier in exercising such discretion.

(2)(a)(i) A covered carrier may not modify the rating method used in the rate manual for a class of business until the change has been approved by the commissioner.

(ii) The commissioner may approve a change to a rating method if the commissioner finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the act and this rule.

(b) A covered carrier may modify the rating method for a class of business after filing an actuarial certification that clearly requests approval for a change in rating method and contains the following information:

(i) the reason for the change in rating method;

(ii) a complete description of each proposed modification to the rating method;

(iii) a description of how the change in rating method will affect the premium rates currently charged in the class of business;

(iv) an estimate from a qualified actuary of the number of individuals and small employers, including a description of the types of individuals and small employers, whose premium rates may change by more than 10% due to the proposed change in rating method, not including general increases in premium rates;

(v) a certification from a qualified actuary that the new rating method is based on objective and credible data and is actuarially sound and appropriate; and

(vi) a certification from a qualified actuary that the proposed change in rating method does not produce premium rates for an individual or small employer that violate Sections 31A-30-106, 31A-30-106.1, and 31A-30-106.5.

(c)(i) A request for approval for a change in rating method shall be submitted as a separate filing.

(ii) The filing description shall state in the first line of the first paragraph, "REQUEST FOR APPROVAL FOR CHANGE IN RATING METHOD."

(3) The rate manual shall specify the case characteristics and rate factors to be applied by the covered carrier in establishing premium rates for the class of business.

(4)(a)(i) A covered carrier may not use case characteristics other than those specified in Sections 31A-30-106 and 31A-30-106.1 without the commissioner's prior approval.

(ii) A covered carrier seeking an approval under this Subsection (4)(a) shall make a filing with the commissioner for a change in rating method under Subsection (2)(b).

(b) Tobacco use is not an allowable case characteristic and may only be used under Subsection 31A-30-106(1)(b).

(c) The ratio of the base rate for any age band case characteristic under Subsection 31A-30-106.1(7) to the base rate for a less than 20 age band may not exceed the following:

(i) 1.22 for age band 20 to 24;

(ii) 1.34 for age band 25 to 29;

(iii) 1.46 for age band 30 to 34;

(iv) 1.60 for age band 35 to 39;

(v) 1.80 for age band 40 to 44;

(vi) 2.20 for age band 45 to 49;

(vii) 2.80 for age band 50 to 54;

(viii) 3.60 for age band 55 to 59;

(ix) 4.25 for age band 60 to 64; and

(x) 5.00 for age band 65 and above.

(d) A covered carrier shall use the same case characteristics in establishing premium rates for each health benefit plan in a class of business and shall apply them in the same manner in establishing premium rates.

(e) Risk characteristics may not be considered when applying case characteristics.

(5)(i) The rate manual shall clearly illustrate the relationship among the base premium rates charged for each health benefit plan in a class of business.

(ii) If the new business premium rate is different from the base premium rate for a health benefit plan, the rate manual shall illustrate the difference.

(6) Differences among base premium rates for health benefit plans shall be based solely on the reasonable and objective differences in the design and benefits of the health benefit plans and may not be based in any way on the nature of an individual or a small employer that chooses or is expected to choose a particular health benefit plan.

(7) A covered carrier shall apply case characteristics and rate factors within a class of business in a manner that assures that premium differences among health benefit plans for identical individuals or small employers vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and are not due to the nature of the individuals or small employers that choose or are expected to choose a particular health benefit plan.

(8) The rate manual shall provide for premium rates to be developed in a two-step process.

(a) In step one, a base premium rate shall be developed to reflect the allowable case characteristics that result in individuals or small employers with identical case characteristics.

(b) In step two, the resulting base premium rate may be adjusted by a risk load to reflect the risk characteristics, subject to Sections 31A-30-106, 31A-30-106.1, and 31A-30-106.5.

(9)(a) Except as provided in Subsection (4)(b), a premium may not include a separate application fee, underwriting fee, or any other separate fee or charge.

(b) A covered carrier may charge a separate fee for an individual or a small employer health benefit plan, but only one fee per plan, provided the fee is no more than \$5 per month per individual or employee and is applied in a uniform manner to each health benefit plan in a class of business.

(10) The premium rate change restrictions in Subsections 31A-30-106(1)(c) and 31A-30-106.1(3) shall be applied as follows:

(a) a covered carrier shall revise its rate manual each rating period to reflect changes in base premium rates and changes in new business premium rates;

(b)(i) if, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate shall be the change in the base premium rate; or

(ii) if, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan shall be considered a health benefit plan in which the covered carrier is no longer enrolling new individuals or small employers;

(c) if a covered carrier elects to use a trend increase:

(i) details for the trend rate calculation shall be filed annually in the rate manual; and

(ii) the trend increase is limited to a 12-month period; and

(d) if, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan in the same class of business by more than 20%, the covered carrier shall

file with the commissioner 30 days before the beginning of the rating period an explanation of how the respective changes in the new business premium rates were established and the reason for the difference.

(11)(a) Except as provided in Subsection (11)(b), a change in premium rate for an individual or small employer shall produce a revised premium rate that is no more than the following:

(i) the base premium rate for the individual or small employer, as shown in the rate manual as revised for the rating period, multiplied by:

(ii) one plus the sum of:

(A) the risk load applicable to the individual or small employer during the previous rating period; and

(B) 15%, prorated for periods of less than one year.

(b) In the case of a health benefit plan into which a covered carrier is no longer enrolling new individuals or small employers, a change in premium rate for an individual or small employer shall produce a revised premium rate that is no more than the following:

(i) the base premium rate for the individual or small employer, given its present composition and as shown in the rate manual in effect for the individual or small employer at the beginning of the previous rating period, multiplied by:

(ii) one plus the lesser of:

(A) the change in the base rate; or

(B) the percentage change in the new business premium for the most similar health benefit plan into which the covered carrier is enrolling new individuals or small employers, multiplied by:

(iii) one plus the sum of:

(A) the risk load applicable to the individual or small employer during the previous rating period; and

(B) 15%, prorated for periods of less than one year.

(c) Except as provided in Subsections (11)(a) and (11)(b), a change in premium rate for an individual or small employer may not produce a revised premium rate that would exceed the limitations on rates provided in Subsections 31A-30-106(1)(b) and 31A-30-106.1(2)(b).

(12) A Taft-Hartley trust requesting a waiver of Subsection 31A-30-106(1) or 31A-30-106.1(1) shall file with the commissioner a request that identifies the provisions for which the trust is seeking the waiver that describes the extent each provision will:

(a) adversely affect the participants and beneficiaries of the trust; and

(b) require modifications to one or more of the collective bargaining agreements under which the trust is established or maintained.

(13) A covered carrier shall maintain, for a period of at least six years, any update or change to a rate manual, including the calculations used to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period.

R590-167-7. Application to Reenter State.

(1)(a) A carrier that is prohibited from writing new business for an individual or small employer health benefit plan in Utah under Section 31A-22-618.8 may not resume offering an individual or small employer health benefit plan in Utah until the carrier petitions the commissioner to be reinstated as a covered carrier and the petition is approved.

(b) The commissioner may ask for information and assurances the commissioner finds reasonable and appropriate to make a decision.

(2)(a) If a covered carrier is doing business in only one established geographic service area of Utah and the covered carrier elects to discontinue a health benefit plan under Section 31A-22-618.6 or 31A-22-618.7, the covered carrier is prohibited from offering a health benefit plan to an individual or small employer in any part of the service area for a period of five years.

(b) The covered carrier may not offer a health benefit plan to an individual or small employer in any other geographic area of Utah without the commissioner's prior approval.

(c) The commissioner may ask for information and assurances the commissioner finds reasonable and appropriate to make a decision.

R590-167-8. Qualifying Previous Coverage.

(1) A covered carrier may not deny, exclude, or limit benefits because of a preexisting condition without first ascertaining the existence and source of previous coverage.

(2) A covered carrier has the responsibility to contact the source of previous coverage to resolve any questions about the benefits or limitations related to the previous coverage.

(3) Previous coverage includes coverage that continues after the issuance of the new health benefit plan.

(4) The previous carrier shall fully cooperate in furnishing the information required by this section.

R590-167-9. Restrictive Riders.

(1) A restrictive rider, endorsement, or other provision that violates Section 31A-30-107.5 may not remain in force.

(2) A covered carrier shall immediately provide written notice to any individual or small employer whose coverage will be changed pursuant to this section.

R590-167-10. Status of a Carrier as a Covered Carrier.

(1)(a) Before marketing a health benefit plan, a carrier shall file with the commissioner its intent to operate as a covered carrier in Utah under the terms of the act and of this rule.

(b) The filing shall state if the carrier intends to market to individuals, small employers, or both, and shall be signed by an officer of the company.

(2) Except as provided by Subsection (3), a carrier may not offer a health benefit plan to an individual or a small employer in Utah, or continue to provide coverage under a health benefit plan previously issued to an individual or a small employer in Utah, unless the filing under Subsection (1) indicates that the carrier intends to operate as a covered carrier in Utah.

(3)(a) If a carrier does not intend to operate as a covered carrier in Utah, the carrier may continue to provide coverage under a health benefit plan previously issued to an individual or a small employer in Utah if:

(i) the carrier complies with the act with respect to each health benefit plan previously issued to an individual or a small employer;

(ii) the carrier provides coverage to each new entrant to a health benefit plan previously issued to an individual or a small employer;

(iii) the carrier complies with Sections 31A-30-106 and 31A-30-106.1 and this rule as they apply to an individual or a small employer whose coverage was terminated, limited, or restricted by the carrier; and

(iv) the carrier files a letter of intent indicating the carrier does not intend to operate as a covered carrier in Utah and will maintain the business in compliance with the act and this rule.

(b)(i) If a filing made under Subsection (3) indicates that a carrier does not intend to operate as a covered carrier in Utah, the carrier is precluded from operating as a covered carrier in Utah, except as provided for in Subsection (3), for a period of five years from the date of the filing.

(ii) Upon written request from the carrier, the commissioner may reduce the five-year period if the commissioner finds that permitting the carrier to operate as a covered carrier would be in the best interests of the individuals and small employers in Utah.

R590-167-11. Actuarial Certification and Additional Filing Requirements.

(1)(a) An actuarial certification filing under Subsection 31A-30-106(4)(b) or 31A-30-106.1(13)(b) shall:

(i) include a written statement that meets the requirements of the act, this rule, and the applicable standards of practice promulgated by the Actuarial Standards Board;

(ii) be signed by the actuary and state that the actuary meets the qualifications of Subsection 31A-30-103(1);

(iii) contain the following statement: "I, (name), certify that (name of covered carrier) is in compliance with Title 31A, Chapter 30, Individual, Small Employer, and Group Health Insurance Act, and Rule R590-167, based upon the examination of (name of covered carrier), including review of the appropriate records and of the actuarial assumptions and methods utilized by (name of covered carrier) in establishing premium rates for applicable health benefit plans";

(iv) list and describe each written demonstration used by the actuary to establish compliance with the act and this rule;

(v) list all affiliated insurers, defining each class of business that includes the commissioner's approval date if more than one class of business exists; and

(vi) include the System for Electronic Rates and Forms Filing, SERFF, filing number for each applicable rate manual filing.

(b) The actuarial certification applies to an individual or a small employer health benefit plan issued before March 23, 2010, and maintains grandfathered status.

(2)(a) A covered carrier shall file with the commissioner a copy of the applicable rate manual for a health benefit plan that is subject to the act and this rule, for both new business and renewal rates, and shall include:

(i) a signed certification by an actuary that, to the best of the actuary's knowledge and judgment, the rate filing complies with the applicable laws and rules of Utah;

(ii) a complete and detailed description of how the final premium, including any fees, is calculated from the rate manual;

(iii) all changes and updates, including a complete and detailed description of how the final premium, including any fees, is calculated from the rate manual;

(iv) an identification of the covered carrier's classes of business under Subsection R590-167-4(1);

(v) all information required by 45 CFR 154.215(b)(1); and

(vi) for a rate increase subject to review by 45 CFR 154.200(a)(1), all information required by 45 CFR 154.215(b)(2).

(b) The rate manual shall be filed:

(i) with an initial product filing; or

(ii) 30 days before use, for an existing health benefit plan.

R590-167-12. Records.

(1) Except as provided in Subsection (2), a record submitted to the commissioner under this rule shall be maintained as

a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(2) The commissioner classifies the following records as public:

(a) the status of a filing; and

(b) information submitted under Subsections R590-167-11(2)(a)(v) and R590-167-11(2)(a)(vi).

R590-167-13. Severability.

If any provision of this rule, Rule R590-167, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: health insurance

Date of Last Change: 2024[March 23, 2016]

Notice of Continuation: August 20, 2019

Authorizing, and Implemented or Interpreted Law: 31A-30-106; 31A-30-106.1

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:

R661-13

Filing ID:
56272

Agency Information

1. Department:	Navajo Trust Fund	
Agency:	Trustees	
Street address:	151 E 500 N	
City, state and zip:	Blanding, UT 84511	
Contact persons:		
Name:	Phone:	Email:
Tony Dayish	435-678-1468	tdayish@utah.gov
Maury Bergman	435-678-1461	mbergman@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R661-13. Veterans' Housing Program Policy
3. Purpose of the new rule or reason for the change:
The purpose of this filing is to amend the language so the amount of the beneficiary award can be changed.

4. Summary of the new rule or change:

This rule amendment will enable the Utah Native Trust Fund (UNTF) board to set the amount of the Veteran's Housing award in the annual budget rather than specifying a specific amount in this rule.

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

This amendment will not have any fiscal effect on the state budget because all of the awards paid to the beneficiaries are from the Trust Fund oil royalties and not the state budget.

B) Local governments:

This rule change will not have a fiscal impact on any local governments.

The UNTF operates independently using only revenues from oil royalties.

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

This rule change will not have a fiscal impact on small businesses because all funds paid to the beneficiaries are Trust Fund monies only.

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

This rule change does not have a fiscal impact on non-small businesses because all funds paid to the beneficiaries are Trust Fund monies only.

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

This rule change will not have a fiscal impact on other persons because the awards paid to the beneficiaries are from Trust Fund monies.

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 changes simply allow for an award amount to be amended each year if needed.

There are no costs associated with this change.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there

are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Administrator of the Utah Navajo Trust Fund, Tony Dayish, has reviewed and approved this regulatory impact analysis.

Citation Information**6. 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 51, Chapter 10		
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Public Notice Information

8. 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:	02/14/2024
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9. This rule change MAY become effective on:	02/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Maury Bergman, UNTF Finance Manager	Date:	12/18/2023
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R661. Navajo Trust Fund, Trustees.

R661-13. Veterans' Housing Program Policy.

R661-13-1. Veterans' Housing Program Policy.

(1) Definitions

(a) "Veteran" is defined as a person who served in the active military, naval, ~~C[e]oast G[g]uard~~, or air services, and who was discharged or released there from under conditions other than dishonorable, and who served ~~(c)90(y)~~ days or more during war time and 181 days or more during peace time. The definition of a ~~v[V]eteran~~ as used in this rule[herein] includes Widows and Gold Star Mothers.

(b) A "widow" is defined as a surviving spouse who was validly married to and lived with the veteran continuously from the date of marriage to the date of the veteran's death and has not remarried. The term "widow" used in this guideline includes widowers.

(~~c~~~~(t)~~) A "Gold Star Mother" is defined as a mother whose child was killed in the line of duty, ~~(t)killed in action(y)~~ or has been declared missing in action.

(2) Program for eligible veterans requesting new house construction assistance.

(a) Applicants shall work directly with their respective Community Veterans Organization first then to the Chapter through which they are seeking housing assistance.

(~~b~~~~(t)~~) All requests, budget preparation, updates and progress reports, will be processed through the Chapter.

(~~c~~~~(t)~~) Veterans' Housing projects will follow the regular Chapter project procedures for housing projects.

(~~d~~~~(b)~~) The Applicant's Chapter shall identify match-funding sources ~~[in order]~~ to maximize the number of applicants that can be assisted with this program.

(~~e~~~~(t)~~) UNTF will maintain a Veteran's Housing set aside fund with a limit, per applicant, that is approved by the UNTF board[et-] in the annual budget. Funds will be used for new house construction, renovations or remodeling. [\$60,000 from UNTF and \$40,000 from other sources for new house construction, or 60% of the house renovation cost from UNTF and 40% from other sources.]

(~~f~~~~(t)~~) A Chapter may use their own chapter crew, contractor, or request the UNTF crew to build these houses for veterans.

(3) Types of Assistance

(a) New construction projects, assistance includes funding for building materials and~~(or)~~ labor. Matching funding will be required from other sources.

(b) House renovation projects: assistance includes funding for building materials and~~(or)~~ labor.

(c) Individuals eligible to apply for assistance:

(i) veteran; and

(ii) recipient of the most priority points.

(4) Eligibility and Selection Criteria

(a) Applicants for UNTF housing assistance must first submit their application to their Utah Chapter.

(b) A UNTF Veterans Housing Program application must be filled out and submitted to the Utah Chapter where the applicant resides, including homesite lease, allotment deed, leasehold interest, and~~(or)~~ other legal landownership documentation, and house size and floor plan that is acceptable to the Chapter.

(c) Applicant must be a ~~v[V]eteran~~ as defined in Subsection (1)(a)[herein]. Applicant must verify that they[he/she] is a veteran by proof of separation papers (DD-214).

(d) Applicant must be a San Juan County, Utah resident as required by Rule R661-3.

(5) There must be proof that applicant's housing condition is substandard, dilapidated or is inadequate in terms of the capacity to meet the basic living standards of the veteran household.

(a) Proof that applicant is homeless or is living in borrowed housing or with relatives;

(b) The Utah Chapter ~~where[were]~~ the applicant resides shall make the initial determination of eligibility for UNTF assistance

(6) ~~t[t]~~he Chapter shall take into consideration:

(a) income;

(b) family size;

(c) age;

(d) health;

(e) housing condition;

(f) the Chapter's priority listing; and~~(z)~~

(g) ineligibility for other housing programs.

(7) The Chapter shall also use the following priority rating system in reviewing ~~v[V]eteran~~ applications:

(a) Handicapped and Disabled (up to 25 points) applicants, Disabilities sustained from Military Service (up to 25 points), Nonservice-connected disabilities (up to 10 points).

(b) Elderly applicants (up to 25 points), 65 years of age or older (25 points), 59 -- 64 years old (10 points).

(c) Family size and Overcrowded conditions (up to 25 points: 5 points for veteran, 5 points for every family member, but no more than 25 points).

(i) If the ~~v[V]eteran~~ is living with relatives, only the immediate family members shall be eligible for points consideration.

(ii) Immediate family members are the applicant, the applicant's spouse, the applicant's biological son~~(t)s(y)~~ and~~(or)~~ daughter~~(t)s(y)~~, and any legally~~(-)~~ adopted children that are living with the applicant on a full-time basis at the time of application.

(d) Housing or ~~(A)~~Dwelling Conditions (up to 25 points). If the existing house belongs to the veteran, the house condition shall be evaluated, taking into consideration the interior, exterior, roof, insulation, windows, doors, type of structure, year built or ~~(t)~~age of house~~(y)~~.

(i) Good condition 0 points;

(ii) Fair condition 5 points;

(iii) Poor condition 15 points;

(iv) Very Poor condition 25 points; and

(v) Homeless 25 points;

(8) Veteran Housing Projects shall be completed with 24 months of approval by the UNTF board.

KEY: veterans, veterans' housing
Date of Last Change: ~~2024~~~~April 21, 2022~~
Notice of Continuation: July 29, 2021

Authorizing, and Implemented or Interpreted Law: 51-10-205(4)(a)

End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([~~example~~]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Rule or Section Number:	R436-7	Filing ID: 56271
Effective Date:	01/01/2024	

Agency Information

1. Department:	Health and Human Services	
Agency:	Data, Systems and Evaluation, Vital Records and Statistics	
Room number:	140	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141012	
City, state and zip:	Salt Lake City, UT 84114-1012	
Contact persons:		
Name:	Phone:	Email:
Linda S. Wininger	801-538-6262	lindaw@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R436-7. Death Registration

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

In the 2022 General Session, S.B. 43 was passed, which included certified nurse midwives (CNM) in the definition of a health care professional. Included in the definition was the requirement for the CNM to complete an education program regarding the completion of a certificate of death. This was not a new requirement for the Department of Health and Human Services (Department) as it was already required for an advanced practice registered nurses (APRN) and physician assistants (PA).

However, there is no administrative rule and due to an administrative oversight this has not been addressed. The office is filing this emergency rule to be compliant with statute until a permanent rule can be made effective.

4. Summary of the new rule or change:

This rule adds requirements for nurse practitioners (NP), PAs, and CNMs to complete an education program regarding certifying cause of death.

The filing also explains how to complete the requirements found in Subsections 26B-8-101(3), (19), and (22).

5A) The agency finds that regular rulemaking would:

- ☐ cause an imminent peril to the public health, safety, or welfare;
- ☐ cause an imminent budget reduction because of budget restraints or federal requirements; or
- ☒ place the agency in violation of federal or state law.

B) Specific reasons and justifications for this finding:

Subsections 26B-8-101(3)(b), (19)(b), and (22)(b) specify that NPs, PAs, and CNMs must complete a course developed by the Department by administrative rule.

This rule change outlines what a NP, PA, or CNW must do to complete the course required by the statute.

Fiscal Information**6. 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 because the course is available through the CDC continuing education website for no charge.

B) Local governments:

This rule is not expected to have a fiscal impact on local governments' revenues or expenditures because they are not involved in this process.

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

This rule is not expected to have a fiscal impact on small businesses because the training is free and takes less than an hour to complete.

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

This rule is not expected to have a fiscal impact on persons other than small businesses, state, or local government entities because the training is free and takes less than an hour to complete.

E) 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 because the training is free and takes less than an hour to complete.

F) 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 anticipated costs or savings on businesses. The updated training is free and takes less than an hour to complete. Tracy Gruber, 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:**

Section 26B-8-101	Section 26B-8-114	
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Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	12/27/2023
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R436. Health and Human Services, [~~Center for Health Data, Vital Records and Statistics~~]Data, Systems and Evaluation, Vital Records and Statistics.**R436-7. Death Registration.****R436-7-1. Purpose and Authority.**

(1) This rule sets forth procedures for the registration of death and the requirements for physician assistants, certified nurse midwives, and nurse practitioners to certify deaths.

(2) Authority for this rule is found in Sections [26-2-43]26B-8-101 and 26B-8-114.

R436-7-2. Death Registration.

(1) Registration of [D]deaths will [be]occur [registered] within five days measured as 120 hours from the time of death.

(2) A physician, physician assistant, certified nurse midwife, or nurse practitioner, will certify the cause of death as defined in law.

(3) Physician assistants, certified nurse midwives, and nurse practitioners must complete the Center for Disease Control and Prevention (CDC) training "Improving Cause of Death Reporting" available through Training and Continuing Education Online (TCEO) before certifying deaths.

([2]4) If the information necessary to complete a death certificate is not available within the time prescribed for filing of the certificate, the funeral director shall file the certificate completed with the information that is available.

([3]5) In each case, the medical certification must be signed by the person responsible for such certification.

([4]6) If the cause of death is unknown, undetermined or pending investigation, the cause of death shall be shown as such on the certificate.

([5]7) Final disposition of the deceased shall not be made until the death certificate is registered or is authorized by the medical examiner.

([6]8) An amendment providing the information missing from the original certificate shall be filed with the State Registrar.

KEY: vital statistics, death, funeral industries

Date of Last Change: January 1, 2024

Notice of Continuation: March 21, 2023

Authorizing, and Implemented or Interpreted Law: ~~[26-2-13]~~[26B-8-101; 26B-8-114]

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.utah.gov. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R414-520	Filing ID: 56000
Effective Date:	12/29/2023	

Agency Information

1. Department:	Health and Human Services	
Agency:	Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Jordan Miera	801-538-4171	jmiera@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R414-520. Admission Criteria for Medically Complex Children's Waiver

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 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.

Additionally, 42 CFR 440.130 authorizes preventive services for Medicaid members.

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 eligibility requirements and allows access for children to enroll in the Medically Complex Children's Waiver. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	12/27/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R414-521	Filing ID:	55610
Effective Date:	12/29/2023		

Agency Information

1. Department:	Health and Human Services	
Agency:	Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Jordan Miera	801-538-4171	jmiera@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R414-521. Accountable Care Organization Hospital Report
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 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.
Additionally, Section 26B-3-506 requires accountable care organizations (ACOs) to submit a hospital report annually.

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 as state law requires ACOs to submit an annual hospital report for the most recent state fiscal year. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	12/27/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-249	Filing ID:	55452
Effective Date:	12/18/2023		

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R590-249. Secondary Medical Condition Exclusion
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.

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 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 promotes informed consumer behavior in the selection of health benefit plans to match their needs. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	12/18/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-269	Filing ID:	55047
Effective Date:	12/18/2023		

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R590-269. Individual Open Enrollment Period

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-30-117 requires the insurance commissioner to adopt a rule to establish one statewide open enrollment period for the individual insurance market that is not part of the federal health insurance exchange.

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 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 authorizes an open enrollment period for Utahns who do not get insurance through the federal health insurance exchange to purchase insurance on the individual market with guaranteed issue of health insurance. Therefore, this rule should be continued.

Without this rule, Utahns who have a qualifying life event (lose a job, adopt a child, etc.) would need to pass a health examination before re-purchasing insurance. This could lead to those individuals having their coverage denied due to preexisting conditions.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	12/18/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-279	Filing ID:	55049
Effective Date:	12/18/2023		

Agency Information

1. Department:	Insurance		
Agency:	Administration		
Room number:	Suite 2300		
Building:	Taylorsville State Office Building		
Street address:	4315 S 2700 W		
City, state and zip:	Taylorsville, UT 84129		

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R590-279. Rule Designating Fraud Division Offices as a Secured Area
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 76-8-311.1 authorizes the insurance commissioner -- as a person in charge of a law enforcement facility -- to establish the Insurance Department's Fraud Division offices as a secured area.
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 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:
The Fraud Division is the law enforcement arm of the Insurance Department. Because the sworn officers and employees of the Fraud Division necessarily encounter disgruntled suspects, it is in the best interests of the Division and the public to prohibit firearms and other dangerous weapons in the Division's offices. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	12/18/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R710-15	Filing ID: 51912
Effective Date:	12/18/2023	

Agency Information

1. Department:	Public Safety	
Agency:	Fire Marshal	
Building:	Conference Center at Miller Campus	
Street address:	410 W 9800 S, Suite 372	
City, state and zip:	Sandy, UT 84070	
Contact persons:		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Ted Black	801-256-2390	tblack@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R710-15. Seizure and Disposal of Fireworks, Class A Explosives, and Class B Explosives
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 Subsection 53-7-204(1)(b)(v), which states that the Utah Fire Prevention Board shall make rules to create a uniform statewide policy regarding a state, county, special district, and local government entity's safe seizure, storage and repurposing, destruction, or disposal of a firework, class A explosive, or class B explosive that is illegal or a person uses or handles in an illegal manner.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no written comments received during and since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is required under Subsection 53-7-204(1)(b)(v), and is necessary to establish a uniform statewide policy regarding the safe seizure, storage, and repurposing, destruction, or disposal of a firework, class A explosive, or class B explosive that is illegal, or that a person uses or handles in an illegal manner. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Ted Black, State Fire Marshal	Date:	12/18/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R805-3	Filing ID:	54648
Effective Date:	12/22/2023		

Agency Information

1. Department:	Higher Education (Utah Board of)		
Agency:	University of Utah, Administration		
Room number:	309		
Building:	Park Building		
Street address:	201 S Presidents Circle		
City, state and zip:	Salt Lake City, UT 84112-9009		
Contact persons:			
Name:	Phone:	Email:	
Robert Payne	801-585-7002	Robert.payne@utah.edu	

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:
R805-3. Overnight Camping and Campfires on University of Utah Property
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 and justified under Subsection 53B-1-104(8) and Sections 53B-2-106, 63G-4-102, 65A-8-211, and 76-8-701.

This rule defines overnight camping and campfires. It also lists the sanctions that may be imposed for violation of this rule which may include discipline for members of the University of Utah (University) community through a University process, citation for having an improper fire, citation for criminal trespass, temporary eviction and denial of access, and eviction and denial of access after an information adjudicative proceeding.

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

No written comments have been received during the specified time period.

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

This rule is necessary as it sets forth the regulations that govern camping and campfires on University property. This rule prohibits overnight camping and campfires on University property absent the express permission of the University. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Phyllis Vetter, General Counsel	Date:	12/21/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R805-6	Filing ID:	54651
Effective Date:	12/22/2023		

Agency Information

1. Department:	Higher Education (Utah Board of)	
Agency:	University of Utah, Administration	
Room number:	309	
Building:	Park Building	
Street address:	201 S Presidents Circle	
City, state and zip:	Salt Lake City, UT 84112-9009	
Contact persons:		
Name:	Phone:	Email:
Heidi Frank	801-587-1582	heidi.frank@utah.edu

Please address questions regarding information on this notice to the persons listed above.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

General Information

2. Rule catchline:

R805-6. University of Utah Shooting Range Access and Use Requirements

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

This rule is authorized under Section 47-3-303. This statute requires institutions of higher education with shooting ranges to "implement procedures for use of the range by the public."

It specifies that the rule must include provisions requiring the indoor shooting range to be available on a reservation basis.

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

No written comments have been received during the specified time period.

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 University of Utah needs this rule to comply with the statutory requirements for shooting ranges at institutions of higher education. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Phyllis Vetter, General Counsel	Date:	12/21/2023
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

Plant Industry

No. 55857 (New Rule) R68-40: Medical Cannabis

Pharmacy

Published: 11/15/2023

Effective: 01/02/2024

No. 55858 (New Rule) R68-41: Home Delivery and Courier

Published: 11/01/2023

Effective: 01/02/2024

Alcoholic Beverage Services

Administration

No. 55828 (Amendment) R82-1: General

Published: 11/01/2023

Effective: 12/22/2023

No. 55830 (Amendment) R82-2: Administration

Published: 11/01/2023

Effective: 12/22/2023

No. 55835 (Amendment) R82-3: Disciplinary Actions and Enforcement

Published: 11/01/2023

Effective: 12/22/2023

No. 55836 (Amendment) R82-6: Specific Retail Provisions

Published: 11/01/2023

Effective: 12/22/2023

No. 55837 (Amendment) R82-9: Event Permits

Published: 11/01/2023

Effective: 12/22/2023

Commerce

Administration

No. 56172 (Amendment) R151-4: Department of

Commerce Administrative Procedures Act Rule

Published: 12/01/2023

Effective: 01/10/2024

Consumer Protection

No. 56105 (Repeal and Reenact) R152-34: Utah

Postsecondary Proprietary School Act Rule

Published: 11/15/2023

Effective: 01/01/2024

No. 56118 (Repeal) R152-34a: Utah Postsecondary School State Authorization Act Rule

Published: 11/15/2023

Effective: 01/01/2024

Corporations and Commercial Code

No. 56130 (New Rule) R154-3: Decentralized Autonomous Organization Act Rule

Published: 11/15/2023

Effective: 01/01/2024

Professional Licensing

No. 55904 (Amendment) R156-31b: Nurse Practice Act Rule

Published: 11/15/2023

Effective: 12/28/2023

No. 56068 (Amendment) R156-47b: Massage Therapy Practice Act Rule

Published: 11/15/2023

Effective: 12/28/2023

Cultural and Community Engagement

History

No. 56025 (New Rule) R455-18: Policy for Deaccessioning of Artifacts and Documentary Materials for Education and Cultural Use

Published: 11/15/2023

Effective: 12/27/2023

NOTICES OF RULE EFFECTIVE DATES

Education

Administration

No. 56191 (Amendment) R277-210: Utah Professional Practices Advisory Commission (UPPAC), Definitions

Published: 12/01/2023

Effective: 01/10/2024

No. 56192 (Amendment) R277-211: Utah Professional Practices Advisory Commission (UPPAC) Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions

Published: 12/01/2023

Effective: 01/10/2024

No. 56193 (Amendment) R277-217: Educator Standards and LEA Reporting

Published: 12/01/2023

Effective: 01/10/2024

No. 56194 (Amendment) R277-477: Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program

Published: 12/01/2023

Effective: 01/10/2024

No. 56195 (Amendment) R277-554: State Charter School Board Grants and Mentoring Program

Published: 12/01/2023

Effective: 01/10/2024

No. 56196 (Amendment) R277-625: Mental Health Screeners

Published: 12/01/2023

Effective: 01/10/2024

No. 56197 (Amendment) R277-700: The Elementary and Secondary School General Core

Published: 12/01/2023

Effective: 01/10/2024

No. 56198 (Amendment) R277-704: Financial and Economic Literacy: Integration into Core Curriculum

Published: 12/01/2023

Effective: 01/10/2024

No. 56199 (Amendment) R277-752: Special Education Intensive Services Fund

Published: 12/01/2023

Effective: 01/10/2024

Governor

Criminal and Juvenile Justice (State Commission on)

No. 56026 (New Rule) R356-7: Appointing a Designee, Representative, or Proxy

Published: 11/15/2023

Effective: 12/23/2023

Health and Human Services

Administration

No. 55818 (New Rule) R380-600: Licensing General Provisions - Enforcement

Published: 10/15/2023

Effective: 12/19/2023

Center for Medical Cannabis

No. 55868 (Amendment) R383-1: Definitions

Published: 11/15/2023

Effective: 01/01/2024

No. 55869 (Amendment) R383-2: Electronic Verification System and Inventory Control System

Published: 11/15/2023

Effective: 01/01/2024

No. 55870 (Amendment) R383-4: Qualified Medical Providers

Published: 11/15/2023

Effective: 01/01/2024

No. 55871 (Amendment) R383-5: Dosing Guidelines

Published: 11/15/2023

Effective: 01/01/2024

No. 55872 (Repeal) R383-7: Medical Cannabis Pharmacy

Published: 11/15/2023

Effective: 01/01/2024

No. 55873 (Repeal) R383-8: Medical Cannabis Pharmacy Agent

Published: 11/15/2023

Effective: 01/01/2024

No. 55874 (Repeal) R383-9: Home Delivery and Courier

Published: 11/15/2023

Effective: 01/01/2024

No. 55875 (Repeal) R383-14: Administrative Penalties

Published: 11/15/2023

Effective: 01/01/2024

Family Health, Children with Special Health Care Needs

No. 55696 (Amendment) R398-2: Newborn Hearing Screening: Early Hearing Detection and Intervention (EHDI) Program

Published: 09/15/2023

Effective: 12/19/2023

No. 55801 (Repeal) R398-3: Children's Hearing Aid Program

Published: 10/15/2023

Effective: 12/20/2023

No. 55685 (Amendment) R398-5: Birth Defects and Critical Congenital Heart Disease Reporting

Published: 09/15/2023

Effective: 12/19/2023

No. 55680 (Repeal) R398-20: Early Intervention
Published: 09/15/2023
Effective: 12/19/2023

Family Health, Early Childhood

No. 55688 (New Rule) R402-1: Early Intervention
Published: 09/15/2023
Effective: 12/19/2023

No. 55859 (New Rule) R402-2: Early Childhood Utah
Advisory Council Membership, Duties and Procedures
Published: 11/01/2023
Effective: 12/28/2023

Family Health, WIC Services

No. 55962 (Amendment) R406-100: Special Supplemental
Nutrition Program for Women, Infants and Children
Published: 11/15/2023
Effective: 12/22/2023

Integrated Healthcare

No. 56054 (Amendment) R414-401: Nursing Care Facility
Assessment
Published: 11/15/2023
Effective: 01/01/2024

No. 56029 (Repeal and Reenact) R414-510: Intermediate
Care Facility for Persons with Intellectual Disabilities
Transition Program and Education
Published: 11/15/2023
Effective: 01/01/2024

Residential Child Care Licensing

No. 55617 (Amendment) R430-8: Exemptions from Child
Care Licensing
Published: 09/01/2023
Effective: 12/12/2023

Health Care Facility Licensing

No. 55819 (Amendment) R432-1: General Health Care
Facility Rules
Published: 10/15/2023
Effective: 12/28/2023

No. 55816 (Repeal) R432-2: General Licensing Provisions
Published: 10/15/2023
Effective: 12/12/2023

No. 55817 (Repeal) R432-3: General Health Care Facility
Rules Inspection and Enforcement
Published: 10/15/2023
Effective: 12/12/2023

No. 55595 (Amendment) R432-150: Nursing Care Facility
Published: 09/01/2023
Effective: 12/12/2023

No. 55595 (Change in Proposed Rule) R432-150: Nursing
Care Facility
Published: 10/15/2023
Effective: 12/12/2023

No. 55687 (Repeal and Reenact) R432-152: Intermediate
Care Facility for Individuals with Intellectual Disabilities
Published: 09/15/2023
Effective: 12/19/2023

Family Health, Maternal and Child Health

No. 55860 (Repeal) R433-2: Early Childhood Utah
Advisory Council Membership, Duties and Procedures
Published: 11/01/2023
Effective: 12/28/2023

Disease Control and Prevention, Medical Examiner

No. 56052 (Amendment) R448-20: Access to Medical
Examiner Reports
Published: 11/15/2023
Effective: 12/29/2023

Administration (Human Services)

No. 55683 (Repeal) R495-882: Termination of Parental
Rights
Published: 09/15/2023
Effective: 12/15/2023

No. 55681 (Repeal) R495-883: Children in Care Support
Services
Published: 09/15/2023
Effective: 12/19/2023

No. 55677 (Repeal) R495-884: Kinship Locate
Published: 09/15/2023
Effective: 12/19/2023

No. 55663 (Repeal) R495-885: Employee Background
Screenings
Published: 10/15/2023
Effective: 12/28/2023

Human Services Program Licensing

No. 55820 (Repeal and Reenact) R501-1: General
Provisions for Licensing
Published: 10/15/2023
Effective: 12/19/2023

No. 55611 (Amendment) R501-20: Day Treatment
Programs
Published: 09/01/2023
Effective: 12/19/2023

Child and Family Services

No. 56038 (Amendment) R512-80: Definitions of Abuse,
Neglect, and Dependency
Published: 11/15/2023
Effective: 12/28/2023

No. 55987 (Amendment) R512-202: Child Protective
Services, General Allegation Categories
Published: 11/15/2023
Effective: 12/28/2023

NOTICES OF RULE EFFECTIVE DATES

No. 55989 (Amendment) R512-306: Out-of-Home Services, Transition to Adult Living Services, Education and Training Voucher Program
Published: 11/15/2023
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No. 55988 (Amendment) R512-308: Out-of-Home Services, Guardianship Services and Placements
Published: 11/15/2023
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Insurance

Administration

No. 56200 (Amendment) R590-164: Electronic Data Interchange Transactions
Published: 12/01/2023
Effective: 01/10/2024

No. 56020 (Repeal and Reenact) R590-238: Captive Insurance Companies
Published: 11/15/2023
Effective: 12/22/2023

No. 55862 (Amendment) R590-267: Personal Injury Protection Relative Value Study Rule
Published: 11/15/2023
Effective: 01/01/2024

Labor Commission

Industrial Accidents

No. 56016 (Amendment) R612-200-6: Burial Expenses
Published: 11/15/2023
Effective: 12/27/2023

No. 56019 (Amendment) R612-300-4: General Method For Computing Medical Fees
Published: 11/15/2023
Effective: 12/27/2023

No. 56017 (Amendment) R612-400-5: Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund
Published: 11/15/2023
Effective: 12/27/2023

Natural Resources

Outdoor Recreation

No. 56079 (New Rule) R650-201: Definitions
Published: 12/01/2023
Effective: 01/09/2024

No. 56080 (New Rule) R650-202: Boating Advisory Council
Published: 12/01/2023
Effective: 01/09/2024

No. 56081 (New Rule) R650-203: Waterway Marking System
Published: 12/01/2023
Effective: 01/09/2024

No. 56082 (New Rule) R650-204: Regulating Waterway Markers
Published: 12/01/2023
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No. 56083 (New Rule) R650-205: Zoned Waters
Published: 12/01/2023
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No. 56084 (New Rule) R650-206: Carrying Passengers for Hire
Published: 12/01/2023
Effective: 01/09/2024

No. 56085 (New Rule) R650-208: Backing Plates
Published: 12/01/2023
Effective: 01/09/2024

No. 56086 (New Rule) R650-209: Anchored and Beached Vessels
Published: 12/01/2023
Effective: 01/09/2024

No. 56087 (New Rule) R650-210: Change of Address
Published: 12/01/2023
Effective: 01/09/2024

No. 56088 (New Rule) R650-211: Assigned Numbers
Published: 12/01/2023
Effective: 01/09/2024

No. 56089 (New Rule) R650-212: Display of Yearly Registration Decals and Month of Expiration Decals
Published: 12/01/2023
Effective: 01/09/2024

No. 56090 (New Rule) R650-213: Dealer Numbers and Registrations
Published: 12/01/2023
Effective: 01/09/2024

No. 56091 (New Rule) R650-214: Temporary Registration
Published: 12/01/2023
Effective: 01/09/2024

No. 56092 (New Rule) R650-215: Personal Flotation Devices
Published: 12/01/2023
Effective: 01/09/2024

No. 56093 (New Rule) R650-216: Navigation Lights
Published: 12/01/2023
Effective: 01/09/2024

No. 56094 (New Rule) R650-217: Fire Extinguishers
Published: 12/01/2023
Effective: 01/09/2024

No. 56095 (New Rule) R650-218: Carburetor Backfire Flame Control
Published: 12/01/2023
Effective: 01/09/2024

No. 56126 (New Rule) R650-219: Additional Safety Equipment
Published: 12/01/2023
Effective: 01/09/2024

No. 56096 (New Rule) R650-220: Racing Vessel Exemptions
Published: 12/01/2023
Effective: 01/09/2024

No. 56097 (New Rule) R650-221: Boat Liveries and Boat Rental Companies
Published: 12/01/2023
Effective: 01/09/2024

No. 56098 (New Rule) R650-222: Muffling Requirements
Published: 12/01/2023
Effective: 01/09/2024

No. 56104 (New Rule) R650-223: Vessel Accident Reporting
Published: 12/01/2023
Effective: 01/09/2024

No. 56100 (New Rule) R650-224: Towed Devices
Published: 12/01/2023
Effective: 01/09/2024

No. 56101 (New Rule) R650-226: Regattas and Races
Published: 12/01/2023
Effective: 01/09/2024

No. 56102 (New Rule) R650-227: Swimming
Published: 12/01/2023
Effective: 01/09/2024

No. 56103 (New Rule) R650-228: Scuba Diving
Published: 12/01/2023
Effective: 01/09/2024

No. 56108 (New Rule) R650-401: Off-Highway Vehicle and Registration Stickers
Published: 12/01/2023
Effective: 01/09/2024

No. 56109 (New Rule) R650-405: Off-Highway Implement of Husbandry Sticker Fee
Published: 12/01/2023
Effective: 01/09/2024

No. 56110 (New Rule) R650-410: Off-Highway Vehicle Safety Equipment
Published: 12/01/2023
Effective: 01/09/2024

No. 56112 (New Rule) R650-412: Curriculum Standards for OHV Education Programs Offered by Non-Division Entities
Published: 12/01/2023
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No. 55864 (New Rule) R650-413: Display of OHV License Plate and Registration Decal
Published: 11/15/2023
Effective: 01/08/2024

State Parks
No. 56132 (Repeal) R651-201: Definitions
Published: 12/01/2023
Effective: 01/10/2024

No. 56133 (Repeal) R651-202: Boating Advisory Council
Published: 12/01/2023
Effective: 01/10/2024

No. 56134 (Repeal) R651-203: Waterway Marking System
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No. 56135 (Repeal) R651-204: Regulating Waterway Markers
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No. 56136 (Repeal) R651-205: Zoned Waters
Published: 12/01/2023
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No. 56137 (Repeal) R651-206: Carrying Passengers for Hire
Published: 12/01/2023
Effective: 01/10/2024

No. 56138 (Repeal) R651-207: Registration Fee
Published: 12/01/2023
Effective: 01/10/2024

No. 56139 (Repeal) R651-208: Backing Plates
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Effective: 01/10/2024

No. 56140 (Repeal) R651-209: Anchored and Beached Vessels
Published: 12/01/2023
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No. 56141 (Repeal) R651-210: Change of Address
Published: 12/01/2023
Effective: 01/10/2024

No. 56142 (Repeal) R651-211: Assigned Numbers
Published: 12/01/2023
Effective: 01/10/2024

No. 56143 (Repeal) R651-212: Display of Yearly Registration Decals and Month of Expiration Decals
Published: 12/01/2023
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No. 56144 (Repeal) R651-213: Dealer Numbers and Registrations
Published: 12/01/2023
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NOTICES OF RULE EFFECTIVE DATES

No. 56145 (Repeal) R651-214: Temporary Registration
Published: 12/01/2023
Effective: 01/10/2024

No. 56146 (Repeal) R651-215: Personal Flotation Devices
Published: 12/01/2023
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No. 56147 (Repeal) R651-216: Navigation Lights - Note:
Figures 1 through 7 mentioned below are on file with the Utah
Division of Parks and Recreation
Published: 12/01/2023
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No. 56163 (Repeal) R651-217: Fire Extinguishers
Published: 12/01/2023
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No. 56148 (Repeal) R651-218: Carburetor Backfire Flame
Control
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Effective: 01/10/2024

No. 56149 (Repeal) R651-219: Additional Safety
Equipment
Published: 12/01/2023
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No. 56150 (Repeal) R651-220: Registration and
Numbering Exemptions
Published: 12/01/2023
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No. 56151 (Repeal) R651-221: Boat Liveries - Boat Rental
Companies
Published: 12/01/2023
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No. 56152 (Repeal) R651-222: Muffling Requirements
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No. 56153 (Repeal) R651-223: Vessel Accident Reporting
Published: 12/01/2023
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No. 56154 (Repeal) R651-224: Towed Devices
Published: 12/01/2023
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No. 56155 (Repeal) R651-226: Regattas and Races
Published: 12/01/2023
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No. 56157 (Repeal) R651-401: Off-Highway Vehicle and
Registration Stickers
Published: 12/01/2023
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No. 56158 (Repeal) R651-405: Off-Highway Implement of
Husbandry Sticker Fee
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No. 56159 (Repeal) R651-406: Off-Highway Vehicle
Registration Fees
Published: 12/01/2023
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No. 56160 (Repeal) R651-409: Minimum Amounts of
Liability Insurance Coverage for an Organized Practice or
Sanctioned Race
Published: 12/01/2023
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No. 56161 (Repeal) R651-410: Off-Highway Vehicle Safety
Equipment
Published: 12/01/2023
Effective: 01/10/2024

No. 56162 (Repeal) R651-412: Curriculum Standards for
OHV Education Programs Offered by Non-Division Entities
Published: 12/01/2023
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No. 56189 (Repeal) R651-801: Swimming Prohibited
Published: 12/01/2023
Effective: 01/10/2024

No. 56190 (Repeal) R651-802: Scuba Diving
Published: 12/01/2023
Effective: 01/10/2024

Water Resources
No. 55842 (New Rule) R653-12: 2023 Grant Money for
Wasatch Front Aqueduct Resilience Projects
Published: 11/01/2023
Effective: 01/08/2024

Water Rights
No. 55705 (Repeal and Reenact) R655-5: Maps Submitted
to the Division of Water Rights
Published: 09/15/2023
Effective: 12/14/2023

Public Service Commission Administration

No. 55757 (Amendment) R746-8-301: Calculation and
Application of UUSF Surcharge
Published: 10/15/2023
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School and Institutional Trust Lands Administration

No. 56114 (Repeal and Reenact) R850-70: Sales of Forest
Products From Trust Lands Administration Lands
Published: 11/15/2023
Effective: 01/01/2024

No. 56115 (New Rule) R850-75: Sale of Plants and
Wildland Seed
Published: 11/15/2023
Effective: 01/01/2024

Tax Commission

Property Tax

No. 55866 (Amendment) R884-24P-53: 2023 Guides for
Valuation of Land Subject to the Farmland Assessment Act
Pursuant to Utah Code Ann. Section 59-2-515
Published: 11/15/2023
Effective: 12/22/2023

Workforce Services

Administration

No. 56034 (New Rule) R982-111: Adoption Tax Credit
Published: 11/15/2023
Effective: 01/02/2024

No. 56033 (New Rule) R982-302: Intergenerational
Poverty Solution, Education Saving Incentive Program
Published: 11/15/2023
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Homeless Services

No. 56031 (Amendment) R988-400: Homeless Shelter
Cities Mitigation Restricted Account

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No. 56032 (Amendment) R988-500: Overflow Plan
Requirements

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End of the Notices of Rule Effective Dates Section

