

UTAH STATE BULLETIN

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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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NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between October 16, 2024, 12:00 a.m., and November 01, 2024, 11:59 p.m. are included in this, the November 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 Rules being repealed are completely struck out.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 December 16, 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 March 17, 2025, 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 SUBSTANTIVE CHANGE

TYPE OF FILING: New

Rule or Section Number:

R23-34

Filing ID: 56895

Agency Information

1. Title catchline:	Government Operations, Facilities Construction and Management	
Building:	Taylorsville State Office Building	
Street address:	4315 S. 2700 W., 3 rd Floor	
City, state:	Taylorsville, UT	
Mailing address:	PO Box 141160	
City, state and zip:	Salt Lake City, UT 84114-1160	
Contact persons:		
Name:	Phone:	Email:
Mike Kelley	801-957-7239	mkelley@agutah.gov
Michelle Adams	801-957-7240	michelledadams@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R23-34. Modular Buildings
3. Purpose of the new rule or reason for the change:
The reason for the new rule is to comply with the Legislature's directive in Subsection 15A-1-306.1(7) enacted in the 2024 General Session that the Division of Facilities Construction and Management (DFCM) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Sections 15A-1-306.1 and 15A-1-307.
This new rule implements the statutory adoption of a statewide building code for modular building units. This new rule implements the legislature's specific instruction that DFCM make a rule requiring continuing education in modular building unit construction for modular building unit construction and installation contractors.
4. Summary of the new rule or change:
The purpose of this new rule is to ensure safety for life, health, and property through compliance with uniform statewide construction standards for modular building units. Proposed Rule R23-34 implements the Legislature's directive in Subsection 15A-1-306.1(7) enacted in the 2024 General Session that DFCM shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Sections 15A-1-306.1 and 15A-1-307, including a continuing education requirement for modular building unit construction and installation contractors.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
None. Any aggregate anticipated cost or savings to the state budget are a result of the new legislation, not this new rule.
B) Local governments:
None. Any aggregate anticipated cost or savings to local governments are a result of the new legislation, not this new rule

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

None. Any aggregate anticipated cost or savings to small businesses are a result of the new legislation, not this new rule.

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

None. Any aggregate anticipated cost or savings to non-small businesses are a result of the new legislation, not this new rule.

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

None. Any aggregate anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities are a result of the new legislation, not this new rule.

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

None. Any compliance costs for affected persons are a result of the new legislation, not this new rule.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Government Operations, Marvin Dodge, 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 15A-1-306.1(7)		
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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:	12/16/2024
--	------------

9. This rule change MAY become effective on:	12/23/2024
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:	Andy Marr, Interim Director	Date:	10/24/2024
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R23. Government Operations, Facilities Construction and Management.

R23-34. Modular Buildings.

R23-34-1. Purpose.

The purpose of this rule is to ensure safety to life, health, and property through compliance with uniform statewide construction standards for modular buildings.

R23-34-2. Authority.

This rule is authorized under Subsection 15A-1-306.1(7).

R23-34-3. Definitions.

The definitions set forth in Sections 15A-1-102, 15A-1-202 and 15A-302 apply to this rule. Additionally, the following words and terms shall have the following meanings unless the context clearly indicates otherwise.

(1) "Administrator" means the Director of the Division of Facilities Construction and Management (DFCM) created by Section 63A-5b-301 or their designee.

(2) "Approved" as applied to a material, device, method of construction, registered building, or as otherwise used in this chapter means approved by the administrator.

(3) "Building official" means the officer or other designated authority charged with the administration and enforcement of the State Construction Code, or authorized representative.

(4) "ICC" means the International Code Council, Inc.

(5) "Model" means a specific design of a modular building unit designated by the modular manufacturer including production modular building units with variations and options that do not affect compliance with the standards governing structural, plumbing, mechanical, or electrical systems or any other items governed by the State Construction Code applicable to modular building units or this rule.

(6) "Registered" means a modular building or component which displays a decal.

(7) "SBCO" means the State Building Codes Office within DFCM.

(8) "UBCC" means the Uniform Building Code Commission as defined in Section 15A-1-203.

R23-34-3. Application and Compliance.

(1) In accordance with Section 15A-1-304, registered modular building units shall be acceptable in all localities as meeting the requirements of the State Construction Code. Local requirements affecting modular building units, including zoning, utility connections, preparation of the site and maintenance of the modular building unit shall remain in effect. All building officials are authorized to and shall enforce the State Construction Code and this rule.

(2) No person, firm or corporation shall offer for sale or rent, or sell or rent, any modular building unit subject to any provisions of the State Construction Code and this rule unless it conforms with the applicable provisions of the State Construction Code and this rule.

(3) Any modular building unit constructed before January 1, 2025, shall remain subject to the ordinances, laws or regulations in effect when such modular building unit was constructed. Any modular building unit bearing the certification label of a compliance agency shall remain subject to the State Construction Code and this rule that were effective when such modular building unit was constructed, regardless of whether the modular building unit has been relocated.

(4) The installation or erection of factory-built housing units, manufactured homes, or mobile homes and alterations, additions, or repairs to factory-built housing units, manufactured homes, or mobile homes are regulated by the State Construction Code and not this rule. The State Construction Code provides for administrative requirements for permits, inspections, and certificates of occupancy for such work.

(5) The use of off-site manufactured intermodal freight containers, moving containers, or storage containers as modular units or components of a modular building unit may be approved by the administrator in accordance with Section R23-33-13. In reviewing the use of the intermodal freight containers, moving containers or storage containers as modular units or modular building units, the administrator may accept evaluation reports from an accredited third party inspector.

(6) Off-site manufactured intermodal freight containers, moving containers and storage containers placed on site temporarily or permanently for use as a storage container are not subject to this rule.

R23-34-4. Inspection and Enforcement by Administrator.

(1) The SBCO is designated as the administrator's representative for the enforcement of the State Construction Code applicable to modular building units and this rule and shall act as the state regulator for registered modular building units. It shall have authority to make inspections during reasonable hours at the manufacturing plant and at building sites where modular building units are being installed. The SBCO shall have authority to issue inspection reports for correction of violations caused by the modular manufacturer and to take such other actions as are required to enforce the State Construction Code applicable to modular building units and this rule.

(2) The SBCO will maintain a list of approved compliance agencies. Each modular manufacturer producing registered modular building units will contract with one or more compliance agencies for required evaluation, monitoring and inspection services. The contract will delineate the services to be provided by the compliance agency. The compliance agency will notify the SBCO within 30 days of signing a new contract or terminating an existing contract with any modular manufacturer.

R23-34-5. Right of Entry and Examination by Administrator.

The administrator shall have the right, at all reasonable hours, to enter into any modular building unit upon permission of any person who has authority or shares the use, access, or control over the modular building unit, or upon request from a local regulator, for examination as to compliance with the State Construction Code applicable to modular building units and this rule.

R23-34-6. Notice of Violation from Administrator.

When the administrator shall find any violation of the State Construction Code applicable to modular building units or this rule, the administrator shall order the person responsible to bring the modular building unit into compliance within a reasonable time. In addition, as a requirement of this rule, the administrator may request assistance from the state regulator or local regulator for enforcement of this rule. Any order issued by the administrator pursuant to this section shall contain a statement explaining the right of appeal of the order.

R23-34-7. Appeals.

Any person aggrieved by DFCM's application of this rule shall be heard by the UBCC. Such appeal shall be submitted within 21 calendar days of receipt of DFCM's decision. A copy of the decision of DFCM to be appealed shall be submitted with the application for appeal. Failure to submit an application for appeal within the time limit established by this rule shall constitute acceptance of DFCM's decision.

R23-34-8. Limitation of Manufacturer's Liability.

The manufacturer of a registered modular building unit may not be required to remedy violations caused by on-site work by others not under the manufacturer's control or violations involving components and materials furnished by others and not included with the registered modular building unit.

R23-34-9. Duties and Responsibilities of Building Officials in the Installation or Erection of a Registered Modular Building.

(1) All building officials are authorized to enforce the State Construction Code applicable to modular building units and this rule and shall be responsible for and authorized to do the following:

(a) verify through inspection that the registered modular building unit displays the required decal and the label of the compliance agency;

(b) verify through inspection that the registered modular building unit has not been damaged in transit to a degree that would make it unsafe and, if the modular building unit has been damaged, then the building official may require tests for tightness of plumbing systems and gas piping and an operational test to ensure that all luminaries and receptacles are operable;

(c) if warranted due to the nature of any violations discovered, the building official shall be permitted to require the correction of any violations of the State Construction Code applicable to modular building units and this rule before occupancy of the registered modular building unit is permitted; and

(d) notify the SBCO of any apparent violations of the State Construction Code applicable to modular building units or this rule.

(2) All site work associated with the installation or erection of a modular building unit is subject to the State Construction Code. In addition, under the State Construction Code, all administrative requirements for permits, inspections, and certificates of occupancy are also applicable.

R23-34-10. Change of Occupancy Classification.

When the occupancy classification of a registered modular building unit is changed, the change of occupancy shall be in accordance with one of the following:

(1) A compliance agency shall inspect the modular building unit, including any disassembly necessary, to determine whether compliance may be achieved for a change of occupancy classification in accordance with the State Construction Code applicable to modular building units and this rule. If construction documents are available, then disassembly is not required to the extent that the construction documents can be reasonably verified to reflect the actual construction. Once any necessary work is completed, the compliance agency shall prepare a report documenting the method utilized for the change of occupancy and any alterations to the modular building unit to achieve compliance. When the report is complete, the compliance assurance agency shall:

(a) mark the modular building unit with a new compliance assurance agency label in accordance with Section R22-33-19, which replaces the existing label;

(b) place a new modular manufacturer's data plate on the modular building unit in accordance with Section R22-33-22, which replaces the existing modular manufacturer's data plate and reflects the new occupancy classification; and

(c) forward a copy of the report and new modular manufacturer's data plate to the SBCO.

(2) Alternatively, the building official shall determine that a change of occupancy for a modular building unit meets the requirements of the State Construction Code. The building official may require the submittal of plans approved by a registered design professional, or inspection by a third party inspection agency or third party inspector. A change of occupancy of a registered modular building unit in accordance with the State Construction Code and approved by the building official, must be reported to SBCO and the decal and modular manufacturer's data plate removed before occupancy.

R23-34-11. Unregistered Modular Building Units.

The building official shall determine whether any unregistered modular building unit complies with the State Construction Code applicable to modular building units and this rule and shall require any noncomplying unregistered modular building unit to be brought into compliance with the State Construction Code applicable to modular building units and this rule in accordance with one of the following:

(1) The unregistered modular building unit shall be registered in accordance with Section R23-34-12.

(2) The building official shall approve the unregistered modular building unit in accordance with the State Construction Code. The building official shall enforce all applicable requirements of the State Construction Code applicable to modular building units and this rule including those relating to the sale, rental and disposition of noncomplying modular building units. The building official may require submission of construction documents for each modular building unit. Concealed parts of the modular building unit may be exposed to the extent necessary to permit inspection to determine compliance with the applicable requirements. The building official may also accept reports of inspections and tests from third party inspection agencies or third party inspectors.

R23-34-12. Registration of Unregistered Modular Buildings.

An existing unregistered modular building unit may be registered in accordance with one of the following:

(1) Where an unregistered modular building unit was constructed under a modular building unit program of another state and approved under such program, a compliance agency shall prepare a report based on review of the construction documents and inspection of the modular building unit to determine whether there is compliance with the construction requirements of the State Construction Code applicable to modular building units and this rule that were in effect on the date of manufacture of the modular building unit. If compliance is determined, the compliance agency shall:

(a) mark the modular building unit with a compliance agency label in accordance with Section R22-33-19;

(b) place a new modular manufacturer's data plate on the modular building unit in accordance with Section R22-33-22;

(c) mark the modular building unit with a decal in accordance with Section R23-33-24; and

(d) forward a copy of the report and new modular manufacturer's data plate to the SBCO.

(2) Where an unregistered modular building unit was not approved under a modular building program of another state and the date of manufacture can be verified, the compliance agency shall inspect the modular building unit including any disassembly necessary, to determine whether there is compliance with the construction requirements of the State Construction Code applicable to modular building units and this rule that were in effect on the date of manufacture of the modular building unit. When construction documents are available, disassembly is not required to the extent that the construction documents can be verified to reflect the actual construction of the modular building unit. When compliance with the construction requirements of the State Construction Code applicable to modular building units and this rule that were in effect on the date of manufacture of the modular building unit is achieved, the compliance agency shall prepare a report documenting compliance, outlining any changes made to the modular building unit, and certifying the modular building unit is in accordance with Subsections R23-34-12(1)(a) through (d).

(3) When the date of manufacture of the existing unregistered modular building unit cannot be verified, the modular building unit shall be evaluated for compliance with the codes and standards specified in Section R23-33-14. The compliance agency shall inspect the modular building unit, including any disassembly necessary, to determine whether there is compliance with these construction requirements. If compliance is achieved, the compliance agency shall prepare a report documenting compliance, outlining any changes made to the modular building unit, and certifying the modular building unit is in accordance with Subsections R23-34-12(1)(a) through (d).

R23-34-12. Report to the SBCO.

If a modular building unit which has active violations is moved from a jurisdiction before the violations have been corrected, the building official shall make a prompt report of the circumstances to the SBCO. The report shall include all the following:

(1) A list of the uncorrected violations.

(2) All information pertinent to the identification of the modular building unit, the manufacturer and the compliance assurance agency.

(3) The number of the building official's Utah registration seal.

(4) The new destination of the modular building unit, if known.

(5) The person responsible for moving the modular building unit, if known.

R23-34-13. When Modification May be Granted.

The administrator shall have the power upon request in specific cases to authorize modification of this rule so as to permit certain specified alternatives where the objectives of the State Construction Code applicable to modular building units and this rule can still be fulfilled. Such request shall be in writing and shall be accompanied by the construction documents and other information necessary for an adequate evaluation of the modification requested. In reviewing the use of alternative methods or materials, the administrator may consider evaluation reports from accredited third party inspection agencies and third party inspectors.

R23-34-14. Use of Model Codes and Standards.

Modular building units entering the production assembly line after the effective date of the codes adopted in Section 15A-2-103 shall comply with all applicable requirements of the codes and standards adopted in Section 15A-2-103.

R23-34-15. Amendments to Codes and Standards.

(1) All requirements of the referenced model codes and standards that relate to permits, certificates of use and occupancy, approval of construction documents, and other procedural, administrative and enforcement matters that address the same subject matter and impose

differing requirements from those set forth in this rule are deleted and replaced by the procedural, administrative and enforcement provisions of this rule.

(2) The referenced codes and standards are amended as set forth in the State Construction Code.

R23-34-16. Compliance Agencies.

(1) Application shall be made to the SBCO for acceptance as a compliance agency. Application shall be made under oath and shall be accompanied by information and evidence that is adequate for the SBCO to determine whether the applicant is specially qualified by reason of facilities, personnel, experience, and demonstrated reliability to investigate, test, and evaluate modular building units for compliance with the State Construction Code applicable to modular building units and this rule and to provide adequate follow-up and compliance assurance services at the manufacturing plant.

(2) Following a determination by the SBCO that an application is complete, the information contained in the application and any other information deemed necessary by the SBCO will be reviewed for approval or disapproval. If the application is approved, the applicant will be notified with an approval letter. If the application is disapproved, the applicant will be notified in writing of the reasons for the disapproval. The applicant may then resubmit the application within 30 days of the receipt of the notification of disapproval for reconsideration of approval.

(3) The SBCO may suspend or revoke the approval of a compliance agency upon a determination that:

(a) approval was based upon fraudulent or inaccurate information;

(b) a change in facts or circumstances renders the compliance agency incapable of meeting its duties and responsibilities as a compliance agency in a satisfactory manner; or

(c) the compliance agency failed to discharge its duties and responsibilities as a compliance agency in a satisfactory manner.

In such cases, the SBCO will issue a suspension or revocation notice to the compliance agency outlining the reasons for the actions and the terms, if any, for reinstatement.

(3) A compliance agency shall carry professional errors and omissions insurance in an amount of at least \$2,000,000 per claim or annual aggregate with a deductible or self-insured retention of not greater than \$100,000, unless different amounts are authorized by DFCM in writing.

R23-34-17. Freedom From Conflict of Interest.

A compliance agency may not be affiliated with, nor influenced or controlled by, modular manufacturers in any manner which might affect its capacity to create reports of findings objectively and without bias. A compliance agency is judged to be free of such affiliation, influence and control if it complies with all the following conditions:

(1) The compliance agency has no managerial affiliation with modular manufacturers or is engaged in the sale or promotion of manufactured building units.

(2) The results of the compliance agency's work accrue no financial benefits to the compliance agency through stock ownership of, or other similar affiliation to, any modular manufacturer.

(3) The compliance agency's directors and other management personnel in their job capacities receive no stock option or other financial benefit from any modular manufacturer.

(4) The compliance agency has sufficient business that the loss or award of a specific contract to determine compliance of a particular modular manufacturer's modular building unit with the State Construction Code applicable to modular building units and this rule would not be a determining factor in the compliance agency's financial well-being.

(5) The employment security status of the compliance agency's personnel is free of influence or control by modular manufacturers.

R23-34-18. Information Required by the Administrator.

All the following information and criteria will be considered by the administrator in designating approval of compliance agencies:

(1) Names of officers and location of offices.

(2) Specification and description of services proposed to be furnished.

(3) Description of qualifications of personnel and their responsibilities, including an assurance that personnel involved in system analysis, design and plan review, and compliance assurance inspections and their supervisors comply with the requirements of the American Society for Testing and Material (ASTM) Standard Number E541- 22 - Standard Specification for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Building or shall have ICC certifications in the appropriate subject area and maintain such certifications in an active status.

(4) Summary of experience within the organization.

(5) General description of procedures and facilities to be used in proposed services, including evaluation of the model, factory follow-up, quality assurance, labeling of modular building units, and specific information to be furnished on or with labels.

(6) Procedures to deal with any defective modular building units resulting from oversight.

(7) Acceptance of these services by independent accrediting organizations.

(8) Proof of independence and absence of conflict of interest.

R23-34-19. Compliance Agency Certification Label.

(1) Modular building units shall be marked with certification labels supplied by the compliance agency that includes the name and address of the compliance agency and the numbers of the certification labels. The labels shall be applied to registered modular building units intended for sale or use in Utah and shall be applied before the shipment of the modular building unit from the manufacturing plant. The labels shall be applied by the compliance agency or by the modular manufacturer when so authorized by the compliance agency.

(2) Modular building units shall bear one certification label on each module, or as an alternative, the certification label for each module may be placed in one location in the completed modular building unit.

R23-34-20. Mounting of Compliance Agency Certification Label.

To the extent practicable, the certification label shall be installed so that it cannot be removed without destroying it. The label shall be applied in the vicinity of the electrical distribution panel or in another location that is readily accessible for inspection and shall be installed near the decal.

R23-34-21. Control of Compliance Agency Certification Label.

The labels shall be under direct control of the compliance agency and shall be applied to modular building units that comply fully with the State Construction Code applicable to modular building units and this rule. The labels shall be applied by the compliance agency or by the modular manufacturer when authorized to do so by the compliance agency. The modular manufacturer shall place its order for labels with the compliance agency. The modular manufacturer is not permitted to acquire labels from any other source. Each compliance agency shall keep a list of the serial numbers of labels issued to each modular manufacturer's manufacturing plant in such manner that a copy of the record can be submitted to the administrator upon request.

R23-34-22. Modular Manufacturer's Data Plate.

(1) All the following information shall be placed on a permanent modular manufacturer's data plate in the vicinity of the electrical distribution panel or in some other location that is readily accessible for inspection. The compliance agency shall approve the form and location of the data plate and shall ensure that the data plate is complete:

- (a) Modular manufacturer's name and address.
 - (b) Compliance agency certification number.
 - (c) Serial number of each module of the modular building unit.
 - (d) Serial number of the decal.
 - (e) Date of manufacture of the modular building unit.
 - (f) List of codes and standards under which the modular building unit was evaluated and constructed and the type of construction and occupancy classification under those codes and standards.
 - (g) Design live roof load, design floor live load, design wind speed, and design ground snow load.
 - (h) Thermal resistance ("R") values.
 - (i) Special conditions or limitations concerning the use of the modular building unit under the codes and standards applicable to the modular building unit; however, a list of such conditions or limitations that are furnished separately with the modular building unit shall satisfy this requirement.
 - (j) Special instructions for handling, installation and erection of the modular building unit; however, a list of such instructions that are furnished separately with the modular building unit shall satisfy this requirement.
 - (k) Designation of electrical service ratings, directions for water and drain connections and, where applicable, identification of permissible type of gas for appliances.
 - (l) Name of modular manufacturer and model designation of major factory installed appliances.
- (2) The modular manufacturer shall maintain copies of the data plate and reports of inspection, tests and any corrective action taken for a minimum period of 10 years from the date of manufacture of the modular building unit.

R23-34-23. Modular Building Units Eligible for Registration.

Any modular building unit must meet all the following requirements to be registered and eligible for a decal:

- (1) The construction documents of the modular building unit has been found by a compliance agency to be in full compliance with the State Construction Code applicable to modular building units and this rule. Approved construction documents shall be evidenced by the stamp and date of approval on each sheet by the compliance agency.
- (2) The compliance agency has conducted any necessary testing and evaluation of the modular building unit and its component modules.
- (3) The compliance agency has provided the required inspections and other quality assurance follow up services at the manufacturing plant to assure the modular building unit complies with the State Construction Code applicable to modular building units and this rule.
- (4) The modular building unit contains the appropriate evidence of such compliance through a label permanently affixed by the compliance agency.

R23-34-24. Registration Decals for Modular Building Units.

- (1) Registered modular building units shall be marked with approved decals issued by the SBCO. The decals shall be applied to a registered modular building unit intended for sale or use in Utah before the shipment of the modular building unit from the manufacturing plant. The decals shall be applied by the compliance agency or by the modular manufacturer when authorized to do so by the compliance agency.
- (2) Registered modular building units shall bear one decal on each module, or, as an alternative, the decal for each module may be placed in one location in the completed modular building unit.
- (3) Panelized systems shall require one decal for every 600 square feet, or part thereof, of floor area.
- (4) Approved decals shall be purchased by the compliance agency from the SBCO in advance of use. The fee for each decal shall be established pursuant to Section R23-33-27. Fees shall be submitted by checks made payable to "Treasurer of Utah" or shall be submitted by

electronic means. Payment for the decals must be received by the SBCO before the decals can be sent to the compliance agency. The compliance agency shall maintain permanent records of decals purchased, including a record of any modular manufacturers receiving such decals.

(5) To the extent practicable, the registration decal shall be installed so that it cannot be removed without destroying it. The decal shall be applied in the vicinity of the electrical distribution panel or in another location that is readily accessible for inspection and shall be installed near the certification label.

R23-34-25. Modular Manufacturer's Installation Instructions and Responsibilities of Installers.

(1) The modular manufacturer of each modular building unit shall provide specifications or instructions, or both, with each modular building unit for handling, installing, or erecting the modular building unit. Such instructions may be included as part of the label from the compliance assurance agency or may be furnished separately by the modular manufacturer. The modular manufacturer may not be required to provide the foundation and anchoring equipment for the modular building unit.

(2) Persons or firms installing or erecting modular building units shall install or erect the modular building units in accordance with the modular manufacturer's instructions.

(3) Where the installation or erection of a modular building unit utilizes modules that are to be concealed, the installer shall notify and obtain approval from the building official before concealment of such module unless the building official has agreed to an alternative method of verification.

R23-34-26. Continuing Education - Standards.

(1) Modular building unit construction and installation contractors shall complete 2 hours of continuing education in modular building unit construction and installation each calendar year. The 2 hours may consist of live in-class attendance, online courses, or a combination of both.

(2) The following course subject matter is not acceptable as modular building unit construction and installation education:

(a) mechanical office and business skills, such as typing, speed reading, memory improvement and report writing;

(b) physical well-being or personal development, such as personal and business motivation, stress management, time management, dress for success, or similar subjects;

(c) presentations by a modular manufacturer or a modular manufacturer representative to promote a particular modular building unit or brand of modular building units; and

(d) meetings held in conjunction with the general business of the attendee.

(3) DFCM may defer or waive continuing education requirements for good cause.

(4) A continuing education course shall meet the following standards:

(a) Each hour of credit shall consist of 50 minutes of education in the form of seminars, lectures, conferences, training sessions or distance learning modules. The remaining ten minutes is to allow for breaks.

(b) The course provider shall have recognized expertise in modular building unit construction and installation.

(c) The content of the course should be relevant to the construction and installation of modular building units and consistent with the laws and rules of this state.

(d) The learning objectives of the course should be reasonably and clearly stated.

(e) The course shall be presented in a competent, well organized and sequential manner consistent with the stated purpose and objective of the program.

(f) The course shall be prepared and presented by individuals who are qualified by education, training and experience.

(g) An internet or home study course may be utilized for continuing education if the course verifies registration and participation by a test demonstrating that the participant has learned the material. Test questions shall be randomized for each participant. A home study course shall include no fewer than five variations of the final examination, distributed randomly to participants. Providers shall track the following:

(i) the amount of time each student has spent in the course;

(ii) what activities the student did or did not access; and

(iii) student's test scores.

(h) The course provider shall:

(i) have a competent method of registration of individuals who completed the course;

(ii) maintain records of attendance available for review by DFCM; and

(iii) provide individuals completing the course with a certificate that contains the following information:

(A) date of the course;

(B) name of the course provider;

(C) name of the instructor;

(D) course title;

(E) hours of continuing education credit;

(F) attendee's name; and

(G) signature of the course provider.

(5) DFCM may assign monitors at no charge to attend a course for evaluating the course and the instructor.

(6)(a) Modular building unit construction and installation contractors shall maintain adequate documentation as proof of compliance with this rule, such as certificates of completion, course handouts and materials. This proof shall be retained for two years from the end of the period for which the continuing education is due.

(b) Each attendee shall ensure that the course provider has submitted the verification of attendance to DFCM on behalf of the attendee as specified in Subsection (7). Alternatively, the attendee may submit verification of attendance to DFCM.

NOTICES OF PROPOSED RULES

(7) A course provider shall submit continuing education courses to DFCM and shall submit verification of attendance and completion on behalf of attendees attending and completing the course to DFCM in the format required by DFCM.

(8) DFCM shall review continuing education courses that have been submitted and shall approve only those courses that meet the standards of this rule.

(9) DFCM may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon the approval of any course or provider, if the course or provider fails to meet any of the requirements of this rule or the provider has engaged in unlawful or unprofessional conduct.

(10) DFCM shall:

(a) through its internet site electronically receive applications from continuing education course providers, and approve only those applications from programs that meet the standards of this rule;

(b) publish on DFCM's website listings of continuing education programs that have been approved by DFCM, and that meet the standards for continuing education credit under this rule;

(c) maintain accurate records of approved qualified continuing education; and

(d) maintain accurate records of verification of attendance and completion, by individual attendee, that the attendee may review for compliance with this rule.

(11) Notwithstanding any other provision of this rule, training in modular building unit construction and installation that fulfills the requirements of Sections 58-55-302.5 and R156-55a-303b fulfills the requirements of this rule.

R23-34-27. Fees.

DFCM shall have authority to set and collect fees associated with the provision of decals to support the administration of the modular building program. Fees shall be established in compliance with Section 63J-1-504.

KEY: modular buildings

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 15A-1-306.1; 15A-1-307

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R156-1

Filing ID: 56914

Agency Information

1. Title catchline:	Commerce, Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Deborah Blackburn	801-530-6628	dopl@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R156-1. General Rule of the Division of Professional Licensing
3. Purpose of the new rule or reason for the change:
These amendments incorporate additional license types into the Division's inactive and renewal procedures, including those amended or newly added by 2024 S.B. 26, S.B. 112, or H.B. 530, and clarify unprofessional conduct provisions.

4. Summary of the new rule or change:

First, the Section R156-1-305 list of licenses that may be placed on inactive status is updated to include APRNs, certified nurse midwives, and physical therapists (which were missing from the list), and to add the new professions of certified prescribing psychologist, master addiction counselor, and school psychological practitioner.

Second, Section R156-1-308a charts are reformatted in their entirety just to make them wider/more legible per new OAR filing standards. The following substantive changes are also made: Subsection R156-1-308a(1), which establishes DOPL's standard two-year renewal dates for licenses, is amended to add the following: associate clinical mental health counselor, associate marriage and family therapist, associate master addition counselor, certified prescribing psychologist, eyelash and eyebrow technician, eyelash and eyebrow technology school, licensed behavioral health coach, licensed school psychological practitioner, master addiction counselor, provisional prescribing psychologist, and state certified behavioral health technician. "Music therapist" (wrong name) is deleted and added back in as "state certified music therapist." Subsection R156-1-308a(2), which establishes DOPL's non-standard license terms and renewal or extension cycles, is amended to delete licenses that no longer apply here, and to add a two-year term for a psychology resident that may be extended for a period not to exceed two years past the date of completion of the minimum supervised experience requirement.

Third, Section R156-1-501 Unprofessional Conduct is amended as follows: Deletes as unprofessional conduct from Subsection R156-1-501(7) violating a term, condition, or requirement in a Utah Professionals Health Program diversion agreement or program contract, because the unprofessional conduct of "violating the terms of an order governing a license" is already covered by statute in Subsection 58-1-501(2)(a)(xv). Adds into Subsection R156-1-501(7) "failing to comply with an investigative subpoena or an order regarding an investigative subpoena" to clarify that these actions constitute unprofessional conduct for a licensee.

Fourth, because of restructuring in the Division of Professional Licensing (Division), Section R156-1-502 Administrative Penalties is amended to update references to the managers who may authorize a deviation from the standard citation procedures.

Fiscal Information

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

A) State budget:

These amendments are not expected to create a cost or savings impact to the state budget because the amendments are technical in nature and simply update the rule to incorporate certain licenses into existing Division procedures in accordance with recent statutory changes and clarify unprofessional conduct provisions, and the amendments can be initiated within the Division's current workload and resources.

B) Local governments:

These amendments will not impact local governments because they are made in accordance with recent statutory changes and are technical in nature and consistent with existing Division procedures.

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

These amendments will not impact small businesses because they are made in accordance with recent statutory changes and are technical in nature and consistent with existing Division procedures.

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

These amendments will not impact non-small businesses because they are made in accordance with recent statutory changes and are technical in nature and consistent with existing Division procedures.

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

These amendments are not expected to impact other persons because they are made in accordance with recent statutory changes and are technical in nature and consistent with existing Division procedures.

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

As described in boxes 5C, 5D, and 5E, no compliance costs are expected 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Commerce, Margaret W. Busse, 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 58-1-106(1)(a)	Section 58-1-308	Subsection 58-1-501(2)
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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: 12/16/2024

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

Date:	Time:	Place (physical address or URL):
12/03/2024	9:30 a.m.	160 E 300 S, 4th floor, Room 402, Salt Lake City UT, and also via Google Meet: Google Meet joining info: Video call link: https://meet.google.com/tbe-rxkk-shi Join by phone (US) +1 435-562-1559 PIN: 497 751 028#

9. This rule change MAY become effective on: 12/23/2024

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:	Mark B. Steinagel, Division Director	Date:	10/19/2024
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R156. Commerce, Professional Licensing.**R156-1. General Rule of the Division of Professional Licensing.****R156-1-305. Inactive Licensure.**

(1) Under Section 58-1-305, the following licenses issued under Title 58, Occupations and Professions that are active in good standing may be placed on inactive licensure status:

(a) advanced practice registered nurse (APRN);

(b) anesthesiologist assistant;

(~~b~~)c) architect;

(~~e~~)d) audiologist;

(~~e~~)e) certified public accountant emeritus;

(~~f~~) certified prescribing psychologist;

(~~g~~) certified nurse midwife;

(~~e~~)h) state certified court reporter;

(~~f~~)i) certified social worker;

(~~g~~)j) chiropractic physician;

(~~h~~)k) clinical mental health counselor;

(~~i~~)l) clinical social worker;

(~~j~~)m) contractor;

(~~k~~)n) deception detection examiner;

(~~l~~)o) deception detection intern;

(~~m~~)p) dental hygienist;

(~~n~~)q) dentist;

(~~o~~)r) dispensing medical practitioner - advanced practice registered nurse;

(~~p~~)s) dispensing medical practitioner - physician and surgeon;

(~~q~~)t) dispensing medical practitioner - physician assistant;

(~~r~~)u) dispensing medical practitioner - osteopathic physician and surgeon;

(~~s~~)v) dispensing medical practitioner - optometrist;

(~~t~~)w) dispensing medical practitioner - clinic pharmacy;

(~~u~~)x) genetic counselor;

(~~v~~)y) health facility administrator;

(~~w~~)z) hearing instrument specialist;

(~~x~~)aa) landscape architect;

(~~y~~)bb) licensed advanced substance use disorder counselor;

(~~c~~)c) licensed physical therapist;

(~~z~~)dd) marriage and family therapist;

(~~e~~)e) master addiction counselor;

(~~aa~~)ff) naturopath-naturopathic physician;

(~~bb~~)gg) optometrist;

(~~ee~~)hh) osteopathic physician and surgeon;

(~~dd~~)ii) pharmacist;

(~~ee~~)jj) pharmacy technician;

(~~ff~~)kk) physician assistant;

(~~gg~~)ll) physician and surgeon;

(~~hh~~)mm) podiatric physician;

(~~ii~~)nn) private probation provider;

(~~jj~~)oo) professional engineer;

(~~kk~~)pp) professional land surveyor;

(~~ll~~)qq) professional structural engineer;

(~~mm~~)rr) psychologist;

(~~nn~~)ss) radiology practical technician;

(~~t~~)t) school psychological practitioner;

(~~oo~~)uu) radiologic technologist;

(~~pp~~)vv) security personnel;

(~~qq~~)ww) speech-language pathologist;

(~~rr~~)xx) substance use disorder counselor;

(~~ss~~)yy) veterinarian; and

(~~tt~~)zz) state certified veterinary technician.

(2)(a) A licensee requesting inactive licensure shall submit a verified application in a form prescribed by the Division together with:

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- (i) documentation that the applicant meets the requirements for inactive licensure; and
- (ii) the appropriate fee.
- (b) If the licensee meets the requirements for inactive licensure, the Division shall place the license on inactive status.
- (3) A license may remain on inactive status indefinitely except as otherwise provided in Title 58, Occupations or Professions or Title

R156.

(4) An inactive licensee may activate their license by submitting a verified application for activation in a form prescribed by the Division together with:

- (a) the appropriate fee; and
- (b) ~~unless~~ except as otherwise provided in Title 58, Occupations and Professions or Title R156, documentation that the inactive licensee meets current renewal requirements.

(5) An inactive licensee whose license is activated during the last 12 months of a renewal cycle shall, upon payment of the appropriate fees, be licensed for a full renewal cycle plus the period remaining until the impending renewal date, rather than being required to immediately renew their activated license.

(6) A Controlled Substance license may be placed on inactive status if it is attached to a primary license placed on inactive status.

R156-1-308a. Renewal Dates.

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

[TABLE 1 Renewal Dates	
Acupuncturist	May 1 even years
Advanced Practice Registered Nurse	January 31 even years
Advanced Practice Registered Nurse –CRNA	January 31 even years
Anesthesiologist Assistant	January 31 even years
Architect	May 31 even years
Athlete Agent	September 30 even years
Athletic Trainer	May 31 odd years
Audiologist	May 31 odd years
Barber	September 30 odd years
Barber Apprentice	September 30 odd years
Barber School	September 30 odd years
Behavior Analyst and Assistant Behavior Analyst	September 30 even years
Behavior Specialist and Assistant Behavior Specialist	September 30 even years
Building Inspector	November 30 odd years
Burglar Alarm Security	March 31 odd years
C.P.A. Firm	December 31 even years
Certified Dietitian	September 30 even years
Certified Nurse Midwife	January 31 even years
Certified Public Accountant	December 31 even years
Certified Social Worker	September 30 even years
Chiropractic Physician	May 31 even years
Clinical Mental Health Counselor	September 30 even years
Clinical Social Worker	September 30 even years
Contractor	November 30 odd years

Controlled Substance License	primary license renewal
Controlled Substance Precursor	May 31 odd years
Controlled Substance Handler	September 30 odd years
Cosmetologist/Barber	September 30 odd years
Cosmetologist/Barber Apprentice	September 30 odd years
Cosmetology/Barber School	September 30 odd years
Deception Detection Deception Detection Examiner, Deception Detection Intern, Deception Detection Administrator	November 30 even years
Dental Hygienist	May 31 even years
Dentist	May 31 even years
Direct-entry Midwife	September 30 odd years
Dispensing Medical Practitioner Advanced Practice Registered Nurse, Optometrist, Osteopathic Physician and Surgeon, Physician and Surgeon, Physician Assistant	September 30 odd years
Dispensing Medical Practitioner Clinic Pharmacy	September 30 odd years
Dispensing Practitioner (LDP)	primary license renewal
Electrician Apprentice, Journeyman, Master, Residential Journeyman, Residential Master	November 30 even years
Electrologist	September 30 odd years
Electrology School	September 30 odd years
Elevator Mechanic	November 30 even years
Environmental Health Scientist	May 31 odd years
Esthetician	September 30 odd years
Esthetician Apprentice	September 30 odd years
Esthetics School	September 30 odd years
Factory-Built Housing Dealer	September 30 even years
Funeral Service Director	May 31 even years
Funeral Service Establishment	May 31 even years
Genetic Counselor	September 30 even years
Hair Designer	September 30 odd years
Hair Designer School	September 30 odd years
Health Facility Administrator	May 31 odd years
Hearing Instrument Specialist	September 30 even years
Landscape Architect	May 31 even years
Licensed Advanced Substance Use Disorder Counselor	May 31 odd years

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Licensed Practical Nurse	January 31 even years
Licensed Substance Use Disorder Counselor	May 31 odd years
Marriage and Family Therapist	September 30 even years
Massage Apprentice	May 31 odd years
Massage Therapist	May 31 odd years
Massage Assistant	May 31 odd years
Master Esthetician	September 30 odd years
Master Esthetician Apprentice	September 30 odd years
Medication Aide Certified	March 31 odd years
Music Therapist	March 31 odd years
Nail Technologist	September 30 odd years
Nail Technologist Apprentice	September 30 odd years
Nail Technology School	September 30 odd years
Naturopath Naturopathic Physician	May 31 even years
Occupational Therapist	May 31 odd years
Occupational Therapy Assistant	May 31 odd years
Optometrist	September 30 even years
Osteopathic Physician and Surgeon, Restricted Associate Osteopathic Physician	May 31 even years
Outfitter and Hunting Guide	May 31 even years
Pharmacy Class A B C D E, Online Contract Pharmacy	September 30 odd years
Pharmacist	September 30 odd years
Pharmacy Technician	September 30 odd years
Physical Therapist	May 31 odd years
Physical Therapist Assistant	May 31 odd years
Physician Assistant	May 31 even years
Physician and Surgeon, Restricted Associate Physician	January 31 even years
Plumber Apprentice, Journeyman, Master, Residential Master, Residential Journeyman	November 30 even years
Podiatric Physician	September 30 even years
Preneed Funeral Arrangement Sales Agent	May 31 even years
Private Probation Provider	May 31 odd years
Professional Engineer	March 31 odd years
Professional Geologist	March 31 odd years
Professional Land Surveyor	March 31 odd years
Professional Structural Engineer	March 31 odd years
Psychologist	September 30 even years
Radiologic Technologist Radiology Practical Technician Radiologist Assistant	May 31 odd years
Recreational Therapy Therapeutic Recreation Technician, Therapeutic Recreation Specialist,	May 31 odd years

Master Therapeutic Recreation Specialist	
Registered Nurse	January 31 odd years
Respiratory Care Practitioner	September 30 even years
Security Personnel	November 30 even years
Social Service Worker	September 30 even years
Speech Language Pathologist	May 31 odd years
State Certified Commercial Interior Designer	March 31 odd years
State Certified Court Reporter	May 31 even years
State Certified Veterinary Technician	September 30 even years
Veterinarian	September 30 even years
Vocational Rehabilitation Counselor	March 31 odd years

TABLE 1 Renewal Dates	
Acupuncturist	May 1 even years
Advanced Practice Registered Nurse	January 31 even years
Advanced Practice Registered Nurse - CRNA	January 31 even years
Anesthesiologist Assistant	January 31 even years
Architect	May 31 even years
Associate Clinical Mental Health Counselor	September 30 even years
Associate Marriage and Family Therapist	September 30 even years
Associate Master Addiction Counselor	May 31 odd years
Athlete Agent	September 30 even years
Athletic Trainer	May 31 odd years
Audiologist	May 31 odd years
Barber	September 30 odd years
Barber Apprentice	September 30 odd years
Barber School	September 30 odd years
Behavior Analyst	September 30 even years
Assistant Behavior Analyst	
Behavior Specialist	September 30 even years
Assistant Behavior Specialist	
Building Inspector	November 30 odd years
Burglar Alarm Security	March 31 odd years
C.P.A. Firm	December 31 even years
Certified Dietitian	September 30 even years
Certified Nurse Midwife	January 31 even years
Certified Prescribing Psychologist	September 30 even years
Certified Public Accountant	December 31 even years
Certified Social Worker	September 30 even years
Chiropractic Physician	May 31 even years
Clinical Mental Health Counselor	September 30 even years
Clinical Social Worker	September 30 even years
Contractor	November 30 odd years
Controlled Substance License	primary license renewal
Controlled Substance Precursor	May 31 odd years
Controlled Substance Handler	September 30 odd years
Cosmetologist/Barber	September 30 odd years
Cosmetologist/Barber Apprentice	September 30 odd years
Cosmetology/Barber School	September 30 odd years

NOTICES OF PROPOSED RULES

<u>Deception Detection Examiner</u>	<u>November 30 even years</u>
<u>Deception Detection Examination Administrator</u>	
<u>Deception Detection Intern</u>	
<u>Dental Hygienist</u>	<u>May 31 even years</u>
<u>Dentist</u>	<u>May 31 even years</u>
<u>Direct-entry Midwife</u>	<u>September 30 odd years</u>
<u>Dispensing Medical Practitioner -</u> <u>Advanced Practice Registered Nurse</u> <u>Optometrist</u> <u>Osteopathic Physician and Surgeon</u> <u>Physician and Surgeon</u> <u>Physician Assistant</u>	<u>September 30 odd years</u>
<u>Dispensing Medical Practitioner Clinic Pharmacy</u>	<u>September 30 odd years</u>
<u>Dispensing Practitioner (LDP)</u>	<u>primary license renewal</u>
<u>Electrician -</u> <u>Apprentice</u> <u>Journeyman, Master</u> <u>Residential Journeyman, Residential Master</u>	<u>November 30 even years</u>
<u>Electrologist</u>	<u>September 30 odd years</u>
<u>Electrology School</u>	<u>September 30 odd years</u>
<u>Elevator Mechanic</u>	<u>November 30 even years</u>
<u>Environmental Health Scientist</u>	<u>May 31 odd years</u>
<u>Esthetician</u>	<u>September 30 odd years</u>
<u>Esthetician Apprentice</u>	<u>September 30 odd years</u>
<u>Esthetics School</u>	<u>September 30 odd years</u>
<u>Eyelash and Eyebrow Technician</u>	<u>September 30 odd years</u>
<u>Eyelash and Eyebrow Technology School</u>	<u>September 30 odd years</u>
<u>Factory Built Housing Dealer</u>	<u>September 30 even years</u>
<u>Funeral Service Director</u>	<u>May 31 even years</u>
<u>Funeral Service Establishment</u>	<u>May 31 even years</u>
<u>Genetic Counselor</u>	<u>September 30 even years</u>
<u>Hair Designer</u>	<u>September 30 odd years</u>
<u>Hair Designer School</u>	<u>September 30 odd years</u>
<u>Health Facility Administrator</u>	<u>May 31 odd years</u>
<u>Hearing Instrument Specialist</u>	<u>September 30 even years</u>
<u>Landscape Architect</u>	<u>May 31 even years</u>
<u>Licensed Advanced Substance</u> <u>Use Disorder Counselor</u>	<u>May 31 odd years</u>
<u>Licensed Behavioral Health Coach</u>	<u>September 30 even years</u>
<u>Licensed Practical Nurse</u>	<u>January 31 even years</u>
<u>Licensed School Psychological Practitioner</u>	<u>September 30 even years</u>
<u>Licensed Substance Use Disorder Counselor</u>	<u>May 31 odd years</u>
<u>Marriage and Family Therapist</u>	<u>September 30 even years</u>
<u>Massage Apprentice</u>	<u>May 31 odd years</u>
<u>Massage Therapist</u>	<u>May 31 odd years</u>
<u>Massage Assistant</u>	<u>May 31 odd years</u>
<u>Master Addiction Counselor</u>	<u>May 31 odd years</u>
<u>Master Esthetician</u>	<u>September 30 odd years</u>
<u>Master Esthetician Apprentice</u>	<u>September 30 odd years</u>
<u>Medication Aide Certified</u>	<u>March 31 odd years</u>
<u>Nail Technologist</u>	<u>September 30 odd years</u>
<u>Nail Technologist Apprentice</u>	<u>September 30 odd years</u>
<u>Nail Technology School</u>	<u>September 30 odd years</u>
<u>Naturopath - Naturopathic Physician</u>	<u>May 31 even years</u>
<u>Occupational Therapist</u>	<u>May 31 odd years</u>
<u>Occupational Therapy Assistant</u>	<u>May 31 odd years</u>
<u>Optometrist</u>	<u>September 30 even years</u>
<u>Osteopathic Physician and Surgeon</u> <u>Restricted Associate Osteopathic Physician</u>	<u>May 31 even years</u>
<u>Outfitter and Hunting Guide</u>	<u>May 31 even years</u>

Pharmacy - Class A, B, C, D, E, or <u>Online Contract Pharmacy</u>	<u>September 30 odd years</u>
<u>Pharmacist</u>	<u>September 30 odd years</u>
<u>Pharmacy Technician</u>	<u>September 30 odd years</u>
<u>Physical Therapist</u>	<u>May 31 odd years</u>
<u>Physical Therapist Assistant</u>	<u>May 31 odd years</u>
<u>Physician Assistant</u>	<u>May 31 even years</u>
<u>Physician and Surgeon,</u> <u>Restricted Associate Physician</u>	<u>January 31 even years</u>
<u>Plumber --</u> <u>Apprentice,</u> <u>Journeyman, Master</u> <u>Residential Master, Residential Journeyman</u>	<u>November 30 even years</u>
<u>Podiatric Physician</u>	<u>September 30 even years</u>
<u>Preneed Funeral Arrangement Sales Agent</u>	<u>May 31 even years</u>
<u>Private Probation Provider</u>	<u>May 31 odd years</u>
<u>Professional Engineer</u>	<u>March 31 odd years</u>
<u>Professional Geologist</u>	<u>March 31 odd years</u>
<u>Professional Land Surveyor</u>	<u>March 31 odd years</u>
<u>Professional Structural Engineer</u>	<u>March 31 odd years</u>
<u>Provisional Prescribing Psychologist</u>	<u>September 30 even years</u>
<u>Psychologist</u>	<u>September 30 even years</u>
<u>Radiologic Technologist</u> <u>Radiology Practical Technician</u> <u>Radiologist Assistant</u>	<u>May 31 odd years</u>
<u>Recreational Therapy -</u> <u>Therapeutic Recreation Technician</u> <u>Therapeutic Recreation Specialist</u> <u>Master Therapeutic Recreation Specialist</u>	<u>May 31 odd years</u>
<u>Registered Nurse</u>	<u>January 31 odd years</u>
<u>Respiratory Care Practitioner</u>	<u>September 30 even years</u>
<u>Security Personnel</u>	<u>November 30 even years</u>
<u>Social Service Worker</u>	<u>September 30 even years</u>
<u>Speech-Language Pathologist</u>	<u>May 31 odd years</u>
<u>State Certified Behavioral Health Technician</u>	<u>September 30 even years</u>
<u>State Certified Commercial Interior Designer</u>	<u>March 31 odd years</u>
<u>State Certified Court Reporter</u>	<u>May 31 even years</u>
<u>State Certified Music Therapist</u>	<u>March 31 odd years</u>
<u>State Certified Veterinary Technician</u>	<u>September 30 even years</u>
<u>Veterinarian</u>	<u>September 30 even years</u>
<u>Vocational Rehabilitation Counselor</u>	<u>March 31 odd years</u>

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

[TABLE 2 Non-Standard License Terms	
PROFESSION	TERM
Associate Clinical Mental Health Counselor	3 year term — may extend.*
Associate Marriage and Family Therapist	3 year term — may extend for a period not to exceed two years past the date completed the minimum supervised experience requirement.*
Certified Advanced Substance Use Disorder Counselor	4 year term — may extend.*

NOTICES OF PROPOSED RULES

Certified Advanced Substance Use Disorder Counselor Intern	6-month term, or expires earlier upon passing exam.
Certified Medical Language Interpreter Tier 1 and 2 (58-80a-304)	3-year term, renews March 31 - may renew.
Certified Substance Use Disorder Counselor	2-year term - may extend.*
Certified Substance Use Disorder Counselor Intern	6-month term, or expires earlier upon passing exam.
Funeral Service Intern (58-9-303(2))	2-year term, plus one additional 2-year term* - then may extend only for hardship.**
Hearing Instrument Intern (58-46a-303(2))	3-year term - may extend.*,**
Massage Assistant In Training (58-47b-303, R156-47b-303)	6-month term - may extend only for hardship.*,**
Pharmacy technician trainee (58-17b-305.1, R156-17b-303a(4))	2-year term - may extend for exceptional circumstances.*
Psychology Resident (58-61-304(3)(b))	2-year term - may extend for a period not to exceed two years past the date completed the minimum supervised experience requirement.*
Type I Foreign Trained Physician-Educator (58-67-302.7)	Initial 1-year term - may renew on 2-year cycles if satisfies 58-67-302.7(2) requirements, and completes 58-37-303 CE.
Type II Foreign Trained Physician-Educator (58-67-302.7)	Initial 1-year term - may renew annually up to four times if satisfies 58-67-302.7(3) requirements, and completes 58-67-303 CE.
*Extension allowed only if the licensee presents evidence satisfactory to the Division and board that the licensee is on a course reasonably expected to lead to licensure, such as making reasonable progress toward passing any qualifying examinations or completing required supervision hours.	
**Extension allowed only if a circumstance of hardship arose beyond the licensee's control to prevent the completion of the licensure process, and extension is for a period proportionate to hardship.]	

<u>TABLE 2</u> <u>Non-Standard License Terms</u>	
<u>PROFESSION</u>	<u>TERM</u>
<u>Certified Medical Language Interpreter Tier 1 or 2 (Section 58-80a-304)</u>	<u>3-year term, renews March 31 - may renew.</u>
<u>Funeral Service Intern (Subsection 58-9-303(2))</u>	<u>2-year term, and one additional 2-year term* - then may extend only for hardship.**</u>

<u>Hearing Instrument Intern</u> (Subsection 58-46a-303(2))	<u>3-year term - may extend.*, **</u>
<u>Massage Assistant In-Training</u> (Sections 58-47b-303, R156-47b-303)	<u>6-month term - may extend only for hardship.*, **</u>
<u>Pharmacy technician trainee</u> (Section 58-17b-305.1, Subsection R156-17b-303a(4))	<u>2-year term - may extend for exceptional circumstances.*</u>
<u>Psychology Resident</u> (Subsection 58-61-304(3)(b))	<u>2-year term - may extend for a period not to exceed two years past the date of completion of the minimum supervised experience requirement.*</u>
<u>Type I Foreign Trained Physician-Educator</u> (Section 58-67-302.7)	<u>Initial 1-year term - may renew on 2-year cycles if satisfies Subsection 58-67-302.7(2) requirements, and completes Section 58-37-303 CE.</u>
<u>Type II Foreign Trained Physician-Educator</u> (Section 58-67-302.7)	<u>Initial 1-year term -- may renew annually up to four times if satisfies Subsection 58-67-302.7(3) requirements, and completes Section 58-67-303 CE.</u>
<u>*Extension allowed only if the licensee presents evidence satisfactory to the Division and board that the licensee is on a course reasonably expected to lead to licensure, such as making reasonable progress toward passing any qualifying examinations or completing required supervision hours.</u>	
<u>**Extension allowed only if a circumstance of hardship arose beyond the licensee's control to prevent the completion of the licensure process, and extension is for a period proportionate to hardship.</u>	

R156-1-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) surrendering licensure to any other licensing or regulatory authority having jurisdiction over the licensee or applicant in any regulated profession while an investigation or inquiry into allegations of unprofessional conduct or unlawful conduct is in progress, or after a charging document has been filed against the applicant or licensee alleging unprofessional conduct or unlawful conduct;
- (2) practicing a regulated profession in, through, or with a business structure or name that:
 - (a) has not been properly registered with the Division of Corporations and Commercial Code; or
 - (b) has not been properly licensed with the Division;
- (3) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in any profession, if the conduct:
 - (a) when considered with the functions and duties of the profession for which the license was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely to competently practice the profession; or
 - (b) would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;
- (4) prohibiting or inhibiting the ability of a licensee's customer, patient, or other consumer of the licensee's goods or services from making a complaint to a licensing or regulatory authority, including through the use of a contract provision;
- (5) engaging in cheating or otherwise violating Section R156-1-309 regarding Division exams;
- (6) failing, as a prescribing practitioner, to follow the Guidelines for the Chronic Use of Opioid Analgesics, adopted as policy April 2017 by the Federation of State Medical Boards, which is incorporated by reference;
- (7) ~~[violating a term, condition, or requirement in a Utah Professionals Health Program diversion agreement as defined in Subsection 58-4a-102(1), or program contract as defined in Subsection 58-4a-102(4)]~~ failing to comply with an investigative subpoena or an order regarding an investigative subpoena;
- (8) failing, as a health care provider, to follow the health care claims practices of Section 31A-26-313, in violation of Subsection 58-1-508(2); or
- (9) as an exam candidate or as an exam proctor, grader, or administrator, failing to comply with the Division of Professional Licensing Exam Policies and Procedures, dated December 29, 2023, which is incorporated by reference.

R156-1-502. Administrative Penalties.

- (1) Under Subsection 58-1-401(5) and Section 58-1-502, except as otherwise provided by a specific chapter under Title 58, Occupations and Professions or Title R156, the Division shall issue a notice of agency action instead of a citation for a third or subsequent offense, except in extraordinary circumstances approved by the ~~[investigation supervisor]~~ bureau manager or chief investigator.
- (2) Multiple offenses may be cited on the same citation, if the citation clearly indicates each offense and the fine allocated to each offense.
- (3) ~~[An investigation supervisor or the]~~ The bureau manager, investigative team leader, or chief investigator may authorize a deviation from the fine in a citation based upon the aggravating or mitigating circumstances.
- (4) The presiding officer for a contested citation shall have the discretion, after a review of the evidence and any aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator.

KEY: licensing, supervision, evidentiary restrictions

Date of Last Change: [May 3,]2024

Notice of Continuation: November 2, 2021

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-308; 58-1-501(2)

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R156-11a	Filing ID: 56873

Agency Information

1. Title catchline:	Commerce, Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E. 300 S.	
City, state:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
David Wright	801-530-6179	davidwright@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R156-11a. Cosmetology and Associated Professions Licensing Act Rule
3. Purpose of the new rule or reason for the change:
<p>The Division of Professional Licensing (Division) is filing these proposed amendments to update the rule in accordance with statutory changes made by S.B.112 passed in the 2024 General Session. S.B. 112 passed during the 2024 General Session created new licensure categories of "eyelash and eyebrow technician", "eyelash and eyebrow instructor", and "eyelash and eyebrow school." As required by S.B. 112, these proposed amendments establish the required education and training, supervision requirements, renewal requirements, practice standards, and unprofessional conduct definitions for these licenses.</p> <p>Additional nonsubstantive formatting changes are also made throughout the rule to streamline and update the rule, clarify and update definitions, and comply with the Rulewriting Manual for Utah.</p>
4. Summary of the new rule or change:
<p>The proposed amendments make the following changes:</p> <ol style="list-style-type: none"> 1) Consolidates the existing provisions for the rule's title, authority, and relationship to Rule R156-1. 2) Section R156-11a-302 Disqualifying Convictions is deleted in its entirety as unnecessary and duplicative of statutory references for consideration of crimes that the Division and the Board already consider as potentially disqualifying convictions under Sections 58-1-401 and 58-1-501; 3) Section R156-11a-302b. Clarifies that the Division determines the educational equivalency of an applicant's foreign education rather than the Board. Removes references to specific degree evaluators and replaces it with a website where a list of approved education credentialing evaluators may be found. Allows the Division to accept by rule "other evidence that is satisfactory" of an applicant's foreign education equivalency. 4) Section R156-11a-502. Removes several redundant examples of unprofessional conduct that are already covered in other rule or in statute. 5) Section R156-11a-503. Eliminates as unnecessary the outdated mid-range fine schedule because Section 58-1-502 already covers these fine amounts. 6) Section R156-11a-707 is added to provide the required curriculum for the new eyelash and eyebrow technology license created by SB 112. 7) Section R156-11a-805. Clarifies that a nail technician supervisor may have a single apprentice and provide one-on-one supervision to that apprentice. 8) Section R156-11a-806. Creates the requirements for an eyelash and eyebrow technician apprenticeship. 9) Formatting changes are also made throughout the rule consistent with OAR's current Rule Writing Manual and to update citation references.

Fiscal Information

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

A) State budget:

Because these proposed amendments are made in accordance with the requirements of S.B. 112 the division does not anticipate any fiscal impact to the state budget beyond that determined by the fiscal note for S.B. 112, at <https://le.utah.gov/~2024/bills/static/SB0112.html>

B) Local governments:

The Division does not anticipate any fiscal impact to local governments because the amendments will not impact any local government practices or procedures.

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

The proposed amendments will not have any measurable impact on small business revenues or expenditures because the amendments merely implement the new license categories and statutory changes enacted by SB 112 and further streamline and update the rule.

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

The proposed amendments will not have any measurable impact on non-small business revenues or expenditures because the amendments merely implement the new license categories and statutory changes enacted by S.B. 112 (2024) and further streamline and update the rule.

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

The following persons will be impacted by these proposed amendments as follows: Individuals qualified to practice as an eyelash and eyebrow technician will be able to obtain a license and engage in the practice of eyelash and eyebrow technology. Licensed eyelash and eyebrow technicians who are qualified to serve as eyelash and eyebrow supervisors will be able to supervise eyelash and eyebrow students and apprentices in accordance with the applicable law. The Division does not anticipate any cost or savings to these individuals from these proposed amendments beyond those determined by the S.B. 112 Fiscal note, which can be found at <https://le.utah.gov/%7E2024/bills/static/SB0112.html>.

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

As described in Box 5.E., there are no expected compliance costs 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Commerce, Margaret W. Busse, 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 58-1-106(1)(a)	Section 58-11a-101	Subsection 58-1-202(1)(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:		12/16/2024
B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
12/03/2024	9:30 a.m.	160 E. 300 S, 4th floor, Salt Lake City, UT, and also via Google Meet Google Meet joining info Video call link: https://meet.google.com/tbe-rxkk-shi Or dial: (US) +1 435-562-1559 PIN: 497 751 028# More phone numbers: https://tel.meet/tbe-rxkk-shi?pin=4451543203048

9. This rule change MAY become effective on:	12/23/2024
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:	Mark B. Steinagel, Division Director	Date:	10/07/2024
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R156. Commerce, ~~Occupational and~~ Professional Licensing.

R156-11a. Cosmetology and Associated Professions Licensing Act Rule.

R156-11a-101. Title -- Authority -- Relationship to Rule R156-1.

(1) This rule is known as the "Cosmetology and Associated Professions Licensing Act Rule."

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 11a, Cosmetology and Associated Professions Licensing Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-101.

R156-11a-102. Definitions.

~~[In addition to the definitions as used]~~ Terms used in this rule are defined in Title 58, Chapter 1, Division of ~~[Occupational and]~~ Professional Licensing Act, and in Title 58, Chapter 11a, ~~[the]~~ Cosmetology and Associated Professions Licensing Act~~[, or this rule, the following rule definitions supplement the statutory definitions]~~. In addition:

(1) "Acrylic nail," as used in Section 15A-3-402 and Subsections R156-11a-~~[102(25)]~~704(14) and R156-11a-705(25), means an extension for natural nails molded out of a polymer powder and a liquid monomer buffed to a shine.

(2) "Advanced pedicures," as used in Subsections 58-11a-102~~[(40)]~~(45)(a)(i)(D), R156-11a-611(2), and R156-11a-703(17), means any of the following while caring for the nails, cuticles or calluses of the feet:

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

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

- (c) utilizing topical products and preparations for chemical exfoliation as defined in Subsection R156-11a-610(4).
- (3) "Aroma therapy" means the application of essential oils that are applied directly to the skin, undiluted or in a misted dilution with a carrier oil or lotion[-] for varied applications such as massage, hot packs, cold packs, compress, inhalation, steam or air diffusion, or in hydrotherapy services.
- (4) "BCA acid" means bichloroacetic acid.
- (5) "Body wraps," as used in Subsection 58-11a-102[(40)](45)(a)(i)(A), means body treatments utilizing products or equipment to enhance and maintain the texture, contour, integrity and health of the skin and body.
- (6) "Chemical exfoliation," as defined in Subsections 58-11a-102[(40)](45)(a)(i)(C) and R156-11a-610(4), means a resurfacing procedure performed with a chemical solution or product to remove superficial layers of the epidermis to a point no deeper than the stratum corneum.
- (7) "Dermabrasion or open dermabrasion" means the surgical application of a wire or diamond frieze for deep skin resurfacing by a physician to abrade the skin to the epidermis and possibly down to the papillary dermis.
- (8) "Dermaplane" means the use of a scalpel or bladed instrument under the general supervision of a health care practitioner to shave the upper layers of the stratum corneum.
- (9) "Direct supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a[(4)](1)(a).
- (10) "Equivalent number of credit hours" means:
- (a) the following conversion table if on a semester basis:
 - (i) theory - 1 credit hour - 30 clock hours;
 - (ii) practice - 1 credit hour - 30 clock hours; and
 - (iii) clinical experience - 1 credit hour - 45 clock hours; and
 - (b) the following conversion table if on a quarter basis:
 - (i) theory - 1 credit hour - 20 clock hours;
 - (ii) practice - 1 credit hour - 20 clock hours; and
 - (iii) clinical experience - 1 credit hour - 30 clock hours.
- (11) "Exfoliation" means the sloughing off of non-living skin cells "corneocytes" by superficial and non-invasive means.
- (12) "Extraction" means the following:
- (a) "Advanced extraction," as used in Subsections 58-11a-102[(40)(a)(i)(D)](45)(a)(i)(F) and R156-11a-611(2)(b), means to perform extraction with a lancet or device that removes impurities from the skin.
 - (b) "Manual extraction," as used in Subsection 58-11a-102[(34)](35)(a), means to remove impurities from the skin with protected fingertips, cotton swabs, or a loop comedone extractor.
- (13) "Galvanic current" means a constant low-voltage direct current.
- (14) "General supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a[(4)](1)(c).
- (15) "Health care practitioner" means:
- (a) a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
 - (c) a podiatrist under Title 58, Chapter 5[A]a, Podiatric Physician Licensing Act; or
 - (d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant [~~Practice~~]Act, acting within the supervisor's scope of practice.
- (16) "Hydrotherapy," as used in Subsection 58-11a-102[(40)](45)(a)(i)(B), means the use of water for cosmetic purposes or beautification of the body.
- (17) "Indirect supervision" means the supervising instructor who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a[(4)](1)(b).
- (18) "Limited chemical exfoliation" means a non-invasive chemical exfoliation and is further defined in Subsection R156-11a-610(3).
- (19) "Lymphatic massage," as used in Subsections 58-11a-102[(40)](45)(a)(ii) and 58-11a-302(11)[(e)](d), means a method using a light rhythmic pressure applied by manual or other means to the skin using specific lymphatic maneuvers to promote drainage of the lymphatic fluid through the tissue.
- (20) "Manipulating," as used in Subsection 58-11a-102[(34)](35)(a), means applying a light pressure by the hands to the skin.
- (21) "Microdermabrasion," as used in Subsection 58-11a-102[(40)](45)(a)(i)(E), means a gentle, progressive, superficial, mechanical exfoliation of the uppermost layers of the stratum corneum using a closed-loop vacuum system.
- (22) "Microneedling" means the use of multiple tiny solid needles designed to pierce the skin to stimulate collagen production or cellular renewal. Devices used may be in the form of rollers, stamps, or electronic "pens." Microneedling is also known as:
- (a) dermal needling;
 - (b) Collagen Induction Therapy (CIT);
 - (c) dermal rolling;
 - (d) cosmetic dry needling;
 - (e) multitrepannic collagen actuation; or
 - (f) percutaneous collagen induction.
- (23) "NIC" means the National Interstate Council of State Boards of Cosmetology.

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~~[(23)]~~(24) "Patch test" or "predisposition test" means applying a small amount of a chemical preparation to the skin of the arm or behind the ear to determine possible allergies of the client to the chemical preparation.

~~[(24)]~~(25) "Pedicure" means any of the following:

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

~~[(25)]~~(26) "Source capture system," as used in Subsection 58-11a-502(6), means the source capture system required under Section 15A-3-402.

~~[(26)]~~(27) "TCA acid" means trichloroacetic acid.

~~[(27)]~~(28) "Unprofessional conduct" is further defined~~[, in accordance with]~~ in Sections 58-1-501~~[-]~~ and ~~[in Section-]~~ R156-11a-502.

~~**R156-11a-103. Authority—Purpose.**~~

~~———— This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 11a.~~

~~**R156-11a-104. Organization—Relationship to Rule R156-1.**~~

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

R156-11a-301. Change of Legal Entity.

~~[In accordance with]~~ Under Section 58-11a-301, a school shall submit a new application for licensure upon any change of legal entity status. The new legal entity may not engage in practice as a licensed school until the application is approved and a license issued.

~~**R156-11a-302. Disqualifying Convictions.**~~

~~———— When reviewing an application to determine whether the applicant has engaged in unprofessional conduct as set forth in Subsection 58-1-501(2)(e), the Division and the Board shall consider the applicant's criminal record as follows:~~

- ~~———— (1) A criminal conviction for the following crimes may disqualify an applicant from becoming licensed:~~
 - ~~———— (a) a sex offense as defined in:~~
 - ~~———— (i) Title 76, Chapter 5, Part 4;~~
 - ~~———— (ii) Title 76, Chapter 5a; and~~
 - ~~———— (iii) Title 76, Chapter 10, Part 12 and 13;~~
 - ~~———— (b) crimes against a person as defined in Title 76, Chapter 5, Parts 1, 2, and 3;~~
 - ~~———— (c) crimes against property as defined in Title 76, Chapter 6, Parts 1 through 6;~~
 - ~~———— (d) any offense involving controlled substances; or~~
 - ~~———— (e) conspiracy to commit or any attempt to commit any of the above offenses.~~
- ~~———— (2) An applicant who has a criminal conviction for a felony crime of violence may be considered ineligible for licensure for a period of seven years from the termination of parole, probation, judicial proceeding, or date of incident, whichever is later.~~
- ~~———— (3) Each application for licensure or renewal of licensure shall be considered in accordance with the requirements of Section R156-1-302-]~~

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

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

- (1) Except as otherwise provided in Sections 58-1-308 and R156-11a-308 for individuals reinstating a license, applicants for each classification listed in Subsection (2) ~~[below-]~~ shall pass within one year ~~[prior to]~~ before the date of application, or within other reasonable timeframe as approved by the Division upon review of applicable extenuating circumstances, the respective examination with a passing score of at least 70% as determined by the examination provider.
- (2) Under Section 58-11a-302, the examination requirements for licensure are established as follows:
 - (a) ~~[Applicants]~~ an applicant for licensure as a barber shall pass the ~~[National Interstate Council of State Boards of Cosmetology (NIC)]~~ NIC Barber Theory and Practical Examinations~~[-]~~;
 - (b) ~~[Applicants]~~ an applicant for licensure as a cosmetologist/barber shall pass the NIC Cosmetology/Barber Theory and Practical Examinations~~[-]~~;
 - (c) ~~[Applicants]~~ an applicant for licensure as an electrologist shall pass the NIC Electrology Theory and Practical Examinations~~[-]~~;
 - (d) ~~[Applicants]~~ an applicant for licensure as a basic esthetician shall pass the NIC Esthetics Theory and Practical Examinations~~[-]~~;
 - (e) ~~[Applicants]~~ an applicant for licensure as a master esthetician shall pass the NIC Master Esthetics Theory and Practical Examinations~~[-]~~;
 - (f) ~~[Applicants]~~ an applicant for licensure as a hair designer shall pass the NIC Hair Design Theory and Practical Examinations~~[-]~~;
 - (g) ~~[Applicants]~~ an applicant for licensure as an instructor of barbering ~~[instructor]~~, cosmetologist/barbering ~~[instructor]~~, electrology ~~[instructor]~~, esthetics ~~[instructor]~~, hair designer ~~[instructor]~~, or ~~[or-]~~ nail technology ~~[instructor]~~, or eyelash and eyebrow technology shall pass the NIC Instructor Examinations~~[-]~~;
 - (h) ~~[Applicants]~~ an applicant for licensure as a nail technician shall pass the NIC Nail Technology Theory and Practical Examinations~~[-]~~; and

~~(i)~~ an applicant for licensure as an eyelash and eyebrow technician shall pass the NIC Eyelash and Eyebrow Theory and Practical Examinations.

~~(2)~~~~(3)~~ Any substantially equivalent theory, practical, or instructor examination approved by the licensing authority of any ~~other~~ ~~state~~ ~~jurisdiction~~ is acceptable for any one or more of the examinations ~~[specified]~~ in Subsection ~~(1)~~~~(2)~~.

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

~~[In accordance with Subsection 58-11a-302(20):~~

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

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

- ~~(a) Josef Silny and Associates Incorporated, International Education Consultants;~~
- ~~(b) Educational Credential Evaluators Incorporated; or~~
- ~~(c) National Association of State Boards of Accountancy (NASBA).]~~

~~Under Subsection 58-11a-302(23), an applicant may demonstrate the educational equivalency of the applicant's foreign school education by submitting to the Division:~~

- ~~(1) an education or credential evaluation from an evaluator listed on the Division's website at <https://dopl.utah.gov/cosmetology/>; or~~
- ~~(2) other evidence that is satisfactory to the Division in collaboration with the Board.~~

R156-11a-302c. Qualifications for Licensure - Acceptance of Credit Hours.

~~[In accordance with]~~ Under Subsection 58-11a-302~~(21)~~~~(24)~~, a licensed school shall accept credit hours toward graduation as follows:

~~(1) [F]the school shall accept credit hours toward any curriculum in Sections R156-11a-700 through R156-11a-707, 708; and~~

~~(2) [F]the credit hours accepted may not exceed the number of hours required in Subsection[s] 58-11a-302(1)~~(c)~~~~(i)~~, 58-11a-302(4)(c)(i), 58-11a-302(7)~~(c)~~~~(i)~~, 58-11a-302(10)(c)(i), 58-11a-302(11)~~(c)~~~~(i)~~, 58-11a-302(14)~~(c)~~~~(i)~~, ~~and~~ 58-11a-302(17)(c)(i), or 58-11a-302(20)(c)(i) for that professional license in Utah.~~

R156-11a-303. Renewal Cycle - Procedures.

~~(1) [In accordance with]~~ Under Subsection 58-1-308(1), the renewal date for the two-year renewal cycle ~~[applicable to]~~ for licenses and certificates under Title 58, Chapter 11a, Cosmetology and Associated Professions Licensing Act is established ~~[by rule]~~ in Section R156-1-308a.

~~(2) Renewal procedures shall be in accordance with Sections R156-1-308c through R156-1-308l.~~

R156-11a-308. Reinstatement of License.

~~[In accordance with]~~ Under Subsection 58-1-308(5)(a), an individual may apply for reinstatement of a license between two years and five years from the date of license expiration without being required to pass the exams provided in Section R156-11a-302a.

R156-11a-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

~~(1) failing to provide direct supervision of:~~

- ~~(a) an apprentice;~~
- ~~(b) a student attending a barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology school; or~~
- ~~(c) a student instructor;~~

~~(2) failing to obtain accreditation as a barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology school in accordance with Section R156-11a-601;~~

~~(3) failing to maintain accreditation as a barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology school after having been approved for accreditation;~~

~~(4) failing to comply with the standards of accreditation applicable to barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology schools;~~

~~(5) failing to provide adequate instruction or training as applicable to a student of a barber, cosmetology/barber, esthetics, electrology, hair design or nail technology school, or in an approved barber, cosmetology/barber, esthetics, or nail technology apprenticeship;~~

~~(6) failing to comply with Title 26, Utah Health Code;~~

~~(7) failing to comply with the apprenticeship requirements applicable to barber, cosmetologist/barber, basic esthetician, master esthetician, hair designer, or nail technician apprenticeships as set forth in Sections R156-11a-800 through R156-11a-804;~~

~~(8)~~~~(1)~~ failing to comply with the standards for school curriculums applicable to a school of barbering, cosmetology/barbering, esthetics, electrology, hair design, ~~or~~ nail technology, or eyelash and eyebrow technology ~~[schools as set forth]~~ in Sections R156-11a-700 through R156-11a-707~~(8)~~~~(7)~~~~(8)~~;

~~(9)~~~~(2)~~ using any device classified by the Food and Drug Administration as a prescriptive medical device without the appropriate level of supervision by a licensed health care practitioner acting within the licensed health care practitioner's scope of practice;

~~(10)~~~~(3)~~ performing a ~~[services]~~ service within the individual's scope of practice ~~[as a basic esthetician, or a master esthetician]~~ without having been adequately trained to perform ~~[such]~~ the service~~[s]~~;

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~~[(11)](4)~~ failing as a supervisor to provide the appropriate level of supervision ~~[while a basic esthetician, an electrologist or a master esthetician under supervision is performing service]~~ within the scope of practice ~~[as set forth]~~ in ~~[Subsections]~~ Section 58-11a-102(31), 58-11a-102(34) and 58-11a-102(39);

~~[(12)](5)~~ performing services within the scope of practice ~~[as a basic esthetician, a master esthetician or an electrologist]~~ without having the appropriate level of supervision as required ~~[by]~~ in Subsection 58-11a-102(31), 58-11a-102(34) and 58-11a-102(39);

~~[(13)](6)~~ violating any standard established in Sections R156-11a-601 through R156-11a-612;

~~[(14)](7)~~ performing a procedure while the licensee has a known contagious disease ~~[of a nature]~~ that may be transmitted by performing the procedure~~[-]~~ unless the licensee takes medically approved measures to prevent transmission of the disease; and

~~[(15)](8)~~ performing a procedure on a client who has a known contagious disease ~~[of a nature]~~ that may be transmitted by performing the procedure~~[-]~~ unless the licensee takes medically approved measures to prevent transmission of the disease.

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

~~[(1)]~~ In accordance with Subsection 58-11a-503(4), unless otherwise ordered by the presiding officer, the following fine schedule shall apply to citations issued under Title 58, Chapter 11a:

TABLE
FINE SCHEDULE

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

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

~~[(3)](2)~~ Multiple offenses may be cited on the same citation, if the citation clearly indicates each offense and the fine that is allocated to each offense.

~~[(4)](3)~~ A ~~[n investigation supervisor or the]~~ chief investigator or licensing administrator may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

~~[(5)](4)~~ The presiding officer shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

R156-11a-601. Standards for Accreditation.

~~[In accordance with]~~ Under Subsection[s] 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iv), 58-11a-302(16)(c)(iv), [and] 58-11a-302(19)(c)(iv), or 58-11a-302(22)(c)(iv), the accreditation standards for a school of barbering[-school], [a] cosmetology/barbering[-school], [an]-electrology[-school], [an]-esthetics[-school], [a]-hair design[-school], [and a]-nail technology[-school], or eyelash and eyebrow technology include the following:

(1) ~~[E]~~ each school shall be accredited by:

- (a) the National Accrediting Commission of ~~[Cosmetology]~~ Career Arts and Sciences (NACCAS); or
- (b) other accrediting bodies recognized by the U.S. Department of Education~~[-]~~;

(2) ~~[E]~~ each school shall maintain and keep the accreditation current~~[-]~~;

(3) ~~[A]~~ a newly licensed school shall pursue accreditation under this section using the following procedure:

(a) ~~[A]~~ a new school shall:

(i) within one month of the date the school was licensed as a school by the Division, submit to an accrediting commission an application for candidate status;

(ii) within 18 months of the date the school was licensed by the Division, provide the Division evidence of receiving candidate status from the accrediting commission;

(iii) file with the Utah Department of Commerce's Division of Consumer Protection a "Request for Exemption pursuant to the Postsecondary Proprietary School Act" application, pursuant to Sections 13-34-105 and [Section] R152-34-5;

(iv) during the pendency of its application for accreditation status, comply with all applicable accreditation standards; and

(v) receive approval for accreditation within 24 months following the date it achieved candidate status~~[-]~~; and

(b) ~~[F]~~ the Division shall determine whether a newly~~[-]~~ licensed school entity has succeeded a previously~~[-]~~ licensed school entity for the purposes of achieving accreditation~~[-]~~;

(c) ~~[H]~~ if a newly~~[-]~~ licensed school is determined by the Division to be a new entity, then the newly~~[-]~~ licensed school shall comply with the accreditation deadlines ~~[specified]~~ in Subsection [R156-11a-601](3)(a)[-above-]; and

(d) ~~[H]~~ if a newly~~[-]~~ licensed school is determined by the Division not to be a new entity, then the newly~~[-]~~ licensed school shall meet the accreditation deadlines previously set by its accrediting commission~~[-]~~;

- (4) ~~[F]~~the Division's determination shall be based upon whether the newly~~[-]~~ licensed school:
- (a) operates on essentially the same premises as the previously~~[-]~~ licensed school;
 - (b) uses essentially the same staff;
 - (c) operates under essentially the same ownership; and
 - (d) maintains the previously~~[-]~~ licensed school's accreditation status with the applicable governing accreditation commission~~[-]~~;
 - (5) ~~[A]~~a licensee whose accreditation has been withdrawn shall immediately notify the Division~~[-]~~; and
 - (6) ~~[A]~~a licensee who fails to obtain or maintain accreditation status~~[-]~~ as required ~~[herein]~~, shall immediately surrender its license as a school to the Division~~[-]~~ ~~its license as a school. Failure~~, and failure to do so shall constitute a basis for immediate revocation of licensure ~~[in accordance with]~~ under Section 63G-4-502.

R156-11a-602. Standards for the Physical Facility.

~~[In accordance with]~~ Under Subsection~~[s]~~ 58-11a-302(3)(c)(iii), 58-11a-302(6)(c)(iii), 58-11a-302(9)(c)(iii), 58-11a-302(13)(c)(iii), 58-11a-302(16)(c)(iii), ~~[and]~~ 58-11a-302(19)(c)(iii), or 58-11a-302(22)(c)(iii), the standards for the physical facilities for a school of [a] barbering, cosmetology/barbering, electrology, esthetics, hair design, [or] nail technology, or eyelash and eyebrow technology ~~[school]~~ shall include:

- (1) the governing standards established by the accreditation commission; and
- (2) whether or not addressed in the governing standards:
 - (a) enough of each type of training equipment so that each student has an equal opportunity to be properly trained;
 - (b) laundry facilities to maintain sanitation and sterilization; and
 - (c) appropriate amounts of clean towels, sheets, linen, sponges, headbands, compresses, robes, drapes, and other necessary linens for each student's and client's use.

R156-11a-603. Standards for a Student Kit.

(1) ~~[In accordance with]~~ Under Subsection~~[s]~~ 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iv), 58-11a-302(16)(c)(iv), ~~[and]~~ 58-11a-302(19)(c)(iv), or 58-11a-302(22)(c)(iv), a school of barbering, cosmetology/barbering, electrology, esthetics, hair design, [and] nail technology, or eyelash and eyebrow technology ~~[schools]~~ shall provide to each student a list of basic kit supplies needed by that student.

- (2) The basic kit may be supplied by the school or purchased independently by the student.

R156-11a-604. Standards for Prohibition Against Operation as a Barbershop, Salon, or Spa.

(1) ~~[In accordance with]~~ Under Subsections 58-11a-302(3)(c)(iii), 58-11a-302(6)(c)(iii), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iii), 58-11a-302(16)(c)(iii), ~~[and]~~ 58-11a-302(19)(c)(iii), and 58-11a-302(22)(c)(iii), ~~[when]~~ if a barbershop, salon, or spa is under the same ownership or is otherwise associated with a school, then the barbershop, salon, or spa shall maintain separate operations from the school.

(2) (a) If the barbershop, salon, or spa is located in the same building as a school, then separate entrances and visitor reception areas are required~~[-]~~. ~~The barbershop, salon, or spa shall also use separate public information releases, advertisements, and names than that used by the school.]; and~~

(b) A barbershop, salon, or spa shall also use separate public information releases, advertisements, and names than those used by the school.

R156-11a-605. Standards for Protection of Students.

~~[In accordance with]~~ Under Subsections 58-11a-302(3)(c)(iii) and (iv), 58-11a-302(6)(c)(iii) and (iv), 58-11a-302(9)(c)(iii) and (iv), 58-11a-302(13)(c)(iii) and (iv), 58-11a-302(16)(c)(iii) and (iv), ~~[and]~~ 58-11a-302(19)(c)(iii) and (iv), and 58-11a-302(22)(c)(iii) and (iv), the standards that a school shall provide for the protection of its students ~~[shall]~~ include the following:

- (1) ~~[H]~~if a school ceases to operate for any reason, the school shall:
 - (a) notify the Division within 15 days by registered or certified mail; and
 - (b) name a trustee who shall be responsible for:
 - (i) maintaining the student records for a minimum period of ten years; and
 - (ii) providing student information, such as accumulated hours and dates of attendance~~[-]~~;
- ~~(2) Schools shall provide a copy of the written contract prepared in accordance with Section R156-11a-607 to each student.];~~
 - (2) a school shall:
 - (a) provide to each student a copy of the written contract prepared under Section R156-11a-607; and
 - (b) keep a daily written record of student attendance;
 - (3) ~~[Schools]~~ a school ~~[shall]~~ may not:
 - (a) use a student[s] to perform maintenance, janitorial, or remodeling work such as scrubbing floors, walls or toilets, cleaning windows, waxing floors, painting, decorating, or performing any outside work on the grounds or building~~[-]~~ ~~[Students]~~ except a student may be required to clean up after themselves and to perform or participate in daily cleanup of work areas~~[-]~~ including the floor space, shampoo bowls, laundering of towels and linen, and other general cleanup duties that are related to the performance of client services~~[-]~~;
 - (4) ~~(b)~~ ~~[Schools shall not]~~ require a student[s] to sell products applicable to their industry as a condition to graduate~~[-]~~ but may provide instruction in product sales techniques as part of their curriculums~~[-]~~;
 - ~~(5) Schools shall keep a daily written record of student attendance.];~~
 - (6) ~~(c)~~ ~~[Schools shall not be permitted to]~~ remove hours earned by a student~~[-]~~ except that:
 - (i) ~~[H]~~if a student is late for class, the school may require the student to retake the class before giving credit for the class~~[-]~~; or

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~~_____~~(ii) ~~[Schools]~~a school may require a student to take a refresher course or retake a class toward graduation based upon an evaluation of the student's level of competency~~[-]; or~~

~~(7)(d)~~ ~~[In accordance with]~~Under Subsection 58-11a-502~~(3)(2)~~(a), ~~[schools shall not]~~require a student~~[s]~~ to participate in hair removal training that pertains to the genitals or anus of a client.

R156-11a-606. Standards for Protection of Schools.

~~[In accordance with]~~Under Subsection~~[s]~~ 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iv), 58-11a-302(16)(c)(iv), ~~[and]~~58-11a-302~~(47)~~(19)(c)(iv), or 58-11a-302(22)(c)(iv), the standards for the protection of a school of barbering, cosmetology/barbering, electrology, esthetics, hair design, ~~[and]~~nail technology, or eyelash and eyebrow technology ~~[schools shall]~~include the following:

(1) ~~[Schools shall]~~a school may not be required to release documentation of hours earned to a student until the student has paid the tuition or fees owed to the school as provided in the terms of the contract~~[-];~~

(2)(a) ~~[Schools]~~a school may accept a transfer student~~[s]~~. ~~Schools shall determine the number of hours to be accepted toward graduation based upon an evaluation of the student's level of training in accordance with Section R156-11a-302e.~~; and

~~_____~~(b) a school shall determine the number of hours to be accepted toward graduation based upon an evaluation of the student's level of training under Section R156-11a-302c; and

(3) ~~[H]~~any hours obtained by a student who is enrolled in an apprenticeship may not be used to satisfy any of the required hours of school instruction.

R156-11a-607. Standards for a Written Contract.

(1) ~~[In accordance with]~~Under Subsection~~[s]~~ 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iv), 58-11a-302(16)(c)(iv), ~~[and]~~58-11a-302~~(47)~~(19)(c)(iv), or 58-11a-302(22)(c)(iv), a school of barbering, cosmetology/barbering, electrology, esthetics, hair design, ~~[and]~~nail technology, or eyelash and eyebrow technology ~~[schools]~~shall complete a written contract with each student ~~[prior to]~~before admission.

(2) Each contract shall include specifically, or by reference to the school's catalogue or handbook, or both, the following:

(a) the current status of the school's accreditation;

(b) rules of conduct;

(c) attendance requirements;

(d) provisions for make-up work;

(e) grounds for probation, suspension or dismissal; and

(f) a detailed fee schedule which shall include the student's financial responsibility upon voluntarily leaving the school or upon being suspended from the school.

(3) The school shall maintain on file for each student a copy of the contract and of any referenced catalogue or handbook~~[-]~~ and shall provide a copy of the contract and any catalogue or handbook to the Division upon request.

R156-11a-608. ~~[Standards for]~~School Staff Requirements~~[of Schools]~~.

~~[In accordance with]~~Under Subsection~~[s]~~ 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iv), 58-11a-302(16)(c)(iv), ~~[and]~~58-11a-302~~(47)~~(19)(c)(iv), or 58-11a-302(22)(c)(iv), the staff requirements for a school of barbering, cosmetology/barbering, electrology, esthetics, hair design, ~~[and]~~nail technology, or eyelash and eyebrow technology ~~[schools]~~shall include the following:

(1)(a) ~~[Schools]~~a school shall have a minimum of one licensed instructor for every 20 students, or fraction thereof, attending a practical session, and one licensed instructor for any group attending a theory session~~[-]; and~~ ~~[Special guest speakers shall not reduce the required number of licensed instructors.]~~

~~_____~~(b) a special guest speaker may not reduce the required number of licensed instructors;

(2) ~~[Schools]~~a school may give credit for special workshops, training seminars, and competitions, or may invite a special guest speaker~~[s]~~ who ~~[are]~~is not licensed in accordance with Section 58-11a-302, to provide instruction or give practical demonstrations to supplement the curriculum as long as a licensed instructor from the school is present~~[-]; and~~

(3) a ~~[S]~~student instructor~~[s]~~ ~~shall~~ may not be counted as part of the instructor staff.

R156-11a-609. Standards for Instructors.

(1) ~~[In accordance with]~~Under Subsections 58-11a-102~~(34)~~(34), 58-11a-102~~(34)~~(37), 58-11a-102~~(36)~~(39), 58-11a-102~~(37)~~(40), 58-11a-102(42), 58-11a-102~~(39)~~(44), and 58-11a-102~~(42)~~(47), an instructor of barbering, cosmetology/barbering, electrology, esthetics, hair design, ~~[or]~~nail technology, or eyelash and eyebrow technology ~~[instructors]~~may teach:

(a) only in practice areas for which they have received training and are qualified to teach; and

(b) the use of a mechanical or electrical apparatus only if they are trained and qualified in its use.

(2) ~~[In accordance with]~~Under Subsection 58-11a-102~~(42)~~(13), an individual licensed as a cosmetology/barbering instructor may teach:

(a) barbering, basic esthetics, hair design, ~~[and]~~nail technology, or eyelash and eyebrow technology as part of the cosmetology/barbering or nail technology curriculums in a licensed school of barbering ~~[school]~~, a licensed cosmetology/barbering ~~[school]~~, a licensed hair design ~~[school]~~, or a licensed nail technology ~~[school]~~, or a licensed eyelash and eyebrow technology; and

(b) barbering, hair design, ~~[and]~~or basic esthetics in an approved apprenticeship in barbering, cosmetology/barbering, hair design, ~~[or]~~nail technology ~~[apprenticeship]~~, or eyelash and eyebrow technology.

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

~~In accordance with~~ Under Subsections 58-11a-102~~(32)~~~~(35)~~(b), 58-11a-102~~(40)~~~~(45)~~(a)(i)(C), and 58-11a-501(17), the standards for the use of any acid or concentration of acids~~[-]~~ shall be:

- (1) ~~[F]~~the use of any acid or acid solution that would exfoliate the skin below the stratum corneum, including those listed in Subsections (3) and (4), is prohibited unless used under the supervision of a licensed health care practitioner;
- (2) the following acids are prohibited unless used under the supervision of a licensed health care practitioner:
 - (a) phenol;
 - (b) bichloroacetic acid;
 - (c) resorcinol, except as provided in Subsection (4)(b); and
 - (d) any acid in any concentration level that requires a prescription;
- (3) limited chemical exfoliation for a basic esthetician does not include the mixing, combining, or layering of skin exfoliation products or services, but does include:
 - (a) alpha hydroxy acids of 30% or less, with a pH of not less than 3.0; and
 - (b) salicylic acid of 15% or less;
 - (4) chemical exfoliation for a master esthetician includes:
 - (a) acids allowed for a basic esthetician;
 - (b) modified ~~[j]~~Jessner solution on the face and the tissue immediately adjacent to the jaw~~[-]~~line;
 - (c) alpha hydroxy acids with a pH of not less than 1.0 and at a concentration of 50% shall include partially neutralized acids, and any acid above the concentration of 50% is prohibited;
 - (d) beta hydroxy acids with a concentration of not more than 30%;
 - (e) trichloroacetic acid, ~~in accordance with~~ under Subsection 58-11a-501(17)(c), in a concentration of not more than 15%, but no manual, mechanical, or acid exfoliation can be used ~~prior to~~ before treatment unless under the general supervision of a licensed health care practitioner; and
 - (f) vitamin-based acids;
- (5)(a) a licensee shall prepare and maintain current documentation of the licensee's cumulative experience in chemical exfoliation~~[-]~~ including:
 - (i) courses of instruction;
 - (ii) specialized training;
 - (iii) on-the-job experience; and
 - (iv) the approximate percentage that chemical exfoliation represents in the licensee's overall business; and
 - (b) a licensee shall provide the documentation required by Subsection (5)(a) to the Division upon request;
 - (6) a licensee may not use an acid or perform a chemical exfoliation that the licensee is not competent to use or perform through training and experience, and as documented ~~in accordance with~~ under Subsection (5);
 - (7) only commercially available products ~~utilized~~ used in accordance with manufacturers' instructions may be used for chemical exfoliation purposes; ~~or~~ and
 - (8) a patch test shall be administered to each client ~~prior to~~ before beginning any chemical exfoliation series.

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

~~In accordance with~~ Under Subsections 58-11a-102~~(40)~~~~(a)~~~~(i)~~~~(G)~~~~(H)~~ and ~~(H)~~, ~~(45)~~~~(a)~~~~(i)~~~~(H)~~~~(II)~~ and ~~(I)~~, the standards for approval of mechanical or electrical apparatus are:

- (1) ~~[A]~~a licensee may use a mechanical or electrical apparatus that is ~~considered~~ designated as a prescription medical device by the FDA only under the appropriate level of supervision by a licensed health care practitioner acting within the licensed health care practitioner's scope of practice~~[-]~~;
- (2) ~~[D]~~dermaplane procedures, dermabrasion procedures, blades, knives, and lancets are prohibited except for:
 - (a) advanced pedicures;
 - (b) advanced extraction of impurities from the skin; and
 - (c) dermaplane procedures for advanced exfoliation as defined in Subsection R156-11a-102~~(7)~~~~(8)~~ by a master esthetician under general supervision of a health care practitioner~~[-]~~;
- (3) ~~[F]~~the use of any procedure in which human tissue is cut or altered by laser energy or ionizing radiation is prohibited for individuals licensed under this chapter unless it is within the scope of practice for the licensee and under the appropriate level of supervision by a licensed health care practitioner acting within the licensed health care practitioner's scope of practice~~[-]~~;
- (4) To be approved, a microdermabrasion machine shall:
 - (a) be specifically labeled for cosmetic or esthetic purposes;
 - (b) be a closed-loop vacuum system that uses a tissue retention device; and
 - (c) the normal and customary use of the machine ~~does~~ may not result in the removal of the epidermis beyond the stratum corneum~~[-]~~;

and
- (5) To be approved, a microneedling device shall:
 - (a) be used only by a master esthetician:
 - (i) without supervision if needle penetration does not exceed 1.5 mm; or
 - (ii) with general supervision by a licensed health care practitioner if needle penetration exceeds 1.5 mm; and
 - (b) be used specifically for cosmetic or esthetic purposes.

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R156-11a-612. Standards for Disclosure.

~~[(1) In accordance with]~~Under Subsections 58-11a-102~~[(32)](35)(b)~~ and ~~[(40)](45)(a)(i)(C)~~ and (E), a licensee acting within the licensee's scope of practice shall inform a client of the following before applying a chemical exfoliant, using a microneedling device, or using a microdermabrasion machine:

- ~~[(a)](1)~~ the procedure may only be performed for cosmetic and not medical purposes, unless the licensee is working under the supervision of a licensed health care practitioner, who is working within the scope of the practitioner's license; and
- ~~[(b)](2)~~ the benefits and risks of the procedure.

R156-11a-700. Curriculum for Barber Schools.

~~[(In accordance with)]~~Under Subsection 58-11a-302(3)(c)(iv), the curriculum for a barber school shall consist of 1,000 hours of instruction in the following subject areas:

- (1) introduction consisting of:
 - (a) history of barbering~~[-]; and~~
 - (b) an overview of the barber curriculum;
- (2) personal, client, and shop safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) disinfection and sterilization methods and procedures; and
 - (c) health risks to the barber;
- (3) business and shop management including:
 - (a) developing a clientele;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) public relations; and
 - (f) advertising;
- (4) legal issues including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of the hair and scalp including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) decontamination; and
 - (e) infection control;
- (7) implements, tools, and equipment for barbering;
- (8) first aid;
- (9) anatomy;
- (10) science of barbering;
- (11) chemistry for barbering;
- (12) analysis of the hair and scalp;
- (13) properties of the hair, skin, and scalp;
- (14) basic hairstyling and hair cutting including:
 - (a) draping;
 - (b) clipper variations;
 - (c) scissor cutting; and
 - (d) wet and thermal styling;
- (15) shaving and razor cutting;
- (16) mustache and beard design;
- (17) elective topics; and
- (18) Barber Examination review.

R156-11a-701. Curriculum for Electrology Schools.

~~[(In accordance with)]~~Under Subsection 58-11a-302(9)(c)(iv), the curriculum for an electrology school shall consist of 600 hours of instruction in the following subject areas:

- (1) introduction consisting of:
 - (a) the history of electrology; and
 - (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) disinfection and sterilization methods and procedures; and

- (c) health risks to the electrologist;
- (3) business and salon management including:
 - (a) developing a clientele;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) public relations; and
 - (f) advertising;
- (4) legal issues including:
 - (a) malpractice and liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of hair and skin;
- (7) implements, tools, and equipment for electrology;
- (8) first aid;
- (9) anatomy;
- (10) science of electrology;
- (11) analysis of the skin;
- (12) physiology of hair and skin;
- (13) medical definitions including:
 - (a) dermatology;
 - (b) endocrinology;
 - (c) angiology; and
 - (d) neurology;
- (14) evaluating the characteristics of skin;
- (15) evaluating the characteristics of hair;
- (16) medications affecting hair growth including:
 - (a) over-the-counter preparations;
 - (b) anesthetics; and
 - (c) prescription medications;
- (17) contraindications;
- (18) disease and blood-borne pathogens control including:
 - (a) pathogenic bacteria and non-bacterial causes; and
 - (b) American Electrology Association (AEA) infection control standards;
- (19) principles of electricity and equipment including:
 - (a) types of electrical currents, their measurements and classifications;
 - (b) Food and Drug Administration (FDA) approved needle type epilation equipment;
 - (c) FDA approved hair removal devices; and
 - (d) epilator operation and care;
- (20) modalities for need type electrolysis including:
 - (a) ~~needle/probe~~needle or probe types, features, and selection;
 - (b) insertions, considerations, and accuracy;
 - (c) galvanic ~~multi-needle~~multi-needle technique;
 - (d) thermolysis manual and flash technique;
 - (e) blend and progressive epilation technique; and
 - (f) one- and two-handed techniques;
- (21) clinical procedures including:
 - (a) consultation;
 - (b) ~~health/medical~~health and medical history;
 - (c) pre and post treatment skin care;
 - (d) normal healing skin effects;
 - (e) tissue injury and complications;
 - (f) treating ingrown hairs;
 - (g) face and body treatment;
 - (h) cosmetic electrology; and
 - (i) positioning and draping;
- (22) elective topics; and
- (23) Electrology Examination review.

R156-11a-702. Curriculum for Esthetics School - Basic Esthetician Programs.

~~In accordance with~~ Under Subsection 58-11a-302(13)(c)(iv), the curriculum for an esthetics school basic esthetician program shall consist of 600 hours of instruction in the following subject areas:

- (1) introduction consisting of:
 - (a) history of esthetics; and
 - (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) disinfection and sterilization methods and procedures; and
 - (c) health risks to the basic esthetician;
- (3) business and salon management including:
 - (a) developing a clientele;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) public relations; and
 - (f) advertising.
- (4) legal issues including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of the skin including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) decontamination; and
 - (e) infection control;
- (7) implements, tools, and equipment for basic esthetics including:
 - (a) ~~high frequency~~ high-frequency or galvanic current; and
 - (b) heat lamps;
- (8) first aid;
- (9) anatomy;
- (10) science of basic esthetics;
- (11) analysis of the skin;
- (12) physiology of the skin;
- (13) facials, manual and mechanical;
- (14) limited chemical exfoliation including:
 - (a) pre-exfoliation consultation;
 - (b) post-exfoliation treatments; and
 - (c) chemical reactions;
- (15) chemistry for basic esthetics;
- (16) temporary removal of superfluous hair by waxing;
- (17) treatment of the skin;
- (18) packs and masks;
- (19) aroma therapy;
- (20) application of makeup including:
 - (a) application of artificial eyelashes;
 - (b) arching of the eyebrows; and
 - (c) tinting of the eyelashes and eyebrows;
- (21) medical devices;
- (22) cardiopulmonary resuscitation (CPR);
- (23) basic facials;
- (24) chemistry of cosmetics;
- (25) skin treatments, manual and mechanical;
- (26) massage of the face and neck;
- (27) natural nail manicures and pedicures;
- (28) elective topics; and
- (29) Esthetic Examination review.

R156-11a-703. Curriculum for Esthetics School - Master Esthetician Programs.

~~In accordance with~~ Under Subsection 58-11a-302(13)(c)(iv), the curriculum for an esthetics school master esthetician program shall consist of 1,200 hours of instruction~~;~~ 600 hours ~~[of which] shall~~ consist of the curriculum for a basic esthetician program, and the remaining 600 hours ~~[of which]~~ shall be in the following subject areas:

- (1) introduction consisting of:
 - (a) history of esthetics and master esthetics; and
 - (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) disinfection and sterilization methods and procedures; and
 - (c) health risks to the master esthetician;
- (3) business and salon management consisting of:
 - (a) developing clients;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) advertising; and
 - (f) public relations;
- (4) legal issues including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
- (5) the human immune system;
- (6) diseases and disorders of the skin including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) contamination; and
 - (e) infection controls;
- (7) implements, tools, and equipment for master esthetics;
- (8) first aid;
- (9) anatomy;
- (10) science of master esthetics;
- (11) analysis of the skin;
- (12) physiology of the skin;
- (13) advanced facials, manual and mechanical;
- (14) chemistry for master esthetics;
- (15) advanced chemical exfoliation, including:
 - (a) pre-exfoliation consultation;
 - (b) post-exfoliation treatments; and
 - (c) reactions;
- (16) temporary removal of superfluous hair by waxing and advanced waxing;
- (17) advanced pedicures;
- (18) advanced aroma therapy;
- (19) the aging process and its damage to the skin;
- (20) medical devices;
- (21) cardiopulmonary resuscitation (CPR) training;
- (22) hydrotherapy;
- (23) advanced mechanical and electrical devices including instruction in using:
 - (a) sanding and microdermabrasion techniques;
 - (b) galvanic or high-frequency current for treatment of the skin;
 - (c) devices equipped with a brush to cleanse the skin;
 - (d) devices that apply a mixture of steam and ozone to the skin;
 - (e) devices that spray water and other liquids on the skin; and
 - (f) any other mechanical devices, esthetic preparations, or procedures approved by the Division in collaboration with the Board for the care and treatment of the skin;
- (24) elective topics;
- (25) the requirements in Section R156-11a-707:

~~[(25)]~~ (26) for schools teaching lymphatic massage, ~~in accordance with~~ under Subsections 58-11a-102(39)(a)(ii) and 58-11a-302(11)(e), 200 hours of instruction is required and shall consist of:

- (a) 40 hours of training in anatomy and physiology of the lymphatic system;
- (b) 70 applications of one hour each in manual lymphatic massage of the full body; and

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(c) 90 hours of training in lymphatic massage by other means, including ~~[but not limited]~~to energy, mechanical devices, suction-assisted massage with or without rollers, compression therapy with equipment, or garment therapy; and ~~[(26)](27)~~ Master Esthetician Examination review.

R156-11a-704. Curriculum for Nail Technology Schools.

~~[In accordance with]~~Under Subsection 58-11a-302(19)(c)(iv), the curriculum for a nail technology school shall consist of 300 hours of instruction in the following subject areas:

- (1) introduction consisting of:
 - (a) history of nail technology; and
 - (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) disinfection and sterilization methods and procedures; and
 - (c) health risks to the nail technician;
- (3) business and salon management including:
 - (a) developing clientele;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) public relations; and
 - (f) advertising;
- (4) legal issues including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of the nails and skin including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) decontamination; and
 - (e) infection control;
- (7) implements, tools, and equipment for nail technology;
- (8) first aid;
- (9) anatomy;
- (10) science for nail technology;
- (11) theory of basic manicuring including hand and arm massage;
- (12) physiology of the skin and nails;
- (13) chemistry for nail technology;
- (14) artificial nail techniques consisting of:
 - (a) wraps;
 - (b) nail tips;
 - (c) gel nails;
 - (d) sculptured and other acrylic nails; and
 - (e) nail art;
- (15) pedicures and massaging the lower leg and foot;
- (16) elective topics; and
- (17) Nail Technology Examination review.

R156-11a-705. Curriculum for Cosmetology/Barber Schools.

~~[In accordance with]~~Under Subsection 58-11a-302(6)(c)(iv), the curriculum for a cosmetology/barber school shall consist of 1,600 hours of instruction in ~~[all of]~~the following subject areas:

- (1) introduction consisting of:
 - (a) history of barbering, cosmetology/barbering, esthetics, nail technology, eyelash and eyebrow technology; and
 - (b) overview of the curriculum;
- (2) personal, client, and salon safety including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) disinfection and sterilization methods and procedures; and
 - (c) health risks to the cosmetologist/barber;
- (3) business and salon management including:
 - (a) developing clientele;
 - (b) professional image;

- (c) professional ethics;
- (d) professional associations;
- (e) public relations; and
- (f) advertising;
- (4) legal issues including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of skin, nails, hair, and scalp including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) decontamination; and
 - (e) infection control;
- (7) implements, tools, and equipment for cosmetology, barbering, basic esthetics, ~~and~~ nail technology, and eyebrow and eyelash technology, including:
 - (a) ~~high frequency~~ high-frequency or galvanic current; and
 - (b) heat lamps;
 - (8) first aid;
 - (9) anatomy;
 - (10) science of cosmetology/barbering, basic esthetics, ~~and~~ nail technology, and eyebrow and eyelash technology;
 - (11) analysis of the skin, hair, and scalp;
 - (12) physiology of the human body including skin and nails;
 - (13) electricity and light therapy;
 - (14) limited chemical exfoliation including:
 - (a) pre-exfoliation consultation;
 - (b) post-exfoliation treatments; and
 - (c) chemical reactions;
 - (15) chemistry for cosmetology/barbering, basic esthetics, ~~and~~ nail technology, and eyebrow and eyelash technology;
 - (16) temporary removal of superfluous hair including by waxing;
 - (17) properties of the hair, skin, and scalp;
 - (18) basic hairstyling including:
 - (a) wet and thermal styling;
 - (b) permanent waving;
 - (c) hair coloring;
 - (d) chemical hair relaxing; and
 - (e) thermal hair straightening;
 - (19) haircuts including:
 - (a) draping;
 - (b) clipper variations;
 - (c) scissor cutting;
 - (d) shaving; and
 - (e) wigs and artificial hair;
 - (20) razor cutting;
 - (21) mustache and beard design;
 - (22) basic esthetics including:
 - (a) treatment of the skin, manual and mechanical;
 - (b) packs and masks;
 - (c) aroma therapy;
 - (d) chemistry of cosmetics;
 - (e) application of makeup including:
 - (i) application of artificial eyelashes;
 - (ii) arching of the eyebrows; and
 - (iii) tinting of the eyelashes and eyebrows;
 - (f) massage of the face and neck; and
 - (g) natural manicures and pedicures;
 - (23) medical devices;
 - (24) cardiopulmonary resuscitation (CPR);
 - (25) artificial nail techniques consisting of:
 - (a) wraps;
 - (b) nail tips;

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- (c) gel nails;
- (d) sculptured and other acrylic nails; and
- (e) nail art;
- (26) pedicures and massaging of the lower leg and foot;
- ~~(27)~~ (28) the requirements in Section R156-11a-707;
- ~~(27)~~ (28) elective topics; and
- ~~(28)~~ (29) Cosmetology/Barber Examination review.

R156-11a-706. Curriculum for Hair Design Schools.

~~In accordance with~~ Under Subsection 58-11a-302(16)(c)(iv), the curriculum for a hair design school shall consist of 1,200 hours of instruction in the following subject areas:

- (1) introduction~~[-]~~ consisting of:
 - (a) history of hair design; and
 - (b) overview of the curriculum;
- (2) personal, client, and salon safety, including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) disinfection and sterilization methods and procedures; and
 - (c) health risks to the hair designer;
- (3) business and salon management~~[-]~~ including:
 - (a) developing clientele;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) public relations; and
 - (f) advertising;
- (4) legal issues, including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of hair and scalp, including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) decontamination; and
 - (e) infection control;
- (7) implements, tools, and equipment for hair design, including:
 - (a) ~~high frequency~~ high-frequency current; and
 - (b) heat lamps;
- (8) first aid;
- (9) anatomy;
- (10) science of hair design;
- (11) analysis of the hair and scalp;
- (12) physiology of the human body;
- (13) electricity and light therapy;
- (14) chemical reactions;
- (15) chemistry for hair design;
- (16) properties of the hair and scalp;
- (17) basic hairstyling including:
 - (a) wet and thermal styling;
 - (b) permanent waving;
 - (c) hair coloring;
 - (d) chemical hair relaxing; and
 - (e) thermal hair straightening;
- (18) haircuts, including:
 - (a) draping;
 - (b) clipper variations;
 - (c) scissor cutting;
 - (d) shaving; and
 - (e) wigs and artificial hair;
- (19) razor cutting;
- (20) mustache and beard design;

- (21) cardio[-]pulmonary resuscitation_(CPR);
- (22) elective topics; and
- (23) Hair Designer Examination review.

R156-11a-707. Curriculum for Eyelash and Eyebrow Technology Schools.

Under Subsection 58-11a-302(22)(c)(iv), the curriculum for an eyelash and eyebrow technology school shall consist of 100 hours of instruction in the following subject areas:

- (1) introduction consisting of:
 - (a) history of eyelash and eyebrow technology; and
 - (b) overview of the curriculum;
- (2) personal, client, and salon safety, including:
 - (a) aseptic techniques and sanitary procedures;
 - (b) disinfection and sterilization methods and procedures; and
 - (c) health risks to the eyelash and eyebrow technician;
- (3) business and salon management including:
 - (a) developing clientele;
 - (b) professional image;
 - (c) professional ethics;
 - (d) professional associations;
 - (e) public relations; and
 - (f) advertising;
- (4) legal issues, including:
 - (a) malpractice liability;
 - (b) regulatory agencies; and
 - (c) tax laws;
- (5) human immune system;
- (6) diseases, disorders, and allergies of the eye area, including:
 - (a) bacteriology;
 - (b) sanitation;
 - (c) sterilization;
 - (d) decontamination; and
 - (e) infection control;
- (7) implements, tools, and equipment for eyelash and eyebrow;
- (8) first aid;
- (9) anatomy and physiology of the eye area;
- (10) application of makeup including:
 - (a) application of artificial eyelashes;
 - (b) arching of the eyebrows; and
 - (c) tinting of the eyelashes and eyebrows;
- (11) chemical reactions;
- (12) chemistry for eyelash and eyebrow design;
- (13) eyebrow shaping;
- (14) eyelash and eyebrow extension including:
 - (a) preparation;
 - (b) application;
 - (c) aftercare; and
 - (d) removal;
- (15) eyelash and eyebrow chemical services including:
 - (a) lash lift;
 - (b) brow lamination;
 - (c) lash tinting;
 - (d) brow tinting; and
 - (e) aftercare;
- (16) contraindications;
- (17) elective topics; and
- (18) Eyebrow and Eyelash Examination review.

R156-11a-[707]708. Curriculum for Instructor Schools.

[In accordance with]Under Subsection[s] 58-11a-302(2)[(e)](d)(i), 58-11a-302(5)[(e)](d)(i), 58-11a-302(8)[(e)](d)(i), 58-11a-302(12)[(e)](d)(i), 58-11a-302(15)[(e)](d)(i), [and]58-11a-302(18)[(e)](d)(i), or 58-11a-302(21)(d)(i), the curriculum for an approved instructor school shall consist of instructor training in the following subjects:

- (1) motivation and the learning process;

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- (2) teacher preparation;
- (3) teaching methods;
- (4) classroom management;
- (5) testing;
- (6) instructional evaluation;
- (7) laws, rules, and regulations; and
- (8) Barber, Cosmetology/Barber, Esthetics (Master level), Electrology, Hair Designer, ~~and~~ Nail Technology, and Eyebrow and Eyelash Technology Instructors Examination review.

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

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

- (1)(a) ~~In accordance with~~ under Subsection 58-11a-306(1)(b)(ii), an instructor shall provide one-on-one direct supervision of their apprentice during the apprenticeship program~~[-]~~, but ~~[F]~~ this does not preclude an instructor from having more than one apprentice~~[-]~~; and
 - (b) ~~[F]~~ if an instructor has more than one apprentice:
 - (i) the instructor may not simultaneously supervise the apprentices; and
 - (ii) the same hour or hours of instruction may not be credited toward more than one apprentice~~[-]~~;
 - (2) ~~[F]~~ the apprentice shall register with the Division by submitting a form prescribed by the Division~~[-]~~;
 - (3) The instructor shall be approved by the Division for the apprenticeship~~[-]~~, and ~~[F]~~ the instructor may not have had any disciplinary action in the preceding three years~~[-]~~;
 - (4) ~~[F]~~ there shall be a conspicuous sign near the ~~[work station]~~ workstation of the apprentice stating, "Apprentice in Training~~[-]~~";
 - (5)(a) ~~[F]~~ the instructor and apprentice shall keep a daily record that documents the total number of hours of training, ~~[to]~~ which shall

include:

- (i) the hours of theory instruction;
- (ii) the hours of practical instruction; and
- (iii) the number and type of client services performed, and other services performed~~[-]~~; and
- (b) ~~[F]~~ the daily record shall be available to the Division immediately upon request~~[-]~~;
- (6) ~~[A]~~ a complete set of barber texts shall be available to the apprentice~~[-]~~;
- (7) ~~[A]~~ an apprentice may be compensated for services performed~~[-]~~;
- (8) ~~[F]~~ the instructor shall provide training and technical instruction of 1,250 hours using the curriculum defined in Section R156-11a-700~~[-]~~;
- (9) ~~[F]~~ the instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days~~[-]~~;
- (10) ~~[A]~~ an apprentice may not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects ~~[specified]~~ in Section R156-11a-700~~[-]~~;
- (11) ~~[Any]~~ hours obtained while enrolled in a ~~[school of barbering]~~ school, ~~[or a]~~ cosmetology/barbering~~[school]~~, or hair design ~~[school]~~ may not be used to satisfy the required 1,250 hours of apprentice training~~[-]~~; and
- (12) ~~[F]~~ if an apprentice completes the apprenticeship and fails the NIC Barber Theory Examination or NIC Barber Practical Examination three times, the apprentice and instructor shall:
 - (a) meet with the Board at the next appropriate Board meeting;
 - (b) explain to the Board why the apprentice is not able to pass the examination; and
 - (c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

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

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

- (1)(a) ~~In accordance with~~ under Subsection 58-11a-306(2)(b)(ii), an instructor shall provide one-on-one direct supervision of their apprentice during the apprenticeship program~~[-]~~, but ~~[F]~~ this does not preclude an instructor from having more than one apprentice~~[-]~~; and
 - (b) ~~[F]~~ if an instructor has more than one apprentice:
 - (i) the instructor may not simultaneously supervise the apprentices; and
 - (ii) the same hour or hours of instruction may not be credited toward more than one apprentice~~[-]~~;
 - (2) ~~[F]~~ the apprentice shall be registered with the Division by submitting a form prescribed by the Division~~[-]~~;
 - (3) ~~[F]~~ the instructor shall be approved by the Division for the apprenticeship~~[-]~~, but ~~[F]~~ the instructor may not have had any disciplinary action in the preceding three years~~[-]~~;
 - (4) ~~[F]~~ there shall be a conspicuous sign near the ~~[work station]~~ workstation of the apprentice stating, "Apprentice in Training~~[-]~~";
 - (5)(a) ~~[F]~~ the instructor and apprentice shall keep a daily record that documents the total number of hours of training, ~~[to]~~ which shall

include~~[the following]~~:

- (i) the hours of theory instruction;
- (ii) the hours of practical instruction; and
- (iii) the number and type of client services performed, and other services performed~~[-]~~; and
- (b) ~~[F]~~ the daily record shall be immediately available to the Division upon request~~[-]~~;
- (6) ~~[A]~~ a complete set of cosmetology/barber texts shall be available to the apprentice~~[-]~~;

- (7) ~~[A]~~an apprentice may be compensated for services performed[-];
- (8) ~~[F]~~the instructor shall provide training and technical instruction of 2,500 hours using the curriculum defined in Section R156-11a-705[-];
- (9) ~~[F]~~the instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days[-];
- (10) ~~[A]~~an apprentice may not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects ~~[specified]~~ in Section R156-11a-705[-];
- (11) ~~[H]~~any hours obtained while enrolled in a cosmetology/barber school may not be used to satisfy the required 2,500 hours of apprentice training[-]; and
- (12) ~~[I]~~if an apprentice completes the apprenticeship and fails the NIC Barber/Cosmetology Theory Examination or NIC Barber/Cosmetology Practical Examination three times, the apprentice and instructor shall:
- meet with the Board at the next appropriate Board meeting;
 - explain to the Board why the apprentice is not able to pass the examination; and
 - provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

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

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

- (1)(a) ~~[In accordance with]~~under Subsection 58-11a-306~~(3)~~(4)(b)(ii), an instructor shall provide one-on-one direct supervision of their apprentice during the apprenticeship ~~program~~, but ~~[F]~~this does not preclude an instructor from having more than one apprentice[-]; and
- (b) ~~[I]~~if an instructor has more than one apprentice:
- the instructor may not simultaneously supervise the apprentices; and
 - the same hour or hours of instruction may not be credited toward more than one apprentice[-];
- (2) ~~[F]~~the apprentice shall be registered with the Division by submitting a form prescribed by the Division[-];
- (3) ~~[F]~~the instructor shall be approved by the Division for the apprenticeship[-], but ~~[F]~~the instructor may not have had any disciplinary action in the preceding three years[-];
- (4) ~~[F]~~there shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training[-]";
- (5)(a) ~~[F]~~the instructor and apprentice shall keep a daily record that documents the total number of hours of training, ~~[to]~~ which shall

include:

- the hours of theory instruction;
 - the hours of practical instruction; and
 - the number and type of client services performed, and other services performed[-]; and
- (b) ~~[F]~~the daily record shall be immediately available to the Division upon request[-];
- (6) ~~[A]~~a complete set of esthetics texts shall be available to the apprentice[-];
- (7) ~~[A]~~an apprentice may be compensated for services performed[-];
- (8) ~~[F]~~the instructor shall provide training and technical instruction of 800 hours using the curriculum defined in Section R156-11a-702[-];
- (9) ~~[F]~~the instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days[-];
- (10) ~~[A]~~an apprentice may not perform work on the public until the apprentice has received at least 10% of the hours required in technical training, with at least a portion of that time devoted to each of the subjects ~~[specified]~~ in Section R156-11a-702[-];
- (11) ~~[H]~~any hours obtained while enrolled in a~~[a]~~ school of esthetics ~~[school]~~ or a~~[a]~~ cosmetology/barbering ~~[school]~~ may not be used to satisfy the required 800 hours of apprentice training[-]; and
- (12) ~~[I]~~if an apprentice completes the apprenticeship and fails the NIC Esthetics Theory Examination or NIC Esthetics Practical Examination three times, the apprentice and instructor shall:
- meet with the Board at the next appropriate Board meeting;
 - explain to the Board why the apprentice is not able to pass the examination; and
 - provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

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

~~[In accordance with]~~Under Subsection 58-11a-102~~(3)~~(5), the requirements for an approved master esthetician apprenticeship include the following:

- (1)(a) ~~[In accordance with]~~under Subsection 58-11a-306~~(4)~~(5)(b)(ii), an instructor shall provide one-on-one direct supervision of their apprentice during the apprenticeship program[-], but ~~[F]~~this does not preclude an instructor from having more than one apprentice[-]; and
- (b) ~~[I]~~if an instructor has more than one apprentice:
- the instructor may not simultaneously supervise the apprentices; and
 - the same hour or hours of instruction may not be credited toward more than one apprentice[-];
- (2) ~~[F]~~the apprentice shall be registered with the Division by submitting a form prescribed by the Division[-];
- (3) ~~[F]~~the instructor shall be approved by the Division for the apprenticeship[-], but ~~[F]~~the instructor may not have had any disciplinary action in the preceding three years[-];
- (4) ~~[F]~~there shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training[-]";

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(5)(a) The instructor and apprentice shall keep a daily record that documents the total number of hours of training, ~~(to)~~which shall include:

- (i) the hours of theory instruction;
- (ii) the hours of practical instruction; and
- (iii) the number and type of client services performed, and other services performed[-]; and
- (b) ~~(F)~~the daily record shall be immediately available to the Division upon request[-];
- (6) ~~(A)~~a complete set of esthetics texts shall be available to the apprentice[-];
- (7) ~~(A)~~an apprentice may be compensated for services performed[-];
- (8) ~~(F)~~the instructor shall provide training and technical instruction of 1,500 hours using the curriculum defined in Section R156-11a-703[-];

(9) ~~(F)~~the instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days[-];

(10) ~~(A)~~an apprentice may not perform work on the public until the apprentice has received at least 10% of the required hours of technical training, with at least a portion of that time devoted to each of the subjects ~~[specified]~~in Section R156-11a-703[-];

(11) ~~(H)~~any hours obtained while enrolled in a ~~(a)~~ school of esthetics ~~[school]~~or ~~(a)~~cosmetology/barbering ~~[school]~~may not be used to satisfy the required 1,500 hours of apprentice training[-]; and

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

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

R156-11a-804. Approved Hair Designer Apprenticeship Requirements.

~~[In accordance with]~~Under Subsection 58-11a-102~~(3)~~(4), the requirements for an approved hair designer apprenticeship include the following:

(1)(a) ~~[In accordance with]~~under Subsection 58-11a-306(3)(b)(ii), an instructor shall provide one-on-one direct supervision of their apprentice during the apprenticeship program[-], but ~~(F)~~this does not preclude an instructor from having more than one apprentice[-]; and

- (b) ~~(H)~~if an instructor has more than one apprentice:
 - (i) the instructor may not simultaneously supervise the apprentices; and
 - (ii) the same hour or hours of instruction may not be credited toward more than one apprentice[-];
- (2) ~~(F)~~the apprentice shall be registered with the Division by submitting a form prescribed by the Division[-];
- (3) ~~(F)~~the instructor shall be approved by the Division for the apprenticeship[-], but ~~(F)~~the instructor may not have had any disciplinary action in the preceding three years[-];
- (4) ~~(F)~~there shall be a conspicuous sign near the ~~[work station]~~workstation of the apprentice stating, "Apprentice in ~~(F)~~Training[-]";

(5)(a) The instructor and apprentice shall keep a daily record that documents the total number of hours of training, ~~(to)~~which shall include:

- (i) the hours of theory instruction;
- (ii) the hours of practical instruction; and
- (iii) the number and type of client services performed, and other services performed[-]; and
- (b) ~~(F)~~the daily record shall be available to the Division immediately upon request[-];
- (6) ~~(A)~~a complete set of hair designer texts shall be available to the apprentice[-];
- (7) ~~(A)~~an apprentice may be compensated for services performed[-];
- (8) ~~(F)~~the instructor shall provide training and technical instruction of 1,600 hours using the curriculum defined in Section R156-11a-~~(705)~~706[-];

(9) ~~(F)~~the instructor shall limit the training of the apprentice to not more than 40 hours per week, and not more than five days out of every seven consecutive days[-];

(10) ~~(A)~~an apprentice may not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects ~~[specified]~~in Section R156-11a-706[-];

(11) ~~(H)~~any hours obtained while enrolled in a school of barbering, cosmetology/barbering, or hair design ~~[school]~~may not be used to satisfy the required 1,600 hours of apprentice training[-]; and

(12) ~~(H)~~if an apprentice completes the apprenticeship and fails the NIC Hair Designer Theory Examination or NIC Hair Designer Practical Examination three times, the apprentice and instructor shall:

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

R156-11a-805. Approved Nail Technician Apprenticeship Requirements.

~~[In accordance with]~~Under Subsection 58-11a-102~~(4)~~(6), the requirements for an approved nail technician apprenticeship include the following:

(1)(a) ~~[In accordance with]~~under Subsections 58-11a-306~~(5)~~(6)(b)(ii) and (iii), an instructor ~~[is required to]~~shall provide ~~[one-on-two]~~one-on-one direct supervision of ~~[their apprentices]~~a single apprentice during the apprenticeship program~~[—]~~ or one-on-two direct supervision to two apprentices during the apprenticeship program. but ~~(F)~~this does not preclude an instructor from having more than two

~~apprentices; and~~; however, if an instructor has more than two apprentices, the instructor may not simultaneously supervise more than two apprentices, and the same hour or hours of instruction may not be credited toward more than two apprentices.]

~~(b) if an instructor has more than two apprentices:~~

~~(i) the instructor may not simultaneously supervise more than two apprentices; and~~

~~(ii) the same hour or hours of instruction may not be credited toward more than two apprentices;~~

~~(2) [F]the apprentice shall be registered with the Division by submitting a form prescribed by the Division[-];~~

~~(3) [F]the instructor shall be approved by the Division for the apprenticeship[-], but [-F]the instructor may not have had any disciplinary action in the preceding three years[-];~~

~~(4) [F]there shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training[-]";~~

~~(5)(a) [F]the instructor and apprentice shall keep a daily record that documents the total number of hours of training, [te]which shall include:~~

~~(i) the hours of theory instruction;~~

~~(ii) the hours of practical instruction; and~~

~~(iii) the number and type of client services performed, and other services performed[-]; and~~

~~(b) [F]the daily record shall be immediately available to the Division upon request[-];~~

~~(6) [A]a complete set of nail technician texts shall be available to the apprentice[-];~~

~~(7) [A]an apprentice may be compensated for services performed[-];~~

~~(8) [F]the instructor shall provide training and technical instruction of 375 hours using the curriculum defined in Section R156-11a-704[-];~~

~~(9) [F]the instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days[-];~~

~~(10) [A]an apprentice may not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects [specified]in Section R156-11a-704[-];~~

~~(11) [H]any hours obtained while enrolled in a school of nail technology [school]or [a]cosmetology/barbering [school]may not be used to satisfy the required 375 hours of apprentice training[-]; and~~

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

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

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

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

R156-11a-806. Approved Eyelash and Eyebrow Technician Apprenticeship Requirements.

Under Subsection 58-11a-102(3), the requirements for an approved eyelash and eyebrow technician apprenticeship include the following:

(1)(a) under Subsections 58-11a-306(7)(b)(ii) and (iii), an instructor shall provide one-on-one direct supervision of a single apprentice during the apprenticeship program or one-on-two direct supervision of two apprentices during the apprenticeship program, but this does not preclude an instructor from having more than two apprentices; and

(b) if an instructor has more than two apprentices:

(i) the instructor may not simultaneously supervise more than two apprentices; and

(ii) the same hour or hours of instruction may not be credited toward more than two apprentices;

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

(3) the instructor shall be approved by the Division for the apprenticeship, but the instructor may not have had any disciplinary action in the preceding three years;

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

(5)(a) the instructor and apprentice shall keep a daily record that documents the total number of hours of training, which shall include:

(i) the hours of theory instruction;

(ii) the hours of practical instruction; and

(iii) the number and type of client services performed, and other services performed; and

(b) the daily record shall be immediately available to the Division upon request;

(6) a complete set of eyelash and eyebrow technician texts shall be available to the apprentice;

(7) an apprentice may be compensated for services performed;

(8) the instructor shall provide training and technical instruction of 125 hours using the curriculum defined in Section R156-11a-707;

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

(10) an apprentice may not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects in Section R156-11a-707;

(11) any hours obtained while enrolled in a school of eyelash and eyebrow technology or cosmetology/barbering may not be used to satisfy the required 125 hours of apprentice training; and

(12) if an apprentice completes the apprenticeship and fails the NIC Eyelash and Eyebrow Technology Theory Examination or NIC Eyelash and Eyebrow Technology Practical Examination three times, the apprentice and instructor shall:

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

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

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

R156-11a-~~806~~810. Conflicts of Interest.

An apprentice instructor may not be an employee of an apprentice or be involved in any relationship with an apprentice or others that would interfere with the instructor's ability to teach and train the apprentice.

R156-11a-901. Standards for an On-the-Job Training Internship.

~~In accordance with~~ Under Subsection 58-11a-304(8), a student[s] enrolled in a licensed cosmetology/barber school may participate in an on-the-job training internship if the ~~y~~ student meets the following requirements:

(1) ~~The~~ on-the-job training intern shall have completed at least 1,000 hours of the training contracted with a cosmetology/barber school, of which 400 hours shall be clinical hours[-];

(2) ~~There~~ shall be a conspicuous sign near the ~~work station~~ workstation of the on-the-job training intern stating, "Intern in Training"[-];

(3) ~~A~~ a licensed "on-site" cosmetology/barber shall supervise only one on-the-job training intern at a time[-];

(4) ~~An~~ an on-the-job training intern, while working under the direct supervision of an "on-site" licensed cosmetologist/barber, may perform the following procedures:

- (a) draping;
- (b) shampooing;
- (c) roller setting;
- (d) blow drying styling;
- (e) applying color;
- (f) removing color by rinsing and shampooing;
- (g) removing permanent chemicals;
- (h) removing permanent rods;
- (i) removing rollers;
- (j) applying temporary rinses, reconditioners, and rebuilders;
- (k) acting as receptionists;
- (l) doing retail sales;
- (m) sanitizing the salon;
- (o) doing inventory and ordering supplies; and
- (p) handing equipment to the cosmetologist/barber supervisor[-];

(5) ~~The~~ "on-site" cosmetologist/barber supervisor shall have in the supervisor's possession a letter, which must be updated on a quarterly basis, from the school where the on-the-job training intern is enrolled stating that the on-the-job training intern is currently in good standing at the school and is complying with school requirements[-]; and

(6) ~~Hours~~ hours of training spent while performing on-the-job training as an intern ~~shall~~ may not apply toward[s] credits required for graduation.

R156-11a-902. Standards for ~~an~~ On-the-Job Instructor Training.

(1) ~~In accordance with~~ Under Subsection[s] 58-11a-302(2)~~(e)~~(d)(ii), 58-11a-302(5)~~(e)~~(d)(ii), 58-11a-302(8)~~(e)~~(d)(ii), 58-11a-302(12)~~(e)~~(d)(ii), 58-11a-302(15)~~(e)~~(d)(ii), ~~and~~ 58-11a-302(18)~~(e)~~(d)(ii), or 58-11a-302(21)(d)(ii), an ~~employee of~~ individual employed by a licensed school of barbering, cosmetology/barbering, electrology, esthetics, hair design, ~~or~~ nail technology, or eyelash and eyebrow technology ~~school~~ may obtain on-the-job training to become a licensed instructor if they meet the ~~following~~ requirements of this section.

(2) The on-the-job instructor training shall be under the supervision of an instructor licensed as an instructor in the same category as the trainee, except that an instructor providing on-the-job instructor training supervision for basic esthetics instruction shall be licensed as a master esthetician.

(3) The instructor trainee shall have an active license in the same category for which the instructor trainee is seeking licensure to instruct, except an instructor trainee receiving on-the-job training to instruct basic esthetics shall be licensed as a master esthetician.

(4) The on-the-job instructor training shall include ~~all of~~ the following categories:

- (a) motivation and the learning process;
- (b) teacher preparation;
- (c) teaching methods;
- (d) classroom management;
- (e) testing;
- (f) instructional evaluation;
- (g) laws, rules, and regulations; and
- (h) Barber, Cosmetology/Barber, Esthetics (Master level), Electrology, Hair Design, ~~and~~ Nail Technology, and Eyelash and Eyebrow Technology Instructors Examination review.

(5) The instructor trainee ~~shall~~ may not count toward the instructor-to-student ratio.

(6) The on-the-job instructor training shall be completed within one year, unless the instructor trainee provides documentation of extenuating circumstances justifying an extension.

KEY: barber, cosmetologist, cosmetologist[s]/barber[s], esthetician[s], electrologist[s], hair designer, nail technician[s], eyelash and eyebrow technician

Date of Last Change: ~~December 17, 2020~~ 2024

Notice of Continuation: January 10, 2022

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

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R156-17b	Filing ID: 56878

Agency Information

1. Title catchline:	Commerce, Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E. 300 S.	
City, state:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 145741	
City, state and zip:	Salt Lake City, UT 84114-5741	
Contact persons:		
Name:	Phone:	Email:
Matt Johnson	801-530-6628	mmjohnson@utah.gov
Jim Garfield	801-530-6458	jimgarfield@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R156-17b. Pharmacy Practice Act Rule
3. Purpose of the new rule or reason for the change:
This amendment addresses rule changes required by legislative changes made during the 2024 General Session.
4. Summary of the new rule or change:
This amendment addresses changes required by legislation passed during the 2024 General Session.
Four laws were passed during this session that impacted the Pharmacy Practice Act: 2024 S.B. 207, 2024 S.B. 130, 2024 H.B. 132, and 2024 H.B. 534. Some (though not all) of these changes require amendments to bring the rule into compliance with the amended Pharmacy Practice Act.
2024 S.B. 207 – Pharmacy Practice Act Amendments. Among its provisions, this act required the Division to amend the rule by (1) allowing licensed pharmaceutical facilities to change their name or address without having to apply for a new license, and (2) removing the requirements that an individual employed by a pharmaceutical facility identify themselves by their license status. This change requires amendments to rules that currently require a new license application (and license identification number) for any change of address or name and rules that currently define failure by a licensee to identify by license status as unprofessional conduct.
2024 S.B. 130 – Overdose Outreach Provider Amendments. This act expands the definition of "overdose outreach provider" to include social workers and substance use disorder counselors. This change, however, does not impact the rule since its use of the term "overdose outreach provider," in the rule refers to the Pharmacy Practice Act's definition.
2024 H.B. 132 – Pharmacy Amendments. This act requires the Division, in consultation with certain licensing boards, to develop a therapeutically similar drug list. At this time, the licensing boards have not approved any drugs to be added to this list. The proposed amendment, however, creates and reserves Section R156-17b-612c for future use in establishing a therapeutically similar drug list.

2024 H.B. 534 – Boards and Commissions Modifications. This act combined the Physicians Licensing Board, Osteopathic Physician and Surgeon’s Licensing Board, and the Physician Assistant Licensing Board into a single "Medical Licensing Board." While the Utah Board of Pharmacy was not part of this combination, references to these now merged boards needed to be amended in the rule.

Additionally, this amendment makes nonsubstantive formatting changes to bring the rule into conformity with current Division drafting standards.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
All the proposed amendments to this rule are due to legislative changes made during the 2024 General Session. All costs relating to those changes (including the costs or savings of implementing the rule changes proposed here) were included the fiscal notes to the respective legislative bills. This rule change, therefore, will not have any anticipated fiscal impact on the state budget beyond what was stated in those fiscal notes.
B) Local governments:
All the proposed amendments to this rule are due to legislative changes made during the 2024 General Session. All costs relating to those changes (including the costs or savings of implementing the rule changes proposed here) were included the fiscal notes to the respective legislative bills. This rule change, therefore, will not have any anticipated fiscal impact on the budgets of local governments beyond what was stated in those fiscal notes.
C) Small businesses ("small business" means a business employing 1-49 persons):
All the proposed amendments to this rule are due to legislative changes made during the 2024 General Session. All costs relating to those changes (including the costs or savings of implementing the rule changes proposed here) were included the fiscal notes to the respective legislative bills. This rule change, therefore, will not have any anticipated fiscal impact on small businesses beyond what was stated in those fiscal notes.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
All the proposed amendments to this rule are due to legislative changes made during the 2024 General Session. All costs relating to those changes (including the costs or savings of implementing the rule changes proposed here) were included the fiscal notes to the respective legislative bills. This rule change, therefore, will not have any anticipated fiscal impact on non-small businesses beyond what was stated in those fiscal notes.
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 <i>agency</i>):
All the proposed amendments to this rule are due to legislative changes made during the 2024 General Session. All costs relating to those changes (including the costs or savings of implementing the rule changes proposed here) were included the fiscal notes to the respective legislative bills. This rule change, therefore, will not have any anticipated fiscal impact on persons other than small businesses, non-small businesses, state, or local governments beyond what was stated in those fiscal notes.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
All the proposed amendments to this rule are due to legislative changes made during the 2024 General Session. All costs relating to those changes (including the costs or savings of implementing the rule changes proposed here) were included the fiscal notes to the respective the legislative bills. This rule change, therefore, will not have any anticipated fiscal impact for affected persons beyond what was stated in those fiscal notes.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Commerce, Margaret Busse, 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 63G-3-201	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)
Section 58-17b-101	Subsection 58-17b-601(1)	Section 58-37-1

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: 12/16/2024

B) A public hearing will be held:

Date:	Time:	Place (physical address or URL):
11/19/2024	03:00 PM	160 E. 300 S, 4th floor, Salt Lake City, UT, via Google Meet: meet.google.com/ipj-ysqh-mkk via Telephone: 361-436-8078 PIN: 526 971 173# 617-675-4444 PIN: 620 878 382 9464#

9. This rule change MAY become effective on: 12/23/2024

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:	Mark B. Steinagel, Division Director	Date:	10/24/2024
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R156. Commerce, Professional Licensing.

R156-17b. Pharmacy Practice Act Rule.

R156-17b-102. Definitions.

The following definitions supplement the statutory definitions in Title[-] 58, Chapter 1, Division of Professional Licensing Act, and Title 58, Chapter 17b, Pharmacy Practice Act:

- (1) "Accredited by" means that, on the day the applicant for licensure completed the program, the program was:
 - (a) accredited; or
 - (b) in candidate status.
- (2) "ACPE" means the American Council on Pharmaceutical Education or Accreditation Council for Pharmacy Education.
- (3) "Analytical laboratory":
 - (a) means a facility in possession of prescription drugs for analysis; and
 - (b) does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis, if the prescription drugs are pre-diluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in-vitro diagnostic use.
- (4) "Area of need" as used in Subsection 58-17b-612(1)(b)(i) means:
 - (a) a remote-rural hospital, as defined in Section ~~26B-2-213~~~~[26-21-13.6];~~
 - (b) a county of the fourth, fifth, or sixth class, as classified in Section 17-50-501; or
 - (c) any area where a demonstration of need is approved by the Division in collaboration with the Board, based on any factors affecting the access of persons in that area to pharmacy resources.
- (5) "ASHP" means the American Society of Health System Pharmacists.
- (6) "Authorized distributor of record" means a pharmaceutical wholesaler with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drugs. An ongoing relationship is deemed to exist ~~if: [-, as defined in Section 1504 of the Internal Revenue Code, if the pharmaceutical wholesaler.]~~
 - (a) ~~the manufacturer and pharmaceutical wholesaler is part of an affiliated group, as defined by Section 1504 of the Internal Revenue Code; or~~
 - (b) ~~the pharmaceutical wholesaler has a written agreement currently in effect with the manufacturer evidencing the ongoing relationship and is listed of authorized distributors of record.~~
 - ~~(a) has a written agreement currently in effect with the manufacturer evidencing the ongoing relationship; and~~
 - ~~(b) is listed on the manufacturer's current list of authorized distributors of record.]~~
- (7) "Authorized personnel" means any person who is a part of the pharmacy staff who participates in the pharmacy's operational processes ~~[of the pharmacy]~~ and contributes to the natural flow of pharmaceutical care.
- (8) "Chain pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of the prescription drugs to a group of chain pharmacies with the same common ownership and control.
- (9) "Clinic" as used in Subsection 58-17b-625(3)(b) means a Class B pharmacy as defined in Subsection 58-17b-102(11), or a facility that provides outpatient health care services whose primary practice includes the therapeutic use of drugs related to a specific patient for:
 - (a) curing or preventing the patient's disease;
 - (b) eliminating or reducing the patient's disease; or
 - (c) arresting or slowing a disease process.
- (10) "Co-licensed partner" means a person that has the right to engage in the manufacturing or marketing of a co-licensed product.
- (11) "Co-licensed product" means a device or prescription drug for which two or more persons have the right to engage in the manufacturing, marketing, or both consistent with 21 CFR 203 (2021).
- (12) "Community pharmacy" as used in Subsection 58-17b-625(3)(b) means a Class A pharmacy as defined in Subsection 58-17b-102(10).
- (13) "Compounding," as defined in Subsection 58-17b-102(18), in accordance with 21 U.S.C. 353a(e) Pharmacy Compounding, does not include:
 - (a) mixing, reconstituting, or other such acts that are performed in accordance with directions in approved labeling provided by the product's manufacturer and other manufacturer directions consistent with that labeling; or
 - (b) the addition of flavoring agents to conventionally manufactured and commercially prepared available liquid medications, if the flavoring agents:
 - (i) are therapeutically inert; and
 - (ii) do not exceed 5% of a preparation's total volume.
- (14) "Consulting pharmacist" means a licensed pharmacist who provides consultation on an aspect of a pharmaceutical administration facility under Section R156-17b-614c.
- (15) "Cooperative pharmacy warehouse" means a physical location for drugs that acts as a central warehouse and is owned, operated or affiliated with a group purchasing organization (GPO) or pharmacy buying cooperative and distributes those drugs exclusively to its members.

(16) "Counterfeit prescription drug" has the meaning given ~~that~~ to the term "counterfeit drug" in 21 USC 321(g)(2) as applied to prescription drugs.

(17) "Counterfeiting" means engaging in activities that create a counterfeit prescription drug.

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

(19) "Designated representative" or "DR" means an individual supervising the licensed facility in accordance with Subsections R156-17b-615(4) and (5).

(20) "Device" means a prescription device as defined in 21 CFR 801.109 (2021).

(21) "DMP" means a dispensing medical practitioner licensed under Title 58, Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy.

(22) "DMP designee" means an individual, acting under the direction of a DMP, who:

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

(A) Chapter 67, Utah Medical Practice Act;

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

(C) Chapter 70a, Utah Physician Assistant Act;

(D) Chapter 31b, Nurse Practice Act;

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

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

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

(ii) is a medical assistant as defined in Subsection 58-67-102(1[2]4);

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

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

(23) "DMPIC" means a dispensing-medical-practitioner-in-charge licensed under Title 58, Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy who is designated by a dispensing medical practitioner clinic pharmacy to be responsible for activities of the pharmacy.

(24) "Drop-shipment" means the sale of a prescription drug to a pharmaceutical wholesaler by:

(a)(i) a manufacturer or the manufacturer's:

(A) co-licensed product partner;

(B) third party logistics provider; or

(C) exclusive distributor; or

(ii) an authorized distributor of record that purchased the product directly from the manufacturer or an entity listed in Subsection (24)(a)(i);

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

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

(iii) the pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer the drug receives delivery of the prescription drug directly from an entity listed in Subsection (24)(a).

~~[(24) "Drop shipment" means the sale of a prescription drug to a pharmaceutical wholesaler by the manufacturer of the drug; by the manufacturer's co-licensed product partner, third party logistics provider, or exclusive distributor; or by an authorized distributor of record that purchased the product directly from the manufacturer or from one of these entities; whereby:~~

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

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

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

(25) "Drug therapy management" means the review of a drug therapy regimen of a patient by one or more pharmacists evaluating and rendering advice to one or more practitioners regarding adjustment of the regimen.

(26) "Drugs," as used in this rule, means drugs or devices.

(27) "Durable medical equipment" or "DME" means equipment that:

(a) can withstand repeated use;

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

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

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

(e) may include devices and medical supplies.

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

(29) "Entities under common ownership" means entity assets are held indivisibly rather than in the names of individual members.

(30) "ExCPT" means the Exam for the Certification of Pharmacy Technicians.

(31) "FDA" means the United States Food and Drug Administration and any successor agency.

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

NOTICES OF PROPOSED RULES

(33) "High-risk, medium-risk, and low-risk drugs" refers to the risk level to a patient's health from compounding sterile preparations, as referred to in USP-NF Chapter 797.

(34) "Hospice facility pharmacy" means a pharmacy that supplies drugs to patients in a licensed healthcare facility for terminal patients.

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

- (a) prescription drugs or devices are under the control of the pharmacist, or the facility for administration to patients of that facility;
- (b) prescription drugs or devices are dispensed by the pharmacist or pharmacy intern; or
- (c) prescription drugs are administered in accordance with the order of a practitioner by an employee or agent of the facility.

(36) "Legend drug" or "prescription drug" means a drug or device that has been determined to be unsafe for self-medication or one that bears or is required to bear the legend:

- (a) "Caution: federal law prohibits dispensing without prescription";
- (b) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian"; or
- (c) "Rx only".

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

(38) "Managerial control" means the ability, regardless of title, to directly manage the finances, strategic initiatives, and personnel of a pharmacy or pharmaceutical facility, including:

- (a) taking on debt obligations;
- (b) distributing profits;
- (c) determining fees and costs charged for products or services offered by the pharmacy or pharmaceutical facility;
- (d) hiring, firing, or promoting any personnel, including the PIC; or
- (e) changing the location or name of the pharmacy or pharmaceutical facility.

~~[(38)]~~(39) "Maintenance medications" means medications the patient takes on an ongoing basis.

~~[(39)]~~(40)(a) "Manufacturer's exclusive distributor" means an entity that:

(i) contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer; and

(ii) ~~[who]~~ takes title to that manufacturer's prescription drug, but ~~[who]~~ does not have general responsibility to direct the drug's sale or disposition.

(b) ~~[A]~~ To be considered part of the normal distribution channel, a manufacturer's exclusive distributor shall be:

- (i) licensed as a pharmaceutical wholesaler; and
- (ii) ~~[be]~~ an ~~[a]~~ authorized distributor of record, ~~["to be considered part of the normal distribution channel."]~~

~~[(40)]~~(41) "Medical supplies" means items for medical use that are:

- (a) suitable for use in a health care facility or in the home; and
- (b) disposable or semi-disposable and non-reusable.

~~[(41)]~~(42) "MPJE" means the Multistate Jurisprudence Examination.

~~[(42)]~~(43) "NABP" means the National Association of Boards of Pharmacy.

~~[(43)]~~(44) "NAPLEX" means North American Pharmacy Licensing Examination.

~~[(44)]~~(45) "Non-drug or device handling central prescription processing pharmacy" means a central prescription processing pharmacy that does not engage in compounding, packaging, labeling, dispensing, or administering of drugs or devices.

(46) "Normal distribution channel" means a chain of custody for a prescription drug sent:

- (a)(i) directly from the manufacturer;
- (ii) by drop-shipment;
- (iii) via intracompany transfer from the manufacturer; or
- (iv) from the manufacturer's:
 - (A) co-licensed partner;
 - (B) third party logistics provider; or
 - (C) exclusive distributor;
- (b) to:
 - (i) a pharmacy or other designated persons authorized to dispense or administer prescription drugs to a patient;
 - (ii) a chain pharmacy warehouse that performs intracompany sales or transfers of such drugs to a group of pharmacies under common ownership and control;
 - (iii) a cooperative pharmacy warehouse to a pharmacy that is a member of the pharmacy buying cooperative or GPO to a patient;
 - (iv) an authorized distributor of record, and then to either a pharmacy or other designated persons authorized to dispense or administer such drug for use by a patient;
 - (v) an authorized distributor of record, and then to a chain pharmacy warehouse that performs intracompany sales or transfers of such drugs to a group of pharmacies under common ownership and control; or
 - (vi) an authorized distributor of record to another authorized distributor of record to a licensed pharmaceutical facility or a licensed healthcare practitioner authorized to dispense or administer such drug for use by a patient.

~~[(45)]~~ "Normal distribution channel" means a chain of custody for a prescription drug that goes directly, by drop shipment as defined in Subsection (24), or via intracompany transfer from a manufacturer; or from the manufacturer's co-licensed partner, third party logistics provider, or the exclusive distributor, to:

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

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

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

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

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

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

~~[(46) "Other health care facilities" means an entity as defined in Subsection R432-1-3(55).]~~

(47) "Parenteral" means a method of drug delivery injected into body tissues but not via the gastrointestinal tract.

(48) "Patient's agent" means a:

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

(b) if requested by the patient or the individual under Subsection (45)(a), one of the following facilities:

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

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

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

(49) "Pedigree" means a document or electronic file containing information that records each distribution of any given prescription drug.

(50) "Pharmacy facility" means the same as "Pharmaceutical facility" defined in Subsection 58-17b-102(46).

~~[(50)](51) "PIC," as used in this rule, means the pharmacist-in-charge.~~

~~[(51)](52) "Prepackaged" or "Prepackaging" means [the act of] transferring a drug, manually or by use of an automated pharmacy system, from a manufacturer's or distributor's original container to another container before [in advance of] receiving a prescription drug order or for a patient's immediate need for dispensing by a pharmacy or practitioner authorized to dispense in the establishment where the prepacking occurred.~~

~~[(52)](53) "Prescription files" means hard copy and electronic prescriptions that includes pharmacist [notes] or technician notes, [clarifications] or information written or attached that is pertinent to the prescription.~~

~~[(53)](54) "Professional entry degree," as used in Subsection 58-17b-303(1)([f]e), means the professional entry degree offered by the applicant's ACPE-accredited school or college of pharmacy in the applicant's year of graduation, either a baccalaureate in pharmacy (BSPHarm) or a doctorate in pharmacy (PharmD).~~

~~[(54)](55) "PTCB" means the Pharmacy Technician Certification Board.~~

~~[(55)](56) "Qualified continuing education," as used in this rule, means continuing education that meets the standards set forth in Section R156-17b-309.~~

(57) "Qualifying Ownership Change" means any transaction or series of transactions that results in a change in the ownership and managerial control of a pharmaceutical facility, but does not include changes in ownership:

(a) caused by changes in stockholders in publicly listed corporations whose stock is publicly traded;

(b) that do not result in a change in managerial control, including changes in the type of corporate entity under which the pharmaceutical facility is held;

(c) constituting less than 50% of the total ownership of the pharmaceutical facility; or

(d) of a parent entity holding an equitable interest in a pharmaceutical facility as a subsidiary, if the equitable interest constitutes less than 50% of the total ownership interest of the pharmaceutical facility.

~~[(56)](58) "Refill" means to fill again.~~

~~[(57)](59) "Remote dispensing pharmacist-in-charge" or "RDPIC" means the PIC of a remote dispensing pharmacy. The RDPIC shall be the PIC of the remote dispensing pharmacy's supervising pharmacy.~~

~~[(58)](60) "Remote dispensing pharmacy" means a Class A or Class B pharmacy located in Utah that serves as the originating site where a patient receiving services through a telepharmacy system is physically located and the practice of telepharmacy occurs, pursuant to Section R156-17b-614g.~~

~~[(59)](61) "Repackage" means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug, excluding that completed by the pharmacist or DMP responsible for dispensing the product to a patient.~~

~~[(60)](62) "Research facility" means a facility where research takes place that has policies and procedures describing such research.~~

~~[(61)](63) "Responsible party" means the identity of the supervisor or director or the Class E pharmacy under Section R156-17b-617a.~~

~~[(62)](64) "Reverse distributor" means a person or company that retrieves unusable or outdated drugs from a pharmacy by removing those drugs from stock and destroying them.~~

~~[(63)](65) "Self-administered hormonal contraceptive" means the same as defined in Subsection 26B-4-501(22). [26-64-102(9).]~~

~~[(64)](66) "Sterile products preparation facility" means any facility, or portion of the facility, that compounds sterile products using aseptic technique.~~

~~[(65)](67) "Supervising pharmacy" means the Class A or Class B pharmacy responsible for overseeing the operation of a remote dispensing pharmacy, and whose PIC is the RDPIC for the remote dispensing pharmacy, pursuant to Section R156-17b-614g.~~

~~[(66)](68) "Supervisor" means a licensed pharmacist or DMP in good standing with the Division.~~

NOTICES OF PROPOSED RULES

~~[(67)](69)~~ "Telepharmacy system" means any telecommunication ~~[s]~~ ~~or~~ ~~and~~ information technology ~~[ies]~~ system, or combination of systems, that monitors the preparation and dispensing of prescription drugs and provides for related drug review and HIPAA-compliant patient counseling services. ~~[using:~~

- ~~(a) asynchronous store and forward transfer as defined in Subsection 26-60-102(1);~~
- ~~(b) synchronous interaction as defined in Subsection 26-60-102(7); or~~
- ~~(c) still image capture.]~~

~~[(68)](70)~~ "Third party logistics provider" means anyone who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other similar services on behalf of a manufacturer, but does not take title to the prescription drug or have any authoritative control over the prescription drug's sale.

~~[(69)](71)~~ "Unauthorized personnel" means a person not participating in the operational processes of the pharmacy who in some way would interrupt the natural flow of pharmaceutical care.

~~[(70)](72)~~ "Unit dose" means the ordered amount of a drug in a dosage form prepared for a one-time administration to an individual and indicates the name, strength, lot number and beyond use date for the drug.

~~[(71)](73)~~ "Unprofessional conduct," as defined in Title 58, Chapter 1, Division of Professional Licensing Act, and Title 58, Chapter 17b, Pharmacy Practice Act, is further defined ~~[r]~~ in ~~[accordance with]~~ Subsection 58-1-203(1)(e) ~~[, in]~~ and Section R156-17b-502.

~~[(72)](74)~~ The "Utah Hormonal Contraceptive Self-screening Risk Assessment Questionnaire," adopted September 18, 2018, by the Division in collaboration with the Utah State Board of Pharmacy and Physicians Licensing Board, which is incorporated by reference, is the self-screening risk assessment questionnaire approved by the Division pursuant to Section 26-64-106.

~~[(73)](75)~~ "USP-NF" means the United States Pharmacopeia-National Formulary (USP 41-NF 36), either First Supplement, dated August 1, 2018, or Second Supplement, dated December 1, 2018, which is incorporated by reference.

~~[(74)](76)~~ "Vaccine Administration Protocol" means the Vaccine Administration Protocol: Standing Order to Administer Immunizations and Emergency Medications, adopted September 24, 2020, by the Division in collaboration with the Board and Utah Physicians Licensing Board, which is incorporated by reference.

~~[(75)](77)~~ "Wholesaler" means a wholesale distributor who supplies or distributes drugs or medical devices that are restricted by federal law to sales based on the order of a physician to a person other than the consumer or patient.

~~[(76)](78)~~ "Wholesale distribution" means the same as 21 CFR 203.3(cc) (2021).

R156-17b-203. Advisory Pharmacy Compounding Education Committee Created - Membership - Duties.

(1) ~~[In accordance with]~~ Under Subsection 58-1-203(1)(f) and Section R156-1-205, there is created the Advisory Pharmacy Compounding Education Committee ("Committee").

(2) The Committee shall consist of seven members, diversified between:

- (a) retail pharmacy;
- (b) hospital pharmacy;
- (c) other pharmacy specialties determined pertinent by the Division in collaboration with the Board; and
- (d) at least one physician.

(3) Each Committee member shall:

- (a) be licensed in good standing with the state; and
- (b) have experience and knowledge of least one USP Chapter, USP <795>, USP <797>, or USP <800>.

(4) The Board shall nominate Committee members for appointment in accordance with Section R156-1-205, and if possible at least six months ~~before~~ ~~[prior to]~~ the date of cessation of service.

(5) The Committee's duties and responsibilities shall be to address pharmacy compounding issues, including:

- (a) monitoring current and proposed federal standards and USP standards for pharmacy compounding; and
- (b) reviewing and making recommendations to the Division and boards regarding:
 - (i) pharmacy compounding education and training;
 - (ii) pharmacy compounding laws and rules; and
 - (iii) other pharmacy compounding issues as assigned by the Division in collaboration with the Board.

(6) The Committee shall meet at least once per calendar quarter, and as may be directed by the Board with the concurrence of the Division.

(7) The Committee shall annually designate one of its members to act as chair and another member to act as vice chair, on a calendar year basis. The Committee shall elect its chair and vice chair at a meeting conducted in the last quarter of the calendar year.

(8) Each calendar quarter, a Committee designee shall attend at least one meeting of the Board and one meeting of the Medical Licensing Board ~~[meeting of each of the following boards]~~ to report the Committee's activities and recommendations to each board. ~~[to the Board and the Division.]~~

~~[(a) the Board of Pharmacy;]~~

~~[(b) the Physicians Licensing Board; and]~~

~~[(c) the Osteopathic Physicians and Surgeons Licensing Board.]~~

R156-17b-402. Administrative Penalties.

~~[In accordance with]~~ Under Subsection 58-17b-401(6) and Sections 58-17b-501 and 58-17b-502, unless otherwise ordered by the presiding officer, the following fine and citation schedule shall apply:

<u>TABLE 402</u> <u>FINE SCHEDULE</u>			
<u>SUBSECTION</u>	<u>VIOLATION</u>	<u>FIRST OFFENSE</u>	<u>SUBSEQUENT OFFENSE</u>
(1)	58-1-501(1)(a)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(2)	58-1-501(1)(b)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(3)	58-1-501(1)(c)	\$ 500 - \$ 1,000	\$ 1,000 - \$ 5,000
(4)	58-1-501(1)(d)	\$ 500 - \$ 1,000	\$ 1,000 - \$ 5,000
(5)	58-1-501(1)(e)	\$ 100 - \$ 2,000	\$ 2,000 - \$ 10,000
(6)	58-1-501(1)(f)(i)(A)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(7)	58-1-501(2)(m)(i)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(8)	58-1-501(1)(f)(i)(B)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(9)	58-1-501(2)(m)(ii)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(10)	58-1-501(2)(a)	\$ 100 - \$ 2,000	\$ 2,000 - \$ 10,000
(11)	58-1-501(2)(b)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(12)	58-1-501(2)(c)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(13)	58-1-501(2)(d)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
(14)	58-1-501(2)(e)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
(15)	58-1-501(2)(f)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
(16)	58-1-501(2)(g)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(17)	58-1-501(2)(h)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
(18)	58-1-501(2)(i)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
(19)	58-1-501(2)(j)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
(20)	58-1-501(2)(k)	\$ 100 - \$ 1,000	\$ 500 - \$ 2,000
(21)	58-1-501(2)(l)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
(22)	58-1-501(2)(n)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(23)	58-1-501.5	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(24)	R156-1-501(1)	\$ 500 - \$ 2,000	\$ 2,500 - \$ 10,000
(25)	R156-1-501(2)	\$ 500 - \$ 2,000	\$ 2,500 - \$ 10,000
(26)	R156-1-501(3)	\$ 500 - \$ 2,000	\$ 2,500 - \$ 10,000
(27)	R156-1-501(4)	\$ 500 - \$ 2,000	\$ 2,500 - \$ 10,000
(28)	R156-1-501(5)	\$ 500 - \$ 2,000	\$ 2,500 - \$ 10,000
(29)	R156-1-501(6)	\$ 500 - \$ 2,000	\$ 2,500 - \$ 10,000
(30)	58-17b-501(1)	\$ 500 - \$ 2,000	\$ 5,000
(31)	58-17b-501(2)	\$ 100 - \$ 1,000	\$ 500 - \$ 2,000
(32)	58-17b-501(3)(a)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(33)	58-17b-501(3)(b)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(34)	58-17b-501(4)	\$ 1,000 - \$ 5,000	\$ 10,000
(35)	58-17b-501(5)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
(36)	58-17b-501(6)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(37)	58-17b-501(7)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(38)	58-17b-501(8)	\$ 500 - \$ 2,000	\$ 2,500 - \$ 10,000
(39)	58-17b-501(9)	\$ 500 - \$ 1,000	\$ 1,500 - \$ 5,000
(40)	58-17b-501(10)	\$ 500 - \$ 2,000	\$ 2,500 - \$ 10,000
(41)	58-17b-501(11)	\$ 500 - \$ 2,000	\$ 2,500 - \$ 10,000
(42)	58-17b-501(12)	\$ 1,000 - \$ 5,000	\$ 10,000
(43)	58-17b-501(13)	\$ 100 - \$ 500	\$ 1,000 - \$ 2,500
(44)	58-17b-502(1)(a)	\$ 500 - \$ 2,000	\$ 2,500 - \$ 10,000
(45)	58-17b-502(1)(b)	\$ 2,500 - \$ 5,000	\$ 5,500 - \$ 10,000
(46)	58-17b-502(1)(c)	\$ 1,000 - \$ 5,000	\$ 10,000
(47)	58-17b-502(1)(d)	\$ 500 - \$ 2,000	\$ 2,500 - \$ 10,000
(48)	58-17b-502(1)(e)	\$ 1,000 - \$ 5,000	\$ 10,000
(49)	58-17b-502(1)(f)	\$ 500 - \$ 2,000	\$ 2,500 - \$ 10,000
(50)	58-17b-502(1)(g)	\$ 500 - \$ 2,000	\$ 2,500 - \$ 10,000
(51)	58-17b-502(1)(h)	\$ 100 - \$ 500	\$ 500 - \$ 1,000
(52)	58-17b-502(1)(i)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
(53)	58-17b-502(1)(j)	\$ 100 - \$ 500	\$ 500 - \$ 1,000
(54)	58-17b-502(1)(k)	\$ 100 - \$ 500	\$ 2,000 - \$ 10,000
(55)	58-17b-502(1)(l)	\$ 100 - \$ 500	\$ 500 - \$ 1,000

NOTICES OF PROPOSED RULES

(56)	<u>58-17b-502(1)(m)</u>	<u>\$ 500 - \$ 1,000</u>	<u>\$ 2,500 - \$ 5,000</u>
(57)	<u>58-17b-502(1)(n)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 500 - \$ 1,000</u>
(58)	<u>58-17b-502(1)(o)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 500 - \$ 1,000</u>
(59)	<u>58-17b-502(1)(p)</u>	<u>\$ 2,500 - \$ 5,000</u>	<u>\$ 5,000 - \$ 10,000</u>
(60)	<u>R156-17b-502(1)</u>	<u>\$ 250 - \$ 500</u>	<u>\$ 2,000 - \$ 10,000</u>
(61)	<u>R156-17b-502(2)(a)</u>	<u>\$ 250 - \$ 500</u>	<u>\$ 500 - \$ 750</u>
(62)	<u>R156-17b-502(2)(b)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,500 - \$ 10,000</u>
(63)	<u>R156-17b-502(3)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 500 - \$ 1,000</u>
(64)	<u>R156-17b-502(4)</u>	<u>\$ 50 - 100</u>	<u>\$ 200 - \$ 300</u>
(65)	<u>R156-17b-502(5)</u>	<u>\$ 100 - \$ 200</u>	<u>\$ 200 - \$ 500</u>
(66)	<u>R156-17b-502(6)</u>	<u>\$ 500 - \$ 1,000</u>	<u>\$ 2,000 - \$ 10,000</u>
(67)	<u>R156-17b-502(7)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
(68)	<u>R156-17b-502(8)</u>	<u>\$ 100 - \$ 250</u>	<u>\$ 300 - \$ 500</u>
(69)	<u>R156-17b-502(9)(a)</u>	<u>\$ 50 - \$ 100</u>	<u>\$ 250 - \$ 500</u>
(70)	<u>R156-17b-502(9)(b)</u>	<u>\$ 250 - \$ 500</u>	<u>\$ 750 - \$ 1,000</u>
(71)	<u>R156-17b-502(10)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
(72)	<u>R156-17b-502(11)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 500 - \$ 1,000</u>
(73)	<u>R156-17b-502(12)(a)</u>	<u>\$ 100 - \$ 250</u>	<u>\$ 500 - \$ 2,500</u>
(74)	<u>R156-17b-502(12)(b)</u>	<u>\$ 250 - \$ 1,000</u>	<u>\$ 500 - \$ 5,000</u>
(75)	<u>R156-17b-502(13)(a)</u>	<u>\$ 50 - \$ 100</u>	<u>\$ 250 - \$ 500</u>
(76)	<u>R156-17b-502(13)(b)</u>	<u>\$ 250 - \$ 500</u>	<u>\$ 1,000 - \$ 2,000</u>
(77)	<u>R156-17b-502(14)(a)</u>	<u>\$ 500 - \$ 2,500</u>	<u>\$ 5,000 - \$ 10,000</u>
(78)	<u>R156-17b-502(14)(b)</u>	<u>\$ 2,000 per occurrence</u>	
(79)	<u>R156-17b-502(15)</u>	<u>double original penalty, up to \$ 10,000</u>	
(80)	<u>R156-17b-502(16)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
(81)	<u>R156-17b-502(17)</u>	<u>\$ 1,000 - \$ 5,000</u>	<u>\$ 10,000</u>
(82)	<u>R156-17b-502(18)</u>	<u>\$ 500 - \$ 2,500</u>	<u>\$ 5,000 - \$ 10,000</u>
(83)	<u>R156-17b-502(19)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 200 - \$ 1,000</u>
(84)	<u>R156-17b-502(20)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 200 - \$ 1,000</u>
(85)	<u>R156-17b-502(21)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 200 - \$ 1,000</u>
(86)	<u>R156-17b-502(22)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
(87)	<u>R156-17b-502(23)(a)</u>	<u>\$ 100 - \$ 300</u>	<u>\$ 500 - \$ 1,000</u>
(88)	<u>R156-17b-502(23)(b)</u>	<u>\$ 250 - \$ 500</u>	<u>\$ 500 - \$ 1,250</u>
(89)	<u>R156-17b-502(24)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 500 - \$ 1,000</u>
(90)	<u>R156-17b-502(25)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,500 - \$ 10,000</u>
(91)	<u>R156-17b-502(26)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,500 - \$ 10,000</u>
(92)	<u>58-37-8</u>	<u>\$ 1,000-\$ 5,000</u>	<u>\$ 5,000 - \$ 10,000</u>
(93)	<u>R156-37-502(1)(a)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,500 - \$ 10,000</u>
(94)	<u>R156-37-502(1)(b)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,500 - \$ 10,000</u>
(95)	<u>R156-37-502(2)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,500 - \$ 10,000</u>
(96)	<u>R156-37-502(3)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,500 - \$ 10,000</u>
(97)	<u>R156-37-502(4)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,500 - \$ 10,000</u>
(98)	<u>R156-37-502(5)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,500 - \$ 10,000</u>
(99)	<u>R156-37-502(6)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,500 - \$ 10,000</u>
(100)	<u>R156-37-502(7)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,500 - \$ 10,000</u>
(101)	<u>R156-37-502(8)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,500 - \$ 10,000</u>
(102)	<u>Any other conduct that constitutes Unprofessional or Unlawful conduct</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 200 - \$ 1,000</u>

[TABLE

FINE SCHEDULE

VIOLATION	FIRST OFFENSE	SUBSEQUENT OFFENSE
58-1-501(4)(a)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-501(4)(b)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-501(4)(c)	\$ 500 - \$ 1,000	\$ 1,000 - \$ 5,000
58-1-501(4)(d)	\$ 500 - \$ 1,000	\$ 1,000 - \$ 5,000
58-1-501(4)(e)	\$ 100 - \$ 2,000	\$ 2,000 - \$10,000
58-1-501(4)(f)(i)(A)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-501(2)(m)(i)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-501(4)(f)(i)(B)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-501(2)(m)(ii)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000

~~58-1-501(2)(a) \$ 100 \$ 2,000 \$ 2,000 \$10,000~~
~~58-1-501(2)(b) \$ 500 \$ 2,000 \$ 2,000 \$10,000~~
~~58-1-501(2)(c) \$ 500 \$ 2,000 \$ 2,000 \$10,000~~
~~58-1-501(2)(d) \$ 100 \$ 500 \$ 200 \$ 1,000~~
~~58-1-501(2)(e) \$ 100 \$ 500 \$ 200 \$ 1,000~~
~~58-1-501(2)(f) \$ 100 \$ 500 \$ 200 \$ 1,000~~
~~58-1-501(2)(g) \$ 500 \$ 2,000 \$ 2,000 \$10,000~~
~~58-1-501(2)(h) \$ 100 \$ 500 \$ 200 \$ 1,000~~
~~58-1-501(2)(i) \$ 100 \$ 500 \$ 200 \$ 1,000~~
~~58-1-501(2)(j) \$ 100 \$ 500 \$ 200 \$ 1,000~~
~~58-1-501(2)(k) \$ 100 \$ 1,000 \$ 500 \$ 2,000~~
~~58-1-501(2)(l) \$ 100 \$ 500 \$ 200 \$ 1,000~~
~~58-1-501(2)(n) \$ 500 \$ 2,000 \$ 2,000 \$10,000~~
~~58-1-501.5 \$ 500 \$ 2,000 \$ 2,000 \$10,000~~
~~R156-1-501(1) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~R156-1-501(2) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~R156-1-501(3) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~R156-1-501(4) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~R156-1-501(5) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~R156-1-501(6) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~58-17b-501(1) \$ 500 \$ 2,000 \$ 5,000~~
~~58-17b-501(2) \$ 100 \$ 1,000 \$ 500 \$ 2,000~~
~~58-17b-501(3)(a) \$ 500 \$ 2,000 \$ 2,000 \$10,000~~
~~58-17b-501(3)(b) \$ 500 \$ 2,000 \$ 2,000 \$10,000~~
~~58-17b-501(4) \$ 1,000 \$ 5,000 \$10,000~~
~~58-17b-501(5) \$ 100 \$ 500 \$ 200 \$ 1,000~~
~~58-17b-501(6) \$ 500 \$ 2,000 \$ 2,000 \$10,000~~
~~58-17b-501(7) \$ 500 \$ 2,000 \$ 2,000 \$10,000~~
~~58-17b-501(8) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~58-17b-501(9) \$ 500 \$ 1,000 \$ 1,500 \$ 5,000~~
~~58-17b-501(10) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~58-17b-501(11) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~58-17b-501(12) \$ 1,000 \$ 5,000 \$10,000~~
~~58-17b-501(13) \$ 100 \$ 500 \$ 1,000 \$ 2,500~~
~~58-17b-502(1)(a) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~58-17b-502(1)(b) \$ 2,500 \$ 5,000 \$ 5,500 \$10,000~~
~~58-17b-502(1)(c) \$ 1,000 \$ 5,000 \$10,000~~
~~58-17b-502(1)(d) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~58-17b-502(1)(e) \$ 1,000 \$ 5,000 \$10,000~~
~~58-17b-502(1)(f) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~58-17b-502(1)(g) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~58-17b-502(1)(h) \$ 100 \$ 500 \$ 500 \$ 1,000~~
~~58-17b-502(1)(i) \$ 500 \$ 2,000 \$ 2,000 \$10,000~~
~~58-17b-502(1)(j) \$ 100 \$ 500 \$ 500 \$ 1,000~~
~~58-17b-502(1)(k) \$ 100 \$ 500 \$ 2,000 \$10,000~~
~~58-17b-502(1)(l) \$ 100 \$ 500 \$ 500 \$ 1,000~~
~~58-17b-502(1)(m) \$ 500 \$ 1,000 \$ 2,500 \$ 5,000~~
~~58-17b-502(1)(n) \$ 100 \$ 500 \$ 500 \$ 1,000~~
~~58-17b-502(1)(o) \$ 100 \$ 500 \$ 500 \$ 1,000~~
~~58-17b-502(1)(p) \$ 2,500 \$ 5,000 \$ 5,000 \$10,000~~
~~R156-17b-502(1) \$ 250 \$ 500 \$ 2,000 \$10,000~~
~~R156-17b-502(2)(a) \$ 250 \$ 500 \$ 500 \$ 750~~
~~R156-17b-502(2)(b) \$ 500 \$ 2,000 \$ 2,500 \$10,000~~
~~R156-17b-502(3) \$ 100 \$ 500 \$ 500 \$ 1,000~~
~~R156-17b-502(4) \$ 50 \$ 100 \$ 200 \$ 300~~
~~R156-17b-502(5) \$ 100 \$ 200 \$ 200 \$ 500~~
~~R156-17b-502(6) \$ 500 \$ 1,000 \$ 2,000 \$10,000~~
~~R156-17b-502(7) \$ 500 \$ 2,000 \$ 2,000 \$10,000~~
~~R156-17b-502(8) \$ 100 \$ 250 \$ 300 \$ 500~~
~~R156-17b-502(9)(a) \$ 50 \$ 100 \$ 250 \$ 500~~
~~R156-17b-502(9)(b) \$ 250 \$ 500 \$ 750 \$ 1,000~~
~~R156-17b-502(10) \$ 500 \$ 2,000 \$ 2,000 \$10,000~~
~~R156-17b-502(11) \$ 100 \$ 500 \$ 500 \$ 1,000~~
~~R156-17b-502(12)(a) \$ 100 \$ 250 \$ 500 \$ 2,500~~
~~R156-17b-502(12)(b) \$ 250 \$ 1,000 \$ 500 \$ 5,000~~
~~R156-17b-502(13)(a) \$ 50 \$ 100 \$ 250 \$ 500~~
~~R156-17b-502(13)(b) \$ 250 \$ 500 \$ 1,000 \$ 2,000~~
~~R156-17b-502(14)(a) \$ 500 \$ 2,500 \$ 5,000 \$10,000~~
~~R156-17b-502(14)(b) \$ 2,000 per occurrence~~
~~R156-17b-502(15) double original penalty, up to \$10,000~~
~~R156-17b-502(16) \$ 500 \$ 2,000 \$ 2,000 \$10,000~~
~~R156-17b-502(17) \$ 1,000 \$ 5,000 \$10,000~~
~~R156-17b-502(18) \$ 500 \$ 2,500 \$ 5,000 \$10,000~~
~~R156-17b-502(19) \$ 100 \$ 500 \$ 200 \$ 1,000~~
~~R156-17b-502(20) \$ 100 \$ 500 \$ 200 \$ 1,000~~

NOTICES OF PROPOSED RULES

R156-17b-502(21) \$ 100 \$500 \$ 200 \$ 1,000
R156-17b-502(22) \$ 500 \$2,000 \$ 2,000 \$10,000
R156-17b-502(23)(a) \$ 100 \$300 \$ 500 \$ 1,000
R156-17b-502(23)(b) \$ 250 \$500 \$ 500 \$ 1,250
R156-17b-502(24) \$ 100 \$500 \$ 500 \$ 1,000
R156-17b-502(25) \$ 500 \$2,000 \$ 2,500 \$10,000
R156-17b-502(26) \$ 500 \$2,000 \$ 2,500 \$10,000
58-27-8 \$ 1,000 \$5,000 \$ 5,000 \$10,000
R156-37-502(1)(a) \$ 500 \$2,000 \$ 2,500 \$10,000
R156-37-502(1)(b) \$ 500 \$2,000 \$ 2,500 \$10,000
R156-37-502(2) \$ 500 \$2,000 \$ 2,500 \$10,000
R156-37-502(3) \$ 500 \$2,000 \$ 2,500 \$10,000
R156-37-502(4) \$ 500 \$2,000 \$ 2,500 \$10,000
R156-37-502(5) \$ 500 \$2,000 \$ 2,500 \$10,000
R156-37-502(6) \$ 500 \$2,000 \$ 2,500 \$10,000
R156-37-502(7) \$ 500 \$2,000 \$ 2,500 \$10,000
R156-37-502(8) \$ 500 \$2,000 \$ 2,500 \$10,000
Any other conduct
that constitutes
Unprofessional or
Unlawful conduct \$ 100 \$ 500 \$ 200 \$ 1,000]

R156-17b-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) violating the American Pharmaceutical Association (APhA) Code of Ethics for Pharmacists, October 27, 1994, which is[hereby] incorporated by reference;
(2)(a) failing to comply with the USP-NF Chapter 795 if applicable to activities performed;
(b) failing to comply with the USP-NF Chapter 797, if applicable to activities performed;
(3) failing to comply with continuing education requirements;
(4) failing to provide the Division with a current mailing address within ten business days of a change of address;
(5) defaulting on a student loan;
(6) failing to abide by applicable federal and state law regarding the practice of pharmacy;
(7) failing to comply with administrative inspections;
(8) failing to return a self-audit report by the deadline established by the Division;
(9) providing false information on a self-audit report;
(10)(a) violating the laws and rules regulating operating standards in a pharmacy, as discovered upon inspection by the Division; or
(b) after discovery upon inspection by the Division of violation of laws and rules regulating operating standards in a pharmacy, failing to comply within the time established by the Division;
(11) abandoning a pharmacy or leaving prescription drugs accessible to the public;
[(12) failing to identify licensure classification when communicating by any means;]
(12)(a) as a pharmacist, practicing pharmacy with an inappropriate pharmacist to pharmacy intern ratio under Subsection R156-17b-606(1)(d), or pharmacist to pharmacy technician trainee ratio under Subsection R156-17b-601(4)(3); or
(b) as a pharmacy, practicing pharmacy with an inappropriate pharmacist to pharmacy intern ratio under Subsection R156-17b-606(1)(d), or pharmacist to pharmacy technician trainee ratio under Subsection R156-17b-601(4);
(13)(a) as a pharmacist, allowing an unauthorized person in the pharmacy; or
(b) as a pharmacy, allowing an unauthorized person in the pharmacy;
(14)(a) as a pharmacist, failing to offer to counsel a person receiving a prescription medication; or
(b) as a pharmacy, failing to offer to counsel a person receiving a prescription medication;
(15) failing to timely pay an administrative fine;
(16) failing to comply with the PIC, consulting pharmacist, RDPIC or DMPIC standards under Section R156-17b-603;
(17) failing to adhere to institutional policies and procedures related to technician checking of medications when technician checking is utilized;
(18) failing to take appropriate steps to avoid or resolve identified drug therapy management problems under Subsection R156-17b-611(3);
(19) dispensing medication that has been discontinued by the FDA;
(20) failing to keep or report accurate records of training hours;
(21) failing to provide consulting pharmacist, designated representative, responsible party, PIC, RDPIC, or DMPIC information to the Division within 30 days of a change in consulting pharmacist, designated representative, responsible party, PIC, RDPIC or DMPIC;
(22) requiring a pharmacy, pharmacist, or DMP to operate the pharmacy or allow the operation of the pharmacy with a ratio of supervising pharmacist or DMP to other pharmacy personnel in circumstances that result in, or reasonably would be expected to result in, an unreasonable risk of harm to public health, safety, and welfare;
(23)(a) as a pharmacist, failing under Subsection R156-17b-603(3)(t) to notify the Division within seven calendar days of a change in the email address designated for use in self-audits or pharmacy alerts; or
(b) as a pharmacy, failing to notify the Division within seven calendar days of a change in the email address designated for use in self-audits or pharmacy alerts;

~~[(25)](24)~~ failing to ensure, as a DMP or DMP clinic pharmacy, that a DMP designee has completed a formal or on-the-job dispensing training program under Section R156-17b-622;

~~[(26)](25)~~ failing to make a timely report regarding dispensing of an opiate antagonist to the Division and to the physician who issued the standing order, under Section R156-17b-625; and

~~[(27)](26)~~ failing to comply with the operating standards for a remote dispensing pharmacy under Section R156-17b-614g.

R156-17b-605. Operating Standards - Inventory Requirements.

(1) Authorized personnel shall remove out-of-date legend drugs and controlled substances from the inventory at regular intervals and in correlation to the beyond use date imprinted on the label.

(2) General requirements for inventory of a pharmacy shall include the following:

(a) the consulting pharmacist, PIC, RDPIC, or DMPIC shall be responsible for taking required inventories, but may delegate the performance of the inventory to another person~~[or persons]~~;

(b) the inventory records shall be maintained for a period of five years and be readily available for inspection;

(c) the inventory records shall be filed separately from all other records;

(d) the inventory records shall be in a written, typewritten, or printed form and include each stock of controlled substances on hand on the date of the inventory, including any that are out-of-date drugs and drugs in automated pharmacy systems;

(e) an inventory taken by use of a verbal recording device shall be promptly transcribed;

(f) the inventory may be taken either as the opening of the business or the close of business on the inventory date;

(g) the person taking the inventory and the consulting pharmacist, PIC, RDPIC, or DMPIC shall ~~state~~~~[indicate]~~ the time the inventory was taken and shall sign and date the inventory with the date the inventory was taken;

(h) the signature of the consulting pharmacist, PIC, RDPIC, or DMPIC and the date of the inventory shall be documented within 72 hours or three working days of the completed initial, annual, change of ownership and closing inventory;

(i) the person taking the inventory shall make an exact count or measure controlled substances listed in Schedule I or II;

~~[unless]~~ ~~but if~~ the container holds more than 1,000 tablets or capsules, ~~[in which case]~~ an exact count of the contents shall be made;

(k) the inventory of Schedule I and II controlled substances shall be listed separately from the inventory of Schedule III, IV and V controlled substances; ~~and~~

(l) if the pharmacy maintains a perpetual inventory of any of the drugs required to be inventoried, the perpetual inventory shall be reconciled on the date of the inventory.

(3) Requirements for taking the initial controlled substances inventory shall include the following:

~~[pharmacy]~~ ~~pharmacy~~ (a) ~~[(+)]~~ pharmacies having stock of controlled substances shall take an inventory, including out-of-date drugs and drugs in automated ~~[pharmacy]~~ ~~pharmacy~~ systems, on the opening day of business;

(b) if a pharmacy commences business with no Schedule I or II controlled substances, the pharmacy shall record this fact as the initial inventory and shall document Schedule I and II controlled substance inventory separately from an inventory reporting no Schedule III, IV, and V controlled substances;

(c) the initial inventory shall serve as the pharmacy's inventory until the next completed inventory as specified in Subsection (4) of this section; and

(d) when combining two pharmacies, each pharmacy shall:

(i) conduct a separate closing pharmacy inventory of controlled substances on the date of closure; and

(ii) conduct a combined opening inventory of controlled substances for the new pharmacy ~~before~~~~[prior to]~~ opening.

(4) Requirement for annual controlled substances inventory shall be within 12 months following the inventory date of each year and may be taken within four days of the specified inventory date and shall include stocks including out-of-date drugs and drugs in automated pharmacy systems.

(5) Requirements for a qualifying change of ownership shall include the following:

(a) ~~[a pharmacy]~~ ~~the pharmaceutical facility~~~~[that changes ownership]~~ shall take an inventory of legend drugs and controlled substances including out-of-date drugs and drugs in automated pharmacy systems on the date of the qualifying change of ownership;

(b) such inventory shall constitute the closing inventory for the seller and the initial inventory for the buyer; and

(c) any transfer of Schedule I and II controlled substances shall require the use of official DEA order form 222.

(6) A pharmacy shall maintain a perpetual inventory of Schedule II controlled substances that shall be reconciled according to facility policy.

R156-17b-612c. Operating Standards -- Therapeutically Similar Drug Products.

(1) The Division shall maintain the list of therapeutically similar drug products under Subsection 58-17b-605(9)(a) on the Division's website at <https://dopl.utah.gov/pharm>.

(2) The Division may not add or remove a therapeutically similar drug product from the list without specific resolutions, passed by both the Board and the Medical Licensing Board, stating that they do not object to the addition or removal of the therapeutically similar drug.

R156-17b-618. Change in Ownership, Name, or Location.

(1) A licensed pharmacy or pharmaceutical facility shall:

(a) apply for a new license and receive approval from the Division at least ten business days before a Qualifying Ownership Change; and

NOTICES OF PROPOSED RULES

(b) upon approval of the Qualifying Ownership Change and issuance of a new license, the pharmacy or pharmaceutical facility shall surrender its original license to the Division.

(2)(a) Under Subsection 58-17b-614(2), a request by a pharmacy or pharmaceutical facility to change its name when the change is not due to, or in anticipation of, a Qualifying Ownership Change shall be received by the Division no later than ten business days before the proposed effective date of the name change.

(b) This Subsection (2) applies to any change in name, including:

(i) changes to the pharmacy or pharmaceutical facility's registered corporate name; and

(ii) addition or removal of a doing-business-as (DBA) name.

(c) If the requested name change requires a filing with the Division of Corporations and Commercial Code, or equivalent state agency in the jurisdiction where the name change will be effectuated, the applicant shall submit with the request proof of such filing with an effective date of no fewer than ten days following the date of the request.

(3)(a) Under Subsection 58-17b-306(3)(b), a request by a pharmacy or pharmaceutical facility to update its address for reasons not due to, or in anticipation of, a Qualifying Ownership Change shall be received by the Division no later than 90 business days before the proposed effective date of the address change.

(b) If the pharmacy or pharmaceutical facility's new address is located within the state the request shall include a request for inspection of the new facility.

(c) If the pharmacy or pharmaceutical facility's new address is located outside the state:

(i) the request shall include a copy of a request for inspection filed with the government agency with jurisdiction over the inspection at the new address; and

(ii) upon receipt of the inspection report from the government agency under Subsection (3)(b)(i), the pharmacy or pharmaceutical facility shall submit to the Division within ten days:

(A) a copy of the inspection report; and

(B) an affidavit signed by the pharmacy manager that the inspection report is an accurate copy.

~~[(1) Under Section 58-17b-614, except for changes in ownership caused by a change in stockholders in publicly listed corporations whose stock is publicly traded, a licensed pharmaceutical facility shall apply for a new license and receive approval from the Division no later than ten business days before a change in:~~

~~(a) location or address, except for a reassignment of a new address by the United States Postal Service that does not involve any change of location;~~

~~(b) name, except for a doing business as (DBA) name change that is properly registered with the Division of Corporations and filed with the Division of Professional Licensing; or~~

~~(c) ownership, with:~~

~~(i) a change in entity type; or~~

~~(ii) the sale or transfer of 51% or more of an entity's ownership or membership interest to another individual or entity.~~

~~(2) Upon approval of the change in location, name, or ownership, and the issuance of a new license, the pharmaceutical facility shall surrender its original license to the Division.]~~

KEY: pharmacists, licensing, pharmacies

Date of Last Change: ~~January 5, 2023~~2024

Notice of Continuation: August 5, 2024

Authorizing, and Implemented or Interpreted Law: 63G-3-201; 58-17b-101; 58-17b-601(1); 58-37-1; 58-1-106(1)(a); 58-1-202(1)(a)

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R156-44a

Filing ID: 56872

Agency Information

1. Title catchline:	Commerce, Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E. 300 S.	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City,, UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Jeff Busjahn	801-530-6789	JBusjahn@Utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R156-44a. Nurse Midwife Practice Act Rule

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

The Division of Professional Licensing (Division) in collaboration with the Certified Nurse Midwife Board is filing these proposed amendments to clarify and update the rule and implement certain requirements in accordance with statutory changes made by H.B. 274 passed during the 2020 General Session and H.B. 534 passed during the 2024 General Session.

Secondly, the fine schedule table is being updated.

Finally, under Executive Order No. 2021-12, formatting changes are made throughout to streamline licensure pathways and to update the rule consistent with the Rulewriting Manual for Utah and remove duplicate language already present in the Utah Code.

4. Summary of the new rule or change:

In accordance with H.B. 274 (2020), the definition of delegation is being updated and referred to the Nurse Practice Act Rule. Per Executive Order No. 2021-12, formatting changes are also made throughout to conform the rule to the current edition of the Rulewriting Manual for Utah definitions have been corrected. The name of the Certified Nurse Midwife Board is being updated to combine with the Board of Nursing.

Finally, the fine schedule table has been updated to the correct amounts.

Fiscal Information

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

The Division estimates that the proposed amendments will indirectly benefit state agencies who employ certified nurse midwives by providing a more concise and easier to understand rule regarding delegation of nurse tasks and existing CNM rules. The full fiscal and non-fiscal impacts on these state agencies cannot be estimated because the data necessary to determine how the proposed rule will impact licensees will vary widely depending on the requirements of the agencies and the individual characteristics of each certified nurse midwife. The remainder of these proposed amendments are expected to have no measurable impact on state government revenues or expenditure as they are not expected to impact state government practices or procedures and are made in accordance with Executive Order No. 2021-12. Combining the Certified Nurse Midwife Board and Board of Nursing will represent minimal savings to the State Budget.

B) Local governments:

The Division estimates that the proposed amendments will indirectly benefit local governments who employ certified nurse midwives by providing a more concise and easier to understand rule regarding delegation of nurse tasks. The full fiscal and non-fiscal impacts on local government cannot be estimated because the data necessary to determine how the proposed rule will impact licensees will vary widely depending on the requirements of each local government entity and the individual characteristics of each certified nurse midwife. The remainder of these proposed amendments are expected to have no measurable impact on local government revenues or expenditure as they merely streamline and update the rule in accordance with Executive Order No. 2021-12 and are not expected to impact local government practices or procedures.

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

The proposed amendments to Rule R156-44a may indirectly benefit the estimated 5 small businesses in Utah comprising establishments employing certified nurse midwives, such as private or group practices, hospitals, or medical centers (NAICS 621399, 621498, 621111, 622110, 622310, 622210 and 621610), as the amendments are expected to facilitate the ability of these businesses to hire qualified certified nurse midwives to practice in Utah; however, the full fiscal and non-fiscal impacts on small businesses cannot be estimated because the data necessary to determine how many such licensees might be hired is unavailable, and because the benefits that a small business may experience will vary widely depending on the requirements of the small business and the individual characteristics of each certified nurse midwife. The remainder of these proposed amendments are expected to have no measurable impact on small business revenues or expenditures as they merely streamline and update the rule in accordance with Executive Order No. 2021-12 and conform the rule to the mandates of H.B. 274 (2020).

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

The proposed amendments to Rule R156-44a may indirectly benefit the estimated 30 small businesses in Utah comprising establishments employing certified nurse midwives, such as private or group practices, hospitals, or medical centers (NAICS 621399, 621498, 621111, 622110, 622310, 622210 and 621610), as the amendments are expected to clarify the existing rule; however, the full fiscal and non-fiscal impacts on small businesses cannot be estimated because the data necessary to determine how many such licensees might be impacted is unavailable, and because the benefits that a small business may experience will vary widely depending on the requirements of the small business and the individual characteristics of each certified nurse midwife. The remainder of these proposed amendments are expected to have no measurable impact on small business revenues or expenditures as they merely streamline and update the rule in accordance with Executive Order No. 2021-12 and conform the rule to the mandates of H.B. 274 (2020).

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

The proposed amendments to Rule R156-44a are expected to benefit new and existing CNM license holders by clarifying the rule regarding delegation and streamlining the existing rule. The full fiscal and non-fiscal impacts on such persons cannot be estimated because the data necessary to determine how many such persons will benefit can vary widely depending on the individual characteristics of each certified nurse midwife and any employer requirements. The remainder of these proposed amendments are expected to have no measurable impact on other persons as they merely streamline and update the rule in accordance with Executive Order 2021-12 and conform the rule to the mandates of H.B. 274 (2020).

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

The Division does not anticipate any compliance costs for estimated 199 licensed certified nurse midwives from these proposed amendments because the proposed amendments will result in a benefit to affected persons and will have no measurable cost impact as they merely streamline and update the rule in accordance with Executive Order No. 2021-12 and conform the rule to the mandates of H.B. 274 (2020).

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Commerce, Margaret W. Busse, 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 58-1-307.1	Subsection 58-1-202(1)(a)	Subsection 58-1-106(1)(a)
Section 58-44a-101		

Incorporations by Reference Information

7. Incorporations by Reference:

A) This rule adds or updates the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Core Competencies for Basic Midwifery Practice
Publisher	American College of Nurse Midwives
Issue Date	March 2020

B) This rule adds or updates the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Standards for the Practice of Midwifery
Publisher	American College of Nurse Midwives
Issue Date	2022

C) This rule adds or updates the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Code of Ethics
Publisher	American College of Nurse Midwives
Issue Date	December 2013

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: 12/16/2024

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

Date:	Time:	Place (physical address or URL):
12/03/2024	9:30 a.m.	160 E. 300 S, 4th floor, Salt Lake City, UT, and also via Google Meet Google Meet joining info Video call link: https://meet.google.com/tbe-rxkk-shi Or dial: (US) +1 435-562-1559 PIN: 497 751 028# More phone numbers: https://tel.meet/tbe-rxkk-shi?pin=4451543203048

9. This rule change MAY become effective on: 12/23/2024

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:	Mark B. Steinagel, Division Director	Date:	10/11/2024
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R156. Commerce, ~~Occupational and~~ Professional Licensing.

R156-44a. Nurse Midwife Practice Act Rule.

R156-44a-101. Title -- Authority -- Relationship to Rule R156-1.

(1) This rule is known as the "Nurse Midwife Practice Act Rule."

(2) This rule is adopted by the Division of Professional Licensing (Division) under Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 44a, Nurse Midwife Practice Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-101.

R156-44a-102. Definitions.

~~In addition to the~~The following rule definitions supplement the definitions in Title 58, Chapter[s] 1, Division of Professional Licensing Act, and Title 58, Chapter 44a, Nurse Midwife Practice Act ~~as used in Title 58, Chapters 1 and 44a or this rule~~:

(1) "ACME" means the Accreditation Commission for Midwifery Education.

(2) "AMCB" means the American Midwifery Certification Board.

~~(4)~~(3) "Approved certified nurse midwifery education program" means an educational program ~~which is~~ accredited by the ~~American Midwifery Certification Board (AMCB)~~AMCB, affiliated with the American College of Nurse-Midwives (ACNM).

~~(2)~~(4) "CNM" means a certified nurse midwife.

~~(3)~~(5) ~~"Delegation" means transferring to an individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability for the delegation.~~"Delegate" is defined in Subsection R156-31b-102(14).

(6) "Delegatee" is defined in Subsection R156-31b-102(15).

(7) "Delegator" is defined in Subsection R156-31b-102(16).

~~(4)~~(8) "Direct supervision" as used in Subsection 58-44a-305(1)(d) means that the ~~person providing supervision shall be~~supervisor is available on the premises ~~at which~~where the supervisee or consultee is engaged in practice.

~~(5)~~(9) "Generally recognized scope and standards of nurse midwifery" in Subsection 58-44a-102(9)(b) means the following scope and standards of practice ~~set forth in the~~published by the American College of Nurse-Midwives, which are incorporated by reference:

(a) ~~"~~Core Competencies for Basic Midwifery Practice~~"~~, ~~June 2012, and~~March 2020;

(b) ~~the~~Standards for the Practice of Midwifery~~"~~, ~~September 2011~~2022~~, published by the American College of Nurse-Midwives which are hereby adopted and incorporated by reference, or as established by the professional community~~; and

(c) Code of Ethics, December 2013.

~~(6)~~ "Intrapartum referral plan":

(a) is as defined in Section 58-44a-102; and

(b) as provided in Section 58-44a-102, does not require the signature of a physician.

(7) "Supervision" in Section R156-44a-601 means the provision of guidance or direction, evaluation and follow up by the certified nurse midwife for accomplishment of tasks delegated to unlicensed assistive personnel or other licensed individuals.]

(10) "Unlicensed assistive personnel" as defined in Subsection 58-44a-102(11), is further defined in Subsection R156-31b-102(38).

~~(8)~~(11) "Unprofessional conduct[;]" ~~as defined in Title 58, Chapters 1 and 44a,~~ is further defined in Sections R156-1-501 and R156-44a-502.

~~R156-44a-103. Authority -- Purpose.~~

~~This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 44a.~~

~~R156-44a-104. Organization -- Relationship to Rule R156-1.~~

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

R156-44a-302. Qualifications for Licensure - Examination Requirements.

~~In accordance with~~Under Subsection 58-44a-302~~(6)~~(1)(c), the examination required for licensure is the ~~national certifying~~CNM examination administered by the ~~American Midwifery Certification Board, Inc~~AMCB.

R156-44a-303. License Renewal ~~Cycle~~- Procedures.

(1) ~~In accordance with~~Under Subsections 58-1-308(1) and 58-44a-303(1), the renewal date for the two-year renewal cycle ~~applicable to~~for licensees under Title 58, Chapter 44a, Nurse Midwife Practice Act is ~~established by rule~~in Subsection R156-1-308a(1).

(2) Renewal procedures shall be ~~in accordance with Section R156-1-308e~~under Sections R156-1-308b through R156-1-308l.

(3) Each applicant for licensure renewal shall hold ~~a valid~~current CNM certification from the ~~American Midwifery Certification Board, Inc~~AMCB.

R156-44a-305. Inactive Licensure.

(1) A licensee may apply for inactive licensure status in accordance with Sections 58-1-305 and R156-1-305.

(2) To reactivate a license ~~which~~that has been inactive for five years or less, the licensee ~~must~~shall document current compliance with the continuing competency requirements ~~as established~~in Subsection R156-44a-303(3).

(3) To reactivate a license ~~which~~that has been inactive for more than five years, the licensee ~~must~~shall document one of the following:

(a) active licensure in another state or jurisdiction;

(b) completion of a refresher program approved by the American College of Nurse-Midwives; or

(c) a passing score on the required examination[s] ~~[as defined in]~~ under Section R156-44a-302, within six months ~~[prior to]~~ before ~~[making]~~ submitting the application to reactivate ~~[a]~~ the license.

R156-44a-402. Administrative Penalties.

~~[In accordance with]~~ Under Subsections 58-44a-102(1), 58-44a-402(1), and 58-44a-503(3), unless otherwise ordered by the presiding officer, the following fine schedule shall apply:

[TABLE

FINE SCHEDULE

VIOLATION	FIRST OFFENSE	SUBSEQUENT OFFENSE
58-44a-501(1)	\$ 2,000 - \$ 5,000	\$ 5,000 - \$10,000
58-44a-501(2)	\$ 100 - \$ 500	\$ 200 - \$1,000
58-44a-501(3)	\$ 100 - \$ 500	\$ 200 - \$1,000
58-44a-501(4)	\$ 2,000 - \$ 5,000	\$ 5,000 - \$10,000
58-44a-502(1)	\$ 100 - \$ 500	\$ 200 - \$1,000
58-44a-502(2)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-44a-502(3)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-44a-502(4)	\$ 100 - \$ 500	\$ 200 - \$1,000
58-44a-502(5)	\$ 200 - \$ 1,000	\$ 500 - \$ 2,000
58-44a-502(6)	Double the original penalty amount, up to \$10,000	
58-44a-502(7)	\$ 500 - \$ 1,000	\$ 500 - \$ 1,000
58-44a-502(8)(a)	\$ 500 - \$ 1,000	\$ 500 - \$ 2,000
58-44a-502(8)(b)	\$ 500 - \$ 1,000	\$ 500 - \$ 2,000
58-1-501(1)(b)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-501(1)(c)	\$ 500 - \$ 1,000	\$ 1,000 - \$ 5,000
58-1-501(1)(d)	\$ 500 - \$ 1,000	\$ 1,000 - \$ 5,000
58-1-501(1)(e)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-502(2)(a)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-502(2)(b)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-502(2)(c)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-502(2)(d)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-502(2)(e)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-502(2)(f)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-502(2)(g)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-502(2)(h)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-502(2)(i)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-502(2)(j)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-502(2)(k)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
R156-44a-502(1)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
R156-44a-502(2)	\$ 250 - \$ 500	\$ 500 - \$ 1,000
Ongoing offense(s)	\$ 1,000 per day but not less than the second offense.	
Any other conduct which constitutes unprofessional or unlawful conduct:	\$ 100 - \$ 500 - \$ 200 - \$ 1,000]	

VIOLATION	FIRST OFFENSE	SUBSEQUENT OFFENSE
58-44a-501(1)	\$ 2,000 - \$ 5,000	\$ 5,000 - \$ 10,000
58-44a-501(2)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-501(3)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-501(4)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-502(1)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-502(2)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-44a-502(3)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-44a-502(4)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-502(5)	\$ 200 - \$ 1,000	\$ 500 - \$ 2,000
58-44a-502(6)	Double the original penalty amount, up to \$10,000	
58-44a-502(7)	\$ 500 - \$ 1,000	\$ 500 - \$ 1,000
58-44a-502(8)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-44a-502(9)(a)	\$ 500 - \$ 1,000	\$ 500 - \$ 2,000
58-44a-502(9)(b)	\$ 500 - \$ 1,000	\$ 500 - \$ 2,000
58-44a-502(10)(a)	\$ 500 - \$ 1,000	\$ 500 - \$ 2,000
58-44a-502(10)(b)	\$ 500 - \$ 1,000	\$ 500 - \$ 2,000
58-1-501(1)(a)(i)	\$ 500 - \$ 2,000	\$ 500 - \$ 10,000

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<u>58-1-501(1)(a)(ii)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 500 - \$ 10,000</u>
<u>58-1-501(1)(b)(i)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(1)(b)(ii)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 500 - \$ 10,000</u>
<u>58-1-501(1)(c)</u>	<u>\$ 500 - \$ 1,000</u>	<u>\$ 1,000 - \$ 5,000</u>
<u>58-1-501(1)(d)</u>	<u>\$ 500 - \$ 1,000</u>	<u>\$ 1,000 - \$ 5,000</u>
<u>58-1-501(1)(e)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(1)(f)(i)(A)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(1)(f)(i)(B)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(1)(g)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(2)(a)(i)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(2)(a)(ii)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(2)(a)(iii)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(2)(a)(iv)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 200 - \$ 1,000</u>
<u>58-1-501(2)(a)(v)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 200 - \$ 1,000</u>
<u>58-1-501(2)(a)(vi)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 200 - \$ 1,000</u>
<u>58-1-501(2)(a)(vii)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(2)(a)(viii)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 200 - \$ 1,000</u>
<u>58-1-501(2)(a)(ix)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 200 - \$ 1,000</u>
<u>58-1-501(2)(a)(x)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 200 - \$ 1,000</u>
<u>58-1-501(2)(a)(xi)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 200 - \$ 1,000</u>
<u>58-1-501(2)(a)(xii)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(2)(a)(xiii)(A)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(2)(a)(xiii)(B)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(2)(a)(xiv)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(2)(a)(xv)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>58-1-501(2)(a)(xvi)</u>	<u>\$ 500 - \$ 2,000</u>	<u>\$ 2,000 - \$ 10,000</u>
<u>R156-44a-502(1)</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 200 - \$ 1,000</u>
<u>R156-44a-502(2)</u>	<u>\$ 250</u>	<u>\$ 500 - \$ 1,000</u>
<u>Ongoing offense</u>	<u>\$ 1,000 per day but not less than the second offense.</u>	
<u>Any other conduct which constitutes unprofessional or unlawful conduct:</u>	<u>\$ 100 - \$ 500</u>	<u>\$ 200 - \$ 1,000</u>

R156-44a-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) the failure to abide by any one or more of the [~~"Code of Ethics" published by the American College of Nurse-Midwives, June 2015, which is hereby adopted and incorporated by reference;~~]generally recognized scope and standards of nurse midwifery established under Subsections 58-44a-102(9) and R156-44a-102(9); and

(2) [~~failing to discuss the risks of using an opiate with a patient or the patient's guardian before issuing an initial opiate prescription; in accordance~~]the failure to comply with Section 58-37-19, regarding discussion with a patient or the patient's parent or guardian before issuing an initial opiate prescription.

R156-44a-601. Delegation of Nursing Tasks.

[In accordance with Subsection 58-44a-102(11), the delegation of nursing tasks is further defined, clarified, or established as follows:

(1) The certified nurse-midwife delegating tasks retains the accountability for the appropriate delegation of tasks and for the nursing care of the patient/client. The licensed nurse shall not delegate any task requiring the specialized knowledge, judgment and skill of a licensed nurse to an unlicensed assistive personnel. It is the licensed nurse who shall use professional judgment to decide whether or not a task is one that must be performed by a nurse or may be delegated to an unlicensed assistive personnel. This precludes a list of nursing tasks that can be routinely and uniformly delegated for all patients/clients in all situations. The decision to delegate must be based on careful analysis of the patient's/client's needs and circumstances.

(2) The licensed nurse who is delegating a nursing task shall:

- (a) verify and evaluate the orders;
- (b) perform a nursing assessment;
- (c) determine whether the task can be safely performed by an unlicensed assistive personnel or whether it requires a licensed health care provider;
- (d) verify that the delegatee has the competence to perform the delegated task prior to performing it;
- (e) provide instruction and direction necessary to safely perform the specific task; and
- (f) provide ongoing supervision and evaluation of the delegatee who is performing the task.

(3) The delegator shall evaluate the situation to determine the degree of supervision required to ensure safe care.

(a) The following factors shall be evaluated to determine the level of supervision needed:

- (i) the stability of the condition of the patient/client;

- ~~(ii) the training and capability of the delegatee;~~
- ~~(iii) the nature of the task being delegated; and~~
- ~~(iv) the proximity and availability of the delegator to the delegatee when the task will be performed.~~
- ~~(b) The delegating nurse or another qualified nurse shall be readily available either in person or by telecommunication. The delegator responsible for the care of the patient/client shall make supervisory visits at appropriate intervals to:~~
 - ~~(i) evaluate the patient's/client's health status;~~
 - ~~(ii) evaluate the performance of the delegated task;~~
 - ~~(iii) determine whether goals are being met; and~~
 - ~~(iv) determine the appropriateness of continuing delegation of the task.~~
- ~~(4) Nursing tasks, to be delegated, shall meet the following criteria as applied to each specific patient/client situation:~~
 - ~~(a) be considered routine care for the specific patient/client;~~
 - ~~(b) pose little potential hazard for the patient/client;~~
 - ~~(c) be performed with a predictable outcome for the patient/client;~~
 - ~~(d) be administered according to a previously developed plan of care; and~~
 - ~~(e) not inherently involve nursing judgment which cannot be separated from the procedure.~~
- ~~(5) If the nurse, upon review of the patient's/client's condition, complexity of the task, ability of the unlicensed assistive personnel and other criteria as deemed appropriate by the nurse, determines that the unlicensed assistive personnel cannot safely provide care, the nurse shall not delegate the task.]Under Subsections 58-44a-102(9) and (11), the standards and requirements for the delegation of nursing tasks by a certified nurse midwife are in Section R156-31b-701a.~~

R156-44a-609. Standards for Out-of-State Programs Providing Certified Nurse Midwife Clinical Experiences in Utah.

- (1) ~~[In order to]~~To qualify its students for the exemption ~~[set forth]~~in Subsection 58-1-30[4]7(1)(b), ~~[approval of]~~a nurse midwifery education program ~~[located]~~in another state that uses Utah health care facilities for one or more student clinical experiences with certified nurse midwives, ~~[for one or more students]~~shall, ~~[prior to]~~before placing a student, submit a written request for approval ~~[in writing]~~as a recognized school to the ~~[Certified Nurse Midwife Board]~~Board of Nursing and Certified Nurse Midwives, and demonstrate to the satisfaction of the Board that the program:
- (a) has been approved, if required, by the regulatory body responsible for certified nurse midwives in the program's home state;
 - (b) holds current accreditation from the ~~[Accreditation Commission for Midwifery Education (ACME)]~~ACME;
 - (c) has clinical faculty who are employed by the nurse midwifery education program;
 - (d) is affiliated with an institution of higher education; and
 - (e) has established criteria for selection and supervision of:
 - (i) onsite preceptors; and
 - (ii) the clinical activities.
- (2) ~~[Following]~~After approval by the Board of Nursing and Certified Nurse Midwives, the nurse midwifery program shall:
- (a) reapply for Board review and approval when the program's ACME accreditation is reaffirmed; and
 - (b) notify the Board~~[,]~~ in writing~~[,]~~ of any change in its accreditation status.

KEY: licensing, midwifery, certified nurse midwife

Date of Last Change: ~~[December 9, 2019]~~2024

Notice of Continuation: August 8, 2023

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-44a-101; 58-1-307.1

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R156-47b	Filing ID: 56897
Agency Information		
1. Title catchline:	Commerce, Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 East 300 South	
City, state:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 145741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Lisa Martin	801-530-7632	lmartin@utah.gov

Matt Johnson	801-530-6628	mmjohnson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R156-47b. Massage Therapy Practice Act Rule
3. Purpose of the new rule or reason for the change:
This amendment updates the rule as required by changes made during the 2024 Legislative Session.
4. Summary of the new rule or change:
Two laws were passed during the 2024 General Session which directly impacted Rule R156-47b. 2024 HB 312: Professional Licensing Amendments. Prior to May 1, 2024, there were three requirements governing the practice of animal massage therapy: 1) The therapist had to be a licensed massage therapist under Title 58, 2) the therapist had to be acting under the written referral from a veterinarian, and 3) the therapist must have completed at least 60 hours of animal massage therapy education. H.B. 312 removed both the requirement that the therapist be licensed under Title 58 and that the massage therapy arise from a veterinarian's referral. The education standards did not change. To accommodate this legislative change, Section R156-47b-601, which sets the standards for animal massage therapy training, was amended to clarify that any individual, not just licensed massage therapists, may train as animal massage therapists. 2024 H.B. 534: Boards and Commissions Modifications. On May 1, 2024, Subsection 58-47b-102(1) of the Massage Therapy Practice changed the definition of the term "Board" from "the Board of Massage Therapy" to the "Board of Massage Therapy and Acupuncture" under 2024 HB 534. While generally, Rule R156-47b uses this defined term, two references to "the Utah Board of Massage Therapy" remained in Section R156-47b-202. These references are being amended by this rule change. Additionally, this amendment makes clear that because the Board now consists of both massage therapists and acupuncturists, the former Board member required to serve on the Massage Therapy Education Peer Committee in Subsection R156-47b-202(1)(c) must have previously served on the Board as a massage therapist.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The proposed amendments reflect legislative changes made during the 2024 General Session. Any costs associated with those changes, including the costs for the Division to enforce those changes through the Massage Therapy Practice Act Rule, would be included in the fiscal notes of those legislative acts. Moreover, the changes to the rule, as proposed, do not impact the Division's enforcement of the Massage Therapy Practice Act Rule, but merely clarify key terms in the rule to conform to those statutory changes. Consequently, the Division does not anticipate costs or savings to the state budget.
B) Local governments:
The proposed amendments reflect legislative changes made during the 2024 General Session. Any costs associated with those changes, including the costs for the Division to enforce those changes through the Massage Therapy Practice Act Rule, would be included in the fiscal notes of those legislative acts. Moreover, the changes to the rule, as proposed, do not impact the Division's enforcement of the Massage Therapy Practice Act Rule, but merely clarify key terms in the rule to conform to those statutory changes. Consequently, the Division does not anticipate costs or savings to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):

The proposed amendments reflect legislative changes made during the 2024 General Session. Any costs associated with those changes, including the costs for the Division to enforce those changes through the Massage Therapy Practice Act Rule, would be included in the fiscal notes of those legislative acts. Moreover, the changes to the rule, as proposed, do not impact the Division's enforcement of the Massage Therapy Practice Act Rule, but merely clarify key terms in the rule to conform to those statutory changes.

Consequently, the Division does not anticipate costs or savings to small businesses.

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

The proposed amendments reflect legislative changes made during the 2024 General Session. Any costs associated with those changes, including the costs for the Division to enforce those changes through the Massage Therapy Practice Act Rule, would be included in the fiscal notes of those legislative acts. Moreover, the changes to the rule, as proposed, do not impact the Division's enforcement of the Massage Therapy Practice Act Rule, but merely clarify key terms in the rule to conform to those statutory changes.

Consequently, the Division does not anticipate costs or savings to 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*):

The proposed amendments reflect legislative changes made during the 2024 General Session. Any costs associated with those changes, including the costs for the Division to enforce those changes through the Massage Therapy Practice Act Rule, would be included in the fiscal notes of those legislative acts. Moreover, the changes to the rule, as proposed, do not impact the Division's enforcement of the Massage Therapy Practice Act Rule, but merely clarify key terms in the rule to conform to those statutory changes.

Consequently, the Division does not anticipate costs or savings to persons other than small businesses, non-small businesses, state, or local government entities.

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

The proposed amendments reflect legislative changes made during the 2024 legislative session. Any costs associated with those changes, including the costs for the Division to enforce those changes through the Massage Therapy Practice Act Rule, would be included in the fiscal notes of those legislative acts. Moreover, the changes to the rule, as proposed, do not impact the Division's enforcement of the Massage Therapy Practice Act Rule, but merely clarify key terms in the rule to conform to those statutory changes. The Division does not anticipate any new compliance costs for affected persons arising from the proposed amendments.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Commerce, Margaret Busse, 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 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	Section 58-47b-101
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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:		12/16/2024
B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
12/03/2024	9:30 AM	160 E. 300 S, 4th floor, Salt Lake City, UT, via Google Meet: meet.google.com/tbe-rxkk-shi via Telephone: 435-562-1559 PIN: 497 751 028# 617-675-4444 PIN: 445 154 320 3048#

9. This rule change MAY become effective on:	12/23/2024
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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:	Mark Steinagel, Director	Date:	10/28/2024
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R156. Commerce, Professional Licensing.

R156-47b. Massage Therapy Practice Act Rule.

R156-47b-202. Massage Therapy Education Peer Committee.

(1) There is created under Subsection 58-1-203(1)(f), the Massage Therapy Education Peer Committee, consisting of:

- (a) two individuals who:
 - (i) are instructors in massage therapy at a registered school; and
 - (ii) have experience in curriculum development;
- (b) one individual who represents a professional massage therapy association;
- (c) one individual who previously served as a member of the ~~[Utah]Board [of Massage Therapy]~~as a licensed massage therapist;

and

(d) one individual who is a licensed massage therapist.

(2) The Massage Therapy Education Peer Committee shall:

(a) advise the ~~[Utah]Board [of Massage Therapy]~~regarding massage therapy educational issues;

(b) recommend to the Board standards for massage school curricula, apprenticeship curricula, massage assistant in-training curricula, and animal massage training; and

(c) periodically review the current curriculum requirements.

R156-47b-601. Standards for Animal Massage Therapy Training.

Under Subsection 58-28-307(12)(c), ~~an individual[a massage therapist]~~ practicing animal massage shall have received at least 60 hours of animal massage therapy training in the following areas:

- (1) quadruped anatomy;
- (2) the theory of quadruped massage; and
- (3) supervised quadruped massage experience.

KEY: licensing, massage therapy, massage therapist, massage apprentice
Date of Last Change: ~~December 28, 2023~~ 2024
Notice of Continuation: March 21, 2022
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-47b-101

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R156-67	Filing ID: 56871

Agency Information

1. Title catchline:	Commerce, Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 East 300 South	
City, state:	Salt Lake City UT 84111	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Larry Marx	801-530-6628	lmarx@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R156-67. Utah Medical Practice Act Rule
3. Purpose of the new rule or reason for the change:
The Division of Professional Licensing (Division) in collaboration with the Physicians Licensing Board is filing these proposed amendments to clarify and update the rule in accordance with statutory changes made by H.B. 58 and H.B. 365 passed in the 2024 General Session.
4. Summary of the new rule or change:
Section R56-67-102 definitions are updated to define "medication or substance, including a neurotoxin or a filler, for cosmetic purposes" in accordance with the amendment made by H.B. 365 to the definition of "cosmetic medical procedure." The prohibition in Section R156-67-305 against allowing a medical assistant under indirect supervision to inject neurotoxins and fillers is amended to conform to these new definitions.
Section R156-67-302a is amended to clarify documentation requirements for Section 58-67-302, including in accordance with Section 58-1-302 as amended by H.B. 58 to allow documentation of progressive postgraduate training in an accredited fellowship.
Formatting changes are also made throughout the rule to conform the rule to the current edition of the Rulewriting Manual for Utah and to update citations.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
As described in boxes 5C and 5E, the proposed amendments to Section R156-67-302a are expected to benefit certain individuals who are applying for licensure as a physician and surgeon, and are expected to indirectly benefit persons who employ licensed physicians and surgeons, which may include certain state government entities acting as businesses. As described in boxes 5C and 5E the full impacts cannot be estimated because the data necessary to determine how many such licensees might be hired is unavailable, and because the benefits that a state government entity may experience from any resulting employment will vary

widely depending on the requirements of the state government entity and the individual characteristics of each licensee. The remaining proposed amendments are not expected to impact the state budget as they simply update and clarify the rule in accordance with statutory changes.

B) Local governments:

As described in boxes 5C and 5E, the proposed amendments to Section R156-67-302a are expected to benefit certain individuals who are applying for licensure as a physician and surgeon, and are expected to indirectly benefit persons who employ licensed physicians and surgeons, which may include certain local government entities acting as businesses. However, as described in boxes 5C and 5E the full impacts cannot be estimated because the data necessary to determine how many such licensees might be hired is unavailable, and because the benefits that a local government may experience from any resulting employment will vary widely depending on the requirements of the local government and the individual characteristics of each licensee. The remaining proposed amendments are not expected to impact the state budget as they simply update and clarify the rule in accordance with statutory changes.

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

As described in box 5E the proposed amendments to Section R156-67-302a are expected to expand the opportunity for certain qualified individuals to meet licensure requirements and ultimately become licensed as physicians and surgeons. In turn, the Division expects this will increase the availability of personnel for small businesses who employ licensed physicians and surgeons. The Division also expects this to increase the number of small businesses that are owned or operated by licensed physicians and surgeons

However, the full impacts cannot be estimated because the data is not available to determine precisely how many such licensees might be hired by small business, or how many such licensees might decide to own or operate their own small business.

Additionally, the benefits that a small business may experience from an increased ability to hire physicians and surgeons will vary widely depending on the requirements of the small business and the individual characteristics of each licensee. The remaining proposed amendments are not expected to impact the state budget as they simply update and clarify the rule in accordance with statutory changes.

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

As described in box 5E the proposed amendments to Section R156-67-302a are expected to expand the opportunity for certain qualified individuals to meet licensure requirements and ultimately become licensed as physicians and surgeons. In turn, the Division expects this will increase the availability of personnel for non-small businesses who employ licensed physicians and surgeons.

he Division also expects this may also increase slightly the number of non-small businesses that are owned or operated by licensed physicians and surgeons. However, the full impacts cannot be estimated because the data is not available to determine precisely how many such licensees might be hired by non-small businesses, or how many such licensees might decide to own or operate their own non-small business. Additionally, the benefits that a non-small business may experience from an increased ability to hire physicians and surgeons will vary widely depending on the requirements of the small business and the individual characteristics of each licensee.

The remaining proposed amendments are not expected to impact the state budget as they simply update and clarify the rule in accordance with statutory changes.

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 amendments to Section R156-67-302a are expected to benefit qualified individuals who can complete progressive postgraduate training in an accredited fellowship and meet all requirements for licensure as a physician and surgeon. The Division estimates that approximately 15 individuals per year may be able to apply for licensure using this licensure pathway, which will result in significant fiscal benefits for these individuals if they qualify to become licensed and then subsequently become employed as a physician and surgeon, or are able to own their own business as a physician and surgeon.

However, the full fiscal impact of these expected benefits cannot be estimated as it will depend on the unique education, capabilities, and circumstances of each individual.

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

As described in box 5E for other persons, no compliance costs are expected 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Commerce, Margaret W. Busse, 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 58-1-106(1)(a)	Section 58-67-101	Subsection 58-1-202(1)(a)
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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: 12/16/2024

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

Date:	Time:	Place (physical address or URL):
12/03/2024	9:30 a.m.	160 E. 300 S, 4th floor, Salt Lake City, UT, and also via Google Meet: Google Meet joining info: Video call link: https://meet.google.com/tbe-rxkk-shi Join by phone (US) +1 435-562-1559 PIN: 497 751 028#

9. This rule change MAY become effective on: 12/23/2024

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:	Mark B. Steinagel, Division Director	Date:	10/04/2024
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R156. Commerce, Professional Licensing.

R156-67. Utah Medical Practice Act Rule.

R156-67-101. Title - Authority - Organization.

- (1) This rule ~~shall be~~ is known as the "Utah Medical Practice Act Rule."
- (2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 67, Utah Medical Practice Act.
- (3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-67-102. Definitions.

~~The following definitions supplement the definitions~~ Terms used in this rule are defined in Title 58, Chapter 1, Division of Professional Licensing Act, and Title 58, Chapter 67, Utah Medical Practice Act. In addition:

- (1) "ACCME" means the Accreditation Council for Continuing Medical Education.
- (2) "Alternate medical practices" as used in Section R156-67-603, means treatment or therapy that is determined in an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, to be:
 - (a) not generally recognized as standard in the practice of medicine;
 - (b) not shown by current generally accepted medical evidence to present a greater risk to the health, safety, or welfare of the patient than does prevailing treatment considered to be the standard in the profession of medicine; and
 - (c) supported by a body of current generally accepted written documentation demonstrating the treatment or therapy has reasonable potential to be of benefit to the patient to whom the therapy or treatment is to be given.
- (3) "AMA" means the American Medical Association.
- (4) "Collaborative practice arrangement contract" means a written, signed contract between a collaborating physician licensed and in good standing under Section 58-67-302, and an associate physician holding a restricted license in accordance with Section 58-67-302.8, that:
 - (a) includes the terms and conditions required by Section 58-67-807 and Section R156-67-807; and
 - (b) is approved by the Division in accordance with Section 58-67-807 and Section R156-67-807.
- (5) "FLEX" means the Federation of State Medical Boards Licensing Examination.
- (6) "FMGEMS" means the Foreign Medical Graduate Examination in Medical Science.
- (7) "FSMB" means the Federation of State Medical Boards.
- (8) "Homeopathic medicine" means a system of medicine employing and limited to substances prepared and prescribed in accordance with the principles of homeopathic pharmacology as described in the Homeopathic Pharmacopoeia of the United States, its compendia, addenda, and supplements, as officially recognized by:
 - (a) the ~~f~~ederal Food, Drug and Cosmetic Act, ~~[Public Law 717-21 U.S. Code Sec. 331]~~ 21 U.S.C. Sec. 301 et seq.;
 - (b) Utah's food and drug laws; and
 - (c) Title 58, Chapter 37, Utah Controlled Substances Act.
- (9) "LMCC" means the Licentiate of the Medical Council of Canada.
- (10) "Medication or substance, including a neurotoxin or a filler, for cosmetic purposes" as used in the definition of cosmetic medical procedure in Subsection 58-67-102(11)(a)(ii) means a medication or substance that is approved by the U.S. Food and Drug Administration (FDA) for use in humans for cosmetic purposes and is used according to FDA guidelines.
 - (11) "NBME" means the National Board of Medical Examiners.
 - (1~~1~~)2 "Unprofessional conduct" under Subsection 58-1-203(1)(e) is further defined in Section R156-67-502.
 - (1~~2~~)3 "USMLE" means the United States Medical Licensing Examination.

R156-67-302a. Qualifications for Licensure - Practitioner Data Banks -- Education - Training.

Under Subsections 58-67-302(1)(a)~~(i) and 58-1-401(2)~~, (d), and (e) and Section 58-1-302, an applicant for licensure under Subsections 58-67-302(1) and (2) shall submit the following:

- (1) a Federation Credentials Verification Service (FCVS) report, which includes the following:
 - (a) transcripts for medical education;
 - (b) documentation of progressive postgraduate training in an ACGME or LMCC accredited residency or an accredited fellowship;
 - (c) verification of identity; and
 - (d) for an applicant educated in a jurisdiction outside the United States or its territories, a current ECFMG certification;
- (2)(a) American Medical Association Profile; or
- (b) documentation of American Board of Medical Specialties (ABMS) Board Certification;
- (3) Federation of State Medical Boards Disciplinary Inquiry report; and
- (4) National Practitioner Data Bank Report of Action.

R156-67-305. Exemptions from Licensure.

Exemptions from licensure as a physician and surgeon under Subsection 58-1-307(1) and Section 58-67-305 are subject to the following:

- (1) a physician who is exempted from licensure shall obtain a Utah Controlled Substance License before prescribing, dispensing, or administering a controlled substance outside of a hospital;
- (2) a person engaged in a public screening program making measures of physiologic conditions such as serum cholesterol, blood sugar, or blood pressure is exempt from licensure and is not engaged in the practice of medicine if:
 - (a) the instruments or devices used in making measures are:
 - (i) approved by the ~~Food and Drug Administration of the U.S. Department of Health~~ FDA, to the extent an approval is required; and
 - (ii) used in accordance with those approvals;
 - (b) the facilities and testing protocol meet the standards and personnel training requirements of the Utah Department of Health and Human Services;
 - (c) unlicensed personnel:
 - (i) do not interpret results of measures or tests;
 - (ii) do not recommend treatment or the purchase of any product; and
 - (iii) conform to the referral and follow-up protocol approved by the Utah Department of Health and Human Services for each measure or test;
 - (d) licensed personnel act within their scope of practice; and
 - (e) the information provided to the individuals measured or tested to allow them to interpret their own results is only that approved by the Utah Department of Health and Human Services;
- (3) an unlicensed public safety individual who does not have emergency medical technician (EMT) certification, but who is designated as a first responder by city, county, or state officials, may carry a Mark I automatic injector antidote kit and self-administer the antidote, or administer the antidote to the individual's designated first response buddy, if:
 - (a) the kit is procured through the Utah Department of Health and Human Services;
 - (b) the kit is issued to the individual by the individual's employing agency; and
 - (c) before being issued the kit, the responder has completed a course on the use of auto-injectors; and
- (4) under Subsection 58-67-305(6)(b)(iv), a medical assistant under the indirect supervision of a physician, may not engage in the following medical practices or procedures:
 - (a) diagnosing;
 - (b) establishing a treatment plan; or
 - (c) injecting the following:
 - (i) ~~neurotoxins, soft tissue fillers, or other facial esthetic substances~~ medication or substance, including a neurotoxin or filler, for cosmetic purposes; or
 - (ii) cosmetic products with bioactive ingredients with claimed medical benefits.

R156-67-604. Annual Review of Dispensing Practices of Those Authorized to Dispense an Opiate Antagonist.

Under Subsection ~~[26-55-105(2)(e)]~~ 26B-4-510(2)(c), a physician who issues a standing prescription drug order authorizing the dispensing of an opiate antagonist shall review the dispensing practices of those authorized by the physician to dispense the opiate antagonist by reviewing the report of the licensee dispensing the opiate antagonist under Subsection R156-17b-625(1).

R156-67-807. Collaborative Practice Arrangement Contract - Duties and Responsibilities of Collaborating Physician and Associate Physician.

- (1) Under Subsection 58-67-302.8(2) and Section 58-67-807, the process for Division approval of a collaborative practice arrangement, and the educational methods and programs required of an associate physician throughout the duration of a collaborative practice arrangement, are established in this section.
- (2) Before beginning a collaborative practice arrangement, the prospective collaborating physician and associate physician shall sign a written collaborative practice arrangement contract, which the associate physician shall submit to the Division for approval.
- (3) A collaborative practice arrangement contract shall include at least the following:
 - (a) the terms and conditions required by Subsection 58-67-807(1)(b), including a description of how the health care services provided by the associate physician will be consistent with the associate physician's skill, training, and competence;
 - (b) if the associate physician will prescribe Schedule III through V controlled substances, documentation of the associate physician's mid-level practitioner Federal Drug Administration (DEA) registration;
 - (c) under Subsection 58-67-80~~[4]~~ [7](1)(c), a provision requiring the associate physician to notify the Division in writing within ten days of any modifications to the collaborative practice arrangement contract, and providing that any modifications shall become effective only upon receipt of written notice from the Division approving the changes;
 - (d) under Subsection 58-67-807(4), a plan establishing educational methods and programs that the associate physician shall complete throughout the duration of the collaborative practice arrangement contract, which will facilitate the advancement of the associate physician's medical knowledge and abilities; and
 - (e) remedies in the event of breach of contract by either the collaborating physician or associate physician, including procedures for contract termination and written notification to the Division.
- (4) Before an associate physician may provide health care services under a collaborative practice arrangement, the parties shall obtain the Division's written approval of the collaborative practice arrangement contract.

NOTICES OF PROPOSED RULES

- (5) In evaluating a collaborative practice arrangement contract, the Division shall determine if the contract sufficiently complies with Section 58-67-807 and this section to adequately protect the public health, safety, and welfare.
- (6) A collaborating physician overseeing an associate physician shall:
 - (a) ensure that the collaborating physician and associate physician are:
 - (i) both appropriately licensed; and
 - (ii) practicing pursuant to a Division-approved collaborative practice arrangement contract;
 - (b) ensure that the collaborating physician does not enter into a collaborative practice arrangement with more than three full-time equivalent associate physicians as required by Subsection 58-67-807(3)(b);
 - (c) be available to the associate physician for advice, consultation, and direction consistent with the standards and ethics of the profession, including consideration of the associate physician's level of skill, training, and competence; and
 - (d) monitor the associate physician's performance for compliance with the laws, rules, standards, and ethics of the profession, and report violations to the Division.
- (7) An associate physician shall:
 - (a) before beginning a collaborative practice arrangement and rendering any health care services, enter into a Division-approved collaborative practice arrangement contract with a collaborating physician in accordance with this section;
 - (b) maintain required licensure and any required DEA registration;
 - (c) be professionally responsible for the acts and practices of the associate physician; and
 - (d) comply with the laws, rules, standards, and ethics of the profession.
- (8)(a) A collaborating physician shall submit to the Division a written explanation outlining the collaborating physician's concerns if the collaborating physician:
 - (i) terminates a collaborative practice arrangement contract for cause;
 - (ii) does not support continuance of a license for an associate physician to practice; or
 - (iii) has other concerns regarding the associate physician that the collaborating physician believes requires input from the Division and Board.
- (b) Upon receipt of written concerns from a collaborating physician with respect to an associate physician, the Division shall:
 - (i) provide the associate physician an opportunity to respond in writing to the Division regarding the collaborating physician's concerns;
 - (ii) review with the Board the written statements from the collaborating physician and associate physician; and
 - (iii) in consultation with the Board, take any appropriate licensure action.

KEY: physicians, licensing

Date of Last Change: ~~January 12, 2023~~ 2024

Notice of Continuation: January 12, 2021

Authorizing, and Implemented or Interpreted Law: 58-67-101; 58-1-106(1)(a); 58-1-202(1)(a)

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R156-72	Filing ID: 56902
Agency Information		
1. Title catchline:	Commerce, Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E. 300 S.	
City, state:	Salt Lake City UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Lisa Martin	801-530-7632	lmartin@utah.gov
Please address questions regarding information on this notice to the persons listed above.		
General Information		
2. Rule or section catchline:		
R156-72. Acupuncture Licensing Act Rule		

<p>3. Purpose of the new rule or reason for the change:</p> <p>The Division of Professional Licensing (Division), in collaboration with the Acupuncture Licensing Board is filing these proposed amendments to clarify and update the rule and implement certain requirements in accordance with statutory changes made by H.B. 534 passed during the 2024 General Session.</p> <p>Under Executive Order No. 2021-12, formatting changes are made throughout to streamline licensure pathways and to update the rule consistent with the Rulewriting Manual for Utah and remove duplicate language already present in the Utah Code.</p>
<p>4. Summary of the new rule or change:</p> <p>The amendment makes the following changes:</p> <p>Section R156-72-101: Consolidates the existing provisions for the rule's title, authority, and relationship to Rule R156-1 into one section.</p> <p>Section R156-72-102: Adds definitions for (a) "BLS-CPR Certification" which is referenced in the rule but was not defined; and (b) "Board" which reflects combination of the Acupuncture Licensing Board and the Board of Massage Therapy into the Board of Massage Therapy and Acupuncture" under H.B. 534.</p> <p>Subsection R156-72-102(1): Updates ACAHM name change.</p> <p>Subsection R156-72-102(9): Updates NCCAOM's name change.</p> <p>Subsection R156-72-302b: Clarifies that a licensed veterinarian may provide direct supervision to a licensed acupuncturist who is receiving animal acupuncture training and education.</p> <p>Subsection R156-72-303(3)(a): Updates the meaning of the NCCAOM's "PDA" from "professional didactic activity" to "professional development activity." This changed is based on the NCCAOM's PDA Handbook and website which use "development" rather than "didactic."</p> <p>The amendment also makes nonsubstantive formatting changing to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.</p>

Fiscal Information

<p>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</p>
<p>A) State budget:</p> <p>There is no estimated fiscal impact on any state government budgets. The proposed amendment clarifies supervision requirements for animal acupuncture training. The amendment otherwise makes only minor, nonsubstantive, changes to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.</p>
<p>B) Local governments:</p> <p>There is no estimated fiscal impact on any local government budgets. The proposed amendment clarifies supervision requirements for animal acupuncture training. The amendment otherwise makes only minor, nonsubstantive, changes to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.</p>
<p>C) Small businesses ("small business" means a business employing 1-49 persons):</p> <p>There is no estimated fiscal impact on small businesses. The proposed amendment clarifies supervision requirements for animal acupuncture training. The amendment otherwise makes only minor, nonsubstantive, changes to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.</p>
<p>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</p> <p>There is no estimated fiscal impact on non-small businesses. The proposed amendment clarifies supervision requirements for animal acupuncture training. The amendment otherwise makes only minor, nonsubstantive, changes to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.</p>

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 estimated fiscal impact on any person or group. The proposed amendment clarifies supervision requirements for animal acupuncture training. The amendment otherwise makes only minor, nonsubstantive, changes to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.

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

There is no estimated impact on any state government budgets. The proposed amendment clarifies supervision requirements for animal acupuncture training. The amendment otherwise makes only minor, nonsubstantive, changes to bring the rule into conformity with current policies regarding rulemaking including numbering, referencing, and style.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Commerce, Margaret W. Busse, 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 58-1-106(1)(a)	Section 58-72-101	Subsection 58-1-202(1)(a)
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Incorporations by Reference Information

7. Incorporations by Reference:	
A) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	NCCAOM Code of Ethics
Publisher	National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)
Issue Date	November 2023

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:		12/16/2024
B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
12/03/2024	9:30 a.m.	160 E. 300 S, 4th floor, Salt Lake City, UT, and also via Google Meet Google Meet joining info Video call link: https://meet.google.com/tbe-rxkk-shi Or dial: (US) +1 435-562-1559 PIN: 497 751 028# More phone numbers: https://tel.meet/tbe-rxkk-shi?pin=4451543203048

9. This rule change MAY become effective on:	12/23/2024
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:	Mark Steinagel, Division Director	Date:	10/15/2024
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R156. Commerce, ~~Occupational and~~ Professional Licensing.**R156-72. Acupuncture Licensing Act Rule.****R156-72-101. Title - Authority - Relationship to Rule 156-1.**

(1) This rule is known as the "Acupuncture Licensing Act Rule".

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 72, Acupuncture Licensing Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-101.

R156-72-102. Definitions.

~~In addition to the definitions in~~ Terms used in this rule are defined in Title 58, Chapter 1, Division of ~~Occupational and~~ Professional Licensing Act, and in Title 58, Chapter 72, Acupuncture Licensing Act~~]. [the following rule definitions supplement the statutory definitions:]~~
In addition:

(1) ~~["ACAOM"]~~ "ACAHM" means the Accreditation Commission for Acupuncture and ~~Oriental~~ Herbal Medicine.

(2) "According to practitioner training" in Subsection 58-72-102(5)(b)(ii) means that the licensee has completed education and training from an educational program accredited or recognized by ~~ACAOM~~ ACAHM regarding the recommendation, administration, or provision of dietary guidelines, herbs, supplements, homeopathics, and therapeutic exercise.

(3) "Administration" in Subsection 58-72-102(5)(b)(ii) means the direct application of an herb, homeopathic, or supplement to the body of a patient by:

- (a) ingestion;
- (b) topical application;
- (c) inhalation; or
- (d) point injection therapy~~[(PIT)]~~.

(4) "BLS-CPR Certification" means Basic Life Support and Cardiopulmonary Resuscitation Certification.

~~(4)~~(5) "Herbs" and "homeopathics" in Subsection 58-72-102(5)(b)(ii) may include:

- (a) vitamins;
- (b) minerals;
- (c) amino acids;
- (d) proteins; ~~and~~ or
- (e) enzymes.

~~(5)~~(6) "Insertion of acupuncture needles" in Subsection 58-72-102(5)(a) means a procedure of acupuncture and oriental medicine including myofascial trigger point therapy, intramuscular therapy, perineural injection therapy~~[(PIT)]~~, prolotherapy, proprioceptive stimulation, Ashi points, or dry needling techniques.

~~(6)~~(7) "Modern research" in Subsection 58-72-102(5)(b)(ii) means practicing according to acupuncture and oriental medicine education and training as recognized through NCCAOM.

NOTICES OF PROPOSED RULES

~~[(7)](8)~~ "NCCAOM" means the National Certification Commission for ~~[the Certification of]~~ Acupuncture and Oriental Medicine, formerly known as the National Commission for the Certification of Acupuncturists (NCCA).

~~**R156-72-103. Authority – Purpose.**~~

~~This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 72.~~

~~**R156-72-104. Organization – Relationship to Rule R156-1.**~~

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

R156-72-302a. Qualifications for Licensure - Certification and Exam Requirements.

~~[In accordance with]~~Under Subsections 58-72-302(3) and (4), to meet the requirements for current active certification in acupuncture under guidelines established by NCCAOM~~[-]~~ and the requirements for passing the examination required by the Division, an applicant for licensure as a licensed acupuncturist shall submit documentation of:

- (1) current and active NCCAOM certification; or
- (2) pursuant to Subsection 58-1-302~~[(1)]~~(2) or (3), licensure in good standing as an acupuncturist in any ~~[state, district, or territory of the United States]~~jurisdiction, for at least one year immediately preceding the application.

R156-72-302b. Qualifications for Licensure - Animal Acupuncture.

~~[In accordance with]~~Under Subsections 58-28-307(12)(d) and 58-72-102(5)(b)(iii), to engage in the practice of animal acupuncture, a licensed acupuncturist shall complete 100 hours of animal acupuncture training and education that includes:

- (1) fifty hours of on-~~the-~~job training under the direct or indirect supervision of a licensed veterinarian;
- (2) animal anatomy training; and
- (3) the remaining hours in animal specific continuing education.

R156-72-302c. Informed Consent.

(1) ~~[In accordance with]~~Under Subsection 58-72-302(5), to enable patients to give informed consent to treatment, a licensed acupuncturist shall have a patient chart for each patient that includes:

- (a) a written review of symptoms;
- (b) a statement signed by the patient consenting to acupuncture treatment; and
- (c) if the patient is receiving an adjunctive therapy as defined in Subsection 58-72-102(5)(b), a written disclosure signed by the patient regarding the licensed acupuncturist's education and training to perform that therapy.

(2) ~~[In accordance with]~~Under Section 58-72-503, patient records, including records documenting informed consent, shall be maintained for seven years.

R156-72-303. Renewal Cycle - Procedures.

(1) ~~[In accordance with]~~Under Subsection 58-1-308(1), the renewal date for the two-year renewal cycle ~~[applicable to]~~for licensees under Title 58, Chapter 72, Acupuncture Licensing Act, is established ~~[by rule]~~in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Sections R156-1-308b through R156-1-308l.

(3) ~~[In accordance with]~~Under Subsections 58-1-308(3)(b) and 58-72-303(3), a licensee who does not maintain current and active NCCAOM certification shall:

- (a) complete at least 30 continuing education units (CEU) or 30 professional ~~[didactic]~~development activity (PDA) points within the two-year renewal period; and
- (b) maintain current BLS-CPR certification.

R156-72-503. Unprofessional Conduct.

~~[In accordance with]~~Under Subsection 58-72-102(6), "unprofessional conduct" includes:

- (1) failing to maintain office, instruments, equipment, appliances, or supplies in a safe and sanitary condition;
- (2) violating Subsection 58-72-303(3) regarding renewal qualifications by:
 - (a) failing to maintain current and active NCCAOM certification;
 - (b) failing to complete all continuing education units (CEUs) required under Subsection R156-72-303(3); or
 - (c) failing to maintain current BLS-CPR certification;
- (3) failing to abide by the NCCAOM Code of Ethics revised ~~[January 1, 2016]~~November 2023, that is ~~[hereby]~~incorporated by reference;
- (4) failing to maintain patient records for a seven-year period;
- (5) recommending, administering, or providing dietary guidelines, herbs, supplements, homeopathics, or therapeutic exercise without having completed the required practitioner training pursuant to Subsections 58-72-102(5)(b)(ii) and ~~[Subsection]~~R156-72-102(2); or
- (6) administering venous injections, immunizations, or controlled substances.

KEY: acupuncture, licensing

Date of Last Change: ~~[March 25, 2021]~~2024

Notice of Continuation: September 7, 2021

Authorizing, and Implemented or Interpreted Law: 58-72-101; 58-1-106(1)(a); 58-1-202(1)(a)

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal		
Rule or Section Number:	R357-12	Filing ID: 56861

Agency Information

1. Title catchline:	Governor, Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple, Suite 300	
City, state:	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Greg Jeffs	801-368-1957	gjeffs@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R357-12. Fiscal Emergency Contingent Management of Federal Lands
3. Purpose of the new rule or reason for the change:
This rule is for The Office of Outdoor Recreation. Outdoor Rec is now a part of the Department of Natural Resources. Therefore, GOEO is repealing this rule. Outdoor Rec has already created a rule that will replace this rule. (See Utah State Bulletin, 2024-19, Rule R650-103).
4. Summary of the new rule or change:
Rule R357-12 is repealed and reinstated as Rule R650-103

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
\$0. There is no anticipated costs or savings as this rule is being repealed after having been re-created by DNR.
B) Local governments:
\$0. There is no anticipated costs or savings as this rule is being repealed after having been re-created by DNR.
C) Small businesses ("small business" means a business employing 1-49 persons):
\$0. There is no anticipated costs or savings as this rule is being repealed after having been re-created by DNR.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
\$0. There is no anticipated costs or savings as this rule is being repealed after having been re-created by DNR.
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):
\$0. There is no anticipated costs or savings as this rule is being repealed after having been re-created by DNR.

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

\$0. There is no anticipated costs or savings as this rule is being repealed after having been re-created by DNR.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Governor's Office of Economic Opportunity, Ryan Starks, 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 79-4-1103	Section 79-7-602	
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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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	Ryan Starks, Executive Director	Date:	10/15/2024
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R357. Governor, Economic Opportunity.

~~**R357-12. Fiscal Emergency Contingent Management of Federal Lands.**~~

~~**R357-12-1. Purpose.**~~

~~The purpose of this rule is to address the variability of core natural assets that could be affected by a shut-down. The following list is the recommendations for prioritizing the opening of federal lands that would be affected. The priority list reflects minimizing the economic impact on Utah and the subsequent gateway communities.~~

R357-12-2. Authority.

~~In accordance with Subsections 79-4-1103(2) and (3), this rule establishes the priority for opening and maintaining national parks, national monuments, national forests, and national recreation areas in the state during a fiscal emergency.~~

R357-12-3. Definitions.

~~This rule adopts the definitions set forth in Section 79-4-1101.~~

R357-12-4. Priority List.

~~(1) This rule has no effect until the requirements of Section 79-4-1102 have been satisfied.~~

~~(a) The following federally managed natural assets constitute locations in Utah, to be known as Tier I priorities. These assets should be funded to remain open year round because of their significant economic contributions to nearby communities:~~

- ~~(i) Arches National Park;~~
- ~~(ii) Bryce National Park;~~
- ~~(iii) Canyonlands National Park;~~
- ~~(iv) Capitol Reef National Park;~~
- ~~(v) Zion National Park;~~
- ~~(vi) Natural Bridges National Monument;~~
- ~~(vii) Cedar Breaks National Monument; and~~
- ~~(viii) Glen Canyon National Recreation Area.~~

~~(b) The following constitute natural assets that generate significant seasonal value for local communities and will be known as Tier II priorities. These assets should remain open during the specified seasonal period once each Tier I location has been funded for opening during a fiscal emergency:~~

- ~~(i) Dinosaur National Monument, May 1 through October 31;~~
- ~~(ii) Golden Spike National Historic Site, May 1 through August 31;~~
- ~~(iii) Grand Staircase-Escalante National Monument, April 1 through October 31;~~
- ~~(A) the Monument would remain open to dispersed recreation, supplemental funding would be required to open the visitor centers and process guiding permits;~~
- ~~(iv) Flaming Gorge National Recreation Area, May 15 through September 15;~~
- ~~(A) Flaming Gorge is the only natural asset being managed by the National Forest Service that would require a separate agreement with the Department of Agriculture; and~~
- ~~(B) the boat ramp and dispersed recreation would remain open to the public in the event of a fiscal emergency, supplemental funding would be required to allow the local concessionaires to remain open;~~
- ~~(v) San Juan River Special Recreation Management Area, March 1 through November 30;~~
- ~~(A) supplemental funding would facilitate permit holders and concessionaires to continue to run the San Juan river;~~
- ~~(vi) Desolation Canyon Special Recreation Management Area, May 1 through October 31;~~
- ~~(A) supplemental funding would facilitate permit holders and concessionaires to continue to run the Green river; and~~
- ~~(vii) Two Rivers Special Recreation Management Area, April 1 through October 31;~~
- ~~(A) supplemental funding would facilitate permit holders and concessionaires to continue to run the Westwater section of the Colorado River; and~~

~~(c) The following locations, to be known as Tier III assets, require no supplemental funding in the event of a fiscal emergency. There is a general understanding with the Federal Public Land Managers that these assets should remain open to dispersed recreation as defined by the Federal Public Land Managers:~~

- ~~(i) Private concessionaires within the National Forest areas will be subject to the closure rules dictated by the Department of the Interior unless a Memorandum of Understanding with the regional Forest Service office can be negotiated; and~~
- ~~(ii) the negotiation of the MOU will be initiated by the Executive Director of the Governor's Office of Economic Opportunity in consultation with the Director of the Office of Outdoor Recreation:~~
- ~~(A) Ashley National Forest;~~
- ~~(B) Dixie National Forest;~~
- ~~(C) Fishlake National Forest;~~
- ~~(D) Manti-La Sal National Forest;~~
- ~~(E) Uinta-Wasatch-Cache National Forest;~~
- ~~(F) Natural Bridges National Monument; and~~
- ~~(G) Any other BLM Special Recreation Management Areas not delineated in another section of this document; and~~

~~(d) The following natural assets are not recommended to be opened and maintained during a fiscal emergency due to their minimal contribution to the local economies:~~

- ~~(i) Hovenweep National Monument;~~
- ~~(ii) Timpanogos Cave National Monument; and~~
- ~~(iii) Little Sahara Special Recreation Management Area;~~
- ~~(A) the gates would be closed and public access would not be permitted during a fiscal emergency; and~~
- ~~(iv) Knolls Special Recreation Management Area.~~
- ~~(A) the gates would be closed and public access would not be permitted during a fiscal emergency.~~

NOTICES OF PROPOSED RULES

~~(2) This section is designed in anticipation that a shut-down would likely occur in the fall and last for ten days or less. The state funding considerations and the priorities may vary based on the time of year and the corresponding recreational assets that will be opened at that time.~~

~~KEY: federal lands, federal shutdown, fiscal emergency
 Date of Last Change: December 29, 2021
 Notice of Continuation: March 19, 2020
 Authorizing, and Implemented or Interpreted Law: 79-4-1103]~~

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R380-600	Filing ID: 56883

Agency Information

1. Title catchline:	Health and Human Services, Administration	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	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:
R380-600. Licensing General Provisions-Enforcement
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to further align and standardize the Division of Licensing and Background Check's (DLBC) enforcement authority and requirements based on changes in the 2024 General Session. Stylistic changes reflect compliance with the Rulewriting Manual for Utah and do not introduce any new processes or changes.
4. Summary of the new rule or change:
This amendment adds notices of emergency agency actions and immediate closures to apply to all licensees and adds a compliance section in Section R380-600-12 as authorized by the changes introduced in HB229 in the 2024 General Session for Division-wide enforcement. Critical incidents are identified in this rule but have not been enforced for health facilities.
HB495 gave the Office of Licensing (OL) the authority to require critical incident reporting for health care facilities, so this requirement will now be enforced universally by DLBC. Subsections R380-600-8(15) and R380-600-9(5) are amended from business days to calendar days for initiating an appeal to align with the requirements of Rule R497-100 and changes the term "action review" to "informal dispute resolution" to be clearer and not confuse the informal process with the formal agency action process, Adjudicative Proceedings. Subsection R380-600-7(15) is amended from six weeks to six months as the threshold OL will use to investigate a child care licensing complaint in accordance with SB229 from the 2024 General Session.
This amendment also adds an exception to a fee requirement for certified homes for the Division of Services for People with Disabilities, which has been the practice of the department previously but had not been specified in rule. Finally, style and formatting changes reflect compliance with the Rulewriting Manual for Utah and do not introduce any new processes or changes.

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

This amendment filing is not anticipated to impact the current process for licensure and re-licensure inspections because this amendment aligns enforcement practices across DLBC. There will be no significant change to licensing inspections, and while two actions are added to the list of actions licensors take when incidents occur, these actions are not anticipated to introduce a new cost or savings.

Although critical incident reporting will be new for health care facilities, this process is automated and represents little to no changes to current processes for the office staff to conduct the incident report reviews and investigations. The change from "business" days to "calendar" days for providers to file appeals will not impact OL, as the time frames only apply to the time allotted for providers to appeal OL enforcement decisions. The shift from six weeks to six months for how long OL is authorized to look back for child care licensing complaints will allow OL to more effectively review compliance and is not anticipated to have a fiscal impact on the state budget because the records are currently required to be maintained and are reviewed for other licensing purposes, so this shift in protocol will not require any cost to implement.

The shift from the term "action review" to "informal dispute resolution" only introduces a clarifying terminology change with no changes to the review process. The exception to a fee requirement for certified homes for the Division of Services for People with Disabilities is not anticipated to have a fiscal impact to the state, as this had already been the practice of the department previous to this amendment. Stylistic changes reflect compliance with the Rulewriting Manual for Utah and do not introduce any new processes or changes.

B) Local governments:

This amendment filing is not anticipated to impact local government revenues or expenditures because facilities are regulated by the Department of Health and Human Services (DHHS) and not local governments. There will be no change in local business licensing or any other item with which local government is involved.

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

This filing is not anticipated to have a fiscal impact on small business. The requirement to report incidents is not anticipated to add any undue burden to small business since there is a portal to easily submit these reports. If providers need to create internal processes and assign staff to provide these reports, the financial cost is inestimable due to the differences in governance of each individual small business. There is no expense related to using the portal for the provider and the reports are short and are intended to be completed in a short amount of time. Other businesses, including child care facilities, treatment facilities, and other residential establishments already use this system so the requirement is not new to them. However, if providers need to hire more staff to create these reports, the financial cost is uncertain because the production of these reports is contingent on facility activities that vary from one provider to another. Appealing an OL enforcement decision or penalty has shifted from within 10 and 15 "business" days to 10 and 15 "calendar" days, thus aligning the term "calendar" with that of Rule R497-100 used in DHHS processes.

There is no anticipated cost or impact to adhere to the appeal time frame. The shift for OL reviewing child care complaints that allege concerns within the last 6 months is not anticipated to incur a cost to small businesses because small businesses are required to maintain client and staff records for 7 years, and OL currently reviews the records for other licensing purposes. The shift from the term "action review" to "informal dispute resolution" only introduces a clarifying title change with no changes to the review process.

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

This filing is not anticipated to have a fiscal impact on non-small business. The requirement to report incidents is unlikely to impose an unfair burden on non-small businesses like health care facilities because a portal for simple report submission is offered. There is no expense related to using the portal for the provider and the reports are short and are intended to be completed in a short amount of time. Other businesses, including child care facilities, treatment facilities, and other residential establishments already use this system so the requirement is not new to them. However, if providers need to hire more staff to create these reports, the financial cost is uncertain because the production of these reports is contingent on facility activities that vary from one provider to another. Appealing an OL enforcement decision or penalty has shifted from within 10 and 15 "business" days to 10 and 15 "calendar" days, thus aligning the language "calendar" with that of Rule R497-100 used in DHHS processes.

There is no anticipated cost or impact to adhere to the appeal time frame. The shift for OL reviewing child care complaints that allege concerns within the last 6 months is not anticipated to incur a cost to non-small businesses because non-small businesses are required to maintain client and staff records for 7 years, and OL currently reviews the records for other licensing purposes.

The shift from the term "action review" to "informal dispute resolution" only introduces a clarifying title change with no changes to the review process.

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

There are no persons other than small businesses, non-small businesses, state, or local government entities that will be affected by these proposed rule amendments. The exception to a fee requirement for certified homes for the Division of Services for People with Disabilities is not anticipated to have a fiscal impact, as this had already been the practice of the department previous to this amendment. Therefore, we anticipate no costs or savings related to this amendment filing.

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

The licensing portal used to submit incident reports is already in place and available for free to any affected persons. Compliance with submitting critical incidents, disputes or appeals of agency actions and investigation of complaints is limited to OL, the businesses, business owners, and operators. There will be no other affected persons required to comply with this rule and no compliance cost.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-2-104	Section 26B-2-202	Section 26B-2-402
Section 26B-2-703		

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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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:	10/27/2024
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R380. Health and Human Services, Administration.

R380-600. Licensing General Provisions-Enforcement.

R380-600-1. Authority and Purpose.

(1) This rule is enacted and enforced in accordance with Sections 26B-2-104, 26B-2-202, 26B-2-402, and 26B-2-~~402~~. ~~The purpose of this~~ 703.

(2) This rule ~~is to provide~~ provides consolidated procedures and enforcements for the licensing entities within the Division of Licensing and Background Checks.

R380-600-2. Definitions.

(1) "Abuse" means the same as the term is defined in Sections 26B-6-201~~[-]~~ and 80-1-102~~[-]~~ and ~~R512-80-2~~.

(2) ~~"Action Review" means informal levels of discussion available to providers to engage the division administration to review an action taken on their license or certificate before requesting an appeal.~~

~~(3) "Applicant" means the legally responsible individual~~[-or]~~, individuals, or business seeking to obtain a valid new or renewal license or certificate from ~~the Office~~ OL.~~

~~(3) "Associated with the licensee" is defined in Section 26B-2-101.~~

(4) "Category" means the type of license or certificate needed for the services offered by the provider.

(5) "Certificate" means a residential child care certificate in accordance with Section 26B-2-~~404~~ 701.

~~(6) (6) "Certification" is defined in Section 26B-2-701.~~

~~(7) "Certified" means an approval to operate in compliance with local or federal requirements or regulations completed by ~~the office~~ OL or on behalf of ~~the office~~ OL for another local or federal agency, in accordance with Section 26B-2-701.~~

~~(7) "Citation" means a notice for serious or repeat rule noncompliance.~~

~~(8) "Client" means an individual receiving the services from the provider.~~

~~(9) "CMP" means civil money penalty" or "CMP" means a penalty issued by ~~the office~~ OL as a fine for repeat citations or when an initial instance of noncompliance results in, or is likely to result in, harm to clients.~~

(10) ~~"Covered Individual Client" means ~~any~~ an individual, resident, or patient receiving services from a provider, in accordance with Section 26B-2-701.~~

~~(11) "Compliance" means adherence to governing rule and statute with no current penalty actions or pending resolution of ~~the following~~ noncompliance.~~

(12) "Covered individual" means:

(a) ~~an owner~~ a caregiver;

(b) a director;

(c) a member of the administration or governing body;

~~(d) an employee;~~

~~(e) a caregiver;~~

~~(f) a volunteer who has unsupervised access to any client or any client's records, except a parent or legal guardian of a child or vulnerable adult enrolled in the program having access to their own child or vulnerable adult;~~

~~(g) an employee;~~

(f) an individual age 12 years or older who resides in the facility; ~~and~~

(g) an owner; and

(h) anyone who has unsupervised access to any client or any client's records.

~~(13) "Critical ~~[H]~~ incident" means an event out of the range of normal experience, including ~~any of the following~~:~~

(a) ~~an allegation or confirmation~~ a death of ~~abuse, neglect, or exploitation~~ a minor;

~~(b) (b) a death related to an adverse event;~~

(c) a loss or impairment of the function of a bodily member, organ, or mental faculty or significant disfigurement;

~~(c) a death related to an adverse event;~~

~~(d) a death of a minor;~~

~~(e) a medication error resulting in a telephone call to or a consultation with a poison control center, an emergency department visit, an urgent care visit, or hospitalization;~~

~~(e) a missing client;~~

(f) an allegation or confirmation of abuse, neglect, or exploitation;

(g) an allegation or confirmation of waste, fraud or abuse of Medicaid funds;

~~(g) h) any medical emergency requiring treatment beyond basic first aid;~~

~~(h) a missing client;~~

~~(i) any significant criminal activity;~~

NOTICES OF PROPOSED RULES

- ~~_____~~ (j) any property damage or infestation that jeopardizes services; or
- ~~_____~~ ~~(k)~~ (i) any prohibited practice as described in Section 26B-2-123 including misuse or unauthorized use of restrictive interventions, seclusion, or body cavity search.
- ~~(12)~~ (j) any property damage or infestation that jeopardizes services; or
- ~~_____~~ (k) any significant criminal activity;
- ~~_____~~ (14) "Department" means the Utah Department of Health and Human Services.
- ~~(13)~~ (15) "Division" means the Division of Licensing and Background Checks (DLBC) in the Department of Health and Human Services and includes OL and OBP.
- ~~_____~~ ~~(14)~~ " (16) "Eligible" means an OBP determination of:
 - ~~_____~~ (a) direct access qualified for a human services program, in accordance with Section 26B-2-120;
 - ~~_____~~ (b) certified for direct patient access in a health care facility, in accordance with Section 26B-2-240; or
 - ~~_____~~ (c) no findings in a covered individual's background check that would prohibit that covered individual from being involved in child care, as outlined in rules under Titles R381 and R430.
- ~~_____~~ (17)(a) "Emotional [~~M~~]mistreatment" means verbal or non-verbal conduct that results in a client suffering significant mental anguish, emotional distress, fear, humiliation, or degradation. [~~Emotional mistreatment includes demeaning, threatening, terrorizing, alienating, isolating, intimidating, or harassing a client.~~]
- ~~_____~~ ~~(15)~~ (b) Emotional mistreatment includes:
 - ~~_____~~ (i) alienating;
 - ~~_____~~ (ii) demeaning;
 - ~~_____~~ (iii) harassing a client;
 - ~~_____~~ (iv) intimidating;
 - ~~_____~~ (v) isolating;
 - ~~_____~~ (vi) terrorizing; or
 - ~~_____~~ (vii) threatening.
- ~~_____~~ (18) "Exploitation" includes:
 - (a) the use of a client's property, labor, or resources without the client's consent or in a manner that is contrary to the client's best interests, or for the gain of some person other than the client, including spending a client's funds for the benefit of another;
 - (b) using the labor of a client without paying the client a fair wage or without providing the client with just or equivalent non-monetary compensation, where such use is inconsistent with therapeutic practices;
 - (c) engaging or involving a client in any sexual conduct; or
 - (d) sexual abuse of a minor as described in Section 76-5b-201 or vulnerable adult as described in Section 76-5b-202 and Subsection 76-5-111(2).
- ~~(16)~~ (19)(a) "Fraud" means a false or deceptive statement, act, or omission that causes, or attempts to cause, property or financial damages, or for personal gain.
- ~~_____~~ (b) Fraud also means any offenses identified as fraud in Title 76, Chapter 6, Offenses Against Property.
- ~~(17)~~ (20) "Harm" means financial, physical, or emotional pain, damage, injury, or fraud.
- ~~_____~~ ~~(18)~~ (21) "Informal dispute resolution" means informal levels of discussion available to a provider to engage the division administration to review an action, except an NAA or NEAA, taken on their license or certificate.
- ~~_____~~ (22) "Inspection" means an announced or unannounced visit of the provider's site to monitor compliance.
- ~~(19)~~ (23) "Inspection [~~R~~]report" means the written official description of any rule, statute, or requirement where the provider may be found out of compliance, that may include facts supporting the noncompliance, risk levels, corrective actions, and corrective time frames [~~the office~~]OL, or an [~~office~~]OL-approved agency sends the provider once an inspection, survey, or investigation has been completed.
- ~~(20)~~ (24) "Investigation" means an inspection to verify compliance with rule or statute.
- ~~(21)~~ (25) "Mistreatment" means conduct [~~that results~~]resulting in emotional or physical harm.
- ~~_____~~ ~~(22)~~ (26) "NAA" means a Notice of Agency Action that is issued by OL to place a sanction on a license, including:
 - ~~_____~~ (a) application denial;
 - ~~_____~~ (b) conditional status;
 - ~~_____~~ (c) revocation status; or
 - ~~_____~~ (d) suspension status.
- ~~_____~~ (27) "NEAA" means a Notice of Emergency Agency Action that is issued by OL to place a provider license on a temporary, immediate conditional status as authorized by Section 26B-2-703.
- ~~_____~~ (28)(a) "Neglect" means abandonment or the failure to provide necessary care, including nutrition, education, clothing, shelter, sleep, bedding, supervision, health care, hygiene, treatment, or protection from harm. [~~Neglect also means the same as the term is defined in Sections 26B-6-201; 76-5-110; and 80-1-102.~~]
- ~~(23)~~ "Office"b) Neglect also means the same as the term is defined in Sections 26B-6-201, 76-5-110, and 80-1-102.
- ~~_____~~ (29) "OBP" means the Office of [~~Licensing~~]Background Processing within the Department of Health and Human Services, Division of Licensing and Background Checks.
- ~~(24)~~ (30) "OL" means the Office of Licensing within the Department of Health and Human Services, Division of Licensing and Background Checks.
- ~~_____~~ (31) "Owner" means any person[~~r~~] or entity that:
 - (a) is listed on a license or certificate as the license or certificate holder;
 - (b) possesses the right to hold, use, benefit from, enjoy, convey, transfer, and otherwise dispose of a program or facility;

(c) ~~[retains]~~keeps the rights, participates in, or is ultimately responsible for operations and business decisions of a program or facility;
or

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

~~(25)~~32 "Penalty" means an action taken by ~~[the office]~~OL to fine a licensee or certificate holder deny a license, or place a condition on, suspend, or revoke a license due to the program or facility's noncompliance with statute or ~~[administrative]~~rule.

~~(26)~~33 "Person" means~~[an individual, agency, association, partnership, corporation,]~~:

~~(a)~~ a business entity~~[, or]~~;

~~(b)~~ a corporation;

~~(c)~~ a governmental entity~~[,]~~;

~~[(27)]~~ ~~(d)~~ a partnership;

~~(e)~~ an agency;

~~(f)~~ an association; or

~~(g)~~ an individual.

~~(34)~~ "Physical mistreatment" means conduct ~~[that results]~~resulting in pain, injury, or death.

~~(28)~~35 "Plan of ~~[C]~~correction" means, except for the Center for Medicare and Medicaid Services (CMS) plan of correction as defined in 42 CFR 488.401~~[,]~~ ~~(2024)~~, a temporary process for ~~[the office]~~OL and the provider to work toward improved provider compliance and preventing further noncompliance.

~~(29)~~36 "Program or facility" means ~~[the settings, activities, services, procedures]~~any setting, activity, service, procedure, and premises used by the provider to operate their license or certificate in accordance with Section 26B-2-701.

~~(30)~~37 "Provider" means the license or certificate holder~~[,]~~ or the legally responsible individual or individuals providing services regulated by ~~[the office]~~OL.

~~(31)~~38 "Regular business hours" are the hours that the program or facility is available to the public or providing services to clients.

~~(32)~~39 "Risk ~~[L]~~levels" means likelihood and severity of harm between low, moderate, high, and extreme that may result if a rule is out of compliance.

~~(33)~~40 "Seclusion" means, except for medically approved quarantine, the involuntary confinement of an individual in an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

~~[(34)]~~ ~~(41)~~ "Serious injury" means significant disfigurement or loss or impairment of function of a bodily member, organ, or mental faculty.

~~(42)~~ "Significant criminal activity" means any unlawful activity by or against the program or facility's clients or on duty staff that poses a serious threat to the program or facility's clients or on duty staff's health, safety, or well-being including:

(a) any criminal activity that involves law enforcement;

(b) illegal physical or sexual misconduct or assault;

(c) riot;

(d) suspected ~~[fraud]~~exploitation; or

(e) suspected ~~[exploitation]~~fraud.

~~[(35)]~~ "Strip search" means requiring a client to undress down to undergarments or complete nudity in view of another person.

~~[(36)]~~ ~~(43)~~ "Significant medical emergency" means an acute injury or illness posing an immediate risk to a person's life or health or requires emergency medical care.

~~(44)~~ "Unsupervised ~~[A]~~access" means being out of sight and hearing from an individual who has successfully passed the required ~~[division]~~OBP background check.

~~(37)~~45 "Variance" means any deviation from ~~[administrative]~~rule authorized in writing by ~~[the office]~~OL.

~~(38)~~46 "Warning" means a licensing action that warns the provider that a rule noncompliance shall be corrected within a specified amount of time.

R380-600-3. New and Renewal Licensing Procedures.

(1) ~~[An]~~Until a license or certificate is approved by OL, an applicant or provider may not:

~~(a)~~ accept any fee~~[,]~~;

~~(b)~~ enter into any agreement to provide a client service~~[,]~~; or

~~(c)~~ provide any client service~~[until a license or certificate is approved by the office]~~.

(2) Each applicant and provider shall comply with any applicable ~~[administrative]~~rule, statute, zoning, fire, safety, sanitation, building and licensing ~~[laws, regulations, ordinances]~~law, regulation, ordinance, and code~~[s]~~ of the city and county ~~[in that the]~~where facility or agency will be or is located.

(3) ~~[An]~~Except as outlined in Subsection 26B-2-107(3) for a foster home, an applicant or a provider shall permit ~~[the office]~~OL to have immediate, unrestricted access to:

~~(a)~~ each site subject to licensing or certification;

~~(b)~~ ~~(a)~~ any unaltered on and off-site program or facility and client records;

~~(b)~~ each site subject to licensing or certification; and

(c) each staff and client.

~~[(4)]~~ ~~An applicant shall notify the office in writing of any changes to the application, including withdrawal of the application.~~

~~[(4)]~~ ~~A provider may not permit a staff or client to threaten, verbally or physically abuse, or use violence of any kind while interacting with a representative of the department.~~

NOTICES OF PROPOSED RULES

- (5) An applicant seeking an initial or renewal license or certificate to operate a program or facility shall submit:
- (a) a complete application as provided by ~~the office~~ OL;
 - (b) any required fee for each category of program or facility application;
 - (c) except as described in Subsection 26B-2-120(12), a background ~~clearance~~ check for each covered individual;
 - (d) any policy and procedure, or updates if already submitted, as required by ~~the office~~ OL;
 - (e) name and contact information for each responsible decision-maker, including any owner or program or facility director;
 - ~~(f)~~ (f) for initial license applications only, documentation that verifies the applicant's compliance with, or exemption from, fire and business license requirement; and
 - (g) as applicable for a healthcare facility, architectural plans and a description of the functional program or facility.
- (6) An applicant shall notify OL in writing of any changes to the application, including withdrawal of the application.
- (7) A provider may not implement a policy that requires ~~office~~ OL approval without that ~~office~~ OL approval.
- ~~(7)~~ (8) The provider ~~shall~~ must submit:
- (a) a renewal request and applicable fees at least 30 days before the expiration of their license or certificate;
 - (b) a renewal request and applicable late fees within 30 days after the expiration of their license or certificate; or
 - (c) a new application for a new license or certificate and applicable fees if the provider lets their license or certificate expire and 30 days have passed since their license or certificate expired.
- (8) (9) A residential treatment program or facility provider applying for an initial license shall submit proof that the program or facility served notice of intent to operate in accordance with Section 26B-2-117.
- (9) (10) A new applicant shall submit a new initial application and applicable fees if they have not successfully completed the application process six months from the date of the initial application.
- ~~(10)~~ ~~The office~~ (11) OL may deny the initial or renewal application, issue a CMP, or place conditions on a renewal license or certificate if:
- (a) the provider failed to achieve or maintain compliance with any applicable statute, rule, or ordinance;
 - (b) the applicant or provider has a compliance history that shows a pattern of noncompliance with any applicable ~~statutes,~~ statute, rule, or ordinance[s];
 - (c) the applicant or provider gives false or misleading information to ~~the office~~ OL;
 - (d) ~~the office~~ OL reasonably determines that the applicant or provider is not likely to operate in compliance with any applicable statute, rule, or ordinance;
 - (e) the applicant or provider received a notice from ~~the division~~ OBP that a covered individual in the program or facility is not eligible due to ~~a division~~ an OBP background check and that covered individual is still in the program or facility;
 - (f) ~~the office~~ OL finds a program or facility director, owner, or any individual involved in the program or facility's billing process on ~~the office~~ OL of Inspector General's List of Excluded Individuals and Entities; or
 - (g) ~~the office~~ OL finds that an applicant or provider maintains association with any individual with a license revoked by ~~the office~~ OL if the application is submitted within five years from the time of the revocation.
- ~~(11)~~ ~~The office~~ (12) OL may deny renewal of a license or certificate for an applicant or provider that is no longer providing ~~the services~~ a service that requires them to have a license or certificate or if they have not provided any service[s] for the past 24 months.
- ~~(12)~~ (13) A provider approved by ~~the office~~ OL to certify their own program or facility site[s] shall register each certified site using the licensing provider portal.
- ~~(13)~~ (14) A denied applicant may not reapply for a minimum of a three-month period beginning on the date of denial.
- ~~(14)~~ (15) The ~~license or certificate holder~~ provider shall adhere to any individualized parameter on a program or facility license or certificate to promote the health, safety, and welfare of any client. Parameters may include:
- ~~(a) an age restriction;~~
 - (a) adequate square footage to determine capacity.
 - (b) an admission or placement restriction; or
 - ~~(c) adequate square footage to determine capacity.~~
 - ~~(15)~~ (c) an age restriction;
- (16) The provider ~~shall~~ must resolve any outstanding ~~balances, conditions~~ balance, condition, or noncompliance status on any license or certificate before a license or certificate is granted by ~~the office~~ OL for any associated new site.
- ~~(16)~~ (17) (a) A provider may apply for a two-year license if:
- ~~(a)~~ the provider is not a residential or foster care program or facility[s].
 - (b) A provider may apply for a two-year license if the program or facility is a health care provider.
 - (c) A provider applying for a two-year license shall ensure:
 - (i) the program or facility is in good standing with ~~the office~~ OL for the two consecutive license periods issued by ~~the office~~ OL immediately before the date of application;
 - (e) ~~ii~~ the provider understands that required inspections will be conducted in the same manner as for annual licenses of the same license type;
 - (d) ~~the office~~ ~~iii~~ OL reasonably determines that the provider is likely to maintain good standing for a two-year period;
 - (e) ~~iv~~ the provider submits twice the annual fee required for each category of license sought; and
 - (f) ~~v~~ there are no other statutory restrictions that will disqualify the license type for a two-year license ~~or~~;
 - (g) the program or facility is a health care provider.

~~(17)~~18) Unless previously approved by ~~the office~~OL to provide services before receiving a license or certificate for special circumstances, a provider ~~shall~~must submit an application, any required fee[s], and obtain a new or a renewed license or certificate before providing any service[s] that requires a license or certificate.

~~(18)~~19) A license or certificate expires at midnight on the last day of the same month the license or certificate was issued, one year after its effective date, except when the license or certificate has been:

- (a) revoked by ~~the office~~OL before expiration;
- (b) extended by ~~the office~~OL beyond the date of expiration;
- (c) relinquished by the provider;
- (d) received a shortened expiration time frame as requested by the provider;~~or~~
- (e) issued as a two-year license~~;~~ or

~~(19)~~ (f) issued as a three-year license for a foster parent in accordance with Subsection 26B-2-105(4)(d).

~~(20)~~21) A two-year license expires at midnight on the last day of the same month the license was issued, two years after the effective date on the license.

~~(20)~~21) A provider may request an extension of up to 90 days if:

- (a) any applicable fees are paid;
- (b) any noncompliance issues are resolved to the satisfaction of ~~the office~~OL;
- (c) the provider submits a written request for an extension to ~~the office~~OL; and
- (d) the provider understands that an extended license will reduce the dates for the subsequent renewal license to start on the date

compliance is achieved and end on the original license renewal date.

~~(21)~~22) A provider who voluntarily relinquishes a license or certificate shall:

(a) notify ~~the office~~OL and the patients or their next of kin or legal guardian, as applicable, at least 30 days before the effective date of closure;

- (b) ensure safe keeping of records; and
- (c) as applicable, return any patients funds and valuables ~~at the time of~~during discharge.

~~(22)~~23) The provider may voluntarily relinquish their license or certificate except when ~~the office~~OL has issued a notice of agency action revoking the license or certificate.

~~(23)~~24) Each license or certificate is not transferable.

~~(24)~~25) The provider shall post their current license or certificate, except in a foster home, on the premises in a place readily visible and accessible to the public.

~~(25)~~26) ~~The office~~OL may deny renewal of a license or certificate for a program or facility who is no longer providing services.

R380-600-4. Program or Facility Changes.

(1) A ~~license or certificate holder shall~~provider must submit a complete program change application to amend an existing license at least 30 days before any of the following changes:

- (a) an increase or decrease of capacity, including any change to the amount of space used to provide services;
- (b) a change in the name of the program or facility;
- ~~(c)~~ (c) a change of administrator in a health care facility;

~~(d)~~ (d) the move of an administrative site where no clients are served; or

~~(e)~~ (e) a change that transfers less than 50% ownership or controlling interest to a new owner.

(2) A provider may proceed with any changes or make them public after approval by ~~the office~~OL.

(3) A provider ~~shall~~must submit a complete ~~office~~OL application for a new license and fees at least 30 days before any of the following changes:

- (a) a change of location;
- (b) a change in the population served;
- (c) a change in the regulation type of the program or facility;
- ~~(d)~~ (d) an additional license category; or

~~(e)~~ (e) a change that transfers 50% or more ownership or controlling interest to a new owner; or

~~(c)~~ (c) an additional license category.

(4) For a change that requires a new license or certificate, the provider shall adhere to the following conditions:

- (a) no new clients may be served until a new license or certificate is issued;
- (b) the status of the previous license or certificate will continue;
- (c) the application fee for any additional license category will be prorated so that it expires on the same date as any other facility

existing license; and

(d) if a foster child is placed in a foster home, the licensed foster parent shall ensure the health and safety of the foster child during the transition to licensure or certification at the new site.

R380-600-5. Fees.

(1) Except for a foster home, ~~or~~division of the department, or certified home for the Division of Services for People with Disabilities, the applicant ~~shall~~must pay any required application fee[s] before ~~the office~~OL performs any on-site visit or document review.

(2) The applicant shall pay a new application fee if the applicant has not completed the application process 12 months after the date of initial application if the applicant desires to continue with the application process.

(3) The applicant shall pay an initial application fee for each category of program or facility offered at each program or facility site.

NOTICES OF PROPOSED RULES

- (4) The applicant shall pay an application fee for any program change request that requires ~~[the office]~~OL to perform an ~~[onsite]~~on-site inspection and complete a comprehensive compliance review.
- (5) The provider shall pay a renewal license or certificate fee for each license or certificate that is renewed at each program or facility site.
- (6) The provider shall pay any applicable capacity fee based on ~~[the office]~~OL-approved client or bed capacity.
- (7) The provider ~~[shall]~~must pay any fines and fees owed to ~~[the office]~~OL before ~~[the office]~~OL issues a new or renewal license or certificate.
- (8) A provider with more than one building, unit, or suite located at a single site may choose between the following methods of assessing a fee and issuing a license:
 - (a) each category of license includes each on-site building, unit, or suite; or
 - (b) each category of license is issued separately for each individual on-site building, unit, or suite.
- (9) The ~~[license or certificate holder]~~provider shall pay ~~[the office]~~OL fees for any monitoring inspection and, if required by ~~[the office]~~OL for extreme noncompliance, the costs of placing a licenser to monitor provider's compliance or a temporary manager to ensure the health and safety of the population served.
- (10) The provider shall pay ~~[the office]~~OL an additional follow-up inspection fee each time ~~[the office]~~OL has to conduct an additional follow-up inspection for lack of compliance with the same rule.
- (11) The provider shall pay any applicable fees within the time frames ~~[prescribed]~~required by the division.
- (12) The division may grant an account credit or deny a refund request.

R380-600-6. Variances.

- (1) The ~~[office]~~division director, OL director, or the director's designee, may grant a variance after determining that a variance is not likely to:
 - (a) compromise client health and safety; or
 - (b) provide an opportunity for abuse, neglect, exploitation, harm, mistreatment, or fraud.
- (2) The provider may not deviate from any ~~[administrative]~~rule before receiving written approval signed by the ~~[office]~~OL director or the director's designee.
- (3) A ~~[license or certificate holder]~~provider seeking a variance shall submit a written request to ~~[the office]~~OL on an ~~[office]~~OL-approved variance request form.
- (4) The ~~[license or certificate holder shall]~~provider must submit a variance request at least 30 days before the proposed start date unless the provider documents a need to expedite the request.
- (5) The provider shall sign the approved variance and comply with the terms of the written variance, including any conditions or modifications contained within the approved written variance.
- (6) If the variance is still needed, the provider ~~[shall]~~must request renewal for a variance 30 days before the variance expires.

R380-600-7. Inspection and Investigation Process.

- (1) ~~[The office]~~OL may schedule announced and unannounced inspections to follow statute, contract, and federal requirements according to each category.
- (2) ~~[The office]~~OL may adopt the findings from an inspection conducted by another local or federal agency~~[s]~~ or by the department staff on behalf of another local or federal agency as part of the provider's compliance history.
- (3) The provider shall cooperate with ~~[the office]~~OL to monitor rule compliance and rule compliance maintenance ~~[anytime]~~any time the program or facility is serving clients by giving to ~~[the office]~~OL full access to:
 - (a) the building;
 - (b) clients;
 - (c) staff; and
 - (d) any program or facility record~~[s]~~.
- (4) The provider shall cooperate with ~~[the office]~~OL by promptly responding to ~~[any]~~each request for information necessary to demonstrate rule compliance before, during, and after inspections.
- (5) The provider shall make available and permit reproduction of program or facility records and documents by, or on behalf of, the department as necessary to ascertain compliance with any applicable ~~[laws, rules]~~law, rule, and ~~[federal regulations]~~regulation.
- (6) The provider shall ensure that the integrity of ~~[the office's]~~OL's information gathering process is not compromised by withholding or manipulating information or influencing any specific response of staff or clients.
- (7) The provider shall allow ~~[the office]~~OL to access any program or facility record or staff at an administrative or certified location that is not located at the licensed site.
- (8) Except for when an inspection is conducted by another local or federal agency, or by the department staff on behalf of another local or federal agency, ~~[the office]~~OL shall serve a written inspection report to the provider once the inspection process is complete and approved by ~~[division]~~OL management.
- (9) If the provider is out of compliance with any applicable ~~[administrative rules]~~rule, statute, or requirement~~[s]~~, the provider shall:
 - (a) come into compliance within the required correction time frames as stated in the respective inspection report;
 - (b) pay any applicable penal~~[ies]~~y and inspection fee~~[s]~~; and
 - (c) maintain compliance with each applicable ~~[administrative rules]~~rule, statute, or requirement~~[s]~~.
- (10) ~~[The office]~~OL may require immediate compliance with any~~[administrative]~~ rule that is found out of compliance and that represents an imminent risk to any client.

(11) Once an inspection is completed and the inspection report is produced by ~~[the office, the office]~~OL, OL shall post ~~[any citations]~~each citation from ~~[any]each~~ inspection and ~~[any]each~~ substantiated noncompliance from a complaint investigation on the division website for no less than 36 months.

(12) The provider shall follow ~~[the office's]~~OL's directions when ~~[the office]~~OL requires a plan of correction.

(13) Except for certified facilities following a CMS plan of correction, ~~[the office]~~OL may allow the provider to have one plan of correction in a 36-month period.

(14) ~~[The office]~~OL may require additional inspections as part of the plan of correction.

(15) ~~[The office]~~OL may investigate any complaint or incident that suggest noncompliance with any rule[s] or statute, except for:

(a) an anonymous complaint against a provider within ~~[Child Care Licensing]~~child care licensing; or

(b) a complaint against a provider within ~~[Child Care Licensing]~~child care licensing that alleges an issue that happened six or more ~~[weeks]~~months before the complaint is received.

~~_____~~(16) (16) Except as noted for child care complaints in Subsection R380-600-9(15), OL reserves discretion to decline investigation of a complaint that is anonymous, unrelated to current conditions of the program, or not an alleged violation of a rule or statute.

~~_____~~(17) When a critical incident occurs under the direct responsibility and supervision of the program or facility, the ~~[licensee or certificate holder]~~provider shall:

(a) submit a report of the critical incident to ~~[the office]~~OL in a format required by ~~[the office]~~OL within one business day of the critical incident occurrence;

(b) additionally ensure any incident of abuse, neglect or exploitation of a client is made to the Division of Child and Family Services for a minor client or Adult Protective Services for an adult client and law enforcement as appropriate;

~~_____~~(c) notify the parent or legal guardian of each involved client within a 24-hour period from the time of the incident;

~~_____~~(~~[e]~~d) if the critical incident involves any client in the custody of the department or under contract with the department, notify the involved department division immediately; and

~~_____~~(~~[d]~~e) collect, maintain, and submit original witness statements and supporting documentation, including video footage if available, regarding each critical incident to ~~[the office]~~OL upon request.

R380-600-8. Rule Compliance, Penalties, ~~[Agency Action Reviews]~~Informal Dispute Resolution, and Appeals.

(1) The provider shall:

(a) comply and maintain compliance with each applicable rule, statute, or requirement;

(b) ensure each staff member complies with each applicable rule, statute, or requirement; and

(c) comply with and ensure each staff member complies with the department Provider Code of Conduct as established in Rule R380-

80.

(2) Based on ~~[the office]~~OL findings or the findings of any ~~[office]~~OL authorized agency, ~~[the office]~~OL may:

(a) deny a new or renewal of a license or certificate;

(b) issue ~~[a warning]~~an NEAA as outlined in Section R380-600-9;

(c) issue ~~[a citation]~~an immediate closure;

(d) issue a ~~[CMP]~~warning;

(e) issue a citation;

~~_____~~(f) issue a CMP;

~~_____~~(~~[g]~~g) require a plan of correction;

~~_____~~(~~[f]~~h) suspend a license or certificate;

~~_____~~(~~[g]~~i) set the conditions for and place the program or facility license or certificate on a conditional status;

~~_____~~(~~[h]~~j) increase monitoring inspections;

~~_____~~(~~[i]~~k) restrict or prohibit admissions; and

~~_____~~(~~[j]~~l) revoke a license or certificate.

(3) When taking any agency action against a provider, ~~[the office]~~OL may consider the provider's:

(a) compliance with any applicable ~~[rules, statutes]~~rule, statute, or requirement[s];

(b) chronic, ongoing noncompliance with any applicable ~~[rules, statutes]~~rule, statute, or requirement[s];

(c) any unpaid fee[s] or penalt[ies];

(d) serious noncompliance that places any client's health and safety at immediate risk of harm;

(e) failure to meet the conditions while the program or facility is on a conditional status;

(f) false or misleading information submitted to ~~[the office]~~OL;

(g) actions to intentionally alter any document provided to or issued by the department;

(h) failure to allow an authorized representative[s] from the department access to the program or facility to ensure compliance with ~~[the rules]~~any rule;

(i) failure to submit or make available to the department any documentation or report required to ensure compliance with ~~[the rules]~~any rule;

(j) actions to knowingly employ, be employed by, contract with, or in any way relate to business with a person whose license has been revoked by ~~[the office]~~OL within the previous five years;

(k) serious noncompliance with ~~[the rules]~~any rule that results in the death or serious harm to a client, or that places the client at risk of death or serious harm;

(l) commission of an illegal act that would exclude a person from having a license; or

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(m) need to be investigated by ~~[the office]~~OL as an emergency temporary measure, until compliance or noncompliance is properly substantiated by ~~[the office]~~OL.

(4) Any official ~~[office]~~OL action on any provider, except for a foster home, is considered public record, and ~~[the office]~~OL shall make it available to the public including posting citations, substantiated complaint allegations, and other penalties on the division website for at least 36 months.

(5) ~~[The office]~~OL may choose to amend any penalty or action taken against a provider at any point during the action process.

(6) If a rule noncompliance resulted in a CMP and there is a repeat instance of the same rule noncompliance within a 36-month period, the provider shall pay double the amount of the original CMP and, for each subsequent noncompliance of the same rule issued, double the amount of the previous CMP not to exceed \$10,000.

(7) The provider shall demonstrate compliance with each noncompliant rule according to the timelines established in the inspection report produced by ~~[the office]~~OL to avoid any further penalties.

(8) If ~~[the office]~~OL places conditions on or suspends the license of a foster parent, the foster parent may ~~[retain]~~keep any current placements if the placing department entity approves to allow the foster child to remain in the current placement during the time of condition or suspension.

(9) Except as authorized by ~~[the office]~~OL in writing, a program or facility that has had its license or certificate suspended or revoked shall:

(a) not accept new clients;

(b) only provide any service necessary to maintain client health and safety during the client's transition out of the program or facility;

(c) develop and comply with a plan to transition each client out of the program or facility and into an equivalent, safe, currently licensed program or facility or into the custody of the client's legal guardian; and

(d) maintain program or facility staffing to maintain the health and safety needs of each client while an appeal of the suspension or revocation is pending or until each client is removed from the program.

(10) Unless otherwise stated on the conditions set by a conditional license, ~~[the office]~~OL may conduct increased monitoring inspections for a facility on a conditional status until the facility demonstrates substantial compliance.

(11) Any owner identified in a license or certificate revocation action may not be approved for a license or certification of any other program or facility overseen by ~~[the office]~~OL for five years from the date the revocation was made effective.

(12) If ~~[the office]~~OL places a program or facility on a conditional license~~[-]~~ or issues a suspension or a revocation, the provider shall, within five days of receiving the notice:

(a) post the notice on-site where it is easily viewable by the public;

(b) notify each client, guardian, and prospective client of the notice;

(c) post a copy of the notice on the program or facility website, if the program or facility has a website; and

(d) keep the notice posted for as long as ~~[the office]~~OL notice is in effect.

(13) If an appeal of a revocation, suspension, or conditional status that restricts admissions is pending, a provider may not accept any new clients without prior written authorization from ~~[the office]~~OL.

(14) ~~[The office]~~OL may, in addition to any other actions, refer any noncompliance concern~~[s]~~ to any other local and federal agency and seek criminal penalties.

(15) An applicant or provider may request:

(a) an ~~[action review]~~informal dispute resolution of any ~~[office]~~OL decision, except an NAA or NEAA, within ten ~~[working]~~calendar days of being informed in writing of the decision by submitting a request to ~~[the office]~~OL through the licensing provider portal;~~[-or]~~

(b) an appeal of any ~~[office]~~OL NAA decision within 15 ~~[working]~~calendar days of being informed in writing of the decision by following the department appeal process; or

(c) an appeal of any OL NEAA decision within five calendar days of being informed in writing of the decision by following the department appeal process.

R380-600-9. Notice of Emergency Agency Actions.

(1) A provider that experiences a serious injury or death of a client shall report a critical incident to OL in accordance with Subsection R380-600-7(17).

(2) OL shall make the determination of whether or not to issue an NEAA with consideration of:

(a) any known facts of the event;

(b) the provider's adherence to any licensing rule leading up to and during the critical incident; and

(c) the immediate health and safety of the remaining clients.

(3) The known facts of the event are deemed proof of conduct adverse to the standards required to provide services and promote public trust.

(4)(a) If OL determines that an NEAA is necessary for the protection of clients, it may place emergency conditions on the license to include restricting new admissions and increased monitoring of provider operations.

(b) An NEAA shall expire 30 days after the date of issuance.

(c) OL may dismiss the NEAA at any time before the 30-day expiration.

(d) Issuance of an NEAA does not prevent OL from issuing a subsequent notice of agency action or any other sanction.

(5) The provider may appeal an NEAA by filing a written request for an administrative hearing with OL within five calendar days of receipt of the NEAA.

(6) NEAA conditions are immediately in effect and the provider shall adhere to any listed conditions unless reversed by a hearing with the department or under written authorization from OL.

R380-600-10. Immediate Closure.

OL may order the immediate closure of a program or facility if conditions create a clear and present danger to any client and may require immediate action to protect the client's health or safety.

R380-600-11. Unlicensed Program or Facilities.

[A-]In accordance with Section 26B-2-702, a person [who is providing services without a required]operating a program or facility that requires a license[~~-or~~], certificate, or certification is subject to [a civil money penalty, is guilty of a class A misdemeanor,]the following parts under Title 26B, Chapter 2, Licensing and Certifications, regardless of whether they hold a license, certificate, or certification:

- (1) Part 1, Human Services Programs and Facilities;
- (2) Part 2, Health Care Facilities Licensing and Inspection; or
- (3) Part 4, Child Care Licensing.

R380-600-12. Compliance.

(1) If a federal requirement or state contract requirement presents a conflict with any rule governing a provider under the division, the federal or state contract requirement shall prevail.

(2) Any provider found in noncompliance with any rule or statute governing the division may be [referred]subject to the [Attorney General and the County Attorney]penalties enumerated in this rule and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: licensing, human services, health care facility, child care

Date of Last Change: ~~December 19, 2023~~2024

Authorizing, and Implemented or Interpreted Law: 26B-2-104; 26B-2-202; 26B-2-402; 26B-2-703

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	R381-40	Filing ID: 56910

Agency Information

1. Title catchline:	Health and Human Services, Child Care Center Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state	Salt Lake City, UT	
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:
R381-40. Commercial Preschool Programs
3. Purpose of the new rule or reason for the change:
The reason for this proposed repeal and reenact is to consolidate the extensive nonsubstantive edits made for compliance with the Rulewriting Manual for Utah. Substantive changes remove outdated or duplicative content that is now addressed in the Division of Licensing and Background Checks (DLBC)-wide enforcement rule, R380-600 and reflect the new statute governing DLBC enforcement and penalties in accordance with SB229 from the 2024 General Session. The Child Care Licensing Committee has reviewed and approved the changes made in this repeal and reenact filing.
4. Summary of the new rule or change:
Section R381-40-6 is amended to clarify federal grant requirements for collecting and reporting immunization records to DHHS. Section R381-40-23 is being added to reflect the new statute governing DLBC enforcement and penalties. Additional updates to language reflect the implementation of Rule R380-600, clarify DLBC processes, and align the rule 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 filing is not anticipated to have a fiscal impact on the DLBC budget as it updates citations, clarifies existing requirements, and removes outdated and redundant language. This filing does not add, remove, or modify any existing requirements or restrictions for this agency.

B) Local governments:

There is no anticipated fiscal impact to local governments, as they are not involved in OL's enforcement or immunization requirements and this filing does not apply to them.

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

This filing is not anticipated to have a fiscal impact on small business childcare providers, as it updates citations, clarifies existing requirements, and removes outdated and redundant language. This filing does not add, remove, or modify any existing requirements or restrictions for small businesses.

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

This filing is not anticipated to have a fiscal impact on non-small businesses because none of the state's licensed commercial preschools are non-small businesses.

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

This filing is not anticipated to have a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities, as it updates citations, clarifies existing requirements, and removes outdated and redundant language. This filing does not add, remove, or modify any existing requirements or restrictions for other persons.

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 anticipated compliance costs for affected persons, as this filing updates citations, clarifies existing requirements, and removes outdated and redundant language.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-2-402

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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	10/30/2024
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R381. Health and Human Services, Child Care Center Licensing.

R381-40. Commercial Preschool Programs.

~~R381-40-1. Authority and Purpose.~~

- ~~(1) Section 26B-2-402 authorizes this rule.~~
- ~~(2) This rule establishes the foundational standards necessary to protect the health and safety of children in commercial preschool programs and defines the general procedures and requirements to get and maintain a license to provide this type of child care.~~

~~R381-40-2. Definitions.~~

- ~~(1) "Applicant" means a person or business who has applied for a new or a renewal of a license from the department.~~
- ~~(2) "Background Finding" means information in a background check that the department uses to determine if a covered individual is or is not eligible to be involved with child care.~~
- ~~(3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.~~
- ~~(4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.~~
- ~~(5) "Business Days and Hours" means the days of the week and times the facility is open for business.~~
- ~~(6) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:

 - ~~(a) count in the caregiver to child ratio;~~
 - ~~(b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or~~
 - ~~(c) supervise children.~~~~
- ~~(7) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.~~
- ~~(8) "Caregiver to Child Ratio" means the number of caregivers responsible for a specific number of children.~~
- ~~(9) "CCL" means the Child Care Licensing Program under the Office of Licensing that is delegated with the responsibility to enforce the rules under Titles R381 and R430.~~
- ~~(10) "Child Care" means continuous care and supervision of one or more qualifying children that is:

 - ~~(a) in place of care ordinarily provided by a parent in the parent's home;~~
 - ~~(b) for less than 24 hours a day; and~~
 - ~~(c) for direct or indirect compensation.~~~~
- ~~(11) "Child Care Program" means a person or business that offers child care.~~
- ~~(12) "Child Care Provider Licensing Committee" means the Child Care Provider Licensing Committee created in Section 26B-1-414.~~
- ~~(13) "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1 1/4 inches and a length of less than 2 1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.~~
- ~~(14) "Conditional Status" means that the provider is at risk of losing their child care license because compliance with any laws or administrative rules has not been maintained.~~
- ~~(15) "Covered Individual" means any of the following individuals involved with a child care program:~~

NOTICES OF PROPOSED RULES

- _____ (a) an owner;
- _____ (b) a director;
- _____ (c) a member of the governing body;
- _____ (d) an employee;
- _____ (e) a caregiver;
- _____ (f) a volunteer, except a parent of a child enrolled in the child care program;
- _____ (g) an individual age 12 years old or older who resides in the facility; and
- _____ (h) anyone who has unsupervised contact with a child in care.
- _____ (16) "Department" means the Utah Department of Health and Human Services.
- _____ (17) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.
- _____ (18) "Director" means an individual who meets the director qualifications under Section R381-40-7, and who assumes the child care program's day to day responsibilities under Rule R381-40.
- _____ (19) "Early Childhood Education" means a program of study that prepares an individual for the teaching of children in their early years, normally from birth up to the age of eight years old.
- _____ (20) "Eligible" means that there were no findings in a covered individual's background check that would prohibit that covered individual from being involved with child care.
- _____ (21) "Emotional Abuse" is defined in Subsection R512-80-2(12) and also means behavior that could harm a child's emotional development, including threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.
- _____ (22) "Entrapment Hazard" means an opening greater than 3 1/2 by 6 1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.
- _____ (23) "Facility" means the premises approved by the department to be used for child care.
- _____ (24) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.
- _____ (25) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.
- _____ (26) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.
- _____ (27) "Inaccessible" means out of reach of children by being:
 - _____ (a) locked, including in a locked room, cupboard, or drawer;
 - _____ (b) secured with a child safety device, including a child safety cupboard lock or doorknob device;
 - _____ (c) behind a properly secured child safety gate;
 - _____ (d) located at least 36 inches above the floor; or
 - _____ (e) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb.
- _____ (28) "Infectious Disease" means an illness that is capable of being spread from one individual to another.
- _____ (29) "Involved with Child Care" means to do any of the following at or for a child care program:
 - _____ (a) care for or supervise children;
 - _____ (b) volunteer;
 - _____ (c) own, operate, direct;
 - _____ (d) reside;
 - _____ (e) count in the caregiver to child ratio; or
 - _____ (f) have unsupervised contact with a child in care.
- _____ (30) "License" means a license issued by the department to provide child care services.
- _____ (31) "Licensee" means the legally responsible person or business that holds a valid license from the department.
- _____ (32) "LIS Supported Finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- _____ (33) "Over the Counter Medication" means medication that an individual can purchase without a written prescription including herbal remedies, vitamins, and mineral supplements.
- _____ (34) "Parent" means the parent or legal guardian of a child in care.
- _____ (35) "Person" means an individual or a business entity.
- _____ (36) "Physical Abuse" is defined in Subsection R512-80-2(25) and also means causing nonaccidental physical harm to a child.
- _____ (37) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on, and upon which the children can move freely.
- _____ (38) "Prechooler" means a child age two through four years old.
- _____ (39) "Protective Barrier" means a structure including bars, lattice, or a panel that is around an elevated platform and is intended to prevent accidental or deliberate movement through or access to something.
- _____ (40) "Protective Cushioning" means a shock absorbing surface under and around play equipment that reduces the severity of injuries from falls.
- _____ (41) "Provider" means the legally responsible person or business that holds a valid license or certification from the department.
- _____ (42) "Qualifying Child" means:
 - _____ (a) a child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
 - _____ (b) a child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver;

or

- ~~(c) a child who is younger than four years old and is the child of the provider or a caregiver.~~
- ~~(43) "Related Child" means a child for whom a provider is the parent, legal guardian, stepparent, grandparent, step grandparent, great grandparent, sibling, step sibling, aunt, step aunt, great aunt, uncle, step uncle, or great uncle.~~
- ~~(44) "Room" is defined as follows:~~
- ~~(a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:~~
- ~~(i) one room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable;~~
- ~~(ii) one room, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely;~~
- ~~(iii) two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate, including a diaper changing station that is located behind a closed gate;~~
- ~~(iv) two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate; or~~
- ~~(v) if there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway;~~
- ~~(b) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:~~
- ~~(i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, otherwise the department shall consider this to be two rooms; or~~
- ~~(ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas; and~~
- ~~(c) if in outdoor areas separated by interior fences, areas are considered:~~
- ~~(i) one area, if the interior fence is 24 inches in height or lower, whether or not the fence has an opening;~~
- ~~(ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;~~
- ~~(iii) two areas if the interior fence is higher than 24 inches and there is no opening; or~~
- ~~(iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.~~
- ~~(45) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.~~
- ~~(46) "Sexual Abuse" is defined in Subsection R512-80-2(30) and also means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.~~
- ~~(47) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.~~
- ~~(48) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.~~
- ~~(49) "Stationary Play Equipment" means equipment including a climber, slide, swing, merry-go-round, or spring-rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:~~
- ~~(a) a sandbox;~~
- ~~(b) a stationary circular tricycle;~~
- ~~(c) a sensory table; or~~
- ~~(d) a playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber.~~
- ~~(50) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled including:~~
- ~~(a) a protruding bolt end that extends more than two threads beyond the face of the nut;~~
- ~~(b) hardware that forms a hook or leaves a gap or space between components including a protruding open S hook; or~~
- ~~(c) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck.~~
- ~~(51) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by CCL.~~
- ~~(52) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.~~
- ~~(53) "Working Days" means the days of the week the department is open for business.~~

R381-40-3. License Required:

- ~~(1) A person shall obtain a preschool program license from the department if they provide care:~~
- ~~(a) in the absence of the child's parent;~~
- ~~(b) in a place other than the provider's home or the child's home;~~
- ~~(c) for five or more qualifying children between the ages of two and four years old, and five years old if the child is not attending school;~~
- ~~(d) for each individual child for less than four hours a day;~~
- ~~(e) on an ongoing basis for more than two days a week and for four or more weeks in a year;~~
- ~~(f) for direct or indirect compensation; and~~
- ~~(g) where care does not include preparing meals for children.~~

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- ~~_____ (2) A person who does not meet licensing requirements may voluntarily receive a license, except for care that is for related children only or on a sporadic basis.~~
- ~~_____ (3) The department may license a provider to provide child care in a facility that the department licensed to offer foster or respite care services, or another licensed or certified human services program, if the part of the building requesting a CCL license is physically separate from the other building services.~~

R381-40-4. License Application, Renewal, Changes, and Variances.

- ~~_____ (1) Each applicant for a new child care license shall:~~
 - ~~_____ (a) submit a CCL online application;~~
 - ~~_____ (b) submit a copy of a current local fire clearance or a written statement from the local fire authority that a fire inspection is not required;~~
 - ~~_____ (c) submit a copy of a current local business license or a written statement from the city that a business license is not required;~~
 - ~~_____ (d) submit a copy of a current local health department kitchen clearance for a facility providing food service or a written statement from the local health department that a kitchen inspection is not required;~~
 - ~~_____ (e) have a copy of the educational credentials of the individual who will be the director as required in Section R381-40-7, ready for review by the department;~~
 - ~~_____ (f) complete CCL background checks for covered individuals as required in Section R381-40-8;~~
 - ~~_____ (g) complete CCL new provider training no more than six months before becoming licensed; and~~
 - ~~_____ (h) pay any required fees, which are nonrefundable.~~
- ~~_____ (2) Each applicant shall pass a department's inspection of the facility before a new or a renewal license is issued.~~
- ~~_____ (3) If the local fire authority states in writing that an applicant for a new or a renewal license does not require a fire inspection, the department shall verify the applicant's compliance with the following:~~
 - ~~_____ (a) address numbers and letters are readable from the street;~~
 - ~~_____ (b) exit doors operate properly and are well maintained;~~
 - ~~_____ (c) there are no obstructions in exits, aisles, corridors, and stairways;~~
 - ~~_____ (d) exit doors are unlocked from the inside during business hours;~~
 - ~~_____ (e) exits are clearly identified;~~
 - ~~_____ (f) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor;~~
 - ~~_____ (g) there are working smoke detectors that are properly installed on each level of the building; and~~
 - ~~_____ (h) boiler, mechanical, and electrical panel rooms are not used for storage.~~
- ~~_____ (4) If an applicant for a new or a renewal license serves food and the local health department states in writing that a kitchen inspection is not required, the department shall verify the applicant's compliance with the following:~~
 - ~~_____ (a) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;~~
 - ~~_____ (b) there is a working thermometer in the refrigerator;~~
 - ~~_____ (c) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;~~
 - ~~_____ (d) chemicals are stored away from food and food service items;~~
 - ~~_____ (e) food is properly stored, kept to the proper temperature, and in good condition; and~~
 - ~~_____ (f) there is a working handwashing sink in the kitchen and handwashing instructions posted by the sink.~~
- ~~_____ (5)(a) Each applicant for a new license shall complete the licensing process within six months from the time any portion of the application is submitted to the department.~~
 - ~~_____ (b) If successful licensure is not achieved by the applicant within six months, the applicant shall reapply.~~
 - ~~_____ (c) Any resubmission shall include the required documentation and payment of licensing fees.~~
 - ~~_____ (d) The department shall conduct a new inspection of the facility before issuing a license.~~
- ~~_____ (6) The department may deny an application for a new or renewal license if, within the five years preceding the application date, the applicant held a license or a certificate that was:~~
 - ~~_____ (a) closed under an immediate closure;~~
 - ~~_____ (b) revoked;~~
 - ~~_____ (c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;~~
 - ~~_____ (d) voluntarily closed after the department found a violation to any rule under Rule R381-40 that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or~~
 - ~~_____ (e) voluntarily closed having unpaid fees or civil money penalties issued by the department.~~
- ~~_____ (7) Each child care license expires at midnight on the last day of the month shown on the license, unless the department revokes the license or the provider voluntarily closes the license.~~
- ~~_____ (8) Within 30 to 90 days before a current license expires, each provider shall submit for renewal:~~
 - ~~_____ (a) an online renewal request;~~
 - ~~_____ (b) applicable renewal fees;~~
 - ~~_____ (c) any previous unpaid fees; and~~
 - ~~_____ (d) a copy of a current fire inspection report.~~
- ~~_____ (9) The department may grant a provider who fails to renew their license by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.~~

- ~~_____ (10) The department may deny renewal of a license for a provider who is no longer caring for children.~~
- ~~_____ (11) Each provider shall submit a complete application for a new license at least 30 days before any of the following changes occur:~~
 - ~~_____ (a) a change of the child care facility's location; or~~
 - ~~_____ (b) a change that transfers 50% or more ownership or controlling interest to a new individual or entity.~~
- ~~_____ (12) A provider shall submit a complete online change request to amend an existing license at least 30 days before any of the following changes:~~
 - ~~_____ (a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where child care is provided;~~
 - ~~_____ (b) a change in the name of the program;~~
 - ~~_____ (c) a change in the regulation type of the program;~~
 - ~~_____ (d) a change in the name of the provider;~~
 - ~~_____ (e) an addition or loss of a director; or~~
 - ~~_____ (f) a change in ownership that does not require a new license.~~
- ~~_____ (13) The department may amend a license after verifying that the applicant is in compliance with each applicable rule under Rule R381-40 and has paid the required fees. The expiration date of the amended license remains the same as the previous license.~~
- ~~_____ (14) Only the department may assign, transfer, or amend a license.~~
- ~~_____ (15)(a) If an applicant or provider cannot comply with a rule under Rule R381-40 but can meet the intent of the rule in another way, the applicant or provider may apply for a variance to that rule by submitting a request to the department.~~
 - ~~_____ (b) The department may:~~
 - ~~_____ (i) require additional information before acting on a variance request; and~~
 - ~~_____ (ii) impose health and safety requirements as a condition of granting a variance.~~
 - ~~_____ (c) Each provider shall comply with the existing Rule R381-40 unless the department approves a variance.~~
 - ~~_____ (d) If the department approves a variance, the provider shall keep a copy of the written approval on site for review by parents and the department.~~
 - ~~_____ (e) The department may grant variances for up to 12 months.~~
 - ~~_____ (f) The department may revoke a variance if:~~
 - ~~_____ (i) the provider is not meeting the intent of the rule as stated in their approved variance;~~
 - ~~_____ (ii) the provider fails to comply with the conditions of the variance; or~~
 - ~~_____ (iii) a change in statute, rule, or case law affects the basis for the variance.~~

~~_____ R381-40.5. Rule Noncompliance, Penalties, and Agency Action Reviews.~~

- ~~_____ (1) The department may place a program's child care license on a conditional status for the following causes:~~
 - ~~_____ (a) chronic, ongoing noncompliance with the requirements under Rule R381-40;~~
 - ~~_____ (b) unpaid fees; or~~
 - ~~_____ (c) a serious rule violation that places children's health or safety in immediate jeopardy.~~
- ~~_____ (2) The department shall establish the length of the conditional status and set the conditions that the child care provider shall satisfy to remove the conditional status.~~
- ~~_____ (3) The department may increase monitoring of the program that is on conditional status to verify compliance with Rule R381-40.~~
- ~~_____ (4) The department may deny or revoke a license if the child care provider:~~
 - ~~_____ (a) fails to meet the conditions of a license on conditional status;~~
 - ~~_____ (b) violates any part of Title 26B, Chapter 2, Part 4, Child Care Licensing;~~
 - ~~_____ (c) provides false or misleading information to the department;~~
 - ~~_____ (d) misrepresents information by intentionally altering a license or any other document issued by the department;~~
 - ~~_____ (e) fails to allow authorized representatives of the department access to the facility to ensure compliance with the requirements under Rule R381-40;~~
 - ~~_____ (f) fails to submit or make available to the department any written documentation needed to verify compliance with the requirements under Rule R381-40;~~
 - ~~_____ (g) commits a serious rule violation that results in death or serious harm to a child, or that places a child at risk of death or serious harm; or~~
 - ~~_____ (h) has committed an illegal act that would exclude an individual from having a license.~~
- ~~_____ (5) Within ten working days of receipt of a revocation notice, the provider shall submit to the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the revocation.~~
- ~~_____ (6) The department may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect the children's health or safety.~~
- ~~_____ (7) Upon receipt of an immediate closure notice, the provider shall give the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the immediate closure.~~
- ~~_____ (8) If there is a severe injury or the death of a child in care, the department may order a child care provider to suspend services and prohibit new enrollments, pending a review by the DHHS Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.~~
- ~~_____ (9) An unlicensed person providing care that requires a license may be charged with a civil money penalty and a class A misdemeanor unless they:~~
 - ~~_____ (a) stop providing child care that requires a license; or~~

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- ~~_____ (b) apply for the appropriate license within 30 calendar days of notification by the department.~~
- ~~_____ (10) If a person providing care without the appropriate license agrees to apply for a license but does not submit an application and the required application documents within 30 days, the department may issue a cease and desist order.~~
- ~~_____ (11) A violation of any of the requirements under Rule R381-40 is punishable by an administrative civil money penalty of up to \$5,000 a day as provided in Section 26B-2-409.~~
- ~~_____ (12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.~~
- ~~_____ (13) The department may deny an application or revoke a license for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background checks, civil money penalties, and other fees assessed by the department.~~
- ~~_____ (14) An applicant or provider may request an agency review for any department decision within ten working days of being informed in writing of the decision.~~

R381-40-6. Administration and Children's Records.

- ~~_____ (1) The provider shall:~~
 - ~~_____ (a) be at least 21 years old;~~
 - ~~_____ (b) be considered eligible by a CCL background check before becoming involved with child care; and~~
 - ~~_____ (c) complete the new provider training offered by the department.~~
- ~~_____ (2) If the owner is not a sole proprietor, the business entity shall submit to the department the names and contact information of the individuals who shall legally represent them and who shall comply with the requirements under Subsection R381-40-6(1).~~
- ~~_____ (3) The provider shall protect children from conduct that endangers children in care, or is contrary to the health, welfare, and safety of the public.~~
- ~~_____ (4) The provider shall know and comply with each applicable federal, state, and local law, ordinance, and rule, and maintain responsibility for the operation and management of a child care program.~~
- ~~_____ (5) The provider shall comply with the requirements under Rule R381-40 any time a child in care is present.~~
- ~~_____ (6) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public.~~
- ~~_____ (7) The provider shall post a current copy of the department's Parent Guide at the facility for parent review during business hours.~~
- ~~_____ (8) The provider shall inform parents and the department of any changes to the program's telephone number and other contact information within 48 hours of the change.~~
- ~~_____ (9) The provider shall:~~
 - ~~_____ (a) have liability insurance; or~~
 - ~~_____ (b) inform parents in writing that the provider does not have liability insurance.~~
- ~~_____ (10) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.~~
- ~~_____ (11) The provider shall ensure that each child's admission and health assessment form includes the following information:~~
 - ~~_____ (a) child's name;~~
 - ~~_____ (b) child's date of birth;~~
 - ~~_____ (c) parent's name, address, and phone number, including a daytime phone number;~~
 - ~~_____ (d) names of individuals authorized by the parent to sign the child out from the facility;~~
 - ~~_____ (e) name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;~~
 - ~~_____ (f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;~~
 - ~~_____ (g) parent's permission for emergency transportation and emergency medical treatment;~~
 - ~~_____ (h) any known allergies of the child;~~
 - ~~_____ (i) any known food sensitivities of the child;~~
 - ~~_____ (j) any chronic medical conditions that the child may have;~~
 - ~~_____ (k) instructions for special or nonroutine daily health care of the child;~~
 - ~~_____ (l) current ongoing medications that the child may be taking; and~~
 - ~~_____ (m) any other special health instructions for the caregiver.~~
- ~~_____ (12) The provider shall ensure that the admission and health assessment form is:~~
 - ~~_____ (a) reviewed, updated, and signed or initialed by the parent at least annually; and~~
 - ~~_____ (b) kept on-site for review by the department.~~
- ~~_____ (13) Before admitting any child into the program, including the provider's and employees' own children, the provider shall obtain the following documentation from the child's parent:~~
 - ~~_____ (a) current immunizations;~~
 - ~~_____ (b) a medical schedule to receive required immunizations;~~
 - ~~_____ (c) a legal exemption; or~~
 - ~~_____ (d) a 90-day exemption for foster children and children who are homeless.~~
- ~~_____ (14) The provider shall ensure that each child's information is confidential and not released without written parental permission except to the department.~~

R381-40-7. Personnel and Training Requirements.

- ~~(1) The provider shall ensure that employees and volunteers are supervised, qualified, and trained as stated under Rule R381-40 to:

 - ~~(a) meet the needs of the children; and~~
 - ~~(b) comply with each requirement.~~~~
- ~~(2) The provider shall ensure that the preschool program has a qualified director as required under Section R381-40-7.~~
- ~~(3) The provider shall ensure that the director:

 - ~~(a) is at least 21 years old;~~
 - ~~(b) is considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~(c) if hired after January 1, 2023, has completed the 2 1/2 hour preservice training offered by the department;~~
 - ~~(d) completes the new director training offered by the department within 60 working days of assuming director duties;~~
 - ~~(e) knows and follows any applicable laws and requirements under Rule R381-40; and~~
 - ~~(f) completes at least ten hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year.~~~~
- ~~(4) The provider shall ensure that new directors have one of the following educational credentials:

 - ~~(a) any bachelor's or higher education degree;~~
 - ~~(b) at least 60 clock hours of coursework in child development, social and emotional development, and the child care environment, or 60 clock hours of equivalent training as approved by the department;~~
 - ~~(c) at least 12 college credit hours of child development courses;~~
 - ~~(d) a currently valid national certification including a Certified Childcare Professional issued by the National Child Care Association, a current Child Development Associate issued by the Council for Early Childhood Professional Recognition, a current National Administrator Credential, or other equivalent credential as approved by the department;~~
 - ~~(e) at least an associate degree in early childhood development or related field; or~~
 - ~~(f) proof of at least five years of early education teaching experience.~~~~
- ~~(5) The provider shall ensure that the director is on duty at the facility for at least half of the time every week the program is open.~~
- ~~(6) The provider shall ensure that there is a director designee with authority to act on behalf of the director in the director's absence.~~
- ~~(7) The provider shall ensure that the director designee:

 - ~~(a) is at least 18 years old;~~
 - ~~(b) is considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~(c) if hired after January 1, 2023, has completed the 2 1/2 hour preservice training offered by the department before beginning job duties;~~
 - ~~(d) knows and follows any applicable laws and requirements under Rule R381-40;~~
 - ~~(e) completes at least ten hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year; and~~
 - ~~(f) has current first aid and cardio pulmonary resuscitation (CPR) certification.~~~~
- ~~(8) The provider shall ensure that the director or the director designee is present at the facility when the program is open for care.~~
- ~~(9) The provider shall ensure that caregivers:

 - ~~(a) are at least 16 years old;~~
 - ~~(b) are considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~(c) complete the 2 1/2 hour preservice training offered by the department before caring for children;~~
 - ~~(d) know and follow any applicable laws and requirements under Rule R381-40;~~
 - ~~(e) are introduced to other program staff and to the caregiver's assigned group of children;~~
 - ~~(f) review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs; and~~
 - ~~(g) complete at least ten hours of child care training each year, based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year.~~~~
- ~~(10) The provider shall ensure that any other staff including drivers, cooks, and clerks:

 - ~~(a) are considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~(b) complete the 2 1/2 hour preservice training offered by the department before beginning job duties; and~~
 - ~~(c) know and follow any applicable laws and requirements under Rule R381-40.~~~~
- ~~(11) The provider shall ensure that volunteers are eligible by a CCL background check before becoming involved with child care.~~
- ~~(12) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests wear a guest nametag.~~
- ~~(13) The provider shall ensure that household members who are:

 - ~~(a) 12 to 17 years old are considered eligible by a CCL background check; and~~
 - ~~(b) 18 years old or older are eligible by a CCL background check that includes fingerprints.~~~~
- ~~(14) The provider shall ensure that individuals who provide Individualized Educational Plan or Individualized Family Service plan services including physical, occupational, or speech therapists:

 - ~~(a) provide proper identification before having access to the facility or to a child at the facility; and~~
 - ~~(b) have received the child's parent's permission for services to take place at the facility.~~~~
- ~~(15) The provider shall ensure that individuals from law enforcement, Child Protective Services, the department, and any similar entities provide proper identification before having access to the facility or to a child at the facility.~~

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- ~~_____ (16) The provider shall ensure that each covered individual required to complete preservice training receives the 2 1/2-hour preservice training offered by the department that includes at least the following topics:~~
 - ~~_____ (a) applicable laws and requirements under Rule R381-40;~~
 - ~~_____ (b) children whose special needs may include a disability;~~
 - ~~_____ (c) recognizing the signs of homelessness and available assistance;~~
 - ~~_____ (d) building and physical premises safety;~~
 - ~~_____ (e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;~~
 - ~~_____ (f) pediatric first aid and CPR;~~
 - ~~_____ (g) emergency preparedness, response, and recovery plan;~~
 - ~~_____ (h) prevention of and response to emergencies due to food and allergy reactions;~~
 - ~~_____ (i) safe handling and disposal of hazardous materials and bio-contaminants;~~
 - ~~_____ (j) prevention and control of infectious diseases including immunizations;~~
 - ~~_____ (k) administration of medication;~~
 - ~~_____ (l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;~~
 - ~~_____ (m) precautions in transporting children;~~
 - ~~_____ (n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and~~
 - ~~_____ (o) prevention of sudden infant death syndrome and the use of safe sleeping practices.~~
- ~~_____ (17) The provider shall ensure that annual child care training includes at least the following topics:~~
 - ~~_____ (a) Sections R381-40-7 through R381-40-22; and~~
 - ~~_____ (b) each topic listed in Subsections R381-40-7(16)(a) through (o).~~
- ~~_____ (18) The provider shall ensure that documentation of each individual's annual child care training is onsite for review by the department and includes the following:~~
 - ~~_____ (a) training topic;~~
 - ~~_____ (b) date of the training;~~
 - ~~_____ (c) name of the individual or organization that presented the training; and~~
 - ~~_____ (d) total hours or minutes of training.~~
- ~~_____ (19) The provider shall ensure that at least one staff member with a current Red-Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when children are in care:~~
 - ~~_____ (a) at the facility;~~
 - ~~_____ (b) in each vehicle transporting children; and~~
 - ~~_____ (c) at each offsite activity.~~
- ~~_____ (20) The provider shall ensure that CPR certification includes hands-on testing.~~
- ~~_____ (21) The provider shall ensure that the following records for each covered individual are on-site for review by the department:~~
 - ~~_____ (a) the date of initial employment or association with the program;~~
 - ~~_____ (b) a current pediatric first aid and CPR certification, if required under Rule R381-40; and~~
 - ~~_____ (c) a six-week record of the times worked each day.~~

R381-40-8. Background Checks.

- ~~_____ (1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:~~
 - ~~_____ (a) associate that individual with their facility; or~~
 - ~~_____ (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.~~
- ~~_____ (2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:~~
 - ~~_____ (a) require the individual to submit an online background check form and fingerprints for individuals age 18 years old and older;~~
 - ~~_____ (b) authorize the individual's background check through the CCL provider's portal;~~
 - ~~_____ (c) pay any required fees; and~~
 - ~~_____ (d) receive written notice from CCL that the individual is eligible.~~
- ~~_____ (3) To keep their background check eligibility current, the provider shall require a covered individual to submit a new background check form, fingerprints, and fees if the covered individual has:~~
 - ~~_____ (a) resided outside of Utah since their last background check was completed;~~
 - ~~_____ (b) not been associated with an active, CCL approved child care facility within the past 180 days; or~~
 - ~~_____ (c) has turned 18 years old and has not previously submitted fingerprints for a CCL background check. If the 18-year-old has previously submitted fingerprints for a CCL background check, only a new background check form will be required.~~
- ~~_____ (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:~~
 - ~~_____ (a) ensure that an online background check form is submitted;~~
 - ~~_____ (b) authorize the child's background check through the CCL provider's portal; and~~
 - ~~_____ (c) pay any required fees.~~
- ~~_____ (5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.~~

- ~~(6) If a covered individual submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.~~
- ~~(7) The department may consider a covered individual not eligible for any of the following reasons:~~
- ~~(a) LIS supported findings;~~
 - ~~(b) the covered individual's name appears on the Utah or national sex offender registry;~~
 - ~~(c) the covered individual refuses to consent to the criminal background check;~~
 - ~~(d) the covered individual knowingly makes a false statement in connection with their background check;~~
 - ~~(e) any felony convictions; or~~
 - ~~(f) for any of the reasons listed under Subsection R381-40-8(8).~~
- ~~(8) The department may also consider a covered individual not eligible for any of the following convictions regardless of severity:~~
- ~~(a) child pornography;~~
 - ~~(b) sexual enticing of a minor;~~
 - ~~(c) voyeurism;~~
 - ~~(d) a sexual exploitation act;~~
 - ~~(e) pornographic material or performance;~~
 - ~~(f) any crime against an individual;~~
 - ~~(g) providing dangerous weapons or fire arms to a minor; or~~
 - ~~(h) driving under the influence while a child is present in the vehicle.~~
- ~~(9) The department shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before CCL conducted the background check.~~
- ~~(10) If the provider is not eligible by CCL, the department may suspend or deny their license until the reason for the background check finding is resolved.~~
- ~~(11) If a covered individual is deemed not eligible by CCL, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.~~
- ~~(12) If the department denies a covered individual a license or employment by the provider based upon the criminal background check and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information to the Department of Public Safety.~~
- ~~(13) The provider and the covered individual shall notify the department within 48 hours of becoming aware of the covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding. Failure to notify the department within 48 hours may result in disciplinary action, including revocation of the license.~~
- ~~(14) The Executive Director of the department, or their designee may overturn a CCL background check decision if they determine that the nature of the background finding or mitigating circumstances do not pose a risk to children.~~

R381-40-9. Facility.

- ~~(1) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint undergoes a test for lead. If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.~~
- ~~(2) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation, or by windows that open and have screens.~~
- ~~(3) The provider shall ensure that windows and glass doors within 36 inches from the floor or ground are made of safety or tempered glass, or have a protective guard.~~
- ~~(4) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity the provider is conducting.~~
- ~~(5) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.~~
- ~~(6) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.~~
- ~~(7) The provider shall ensure that there is at least one working toilet and one working sink when there are up to 15 children in the facility, and at least two working toilets and two working sinks when there are more than 15 children present in the facility.~~
- ~~(8) If there is an outdoor area in the facility, the provider shall ensure that the outdoor area:~~
- ~~(a) is safely accessible to the children;~~
 - ~~(b) is enclosed within a fence, wall, or solid natural barrier that is at least four feet high; and~~
 - ~~(c) has no gaps five by five inches or greater in or under the fence or barrier.~~
- ~~(9) If the provider does not empty the swimming pool on the premises after each use, the provider shall:~~
- ~~(a) meet applicable state and local laws and ordinances related to the operation of a swimming pool;~~
 - ~~(b) maintain the pool in a safe manner; and~~
 - ~~(c) when not in use, cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.~~
- ~~(10) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:~~
- ~~(a) ceilings, walls, and floor coverings;~~
 - ~~(b) lighting, bathroom, and other fixtures;~~

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- ~~_____ (c) draperies, blinds, and other window coverings;~~
- ~~_____ (d) indoor and outdoor play equipment;~~
- ~~_____ (e) furniture, toys, and materials accessible to the children; and~~
- ~~_____ (f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.~~
- ~~_____ (11) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.~~
- ~~_____ (12) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with the requirements under Rule R381-40, except when:~~
 - ~~_____ (a) there is a separate entrance for the child care program;~~
 - ~~_____ (b) there are no connecting interior doorways that can be used by unauthorized individuals; and~~
 - ~~_____ (c) there is no shared access to the outdoor area used for child care.~~

R381-40-10. Capacity and Ratio.

- ~~_____ (1) The department may limit the maximum allowed capacity for a child care facility based on local ordinances.~~
- ~~_____ (2) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license.~~
- ~~_____ (3) The department may determine the total capacity based on the number of rooms and the ages of children cared for in those rooms.~~
- ~~_____ (4) As listed in Table 1 for single age groups of children, the provider shall:~~
 - ~~_____ (a) maintain at least the number of caregivers; and~~
 - ~~_____ (b) not exceed the number of children in the caregiver to child ratio per room.~~

TABLE 1 Caregiver to child Ratios		
Number of Caregivers	Ages of Children	Number of Children
At least 1	2 years old	7
At least 1	3 years old	12
At least 1	4 years old	15
At least 1	5 years old	20

- ~~_____ (5) As listed in Tables 2 through 4 for mixed age groups of children, the provider shall:~~
 - ~~_____ (a) maintain at least the number of caregivers; and~~
 - ~~_____ (b) not exceed the number of children in the caregiver to child ratio per room.~~

TABLE 2 Two to Five Year Olds		
Number of Caregivers Required	Ages of children	Number of Children Present
At least 1	2 years old	1-6
	3, 4, and 5 years old	1-10
Maximum Total of Children in the Room: 11		

TABLE 3 Three to Five Year Olds		
Number of Caregivers Required	Ages of children	Number of Children Present
At least 1	3 years old	1-11
	4 years old	1-14
	5 years old	1-14
Maximum Total of Children in the Room: 16		

TABLE 4 Four to Five Year Olds		
Number of Caregivers Required	Ages of children	Number of Children Present
At least 1	4 years old	1-14
	5 years old	1-17
Maximum Total of Children in the Room: 18		

~~_____ (6) The provider may exclude the provider's or an employee's child age four years or older from the caregiver to child ratio when the parent of the child is working at the facility.~~

~~_____ (7) The provider may include caregivers, student interns who are registered in a high school or college child care course, and volunteers who are 16 years old or older in the caregiver to child ratio.~~

~~R381-40-11. Child Supervision and Security.~~

~~_____ (1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:~~

~~_____ (a) the caregiver is physically present in the room or area with the children;~~

~~_____ (b) caregivers know the number of children in their care at any time;~~

~~_____ (c) caregivers' attention is focused on the children and not on caregivers' personal interests;~~

~~_____ (d) caregivers are aware of the entire group of children even when interacting with a smaller group or an individual child; and~~

~~_____ (e) caregivers position themselves so each child in their assigned group is actively supervised.~~

~~_____ (2) The provider shall ensure that staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:~~

~~_____ (a) they are left unsupervised for no more than two consecutive hours per group;~~

~~_____ (b) the director or the director designee is physically present and available as needed; and~~

~~_____ (c) they are not volunteers.~~

~~_____ (3) The provider shall ensure that staff, volunteers, and household members who are younger than 16 years old are not assigned to care for or supervise any child in care.~~

~~_____ (4) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.~~

~~_____ (5) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.~~

~~_____ (6) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.~~

~~_____ (7) To maintain security and supervision of children, the provider shall ensure that:~~

~~_____ (a) each child is signed in and out in accordance with this section;~~

~~_____ (b) only parents or persons with written authorization from the parent may sign out a child;~~

~~_____ (c) photo identification is required if the individual signing the child in or out is unknown to the provider;~~

~~_____ (d) persons signing children in and out use identifiers, including a signature, initials, or electronic code; and~~

~~_____ (e) the sign in and sign out records include the date and time each child arrives and leaves.~~

~~_____ (8) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:~~

~~_____ (a) the person giving verbal authorization; and~~

~~_____ (b) the person picking up the child.~~

~~_____ (9) The provider shall ensure that a six week record of each child's daily attendance, including sign in and sign out records, is kept on site for review by the department.~~

~~R381-40-12. Child Guidance and Interaction.~~

~~_____ (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.~~

~~_____ (2) The provider shall inform parents, children, and those who interact with the children of the program's behavioral expectations and how any misbehavior will be handled.~~

~~_____ (3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.~~

~~_____ (4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.~~

~~_____ (5) The provider shall ensure that interactions with the children do not include:~~

~~_____ (a) any form of corporal punishment or any action that produces physical pain or discomfort including hitting, spanking, shaking, biting, or pinching;~~

~~_____ (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;~~

~~_____ (c) shouting at children;~~

~~_____ (d) any form of emotional abuse;~~

~~_____ (e) forcing or withholding food, rest, or toileting; or~~

~~_____ (f) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage.~~

~~_____ (6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Section 80-2-602.~~

~~R381-40-13. Child Safety and Injury Prevention.~~

~~_____ (1) The provider shall ensure that children and staff use the building, outdoor area, toys, and equipment safely and as intended by the manufacturer to prevent injury to children.~~

~~_____ (2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.~~

~~_____ (3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.~~

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- ~~_____ (4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.~~
- ~~_____ (5) The provider shall ensure that strangulation hazards including ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.~~
- ~~_____ (6) The provider shall ensure that tripping hazards including unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.~~
- ~~_____ (7) The provider shall ensure that empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons are inaccessible to children younger than five years old.~~
- ~~_____ (8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.~~
- ~~_____ (9) The provider shall ensure that toxic or hazardous chemicals including cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:
 - ~~_____ (a) inaccessible to children;~~
 - ~~_____ (b) used according to manufacturer instructions;~~
 - ~~_____ (c) stored in containers labeled with the contents of the container; and~~
 - ~~_____ (d) disposed of properly.~~~~
- ~~_____ (10) The provider shall ensure that the following items are inaccessible to children:
 - ~~_____ (a) matches or cigarette lighters;~~
 - ~~_____ (b) open flames;~~
 - ~~_____ (c) hot wax or other hot substances; and~~
 - ~~_____ (d) when in use, portable space heaters, wood burning stoves, and fireplaces.~~~~
- ~~_____ (11) The provider shall ensure that the following items are inaccessible to children:
 - ~~_____ (a) live electrical wires; and~~
 - ~~_____ (b) for children younger than five years old, electrical outlets and surge protectors without protective caps or safety devices when not in use.~~~~
- ~~_____ (12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that firearms including guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:
 - ~~_____ (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and~~
 - ~~_____ (b) stored unloaded and separate from ammunition.~~~~
- ~~_____ (13) The provider shall ensure that weapons including paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.~~
- ~~_____ (14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in program vehicles any time a child is in care.~~
- ~~_____ (15) If there is an outdoor area used by the children, the provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.~~
- ~~_____ (16) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, including furniture, unsecured televisions, and standing ladders.~~
- ~~_____ (17) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.~~
- ~~_____ (18) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, are not used:
 - ~~_____ (a) in the facility or any other building when a child is in care;~~
 - ~~_____ (b) in any vehicle that is being used to transport a child in care;~~
 - ~~_____ (c) within 25 feet of any entrance to the facility or other building occupied by a child in care; or~~
 - ~~_____ (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.~~~~

~~R381-40-14. Emergency Preparedness and Response.~~

- ~~_____ (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:
 - ~~_____ (a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;~~
 - ~~_____ (b) includes procedures for accommodations for children with disabilities, and children with chronic medical conditions;~~
 - ~~_____ (c) includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health;~~
 - ~~_____ (d) is available for review by parents, staff, and the department during business hours; and~~
 - ~~_____ (e) is followed if an emergency happens, unless otherwise instructed by emergency personnel.~~~~
- ~~_____ (2) The provider shall post the facility's street address and emergency numbers, including at least fire, police, and poison control, near each telephone in the facility or in an area clearly visible to anyone needing the information.~~
- ~~_____ (3) The provider shall keep first aid supplies in the facility, including at least antiseptic, bandages, and tweezers.~~
- ~~_____ (4) The provider shall conduct fire evacuation drills at least quarterly and make sure drills include a complete exit of each child, staff, and volunteer from the building.~~
- ~~_____ (5) The provider shall conduct drills for disasters other than fires at least once every six months.~~
- ~~_____ (6) The provider shall give parents a written report of every incident, accident, or injury involving their child.~~
- ~~_____ (7) If a child is injured and the injury appears serious but not life-threatening, the provider shall contact the child's parent immediately.~~

- ~~(8) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:~~
- ~~(a) call emergency personnel immediately;~~
 - ~~(b) contact the parent after emergency personnel are called; and~~
 - ~~(c) if the parent cannot be reached, try to contact the child's emergency contact individual.~~
- ~~(9) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:~~
- ~~(a) submit a completed accident report form to the department within the next business day of the incident; or~~
 - ~~(b) contact the department within the next business day and submit a completed accident report form within five business days of the incident.~~
- ~~(10) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by the department.~~

R381-40-15. Health and Infection Control:

- ~~(1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:~~
 - ~~(a) walls and flooring free of spills, dirt, and grime;~~
 - ~~(b) areas and equipment used for the storage, preparation, and service of food;~~
 - ~~(c) surfaces free of rotting food or a build-up of food;~~
 - ~~(d) the building and grounds free of a build-up of litter, trash, and garbage;~~
 - ~~(e) frequently touched surfaces, including doorknobs and light switches; and~~
 - ~~(f) the facility free of animal feces.~~
- ~~(2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.~~
- ~~(3) The provider shall ensure that fabric toys and items including stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and washed weekly, and as needed.~~
- ~~(4) The provider shall clean and sanitize any toys and materials used by children:~~
 - ~~(a) at least once a week or more often if needed; and~~
 - ~~(b) after being contaminated by a body fluid.~~
- ~~(5) The provider shall ensure that water play tables or tubs are cleaned and sanitized daily, if used by the children.~~
- ~~(6) The provider shall ensure that staff clean and sanitize bathroom surfaces including toilets, sinks, faucets, and counters.~~
- ~~(7) The provider shall ensure that toilet paper is accessible to children and kept in a dispenser.~~
- ~~(8) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that the procedures are followed.~~
- ~~(9) The provider shall ensure that staff and volunteers wash their hands thoroughly with liquid soap and running water at required times including:~~
 - ~~(a) upon arrival;~~
 - ~~(b) after using the toilet or helping a child use the toilet;~~
 - ~~(c) after contact with a body fluid;~~
 - ~~(d) after cleaning up or taking out garbage;~~
 - ~~(e) after diapering a child;~~
 - ~~(f) before administering medications to children;~~
 - ~~(g) before and after eating meals and snacks or feeding a child; and~~
 - ~~(h) when coming in from outdoors.~~
- ~~(10) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.~~
- ~~(11) The provider shall ensure that children wash their hands thoroughly with liquid soap and running water at required times including:~~
 - ~~(a) upon arrival;~~
 - ~~(b) after using the toilet;~~
 - ~~(c) after contact with a body fluid;~~
 - ~~(d) before using a water play table or tub;~~
 - ~~(e) before eating a snack; and~~
 - ~~(f) when coming in from outdoors.~~
- ~~(12) The provider shall ensure that only single use towels from a covered dispenser or an electric hand dryer is used to dry hands.~~
- ~~(13) The provider shall ensure that personal hygiene items, including toothbrushes, combs, and hair accessories, are not be shared and are stored so they do not touch each other, or they are sanitized between each use.~~
- ~~(14) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.~~
- ~~(15) The provider shall ensure that children's clothing that is wet or soiled from a body fluid is:~~
 - ~~(a) not rinsed or washed at the facility;~~
 - ~~(b) placed in a leakproof container that is labeled with the child's name; and~~
 - ~~(c) returned to the parent; or~~
 - ~~(d) thrown away with parental consent.~~
- ~~(16) The provider shall ensure that staff take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit. Except for toileting accidents, staff shall:~~
 - ~~(a) wear waterproof gloves;~~

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- _____ (b) clean the surface using a detergent solution;
- _____ (c) rinse the surface with clean water;
- _____ (d) sanitize the surface;
- _____ (e) throw away in a leakproof plastic bag the disposable materials, including paper towels, that were used to clean up the body fluid;
- _____ (f) wash and sanitize any non-disposable materials used to clean up the body fluid, including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and
- _____ (g) wash their hands after cleaning up the body fluid.
- _____ (17) The provider shall ensure that a child who is ill with an infectious disease is not cared for at the facility except when the child shows signs of illness after arriving at the facility.
- _____ (18) If a child becomes ill while in care:
 - _____ (a) the provider shall contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact to immediately pick up the child; and
 - _____ (b) if the child is ill with an infectious disease, the provider shall make the child comfortable in a safe, supervised area that is separated from the other children until the parent arrives.
- _____ (19) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the provider discovers the illness.
- _____ (20) If a staff member or child has an infectious disease or parasite, the provider shall post a notice at the facility that:
 - _____ (a) does not disclose any personal identifiable information;
 - _____ (b) is posted in a conspicuous place where it can be seen by parents;
 - _____ (c) is posted and dated on the same day that the disease or parasite is discovered; and
 - _____ (d) remains posted for at least five business days.

R381-40-16. Food and Nutrition.

- _____ (1) The provider shall ensure that each child is offered a snack when services are provided for three or more hours.
- _____ (2) The provider shall ensure that the person who serves snacks to children:
 - _____ (a) is aware of the children in their assigned group who have food allergies or sensitivities; and
 - _____ (b) ensures that the children are not served the snack to which they are allergic or sensitive.
- _____ (3) The provider shall ensure that food and drink brought in by parents for their child's use is:
 - _____ (a) labeled with the child's name;
 - _____ (b) refrigerated if needed; and
 - _____ (c) consumed only by that child.

R381-40-17. Medications.

- _____ (1) The provider shall lock nonrefrigerated medications or store them at least 48 inches above the floor.
- _____ (2) The provider shall lock refrigerated medications or store them at least 36 inches above the floor and, if liquid, store them in a separate leakproof container.
- _____ (3) If parents supply any over the counter or prescription medications, the provider shall ensure those medications:
 - _____ (a) are labeled with the child's full name;
 - _____ (b) are stored in the original or pharmacy container;
 - _____ (c) have the original label; and
 - _____ (d) have child safety caps.
- _____ (4) The provider shall obtain a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.
- _____ (5) The provider shall ensure that the medication permission form includes at least:
 - _____ (a) the name of the child;
 - _____ (b) the name of the medication;
 - _____ (c) written instructions for administration; and
 - _____ (d) the parent signature and the date signed.
- _____ (6) The provider shall ensure that instructions for administering the medication include at least:
 - _____ (a) the dosage;
 - _____ (b) how the medication will be given;
 - _____ (c) the times and dates to administer the medication; and
 - _____ (d) the disease or condition being treated.
- _____ (7) If the provider supplies an over the counter medication for children's use, the provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:
 - _____ (a) written; or
 - _____ (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.
- _____ (8) The provider shall ensure that the staff administering the medication:
 - _____ (a) washes their hands;
 - _____ (b) check the medication label to confirm the child's name if the parent supplied the medication;
 - _____ (c) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer; and

- ~~_____ (d) administers the medication.~~
- ~~_____ (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:~~
 - ~~_____ (a) the date, time, and dosage of the medication given;~~
 - ~~_____ (b) any error in administering the medication or adverse reactions; and~~
 - ~~_____ (c) their signature or initials.~~
- ~~_____ (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life threatening.~~
- ~~_____ (11) The provider shall notify the parent before the scheduled medication dosage to a child if the provider chooses not to administer medication as instructed by the parent.~~
- ~~_____ (12) The provider shall keep a six week record of medication permission and administration forms on site for review by the department.~~

R381-40-18. Activities.

- ~~_____ (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.~~
- ~~_____ (2) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every 2 hours children spend in the program.~~
- ~~_____ (3) The provider shall post a daily schedule that includes activities that support children's healthy development.~~
- ~~_____ (4) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.~~
- ~~_____ (5) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media including television, cell phones, tablets, and computers is limited to 30 minutes per day, or 2 1/2 hours per week.~~
- ~~_____ (6) If the provider offers swimming activities or if wading pools are used, the provider shall ensure that:~~
 - ~~_____ (a) the parent gives permission before their child in care uses the pool;~~
 - ~~_____ (b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;~~
 - ~~_____ (c) diapered children wear swim diapers when they are in the pool;~~
 - ~~_____ (d) wading pools are emptied and sanitized after use by each group of children;~~
 - ~~_____ (e) if the pool is over four feet deep, there is a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and~~
 - ~~_____ (f) lifeguards and pool personnel do not count toward the caregiver to child ratio.~~
- ~~_____ (7) If the provider offers offsite activities, the provider shall ensure that:~~
 - ~~_____ (a) the parent gives written consent before each activity;~~
 - ~~_____ (b) the required caregiver to child ratio and supervision are maintained during the entire activity;~~
 - ~~_____ (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;~~
 - ~~_____ (d) children wear or carry with them the name and phone number of the program;~~
 - ~~_____ (e) children's names are not used on nametags, t-shirts, or in other visible ways; and~~
 - ~~_____ (f) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.~~
- ~~_____ (8) The provider shall ensure that caregivers take the written emergency information and releases for each child in the group on any offsite activity, and that the information includes:~~
 - ~~_____ (a) the child's name;~~
 - ~~_____ (b) the parent's name and phone number;~~
 - ~~_____ (c) the name and phone number of a person to notify in case of an emergency if the parent cannot be contacted;~~
 - ~~_____ (d) the names of people authorized by the parents to pick up the child; and~~
 - ~~_____ (e) current emergency medical treatment and emergency medical transportation releases.~~

R381-40-19. Play Equipment.

- ~~_____ (1) The provider shall ensure that children using play equipment use it safely and as intended by the manufacturer.~~
- ~~_____ (2) The provider shall ensure that stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment, and with the exception of swings, that stationary play equipment has at least a six foot use zone if any designated play surface is higher than 20 inches.~~
- ~~_____ (3) The provider shall ensure that the use zone in the front and rear of a single axis, enclosed swing extends at least twice the distance of the swing pivot point to the swing seat.~~
- ~~_____ (4) The provider shall ensure that the use zone in the front and rear of a single axis swing extends at least twice the distance of the swing pivot point to the ground.~~
- ~~_____ (5) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends at least the measurement of the suspending rope or chain plus six feet.~~
- ~~_____ (6) The provider shall ensure that the use zone for a merry-go-round extends at least six feet in all directions from its outermost edge.~~
- ~~_____ (7) The provider shall ensure that the use zone for a spring rocker extends at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches.~~

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- _____ (8) The provider shall ensure that the following use zones do not overlap the use zone of any other piece of play equipment:
 - _____ (a) the use zone in front of a slide;
 - _____ (b) the use zone in the front and rear of any single axis swing, including a single axis enclosed swing;
 - _____ (c) the use zone of a multi axis swing; and
 - _____ (d) the use zone of a merry go round if the platform diameter measures 20 inches or more.
- _____ (9) Unless prohibited under Subsection R381-40-19(8), the provider shall ensure that the use zones of play equipment only overlap when there is at least six feet between the pieces of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between the pieces of equipment if the designated play surface is higher than 30 inches.
- _____ (10) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, or the bare floor.
- _____ (11) The provider shall ensure that protective cushioning covers the entire surface of each required use zone and its depth or thickness is determined by the highest designated play surface of the equipment.
- _____ (12) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall ensure that the depth of the material meets the guidelines in Table 5, and:
 - _____ (a) that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 5 if compacted; and
 - _____ (b) if the material cannot be loosened due to extreme weather conditions, not allow children to play on the equipment until the material can be loosened to the required depth.

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires and Rubber Products
Up to 5' high	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' up to 9'	9"	Not allowed	9"	Not allowed	6"
Over 9' up to 10'	Not allowed	Not allowed	9"	Not allowed	6"
Over 10' up to 12'	Not allowed	Not allowed	Not allowed	Not allowed	6"

- _____ (13) If the provider uses shredded wood products as protective cushioning, the provider shall:
 - _____ (a) keep on site for review by the department documentation from the manufacturer that the wood product is protective cushioning;
 - _____ (b) ensure there is adequate drainage under the material; and
 - _____ (c) ensure the depth of the shredded wood meets the guidelines in Table 6.

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood fibers	Wood Chips	Double Shredded Bark Mulch
Up to 6' high	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 11'	9"	9"	9"
Over 11'	9"	Not allowed	Not allowed

- _____ (14) If the provider uses a unitary cushioning, the provider shall maintain on site for review by the department documentation from the manufacturer that the material is cushioning for playgrounds.

- ~~_____ (15) If the provider uses a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.~~
- ~~_____ (16) The provider shall ensure that a play equipment platform that is more than 30 inches above the floor or ground has a protective barrier that is at least 29 inches high.~~
- ~~_____ (17) The provider shall ensure that there is no gap greater than 3 1/2 inches in or under a required protective barrier on a play equipment platform.~~
- ~~_____ (18) The provider shall ensure that stationary play equipment is stable or securely anchored.~~
- ~~_____ (19) The provider shall ensure that there are no trampolines on the premises that are accessible to any child in care.~~
- ~~_____ (20) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.~~
- ~~_____ (21) The provider shall ensure that there are no strangulation hazards on or within the use zone of any piece of stationary play equipment.~~
- ~~_____ (22) The provider shall ensure that there are no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.~~
- ~~_____ (23) The provider shall ensure that there are no tripping hazards including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.~~
- ~~_____ (24) For preschool programs operating before January 1, 2021 that need to make compliance modifications to existing play equipment, the department may facilitate a phase-in schedule for up to five years from the initial inspection.~~

~~R381-40-20. Transportation.~~

- ~~_____ (1) For each child that the licensee transports, the provider shall obtain a transportation permission form:~~
 - ~~_____ (a) signed by the parent; and~~
 - ~~_____ (b) on site for review by the department.~~
- ~~_____ (2) The provider shall ensure that each vehicle used for transporting children:~~
 - ~~_____ (a) is enclosed with a roof or top;~~
 - ~~_____ (b) is equipped with safety restraints;~~
 - ~~_____ (c) has a current vehicle registration;~~
 - ~~_____ (d) is maintained in a safe and clean condition; and~~
 - ~~_____ (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.~~
- ~~_____ (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:~~
 - ~~_____ (a) appropriate for the age and size of each child who is transported, as required by Utah law;~~
 - ~~_____ (b) properly installed; and~~
 - ~~_____ (c) in safe condition and working order.~~
- ~~_____ (4) The provider shall ensure that the driver of each vehicle who is transporting children:~~
 - ~~_____ (a) is at least 18 years old;~~
 - ~~_____ (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;~~
 - ~~_____ (c) has with them the emergency contact information for each child being transported;~~
 - ~~_____ (d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;~~
 - ~~_____ (e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;~~
 - ~~_____ (f) never leaves a child in the vehicle unattended by an adult;~~
 - ~~_____ (g) ensures that children stay seated while the vehicle is moving;~~
 - ~~_____ (h) never leaves the keys in the ignition when not in the driver's seat; and~~
 - ~~_____ (i) ensures that the vehicle is locked during transport.~~
- ~~_____ (5) If the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:~~
 - ~~_____ (a) each child being transported has a completed transportation permission form signed by their parent;~~
 - ~~_____ (b) a caregiver goes with the children and actively supervises the children;~~
 - ~~_____ (c) the caregiver to child ratio is maintained; and~~
 - ~~_____ (d) a caregiver with the children has emergency contact information and releases for the children being transported.~~
- ~~_____ (6) The provider shall:~~
 - ~~_____ (a) have transport liability insurance; or~~
 - ~~_____ (b) inform parents in writing that the provider does not have transport liability insurance.~~

~~R381-40-21. Animals.~~

- ~~_____ (1) The provider shall inform parents of the kinds of animals allowed at the facility.~~
- ~~_____ (2) The provider shall ensure that there is no animal on the premises that:~~
 - ~~_____ (a) is naturally aggressive;~~
 - ~~_____ (b) has a history of dangerous, attacking, or aggressive behavior; or~~
 - ~~_____ (c) has a history of biting even one individual.~~
- ~~_____ (3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.~~
- ~~_____ (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.~~
- ~~_____ (5) The provider shall ensure that children do not assist with the cleaning of animals or animal cages, pens, or equipment.~~

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- ~~_____ (6) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.~~
- ~~_____ (7) The provider shall ensure that dogs, cats, and ferrets that the facility houses have current rabies vaccinations.~~
- ~~_____ (8) The provider shall keep current animal vaccination records on-site for review by the department.~~

R381-40-22. Diapering.

- ~~_____ (1) This section applies only to a provider that accepts children who wear diapers.~~
- ~~_____ (2) The provider shall post diapering procedures at each diapering station and ensure that each staff member follows the procedures.~~
- ~~_____ (3) The provider shall ensure that each child's diaper is:
 - ~~_____ (a) checked at least once every two hours; and~~
 - ~~_____ (b) promptly changed when wet or soiled.~~~~
- ~~_____ (4) The provider shall ensure that caregivers change children's diapers at a diapering station and not changed on surfaces used for any other purpose.~~
- ~~_____ (5) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.~~
- ~~_____ (6) The provider shall ensure that caregivers do not leave children unattended on the diapering surface.~~
- ~~_____ (7) The provider shall ensure that caregivers clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.~~
- ~~_____ (8) The provider shall ensure that caregivers wash their hands after each diaper change.~~
- ~~_____ (9) The provider shall ensure that caregivers place wet and soiled disposable diapers:
 - ~~_____ (a) in a container that has a disposable plastic lining and a tight fitting lid;~~
 - ~~_____ (b) directly in an outdoor garbage container that has a tight fitting lid; or~~
 - ~~_____ (c) in a container that is inaccessible to children.~~~~
- ~~_____ (10) The provider shall ensure that indoor containers where wet and soiled diapers are placed are cleaned and sanitized each day.]~~

R381-40-1. Authority and Purpose.

- ~~_____ (1) Section 26B-2-402 authorizes this rule.~~
- ~~_____ (2) This rule establishes the foundational standards necessary to protect the health and safety of children in commercial preschool programs and defines the general procedures and requirements to get and maintain a license to provide this type of child care.~~

R381-40-2. Definitions.

- ~~_____ (1) Terms used in this rule are defined in Rule R380-600. Additionally:~~
- ~~_____ (2) "Background finding" means information in a background check that OBP uses to determine if a covered individual is or is not eligible to be involved with child care.~~
- ~~_____ (3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.~~
- ~~_____ (4) "Body fluid" means blood, urine, feces, vomit, mucus, or saliva.~~
- ~~_____ (5) "Business day" means a day of the week the facility is open for business.~~
- ~~_____ (6) "Business hours" means the hours the facility is open for business.~~
- ~~_____ (7) " CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.~~
- ~~_____ (8) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.~~
- ~~_____ (9) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:
 - ~~_____ (a) count in the caregiver-to-child ratio;~~
 - ~~_____ (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or~~
 - ~~_____ (c) supervise children.~~~~
- ~~_____ (10) "Caregiver-to-child ratio" means the number of caregivers responsible for a specific number of children.~~
- ~~_____ (11) "Child care" means continuous care and supervision of at least one qualifying child that:
 - ~~_____ (a) is in place of care ordinarily provided by a parent in the parent's home;~~
 - ~~_____ (b) occurs for less than 24 hours a day; and~~
 - ~~_____ (c) is provided for direct or indirect compensation.~~~~
- ~~_____ (12) "Child care program" means a person or business that offers child care.~~
- ~~_____ (13) "Choking hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking the airway and making it difficult or impossible to breathe.~~
- ~~_____ (14) "Covered individual" means as defined in Rule R380-600.~~
- ~~_____ (15) "Department" means the Utah Department of Health and Human Services.~~
- ~~_____ (16) "Designated play surface" means any:
 - ~~_____ (a) accessible elevated surface for standing, walking, crawling, sitting or climbing; or~~
 - ~~_____ (b) accessible flat surface that is at least two by two inches in size and has an angle less than 30 degrees from horizontal.~~~~
- ~~_____ (17) "Director" means an individual who meets the director qualifications in this rule and who assumes the child care program's day-to-day responsibilities for compliance with CCL rules.~~
- ~~_____ (18) "Early childhood education" means a program of study that prepares an individual to teach children in their early years, normally from birth up to the age of eight years old.~~

- (19) "Eligible" means as defined in Rule R380-600.
- (20) "Entrapment hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing entrapment and strangulation.
- (21) "Facility" means a program or premises approved by OL to be used for child care.
- (22) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.
- (23) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.
- (24) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.
- (25) "Inaccessible" means out of reach for children by being:
- (a) behind a properly secured child safety gate;
 - (b) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb;
 - (c) located at least 36 inches above the floor;
 - (d) locked, including in a locked room, cupboard, or drawer; or
 - (e) secured with a child safety device, including a child safety cupboard lock or doorknob device.
- (26) "Infectious disease" means an illness that is capable of being spread from one individual to another.
- (27) "Involved with child care" means to do any of the following at or for a child care program:
- (a) care for or supervise children;
 - (b) count in the caregiver-to-child ratio;
 - (c) have unsupervised contact with a child in care;
 - (d) own, operate, direct;
 - (e) reside; or
 - (f) volunteer.
- (28) "License" means a license issued by OL to provide child care services.
- (29) "Licensee" means the legally responsible person or business that holds a valid license from OL.
- (30) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (31) "OBP" means as defined in Rule R380-600.
- (32) "OL" means as defined in Rule R380-600.
- (33) "Over-the-counter medication" means medication that an individual can purchase without a written prescription, including any herbal remedy, vitamin, and mineral supplement.
- (34) "Parent" means the parent or legal guardian of a child in care.
- (35) "Person" means as defined in Rule R380-600.
- (36) "Play equipment platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on and upon which a child can move freely.
- (37) "Preschooler" means a child age two through four years old.
- (38) "Protective barrier" means a structure including bars, lattice, or a panel around an elevated platform intended to prevent accidental or deliberate movement through or access to something.
- (39) "Protective cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of an injury from a fall.
- (40) "Qualifying child" means a child:
- (a) who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
 - (b) who is younger than four years old and is the child of the provider or a caregiver; or
 - (c) with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver.
- (41) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (42) "Room" means a designated area or a physical space enclosed by solid barriers or partitions as follows:
- (a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:
 - (i) one room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable;
 - (ii) one room, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely;
 - (iii) two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate, including a diaper changing station that is located behind a closed gate;
 - (iv) two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate; or
 - (v) if there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway;
 - (b) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:

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(i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, otherwise OL shall consider this to be two rooms; or

(ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas; and

(c) if in outdoor areas separated by interior fences, OL considers it:

(i) one area, if the interior fence is 24 inches in height or lower, whether or not the fence has an opening;

(ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;

(iii) two areas if the interior fence is higher than 24 inches and there is no opening; or

(iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.

(43) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(44) "Sexually explicit material" means any depiction of actual or simulated sexual conduct.

(45) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

(46) "Stationary play equipment" means equipment, including a climber, slide, swing, merry-go-round, or spring rocker, that is meant to stay in one location when a child uses it. Stationary play equipment does not include a:

(a) playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber;

(b) sandbox;

(c) sensory table; or

(d) stationary circular tricycle.

(47) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught or in which a child could become entangled, including:

(a) a protruding bolt end that extends more than two threads beyond the face of the nut;

(b) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck; or

(c) hardware that forms a hook or leaves a gap or space between components, including a protruding open S-hook.

(48) "Unsupervised contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by CCL.

(49) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment and onto which a child falling from or exiting the equipment could be expected to land.

(50) "Working day" means any day of the week the department is open for business.

R381-40-3. License Required.

(1) A person shall obtain a preschool program license from OL if the person provides care:

(a) for direct or indirect compensation;

(b) for each child for less than four hours a day;

(c) for five or more qualifying children between the ages of two and four years old;

(d) for five or more qualifying children between the ages of two and five years old if the children are not attending school;

(e) in a place other than the provider's home or a child's home;

(f) in the absence of a child's parent;

(g) on an ongoing basis for more than two days a week and for four or more weeks in a year; and

(h) where care does not include preparing any meal for a child.

(2) OL will not issue a license if care is only for related children or on a sporadic basis.

(3) OL may license a provider to provide child care in a facility that is also licensed by OL if the part of the facility requesting a CCL license is physically separate from the other facility services.

(4) A commercial preschool program licensee shall comply with Rule R380-600.

R381-40-4. Fire and Other Health Inspections.

(1) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, OL shall verify the applicant's compliance by ensuring:

(a) address numbers and letters are readable from the street;

(b) boiler, mechanical, and electrical panel rooms are not used for storage;

(c) exit doors are unlocked from the inside during business hours;

(d) exit doors operate properly and are well maintained;

(e) exits are clearly identified;

(f) there are no obstructions in exits, aisles, corridors, and stairways;

(g) there are working smoke detectors that are properly installed on each level of the building; and

(h) there is at least one unobstructed fire extinguisher on each level of the building that is charged and serviced and mounted not more than five feet above the floor.

(2) If an applicant for a new license or a renewal serves food and the local health department states in writing that a kitchen inspection is not required, OL shall verify the applicant's compliance by ensuring:

(a) any chemical is stored away from food and food service items;

(b) any reusable food holder, utensil, and food preparation surface is washed, rinsed, and sanitized before each use;

- (c) food is properly stored, kept to the proper temperature, and in good condition;
- (d) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
- (e) there is a working handwashing sink in the kitchen and handwashing instructions posted by the sink; and
- (f) there is a working thermometer in the refrigerator.

R381-40-5. Immediate Closure.

- (1) In accordance with Rule R380-600, OL may order the immediate closure of a facility if conditions at the facility create a clear and present danger to any child in care.
- (2) Upon receipt of an immediate closure notice, the provider shall give OL the names and mailing addresses of each enrolled child's parent so OL may notify the parents of the immediate closure.
- (3) If there is a severe injury or death of a child in care, OL may order a child care provider to suspend services and prohibit new enrollments, pending a review by the Utah Child Fatality Review Committee or a determination of the probable cause of the injury or death by a medical professional.

R381-40-6. Administration and Children's Records.

- (1) The provider shall:
 - (a) be at least 21 years old;
 - (b) be considered eligible by an OBP background check before becoming involved with child care; and
 - (c) complete the new provider training offered by OL.
- (2) If the owner is not a sole proprietor, the business entity shall submit to OL the name and contact information of each individual who shall legally represent the business entity and who shall comply with Subsection R381-40-6(1).
- (3) The provider shall protect children from conduct that endangers any child in care or is contrary to the health, welfare, and safety of the public.
- (4) The provider shall know and comply with applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.
- (5) The provider shall comply with licensing rules any time a child in care is present.
- (6) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public.
- (7) The provider shall post a current copy of OL's Parent Guide at the facility for parent review during business hours, or give a current copy to each parent.
- (8) The provider shall inform each parent and OL of any changes to the program's telephone number and other contact information within 48 hours of the change.
- (9) The provider shall:
 - (a) have liability insurance; or
 - (b) inform parents in writing that the provider does not have liability insurance.
- (10) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.
- (11) The provider shall ensure that each child's admission and health assessment form includes:
 - (a) the child's name;
 - (b) the child's date of birth;
 - (c) each parent's name, address, and phone number, including a daytime phone number;
 - (d) the names of individuals authorized by the parent to sign the child out from the facility;
 - (e) the name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;
 - (f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;
 - (g) the parent's permission for emergency transportation and emergency medical treatment;
 - (h) any known allergy of the child;
 - (i) any known food sensitivity of the child;
 - (j) any chronic medical condition that the child may have;
 - (k) any instructions for special or nonroutine daily health care of the child;
 - (l) any current ongoing medication that the child may be taking; and
 - (m) any other special health instructions for the caregiver.
- (12) The provider shall ensure that the admission and health assessment form is:
 - (a) reviewed, updated, and signed or initialed by the parent at least annually; and
 - (b) kept on-site for review by OL.
- (13) Before admitting any child into the program, including the provider's or employee's own child, the provider shall obtain the following documentation from the child's parent:
 - (a) current immunizations;
 - (b) a medical schedule to receive required immunizations;
 - (c) a legal exemption; or
 - (d) a 90-day exemption for any foster child or child who is homeless.

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(14) For each child younger than five years old, including the provider's or employee's own child, the provider shall keep the child's current immunization records on-site for review by OL.

(15) The provider shall submit the annual immunization report to the Utah Statewide Immunization Information System by the date specified by the department.

(16) The provider shall ensure that each child's information is confidential and not released without written parental permission except to OL.

R381-40-7. Personnel and Training Requirements.

(1) The provider shall ensure that each employee and volunteer is supervised, qualified, and trained to:

(a) meet the needs of each child; and

(b) comply with this rule.

(2) The provider shall ensure that the preschool program has a qualified director.

(3) The provider shall ensure that the director:

(a) completes at least ten hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year;

(b) completes the new director training offered by OL within 60 working days of assuming director duties;

(c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL;

(d) is at least 21 years old;

(e) is considered eligible by an OBP background check before becoming involved with child care; and

(f) knows and follows any applicable law and this rule.

(4) The provider shall ensure that each new director has at least one of the following educational credentials:

(a) a currently valid national certification, including:

(i) a Certified Childcare Professional issued by the National Child Care Association;

(ii) a Child Development Associate issued by the Council for Early Childhood Professional Recognition;

(iii) a National Administrator Credential; or

(iv) another equivalent credential as approved by OL;

(b) any bachelor's or higher degree in education with at least 60 hours of coursework in child development, social and emotional development, and the child care environment, or 60 hours of equivalent training as approved by OL;

(c) at least an associate degree in early childhood development or a related field;

(d) at least 12 college credit hours of child development courses; or

(e) at least five years of early childhood education teaching experience.

(5) The provider shall ensure that the director is on duty at the facility for at least half the time every week the facility is open.

(6) The provider shall ensure that there is a director designee with authority to act on behalf of the director in the director's absence.

(7) The provider shall ensure that the director designee:

(a) completes at least ten hours of child care training each year based on the facility's license date or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year;

(b) completes the director designee training offered by OL;

(c) has current first aid and cardio pulmonary resuscitation (CPR) certification in accordance with Subsections R381-40-7(20) and (21);

(d) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL before becoming involved with child care;

(e) is at least 18 years old;

(f) is considered eligible by an OBP background check before becoming involved with child care; and

(g) knows and follows any applicable law and this rule.

(8) The provider shall ensure that the director or the director designee is present at the facility during business hours.

(9) The provider shall ensure that each caregiver:

(a) completes at least ten hours of child care training each year, based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year;

(b) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;

(c) is at least 16 years old;

(d) is considered eligible by an OBP background check before becoming involved with child care;

(e) is introduced to other program staff and to the caregiver's assigned group;

(f) knows and follows any applicable law and this rule; and

(g) reviews the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs.

(10) The provider shall ensure that any other staff, including any driver, cook, and clerk:

(a) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;

(b) knows and follows any applicable law and this rule; and

(c) is considered eligible by an OBP background check before becoming involved with child care.

(11) The provider shall ensure that each volunteer is considered eligible by an OBP background check before becoming involved with child care.

- (12) The provider shall ensure that each guest or student intern who is registered and participating in a high school or college child care course wears a guest nametag.
- (13) The provider shall ensure that each household member who is:
- (a) 12 to 17 years old is considered eligible by an OBP background check; and
 - (b) 18 years old or older is eligible by an OBP background check that includes fingerprints.
- (14) The provider shall ensure that any individual who provides an Individualized Educational Plan or Individualized Family Service plan services, including a physical, occupational, or speech therapist:
- (a) provides identification before having access to the facility or to a child at the facility; and
 - (b) has received the child's parent's permission for services to take place at the facility.
- (15) The provider shall ensure that any individual from law enforcement, Child Protective Services, the department, and any similar entity provides identification before having access to the facility or to a child at the facility.
- (16) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by OL that includes at least the following topics:
- (a) administration of medication;
 - (b) applicable laws and requirements under Rule R381-40;
 - (c) building and physical premises safety;
 - (d) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
 - (e) children whose special needs may include a disability;
 - (f) emergency preparedness, response, and recovery plan;
 - (g) pediatric first aid and CPR;
 - (h) precautions in transporting children;
 - (i) prevention and control of infectious diseases including immunizations;
 - (j) prevention of and response to emergencies due to food and allergy reactions;
 - (k) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;
 - (l) prevention of sudden infant death syndrome and the use of safe sleeping practices;
 - (m) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 - (n) recognizing the signs of an individual experiencing homelessness and available assistance; and
 - (o) safe handling and disposal of hazardous materials and bio contaminants.
- (17) The provider shall ensure that annual child care training includes at least each topic listed in:
- (a) Sections R381-40-7 through R381-40-22; and
 - (b) Subsections R381-40-7(16)(a) through (o).
- (18) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by OL and includes the:
- (a) date of the training;
 - (b) name of the individual or organization that presented the training;
 - (c) total hours or minutes of the training; and
 - (d) training topic.
- (19) The provider shall ensure that at least one staff member with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when a child is in care:
- (a) at each offsite activity;
 - (b) at the facility; and
 - (c) in each vehicle transporting a child.
- (20) The provider shall ensure that CPR certification includes hands-on testing.
- (21) The provider shall ensure that the following records for each covered individual are on-site for review by OL:
- (a) the date of initial employment or association with the program;
 - (b) a current pediatric first aid and CPR certification, if required in this rule; and
 - (c) a six-week record of the times worked each day.

R381-40-8. Background Checks.

- (1) Before a new covered individual becomes involved with child care, the provider shall use the licensing provider portal search to verify that the individual is eligible and:
- (a) associate that individual with the provider's facility; or
 - (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.
- (2) Before a new covered individual who does not appear in the licensing provider portal search becomes involved with child care in the program, the provider must require the individual to submit an online background check application and fingerprints for any individual age 16 years old and older, except for any individual 12-17 years old who is only listed as a household member and:
- (a) authorize the individual's background check through the licensing provider portal;
 - (b) pay any required fee; and
 - (c) only allow the individual to be involved with child care if they have an eligible OBP background check determination.
- (3) To keep a covered individual's background check eligibility current, the provider shall require the covered individual to submit a new background check application, fingerprints, and any fee if the covered individual has:

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- (a) not been associated with an active, CCL approved child care facility within the past 180 days;
- (b) resided outside of Utah since their last background check was completed; or
- (c) turned 18 years old and has not previously submitted fingerprints for an OBP background check, except when the 18-year-old has previously submitted fingerprints for an OBP background check, then only a new background check application is required.
- (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall ensure that an online background check application is submitted, and:
 - (a) authorize the child's background check through the licensing portal; and
 - (b) pay any required fee.
- (5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.
- (6) If a covered individual submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows OBP's fingerprinting requirements.
- (7) OBP may consider a covered individual not eligible for any of the following reasons:
 - (a) any felony conviction;
 - (b) any of the reasons listed under Subsection R381-40-8(8);
 - (c) LIS supported findings that occurred no more than 15 years from the date the application was submitted;
 - (d) the covered individual knowingly making a false statement related to their background check;
 - (e) the covered individual refusing to consent to the criminal background check; or
 - (f) the covered individual's name appearing on the Utah or national sex offender registry.
- (8) OBP may also consider a covered individual not eligible for any of the following criminal findings regardless of severity:
 - (a) child pornography;
 - (b) driving under the influence while a child is present in the vehicle;
 - (c) pornographic material or performance;
 - (d) providing dangerous weapons or firearms to a minor;
 - (e) sexual enticing of a minor;
 - (f) sexual exploitation;
 - (g) voyeurism; or
 - (h) any crime against an individual.
- (9) OBP shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before OBP conducted the background check.
- (10) If the provider is not eligible by OBP, OL may suspend or deny the license until the reason for the background check finding is resolved.
- (11) If a covered individual is considered not eligible by OBP, including if the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.
- (12) If OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), the covered individual may appeal the information to DPS.
- (13) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including license revocation.
- (14) The executive director or designee of the department may overturn an OBP background check decision if the executive director or designee determines that the nature of the background finding or mitigating circumstances do not pose a risk to a child.

R381-40-9. Facility.

- (1) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint undergoes a test for lead. If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.
- (2) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation or by windows that open and have screens.
- (3) The provider shall ensure that windows and glass doors within 36 inches from the floor or ground are made of safety or tempered glass or have a protective guard.
- (4) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity the provider is conducting.
- (5) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.
- (6) The provider shall ensure that there is a working telephone:
 - (a) at the facility;
 - (b) during any offsite activity; and
 - (c) in each vehicle while transporting a child.
- (7) The provider shall ensure that there is:
 - (a) at least one working toilet and one working sink when there are up to 15 children in the facility; and
 - (b) at least two working toilets and two working sinks when there are more than 15 children present in the facility.

- (8) If there is an outdoor area at the facility, the provider shall ensure that the outdoor area:
 - (a) has a fence, wall or solid natural barrier that is at least four feet high to enclose the outdoor area;
 - (b) has no gaps five by five inches or greater in or under any fence or barrier; and
 - (c) is safely accessible to any child.
- (9) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:
 - (a) maintain the pool in a safe manner;
 - (b) meet applicable state and local laws and ordinances related to the operation of a swimming pool; and
 - (c) when not in use:
 - (i) cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions or
 - (ii) enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.
- (10) The provider shall maintain any building and outdoor area in good repair and safe condition, including any:
 - (a) ceiling, wall, and floor covering;
 - (b) drape, blind, and other window covering;
 - (c) entrance, exit, step, and walkway, including keeping them free of ice, snow, and other hazards;
 - (d) furniture, toy, and material accessible to a child;
 - (e) indoor and outdoor equipment; and
 - (f) lighting, bathroom, and other fixture.
- (11) The provider shall ensure that a protective barrier of at least three feet or higher exists for:
 - (a) any accessible raised deck or balcony that is five feet or higher; and
 - (b) any open stairwell that is five feet or deeper.
- (12) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, OL may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:
 - (a) there is a separate entrance for the child care program;
 - (b) there are no connecting interior doorways that can be used by unauthorized individuals; and
 - (c) there is no shared access to the outdoor area used for child care.

R381-40-10. Capacity and Ratio.

- (1) OL may limit the maximum allowed capacity for a child care facility based on local ordinances.
- (2) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license.
- (3) OL may determine the total capacity based on the number of rooms and the ages of any child cared for in those rooms.
- (4) As listed in Table 1 for a single-age group of children, the provider shall:
 - (a) maintain at least the number of required caregivers; and
 - (b) not exceed the number of children in the caregiver-to-child ratio per room.

<u>TABLE 1</u> <u>Caregiver-to-Child Ratios</u>		
<u>Number of Caregivers</u>	<u>Ages of Children</u>	<u>Number of Children</u>
<u>At least 1</u>	<u>2 years old</u>	<u>8</u>
<u>At least 1</u>	<u>3 years old</u>	<u>12</u>
<u>At least 1</u>	<u>4 years old</u>	<u>15</u>
<u>At least 1</u>	<u>5 years old</u>	<u>20</u>

- (5) As listed in Tables 2 through 4 for a mixed-age group of children, the provider shall:
 - (a) maintain at least the number of required caregivers; and
 - (b) not exceed the number of children in the caregiver-to-child ratio per room.

<u>TABLE 2</u> <u>Two-to-Five-Year-Olds</u>		
<u>Number of Caregivers Required</u>	<u>Ages of Children</u>	<u>Number of Children Present</u>
<u>At least 1</u>	<u>2 years old</u>	<u>1-7</u>
	<u>3, 4, and 5 years old</u>	<u>1-10</u>
<u>Maximum Total of Children in the Room: 11</u>		

<u>TABLE 3</u> <u>Three-to-Five-Year-Olds</u>		
<u>Number of Caregivers Required</u>	<u>Ages of Children</u>	<u>Number of Children Present</u>
<u>At least 1</u>	<u>3 years old</u>	<u>1-11</u>
	<u>4 years old</u>	<u>1-14</u>

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	<u>5 years old</u>	<u>1-14</u>
<u>Maximum Total of Children in the Room: 16</u>		

<u>TABLE 4</u> <u>Four-to-Five-Year-Olds</u>		
<u>Number of Caregivers Required</u>	<u>Ages of Children</u>	<u>Number of Children Present</u>
<u>At least 1</u>	<u>4 years old</u>	<u>1-14</u>
	<u>5 years old</u>	<u>1-17</u>
<u>Maximum Total of Children in the Room: 18</u>		

(6) The provider may exclude the provider's or an employee's own child, age four years or older, from the caregiver-to-child ratio when the parent of the child is working at the facility.

(7) The provider may include in the caregiver-to-child ratio any:

- (a) caregiver;
- (b) student intern who is registered in a high school or college child care course; and
- (c) volunteer who is 16 years old or older.

R381-40-11. Child Supervision and Security.

(1) The provider shall ensure that each caregiver provides and maintains active supervision of each child, including:

- (a) focusing attention on the children and not on caregivers' personal interests;
- (b) knowing the number of children in their care at any time;
- (c) positioning themselves so each child in their assigned group is actively supervised;
- (d) remaining aware of the entire group even when interacting with a smaller group or an individual child; and
- (e) remaining physically present in the room or area with the children.

(2) The provider shall ensure a 16 or 17 year old staff or household member may only have unsupervised contact with a child in care, including during offsite activities and transportation, if:

- (a) the director or the director designee is physically present and available as needed;
- (b) the staff or household member is left unsupervised for no more than two consecutive hours per group; and
- (c) the staff or household member is not a volunteer.

(3) The provider may not assign a staff member, volunteer, and household member who is younger than 16 years old to care for or supervise any child in care.

(4) The provider shall ensure that any guest or student intern who is registered and participating in a high school or college child care course does not have unsupervised contact with any child in care, including during any offsite activity and transportation.

(5) The provider shall ensure that any parent of a child in care does not have unsupervised contact with any child in care, except with their own child.

(6) The provider shall ensure that a parent has access to their child and the areas used to care for their child when their child is in care.

(7) To maintain security and supervision of children, the provider shall ensure that:

- (a) any individual signing a child in and out uses an identifier, including a signature, initials, or electronic code;
- (b) each child is signed in and out in accordance with this section;
- (c) only a child's parent or an individual with written authorization from the parent may sign-out a child;
- (d) photo identification is required if the individual signing the child out is unknown to the provider; and
- (e) the sign-in and sign-out records include the date and time each child arrives and leaves;

(8) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:

- (a) the person giving verbal authorization; and
- (b) the person picking up the child.

(9) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is kept on-site for review by OL.

R381-40-12. Child Guidance and Interaction.

(1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.

(2) The provider shall inform each child, each parent, and anyone who interacts with any child in care of the program's behavioral expectations and how any misbehavior will be handled.

(3) The provider shall ensure that any individual who interacts with a child guides the child's behavior by using positive reinforcement, redirection, and by setting clear limits that promote the child's ability to become self-disciplined.

(4) The provider shall ensure that each caregiver uses gentle, passive restraint with a child only when it is needed to protect a child from injuring themselves or others or to stop a child from destroying property.

(5) The provider shall ensure that each interaction with a child does not include:

- (a) any action that produces physical pain or discomfort, including hitting, spanking, shaking, biting, or pinching;
- (b) any form of corporal punishment;

- (c) any form of emotional mistreatment;
- (d) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage;
- (e) forcing or withholding food, rest, or toileting;
- (f) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint; or
- (g) shouting at children.
- (6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Section 80-2-602.

R381-40-13. Child Safety and Injury Prevention.

- (1) The provider shall ensure that any child and staff use each building, outdoor area, toy, and any equipment safely and as intended by the manufacturer to prevent injury to children.
- (2) The provider shall ensure that any poisonous or harmful plant is inaccessible to children.
- (3) The provider shall ensure that any sharp object, edge, corner, or point that could cut or puncture skin is inaccessible to children.
- (4) The provider shall ensure that any choking hazard is inaccessible to any child younger than three years old.
- (5) The provider shall ensure that any strangulation hazard, including any rope, cord, chain, and wire attached to a structure and long enough to encircle a child's neck is inaccessible to children.
- (6) The provider shall ensure that any tripping hazard including unsecured flooring, any rug with a curled edge, or cord in a walkway is inaccessible to children.
- (7) The provider shall ensure that any empty plastic bag large enough for a child's head to fit inside, any latex glove, or balloon is inaccessible to any child younger than five years old.
- (8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.
- (9) The provider shall ensure that any toxic or hazardous chemical, including any cleaner, insecticide, lawn product, and flammable, corrosive, and reactive material is:
 - (a) disposed of properly;
 - (b) inaccessible to any child;
 - (c) stored in a container labeled with the contents of the container; and
 - (d) used according to manufacturer instructions.
- (10) The provider shall ensure that the following items are inaccessible to children:
 - (a) cigarette lighters;
 - (b) hot wax or other hot substances;
 - (c) matches;
 - (d) open flames; and
 - (e) when in use, portable space heaters, wood burning stoves, and fireplaces.
- (11) The provider shall ensure that the following items are inaccessible to a child:
 - (a) any live electrical wire; and
 - (b) for a child younger than five years old, any electrical outlet and surge protector without a protective cap or safety device when not in use.
- (12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that any firearm, including a gun, muzzleloader, rifle, shotgun, handgun, pistol, and automatic gun, is:
 - (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and
 - (b) stored unloaded and separate from ammunition.
- (13) The provider shall ensure that any weapon, including a paintball gun, BB gun, airsoft gun, sling shot, arrow, and mace, is inaccessible to children.
- (14) The provider shall ensure that any alcohol, illegal substance, or sexually explicit material is inaccessible and not used on the premises, during any offsite activity, or in a program vehicle any time a child is in care.
- (15) If there is an outdoor area used by any child, the provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain, is available to each child when the outside temperature is 75 degrees Fahrenheit or higher.
- (16) The provider shall ensure that each area accessible to a child is free of any heavy or unstable object that a child could pull down on themselves, including any furniture, unsecured television, and standing ladder.
- (17) The provider shall ensure that hot water accessible to a child does not exceed 120 degrees Fahrenheit.
- (18) The provider shall ensure that any tobacco, e-cigarette, e-juice, e-liquid, or similar product is inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, is not used:
 - (a) in a facility or any other building when a child is in care;
 - (b) in any vehicle that is being used to transport a child in care;
 - (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care;
 - (c) within 25 feet of any entrance to a facility or other building occupied by a child in care.

R381-40-14. Emergency Preparedness and Response.

- (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:
 - (a) includes a procedure for:

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- (i) accommodating a child with a disability;
- (ii) communication with and reunification of families;
- (iii) continuity of operations;
- (iv) evacuation;
- (v) lockdown;
- (vi) relocation; and
- (vii) shelter in place.
- (b) includes instructions to follow if there is an allergy, serious reaction to food, or any other trigger that may affect a child's health;
- (c) is available for review by any parent, staff member, and OL during business hours; and
- (d) is followed if an emergency happens, unless otherwise instructed by emergency personnel.
- (2) The provider shall post the facility's street address and any emergency number, including at least fire, police, and poison control, near each telephone in the facility or in an area clearly visible to anyone needing the information.
- (3) The provider shall keep first aid supplies in the facility, including at least antiseptic, bandages, and tweezers.
- (4) The provider shall conduct a fire evacuation drill at least quarterly and ensure each drill includes a complete exit of each child, staff member, and volunteer from the building.
- (5) The provider shall conduct a drill for disasters, other than fires, at least once every six months.
- (6) The provider shall give each parent a written report of every incident, accident, or injury involving their child.
- (7) If a child is injured and the injury appears serious but not life-threatening, the provider shall contact the child's parent immediately.
- (8) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall submit a critical incident report to OL within one business day and:
 - (a) call emergency personnel immediately;
 - (b) contact the parent after emergency personnel are called; and
 - (c) if the parent cannot be reached, try to contact the child's emergency contact individual.
- (9) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall submit a critical incident report to OL within one business day.
- (10) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by OL.
- (11) The provider shall ensure compliance with critical incident reporting in accordance with Subsection R380-600-7(16).

R381-40-15. Health and Infection Control.

- (1) The provider shall maintain the building, furnishings, equipment, and outdoor area, including keeping:
 - (a) any frequently touched surface, including each doorknob and light switch, clean and sanitized;
 - (b) each area and any equipment used for the storage, preparation, and service of food clean and sanitized;
 - (c) each surface free of rotting food or a build-up of food;
 - (d) each wall and floor clean and free of spills, dirt, and grime;
 - (e) the building and grounds free of a build-up of litter and garbage; and
 - (f) the building and grounds free of animal feces.
- (2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.
- (3) The provider shall ensure that any fabric toy and item, including any stuffed animal, cloth doll, pillow cover, and dress-up clothing, is machine washable and washed weekly, and as needed.
- (4) The provider shall clean and sanitize any toy and material used by a child:
 - (a) at least once a week or more often if needed; and
 - (b) after being contaminated by a body fluid.
- (5) The provider shall clean and sanitize each water play table or tub daily, if used by a child.
- (6) The provider shall clean and sanitize each bathroom surface including any toilet, sink, faucet, and counter.
- (7) The provider shall ensure that toilet paper is accessible and kept in a dispenser.
- (8) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that each staff follow the procedures.
- (9) The provider shall ensure that each staff and volunteer washes their hands thoroughly with liquid soap and running water at required times, including:
 - (a) after cleaning up or taking out garbage;
 - (b) after contact with a body fluid;
 - (c) after diapering a child;
 - (d) after using the toilet or helping a child use the toilet;
 - (e) before administering any medication to a child;
 - (f) before and after eating a meal or snack or feeding a child;
 - (g) upon arrival; and
 - (h) when coming in from outdoors.
- (10) The provider shall ensure that each caregiver teaches each child how to wash the child's hands thoroughly and that the caregiver oversees handwashing when possible.
- (11) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water at required times, including:
 - (a) after contact with a body fluid;

- (b) after using the toilet;
- (c) before eating a snack;
- (d) before using a water play table or tub;
- (e) upon arrival; and
- (f) when coming in from outdoors.
- (12) The provider shall ensure that only single-use towels from a covered dispenser or an electric hand dryer are used to dry hands.
- (13) The provider shall ensure that any personal hygiene items, including a toothbrush, comb, and hair accessory, are not shared and are stored so they do not touch each other or they are sanitized between each use.
- (14) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.
- (15) The provider shall ensure that a child's clothing that is wet or soiled from a body fluid is:
 - (a) not rinsed or washed at the facility;
 - (b) placed in a leakproof container that is labeled with the child's name; and
 - (c) returned to the parent or thrown away with parental consent.
- (16) The provider shall ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit. Except for toileting accidents, staff shall:
 - (a) clean the surface using a detergent solution;
 - (b) rinse the surface with clean water;
 - (c) sanitize the surface;
 - (d) throw away, in a leakproof plastic bag, any disposable material, including paper towels, that were used to clean up the body fluid;
 - (e) wash and sanitize any non-disposable material used to clean up the body fluid, including any cleaning cloth, mop, or reusable rubber glove, before reusing it;
 - (f) wear waterproof gloves; and
 - (g) wash their hands after cleaning up the body fluid.
- (17) The provider may not care for a child who is ill with an infectious disease at the facility, except when the child shows signs of illness after arriving at the facility.
 - (18) If a child becomes ill while in care:
 - (a) the provider shall contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact, to immediately pick up the child; and
 - (b) if the child is ill with an infectious disease, the provider shall make the child comfortable in a safe, supervised area that is separated from any other child until the parent arrives.
 - (19) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the provider discovers the illness.
 - (20) If any child or employee has an infectious disease or parasite, the provider shall post a notice at the facility that:
 - (a) does not disclose any personal identifiable information;
 - (b) is posted and dated on the same day that the disease or parasite is discovered;
 - (c) is posted in a conspicuous place where it can be seen by parents; and
 - (d) remains posted for at least five business days.

R381-40-16. Food and Nutrition.

- (1) The provider shall ensure that each child is offered a snack at least once every three hours when services are provided for three or more hours.
- (2) The provider shall ensure that the person who serves food to a child:
 - (a) is aware of each child in their assigned group who has a food allergy or sensitivity; and
 - (b) ensures that a child is not served the food that the child is allergic or sensitive to.
- (3) If a parent brings food and drink for their child's use, the provider shall ensure that the food and drink is:
 - (a) consumed only by that child;
 - (b) labeled with the child's name; and
 - (c) refrigerated if needed.

R381-40-17. Medications.

- (1) The provider shall lock any nonrefrigerated medication or store it at least 48 inches above the floor.
- (2) The provider shall lock any refrigerated medication or store it at least 36 inches above the floor and, if liquid, store it in a separate leakproof container.
- (3) If a parent supplies any over-the-counter or prescription medication, the provider shall ensure that medication:
 - (a) is labeled with the child's full name;
 - (b) is stored in the original or pharmacy container; and
 - (c) has the original label.
- (4) The provider shall obtain a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.
- (5) The provider shall ensure that the medication permission form includes at least:
 - (a) a parent signature and the date signed;
 - (b) any written instructions for administration;

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- (c) the name of the child; and
- (d) the name of the medication.
- (6) The provider shall ensure that instructions for administering the medication include at least:
 - (a) how the medication will be given;
 - (b) the disease or condition being treated;
 - (c) the dosage; and
 - (d) the times and dates to administer the medication.
- (7) If the provider supplies an over-the-counter medication for a child's use, the provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:
 - (a) written; or
 - (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.
- (8) The provider shall ensure that the staff administering the medication:
 - (a) checks the medication label to confirm the child's name if the parent supplied the medication;
 - (b) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer;
 - (c) washes their hands; and
 - (d) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records:
 - (a) any error in administering the medication or adverse reactions;
 - (b) the date, time, and dosage of the medication given; and
 - (c) their signature or initials.
- (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.
- (11) The provider shall notify the parent before the scheduled medication dosage to a child if the provider chooses not to administer medication as instructed by the parent.
- (12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by OL.

R381-40-18. Activities.

- (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- (2) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours that children spend in the program.
- (3) The provider shall post a daily schedule that includes activities that support a child's healthy development.
- (4) The provider shall ensure that any toy, material, and equipment needed to support a child's healthy development is available to each child.
- (5) Except for occasional special events, the provider shall ensure that each child's primary screen time activity on media, including any television, cell phone, tablet, and computer, is limited to 30 minutes a day or 2-1/2 hours per week.
- (6) If the provider offers swimming activities or if a wading pool is used, the provider shall ensure that:
 - (a) a caregiver stays at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;
 - (b) any diapered child wears a swim diaper when the child is in the pool;
 - (c) each lifeguard and pool personnel does not count toward the caregiver-to-child ratio;
 - (d) each wading pool is emptied and sanitized after use by each group of children;
 - (e) if the pool is deeper than four feet, there is a lifeguard on duty who is certified by the Red Cross or another approved certification program any time a child has access to the pool; and
 - (f) the parent gives permission before their child uses the pool.
- (7) If the provider offers offsite activities, the provider shall ensure that:
 - (a) a child's name is not used on a nametag, t-shirt, or in any other visible way;
 - (b) each child wears or carries with them the name and phone number of the center;
 - (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (d) the child's parent gives written consent before each activity;
 - (e) the required staff-to-child ratio and supervision are maintained during the entire activity; and
 - (f) there is a way for each child and caregiver to wash their hands with soap and water, or, if there is no source of running water, with a wet wipe or hand sanitizer.
- (8) The provider shall ensure that a caregiver with the children takes the written emergency information and releases for each child in the group on each offsite activity and that the information includes at least:
 - (a) the child's name;
 - (b) the parent's name and phone number;
 - (c) the name and phone number of a person to notify if there is an emergency and the parent cannot be contacted;
 - (d) the name of any person authorized by the parent to pick up the child; and
 - (e) current emergency medical treatment and emergency medical transportation releases.

R381-40-19. Play Equipment.

- (1) The provider shall ensure that each child using play equipment uses it safely and as intended by the manufacturer.
- (2) The provider shall ensure that:
 - (a) stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment; and
 - (b) with the exception of a swing, stationary play equipment has at least a six-foot use zone, if any designated play surface is higher than 20 inches.
- (3) The provider shall ensure that the use zone in the front and rear of a single-axis, enclosed swing extends at least twice the distance of the swing pivot point to the swing seat.
- (4) The provider shall ensure that the use zone in the front and rear of a single-axis swing extends at least twice the distance of the swing pivot point to the ground.
- (5) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends at least the measurement of the suspending rope or chain plus six feet.
- (6) The provider shall ensure that the use zone for a merry-go-round extends at least six feet in any direction from its outermost edge.
- (7) The provider shall ensure that the use zone for a spring rocker extends:
 - (a) at least three feet from the outermost edge of the rocker when at rest; or
 - (b) at least six feet from the outermost edge of the rocker when at rest, if the seat is higher than 20 inches.
- (8) The provider shall ensure that each use zone does not overlap with the use zone of any other piece of play equipment when the use zone is:
 - (a) in front of a slide;
 - (b) in the front and rear of any single-axis swing, including a single-axis enclosed swing;
 - (c) that of a multi-axis swing; and
 - (d) that of a merry-go-round, if the platform diameter measures 20 inches or more.
- (9) Unless prohibited in Subsection R381-40-19(8), the provider shall ensure that the use zones of play equipment only overlap when:
 - (a) there is at least six feet between each piece of equipment if the designated play surface is 30 inches or lower; or
 - (b) there is at least nine feet between each piece of equipment if the designated play surface is higher than 30 inches.
- (10) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface, including concrete, asphalt, dirt, and the bare floor.
- (11) The provider shall ensure that protective cushioning covers the entire surface of each required use zone and that its depth or thickness is determined by the highest designated play surface of the equipment.
- (12) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall ensure that:
 - (a) the depth of the material meets the guidelines in Table 5;
 - (b) the cushioning is periodically checked for compaction and, if compacted, loosened to the depth listed in Table 5; and
 - (c) if the material cannot be loosened to the depth listed in Table 5 due to extreme weather conditions, a child may not play on the equipment until the material can be loosened to the required depth.

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires and Rubber Products
Up to 5' high	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' up to 9'	9"	Not allowed	9"	Not allowed	6"
Over 9' up to 10'	Not allowed	Not allowed	9"	Not allowed	6"
Over 10' up to 12'	Not allowed	Not allowed	Not allowed	Not allowed	6"

- (13) If the provider uses shredded wood products as protective cushioning, the provider shall:
 - (a) ensure the depth of the shredded wood meets the guidelines in Table 6;
 - (b) ensure there is adequate drainage under the material; and
 - (c) keep on-site for review by OL documentation from the manufacturer that the wood product is protective cushioning.

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood Fibers	Wood Chips	Double Shredded Bark Mulch
Up to 6' high	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 11'	9"	9"	9"
Over 11'	9"	Not allowed	Not allowed

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(14) If the provider uses a unitary cushioning, the provider shall keep on-site for review by OL documentation from the manufacturer specifying that the material is playground cushioning.

(15) If the provider uses a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot be:

(a) displaced when a child jumps, runs, walks, lands, or moves on it; or

(b) moved or picked up by a child.

(16) The provider shall ensure that a play equipment platform more than 30 inches above the floor or ground has a protective barrier that is at least 29 inches high.

(17) The provider shall ensure that there is no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.

(18) The provider shall ensure that stationary play equipment is stable or securely anchored.

(19) The provider shall ensure that there is no trampoline on the premises that is accessible to any child in care.

(20) The provider shall ensure that there is no entrapment hazard on or within the use zone of any piece of stationary play equipment.

(21) The provider shall ensure that there is no strangulation hazard on or within the use zone of any piece of stationary play equipment.

(22) The provider shall ensure that there is no crush, shearing, or sharp edge hazard on or within the use zone of any piece of stationary play equipment.

(23) The provider shall ensure that there is no tripping hazard, including any concrete footing, tree stump, tree root, or rock within the use zone of any piece of stationary play equipment.

(24) For a preschool program operating before January 1, 2021 that needs to make compliance modifications to existing play equipment, OL may facilitate a phase-in schedule for up to five years from the initial inspection.

R381-40-20. Transportation.

(1) For each child that the licensee transports, the provider shall obtain a transportation permission form that is:

(a) signed by a parent; and

(b) on-site for review by OL.

(2) The provider shall ensure that each vehicle used for transporting children:

(a) is enclosed with a roof or top;

(b) is equipped with safety restraints;

(c) has a current vehicle registration;

(d) is maintained in a safe and clean condition; and

(e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.

(3) The provider shall ensure that the safety restraints in each vehicle that transports children are:

(a) appropriate for the age and size of each child who is transported, as required by law;

(b) properly installed; and

(c) in safe condition and working order.

(4) The provider shall ensure that the driver of each vehicle who is transporting children:

(a) is at least 18 years old;

(b) has and carries with them a current, valid driver's license for the type of vehicle being driven;

(c) has with them the emergency contact information outlined in Subsection R381-40-18(8), for each child being transported;

(d) ensures that each child being transported is in an individual safety restraint, as required by law;

(e) ensures that the inside vehicle temperature is between 60 and 85 degrees Fahrenheit;

(f) ensures that each child stay seated while the vehicle is moving;

(g) ensures that the vehicle is locked during transport;

(h) never leaves a child in the vehicle unattended by an adult; and

(i) never leaves the keys in the ignition when not in the driver's seat.

(5) If the provider walks or uses public transportation to transport a child to or from a facility, the provider shall ensure that:

(a) each child being transported has a completed transportation permission form signed by their parent;

(b) a caregiver goes with and actively supervises each child;

(c) a caregiver transporting a child has emergency contact information, as outlined in Subsection R381-40-18(8), and a release for each child being transported; and

(d) the caregiver-to-child ratio is maintained.

(6) The provider shall:

(a) have transport liability insurance; or

(b) inform parents in writing that the provider does not have transport liability insurance.

R381-40-21. Animals.

(1) The provider shall inform each parent of the kinds of animals allowed at the facility.

(2) The provider shall ensure that there is no animal on the premises that:

(a) has a history of biting even one individual;

(b) has a history of dangerous, attacking, or aggressive behavior; or

(c) is naturally aggressive.

- (3) The provider shall ensure that any animal at the facility is clean and free of any obvious disease or health problem that could adversely affect a child.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) The provider shall ensure that no child assists with the cleaning of any animal or animal cage, pen, or equipment.
- (6) The provider shall ensure that each child and staff wash their hands immediately after playing with or touching any reptile or amphibian.
- (7) The provider shall ensure that any dog, cat, or ferret that the facility houses have current rabies vaccinations.
- (8) The provider shall keep current animal vaccination records on-site for review by OL.

R381-40-22. Diapering.

- (1) This section applies only to a provider that accepts children who wear diapers.
- (2) The provider shall post diapering procedures at each diapering station and ensure that each staff member follows the procedures.
- (3) The provider shall ensure that each child's diaper is:
 - (a) checked at least once every two hours; and
 - (b) promptly changed when wet or soiled.
- (4) The provider shall ensure that a caregiver changes each child's diaper at a diapering station and not on a surface used for any other purpose.
- (5) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (6) The provider shall ensure that a caregiver does not leave any child unattended on the diapering surface.
- (7) The provider shall ensure that a caregiver cleans and sanitizes the diapering surface after each diaper change or uses a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (8) The provider shall ensure that a caregiver washes their hands after each diaper change.
- (9) The provider shall ensure that a caregiver places any wet and soiled disposable diaper:
 - (a) in a container that has a disposable plastic lining and a tight-fitting lid;
 - (b) directly in an outdoor garbage container that has a tight-fitting lid; or
 - (c) in a container that is inaccessible to children.
- (10) The provider shall ensure that each indoor container where any wet and soiled diaper is placed is cleaned and sanitized each day.

R381-40-23. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: child care facilities, child care, commercial preschool programs

Date of Last Change: ~~2024~~ November 9, 2023

Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	R381-60	Filing ID: 56911

Agency Information

1. Title catchline:	Health and Human Services, Child Care Center Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
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:
R381-60. Hourly Child Care Centers

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

The reason for this proposed repeal and reenact is to consolidate extensive nonsubstantive edits made to comply with the Rulewriting Manual for Utah. Substantive changes remove redundant or outdated content that is now addressed in Rule R380-600 and reflect the new statute governing Division of Licensing and Background Checks (DLBC) enforcement and penalties in accordance with SB229 from the 2024 General Session. The Child Care Licensing Committee has reviewed and approved the changes made in this repeal and reenact filing.

4. Summary of the new rule or change:

Section R381-60-25 was added to reflect the new statute governing DLBC enforcement and penalties in accordance with SB229 from the 2024 General Session. Content was removed, changed, or updated to reflect the new rule and DLBC processes. Additionally, this filing makes style and formatting changes to comply with the Rulewriting Manual for Utah. The Child Care Licensing Committee has reviewed and approved the changes made in this repeal and reenact.

Fiscal Information

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

A) State budget:

This filing is not anticipated to have a fiscal impact to the budget of DLBC, as it updates citations and removes outdated and redundant content. There is no anticipated fiscal impact as this filing removes previous requirements that are now reflected in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

B) Local governments:

This filing is not anticipated to have a fiscal impact to local governments, as it updates citations and removes outdated and redundant content. There is no anticipated fiscal impact as this filing removes previous requirements that are now reflected in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

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

This filing is not anticipated to have a fiscal impact on small business childcare providers, as it updates citations and removes outdated and redundant language that may be reflected in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations. This filling does not add, remove, or modify any existing requirements or restrictions for childcare licensing centers.

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

This filing is not anticipated to have a fiscal impact on non-small business childcare providers, as it updates citations and removes outdated and redundant language that may be reflected in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations. This filling does not add, remove, or modify any existing requirements or restrictions for childcare licensing centers.

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 filing is not anticipated to have a fiscal impact to persons other than small businesses, non-small businesses, state, or local government entities, as it updates citations and removes outdated and redundant content. There is no anticipated fiscal impact as this filing removes previous requirements that are now reflected in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

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

There are no compliance costs associated with this filling for impacted entities as it updates citations and removes duplicative and outdated content.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-2-402		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	10/30/2024
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R381. Health and Human Services, Child Care Center Licensing.

R381-60. Hourly Child Care Centers.

~~R381-60-1. Legal Authority and Purpose.~~

- ~~(1) This rule is enacted and enforced in accordance with Section 26B-2-402.~~
- ~~(2) This rule establishes the foundational standards necessary to protect the health and safety of children in hourly child care centers and defines the general procedures and requirements to get and maintain a license to provide child care.~~

~~R381-60-2. Definitions.~~

- ~~(1) "Applicant" means a person or business who has applied for a new or a renewal of a license from Child Care Licensing.~~
- ~~(2) "Background Finding" means information in a background check that Child Care Licensing uses to determine if a covered individual is or is not eligible to be involved with child care.~~

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- ~~_____ (3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.~~
- ~~_____ (4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.~~
- ~~_____ (5) "Business Days and Hours" means the days of the week and times the facility is open for business.~~
- ~~_____ (6) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:
 - ~~_____ (a) count in the caregiver to child ratio;~~
 - ~~_____ (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or~~
 - ~~_____ (c) supervise children.~~~~
- ~~_____ (7) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.~~
- ~~_____ (8) "Caregiver to Child Ratio" means the number of caregivers responsible for a specific number of children.~~
- ~~_____ (9) "CCL" means the Child Care Licensing Program under the Office of Licensing that is delegated with the responsibility to enforce the rules under Titles R381 and R430.~~
- ~~_____ (10) "Child Care" means continuous care and supervision of one or more qualifying children that is:
 - ~~_____ (a) in place of care ordinarily provided by a parent in the parent's home;~~
 - ~~_____ (b) for less than 24 hours a day; and~~
 - ~~_____ (c) for direct or indirect compensation.~~~~
- ~~_____ (11) "Child Care Program" means a person or business that offers child care.~~
- ~~_____ (12) "Child Care Provider Licensing Committee" means the Child Care Provider Licensing Committee created in Section 26B-1-414.~~
- ~~_____ (13) "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1 1/4 inches and a length of less than 2 1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.~~
- ~~_____ (14) "Conditional Status" means that the provider is at risk of losing their child care license because compliance with licensing any laws or administrative rules has not been maintained.~~
- ~~_____ (15) "Covered Individual" means any of the following individuals involved with a child care program:
 - ~~_____ (a) an owner;~~
 - ~~_____ (b) a director;~~
 - ~~_____ (c) a member of the governing body;~~
 - ~~_____ (d) an employee;~~
 - ~~_____ (e) a caregiver;~~
 - ~~_____ (f) a volunteer, except a parent of a child enrolled in the child care program;~~
 - ~~_____ (g) an individual age 12 years old or older who resides in the facility; and~~
 - ~~_____ (h) anyone who has unsupervised contact with a child in care.~~~~
- ~~_____ (16) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta crib, or play pen.~~
- ~~_____ (17) "Department" means the Utah Department of Health and Human Services.~~
- ~~_____ (18) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.~~
- ~~_____ (19) "Director" means an individual who meets the director qualifications in this rule, and who assumes the child care program's day to day responsibilities for compliance with Child Care Licensing rules.~~
- ~~_____ (20) "Eligible" means that there were no findings in a covered individual's background check that would prohibit that covered individual from being involved with child care.~~
- ~~_____ (21) "Emotional Abuse" is defined in Subsection R512-80-2(12) and also means behavior that could harm a child's emotional development, including threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.~~
- ~~_____ (22) "Entrapment Hazard" means an opening greater than 3 1/2 by 6 1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.~~
- ~~_____ (23) "Facility" means a child care program or the premises approved by the department to be used for child care.~~
- ~~_____ (24) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.~~
- ~~_____ (25) "Group Size" means the total number of children in a group per room or area.~~
- ~~_____ (26) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.~~
- ~~_____ (27) "Health Care Provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.~~
- ~~_____ (28) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.~~
- ~~_____ (29) "Inaccessible" means out of reach of children by being:
 - ~~_____ (a) locked, including in a locked room, cupboard, or drawer;~~
 - ~~_____ (b) secured with a child safety device, including a child safety cupboard lock or doorknob device;~~
 - ~~_____ (c) behind a properly secured child safety gate;~~
 - ~~_____ (d) located at least 36 inches above the floor; or~~
 - ~~_____ (e) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb.~~~~
- ~~_____ (30) "Infant" means a child who is younger than 12 months old.~~
- ~~_____ (31) "Infectious Disease" means an illness that is capable of being spread from one individual to another.~~

- ~~(32) "Involved with Child Care" means to do any of the following at or for a child care program:~~
- ~~(a) care for or supervise children;~~
 - ~~(b) volunteer;~~
 - ~~(c) own, operate, direct;~~
 - ~~(d) reside;~~
 - ~~(e) count in the caregiver to child ratio; or~~
 - ~~(f) have unsupervised contact with a child in care.~~
- ~~(33) "License" means a license issued by the department to provide child care services.~~
- ~~(34) "Licensee" means the legally responsible person or business that holds a valid license from the department.~~
- ~~(35) "LIS Supported Finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.~~
- ~~(36) "Older Toddler" means a child age 18 through 23 months old.~~
- ~~(37) "Over the Counter Medication" means medication that an individual can purchase without a written prescription including herbal remedies, vitamins, and mineral supplements.~~
- ~~(38) "Parent" means the parent or legal guardian of a child in care.~~
- ~~(39) "Person" means an individual or a business entity.~~
- ~~(40) "Physical Abuse" is defined in Subsection R512-80-2(25) and also means causing nonaccidental physical harm to a child.~~
- ~~(41) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on, and upon which the children can move freely.~~
- ~~(42) "Preschooler" means a child age two through four years old.~~
- ~~(43) "Protective Barrier" means a structure including bars, lattice, or a panel that is around an elevated platform and is intended to prevent accidental or deliberate movement through or access to something.~~
- ~~(44) "Protective Cushioning" means a shock absorbing surface under and around play equipment that reduces the severity of injuries from falls.~~
- ~~(45) "Provider" means the legally responsible person or business that holds a valid license or certification from the department.~~
- ~~(46) "Qualifying Child" means:~~
- ~~(a) a child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;~~
 - ~~(b) a child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver;~~
- ~~or~~
- ~~(c) a child who is younger than four years old and is the child of the provider or a caregiver.~~
- ~~(47) "Related Child" means a child for whom a provider is the parent, legal guardian, stepparent, grandparent, step grandparent, great grandparent, sibling, step sibling, aunt, step aunt, great aunt, uncle, step uncle, or great uncle.~~
- ~~(48) "Room" is defined as follows:~~
- ~~(a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:~~
 - ~~(i) one room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable;~~
 - ~~(ii) one room, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely;~~
 - ~~(iii) two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate, including a diaper changing station that is located behind a closed gate;~~
 - ~~(iv) two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate; or~~
 - ~~(v) if there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway;~~
 - ~~(b) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:~~
 - ~~(i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway; otherwise the department shall consider this to be two rooms; or~~
 - ~~(ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas; and~~
 - ~~(c) if in outdoor areas separated by interior fences, the department considers it:~~
 - ~~(i) one area, if the interior fence is lower than 24 inches in height, whether or not the fence has an opening;~~
 - ~~(ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;~~
 - ~~(iii) two areas if the interior fence is higher than 24 inches and there is no opening; or~~
 - ~~(iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.~~
- ~~(49) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.~~
- ~~(50) "School Age Child" means a child age five through 12 years old.~~
- ~~(51) "Sexual Abuse" is defined in Subsection R512-80-2(30) and also means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.~~

NOTICES OF PROPOSED RULES

- ~~_____ (52) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.~~
- ~~_____ (53) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.~~
- ~~_____ (54) "Stationary Play Equipment" means equipment including a climber, slide, swing, merry-go-round, or spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

 - ~~_____ (a) a sandbox;~~
 - ~~_____ (b) a stationary circular tricycle;~~
 - ~~_____ (c) a sensory table; or~~
 - ~~_____ (d) a playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber.~~~~
- ~~_____ (55) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled including:

 - ~~_____ (a) a protruding bolt end that extends more than two threads beyond the face of the nut;~~
 - ~~_____ (b) hardware that forms a hook or leaves a gap or space between components including a protruding open S-hook; or~~
 - ~~_____ (c) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck.~~~~
- ~~_____ (56) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by CCL.~~
- ~~_____ (57) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.~~
- ~~_____ (58) "Working Days" means the days of the week the department is open for business.~~
- ~~_____ (59) "Younger Toddler" means a child age 12 through 17 months old.~~

R381-60-3. License Required.

- ~~_____ (1) A person shall obtain a license for an hourly child care center from the department if they provide care:

 - ~~_____ (a) in the absence of the child's parent;~~
 - ~~_____ (b) in a place other than the provider's home or the child's home;~~
 - ~~_____ (c) for five or more unrelated children;~~
 - ~~_____ (d) for four or more hours per day, and no child is cared for on a regular schedule;~~
 - ~~_____ (f) for each individual child for less than 24 hours a day;~~
 - ~~_____ (f) on an ongoing basis for four or more weeks in a year; and~~
 - ~~_____ (g) for direct or indirect compensation.~~~~
- ~~_____ (2) A person who does not meet licensing requirements may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.~~
- ~~_____ (3) The department may license a provider to provide child care in a facility that the department licensed to offer foster or respite care services, or another licensed or certified human services program, if the part of the building requesting a CCL license is physically separate from the other building services.~~

R381-60-4. License Application, Renewal, Changes, and Variances.

- ~~_____ (1) Each applicant for a new child care license shall:

 - ~~_____ (a) submit a CCL online application;~~
 - ~~_____ (b) submit a copy of a current local fire clearance or a written statement from the local fire authority that a fire inspection is not required;~~
 - ~~_____ (c) submit a copy of a current local health department kitchen clearance for a facility providing food service or a written statement from the local health department that a kitchen inspection is not required;~~
 - ~~_____ (d) submit a copy of a current local business license or a written statement from the city that a business license is not required;~~
 - ~~_____ (e) submit a copy of the educational credentials of the individual who will be the director as required in Section R381-60-7;~~
 - ~~_____ (f) complete CCL background checks for covered individuals as required in Section R381-60-8;~~
 - ~~_____ (g) complete CCL new provider training no more than six months before becoming licensed; and~~
 - ~~_____ (h) pay any required fees, that are nonrefundable.~~~~
- ~~_____ (2) Each applicant shall pass a department's inspection of the facility before a new license or a renewal is issued.~~
- ~~_____ (3) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, the department shall verify the applicant's compliance with the following:

 - ~~_____ (a) address numbers and letters are readable from the street;~~
 - ~~_____ (b) exit doors operate properly and are well maintained;~~
 - ~~_____ (c) there are no obstructions in exits, aisles, corridors, and stairways;~~
 - ~~_____ (d) exit doors are unlocked from the inside during business hours;~~
 - ~~_____ (e) exits are clearly identified;~~
 - ~~_____ (f) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor;~~
 - ~~_____ (g) there are working smoke detectors that are properly installed on each level of the building; and~~
 - ~~_____ (h) boiler, mechanical, and electrical panel rooms are not used for storage.~~~~
- ~~_____ (4) If an applicant for a new license or a renewal serves food and the local health department states in writing that a kitchen inspection is not required, the department shall verify the applicant's compliance with the following:

 - ~~_____ (a) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;~~~~

- ~~_____ (b) there is a working thermometer in the refrigerator;~~
- ~~_____ (c) there is a working stem thermometer available to check cooking and hot hold temperatures;~~
- ~~_____ (d) cooks have a current food handler's permit available on site for review by the department;~~
- ~~_____ (e) cooks use hair restraints and wear clean outer clothing;~~
- ~~_____ (f) only necessary staff are present in the kitchen;~~
- ~~_____ (g) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;~~
- ~~_____ (h) chemicals are stored away from food and food service items;~~
- ~~_____ (i) food is properly stored, kept to the proper temperature, and in good condition; and~~
- ~~_____ (j) there is a working handwashing sink in the kitchen and handwashing instructions posted by the sink.~~
- ~~_____ (5)(a) Each applicant for a new license shall complete the licensing process within six months from the time any portion of the application is submitted to the department.~~
- ~~_____ (b) If successful licensure is not achieved by the applicant within six months, the applicant shall reapply.~~
- ~~_____ (c) Any resubmission shall include the required documentation and payment of licensing fees.~~
- ~~_____ (d) The department shall conduct a new inspection of the facility before issuing a license.~~
- ~~_____ (6) The department may deny an application for a license if, within the five years preceding the application date, the applicant held a license or a certificate that was:~~
 - ~~_____ (a) closed under an immediate closure;~~
 - ~~_____ (b) revoked;~~
 - ~~_____ (c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;~~
 - ~~_____ (d) voluntarily closed after an inspection of the facility found a rule violation that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or~~
 - ~~_____ (e) voluntarily closed having unpaid fees or civil money penalties issued by the department.~~
- ~~_____ (7) Each child care license expires at midnight on the last day of the month shown on the license, unless the department revokes the license or the provider voluntarily closes the license.~~
- ~~_____ (8) Within 30 to 90 days before a current license expires, each provider shall submit for renewal:~~
 - ~~_____ (a) an online renewal request;~~
 - ~~_____ (b) applicable renewal fees;~~
 - ~~_____ (c) any previous unpaid fees; and~~
 - ~~_____ (d) a copy of a current fire inspection report.~~
- ~~_____ (9) The department may grant a provider who fails to renew their license by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.~~
- ~~_____ (10) The department may deny renewal of a license for a provider who is no longer caring for children.~~
- ~~_____ (11) Each provider shall submit a complete application for a new license at least 30 days before any of the following changes occur:~~
 - ~~_____ (a) a change of the child care facility's location; or~~
 - ~~_____ (b) a change that transfers 50% or more ownership or controlling interest to a new individual or entity.~~
- ~~_____ (12) A provider shall submit a complete online changes request to amend an existing license at least 30 days before any of the following changes:~~
 - ~~_____ (a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where child care is provided;~~
 - ~~_____ (b) a change in the name of the program;~~
 - ~~_____ (c) a change in the regulation type of the program;~~
 - ~~_____ (d) a change in the name of the provider;~~
 - ~~_____ (e) an addition or loss of a director; or~~
 - ~~_____ (f) a change in ownership that does not require a new license.~~
- ~~_____ (13) The department may amend a license after verifying that the applicant is in compliance with any applicable rules and has paid the required fees. The expiration date of the amended license remains the same as the previous license.~~
- ~~_____ (14) Only the department may assign, transfer, or amend a license.~~
- ~~_____ (15)(a) If an applicant or provider cannot comply with a rule under Rule R381-40 but can meet the intent of the rule in another way, the applicant or provider may apply for a variance to that rule by submitting a request to the department.~~
 - ~~_____ (b) The department may:~~
 - ~~_____ (i) require additional information before acting on a variance request; and~~
 - ~~_____ (ii) impose health and safety requirements as a condition of granting a variance.~~
 - ~~_____ (c) Each provider shall comply with the existing Rule R381-40 unless the department approves a variance.~~
 - ~~_____ (d) If the department approves a variance, the provider shall keep a copy of the written approval on site for review by parents and the department.~~
 - ~~_____ (e) The department may grant variances for up to 12 months.~~
 - ~~_____ (f) The department may revoke a variance if:~~
 - ~~_____ (i) the provider is not meeting the intent of the rule as stated in their approved variance;~~
 - ~~_____ (ii) the provider fails to comply with the conditions of the variance; or~~
 - ~~_____ (iii) a change in statute, rule, or case law affects the basis for the variance.~~

R381-60-5. Rule Noncompliance, Penalties, and Agency Action Reviews.

- ~~(1) The department may place a program's child care license on a conditional status for the following causes:
 - ~~(a) chronic, ongoing noncompliance with rules;~~
 - ~~(b) unpaid fees; or~~
 - ~~(c) a serious rule violation that places children's health or safety in immediate jeopardy.~~~~
- ~~(2) The department shall establish the length of the conditional status and set the conditions that the child care provider shall satisfy to remove the conditional status.~~
- ~~(3) The department may increase monitoring of the program that is on conditional status to verify compliance with rules.~~
- ~~(4) The department may deny or revoke a license if the child care provider:
 - ~~(a) fails to meet the conditions of a license on conditional status;~~
 - ~~(b) violates any part of Title 26B, Chapter 2, Part 4, Child Care Licensing;~~
 - ~~(c) provides false or misleading information to the department;~~
 - ~~(d) misrepresents information by intentionally altering a license or any other document issued by the department;~~
 - ~~(e) fails to allow authorized representatives of the department access to the facility to ensure compliance with this rule;~~
 - ~~(f) fails to submit or make available to the department any written documentation required to verify compliance with this rule;~~
 - ~~(g) commits a serious rule violation that results in death or serious harm to a child, or that places a child at risk of death or serious harm; or~~
 - ~~(h) has committed an illegal act that would exclude an individual from having a license.~~~~
- ~~(5) Within ten working days of receipt of a revocation notice, the provider shall submit to the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the revocation.~~
- ~~(6) The department may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect the children's health or safety.~~
- ~~(7) Upon receipt of an immediate closure notice, the provider shall give the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the immediate closure.~~
- ~~(8) If there is a severe injury or the death of a child in care, the department may order a child care provider to suspend services and prohibit new enrollments, pending a review by the DHHS Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.~~
- ~~(9) An unlicensed person providing care that requires a license may be charged with a civil money penalty and a class A misdemeanor unless they:
 - ~~(a) stop providing child care that requires a license; or~~
 - ~~(b) apply for the appropriate license within 30 calendar days of notification by the department.~~~~
- ~~(10) If a person providing care without the appropriate license agrees to apply for a license but does not submit an application and the required application documents within 30 days, the department may issue a cease and desist order.~~
- ~~(11) A violation of any rule is punishable by an administrative civil money penalty of up to \$5,000 a day as provided in Section 26B-2-409.~~
- ~~(12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.~~
- ~~(13) The department may deny an application or revoke a license for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background checks, civil money penalties, and other fees assessed by the department.~~
- ~~(14) An applicant or provider may request an agency review for any department decision within ten working days of being informed in writing of the decision.~~

R381-60-6. Administration and Children's Records.

- ~~(1) The provider shall:
 - ~~(a) be at least 21 years old;~~
 - ~~(b) be considered eligible by a CCL background check before becoming involved with child care; and~~
 - ~~(c) complete the new provider training offered by the department.~~~~
- ~~(2) If the owner is not a sole proprietor, the business entity shall submit to the department the name and contact information of the individual or individuals who shall legally represent them and who shall comply with the requirements stated in Subsection R381-60-6(1).~~
- ~~(3) The provider shall protect children from conduct that endangers children in care, or is contrary to the health, welfare, and safety of the public.~~
- ~~(4) The provider shall know and comply with each applicable federal, state, and local law, ordinance, and rule, and is responsible for the operation and management of a child care program.~~
- ~~(5) The provider shall comply with licensing rules any time a child in care is present.~~
- ~~(6) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public.~~
- ~~(7) The provider shall post a current copy of the department's Parent Guide at the facility for parent review during business hours.~~
- ~~(8) The provider shall inform parents and the department of any changes to the program's telephone number and other contact information within 48 hours of the change.~~
- ~~(9) The provider shall:
 - ~~(a) have liability insurance; or~~~~

- ~~_____ (b) inform parents in writing that the provider does not have liability insurance.~~
- ~~_____ (10) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.~~
- ~~_____ (11) The provider shall ensure that each child's admission and health assessment form includes the following information:~~
 - ~~_____ (a) child's name;~~
 - ~~_____ (b) child's date of birth;~~
 - ~~_____ (c) parent's name, address, and phone number, including a daytime phone number;~~
 - ~~_____ (d) names of individuals authorized by the parent to sign the child out from the facility;~~
 - ~~_____ (e) name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;~~
 - ~~_____ (f) any special health instructions for the caregiver; and~~
 - ~~_____ (g) certification that immunizations for the child are current or an exemption for foster children and children who are homeless.~~
- ~~_____ (12) The provider shall ensure that the admission and health assessment form is:~~
 - ~~_____ (a) signed by the parent; and~~
 - ~~_____ (b) kept on site for review by the department.~~
- ~~_____ (13) The provider shall ensure that each child's information is confidential and not released without written parental permission except to the department.~~

R381-60-7. Personnel and Training Requirements.

- ~~_____ (1) The provider shall ensure that employees and volunteers are supervised, qualified, and trained to:~~
 - ~~_____ (a) meet the needs of the children as required by rule; and~~
 - ~~_____ (b) be in compliance with licensing requirements under Rule R381-60.~~
- ~~_____ (2) The provider shall ensure that the center has a qualified director as required by licensing rules.~~
- ~~_____ (3) The provider shall ensure that the director:~~
 - ~~_____ (a) is at least 21 years old;~~
 - ~~_____ (b) is considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~_____ (c) if hired after January 1, 2023, has completed the 2 1/2 hour preservice training offered by the department;~~
 - ~~_____ (d) completes the new director training offered by the department within 60 working days of assuming director duties;~~
 - ~~_____ (e) knows and follows any applicable laws and requirements under Rule R381-60; and~~
 - ~~_____ (f) completes at least ten hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year.~~
- ~~_____ (4) The provider shall ensure that each new director has one of the following educational credentials:~~
 - ~~_____ (a) any bachelor's or higher education degree, and at least 60 clock hours of coursework in child development, social and emotional development, and the child care environment, or 60 clock hours of equivalent training as approved by the department;~~
 - ~~_____ (b) at least 12 college credit hours of child development courses;~~
 - ~~_____ (c) a currently valid national certification including a Certified Childcare Professional issued by the National Child Care Association, a Child Development Associate issued by the Council for Early Childhood Professional Recognition, or other equivalent credential as approved by the department;~~
 - ~~_____ (d) at least an associate degree in early childhood development or related field; or~~
 - ~~_____ (e) a National Administrator Credential and at least 60 clock hours of course work in child development, social and emotional development, and the child care environment, or 60 clock hours of equivalent training as approved by the department.~~
- ~~_____ (5) The provider shall ensure that there is a director designee with authority to act on behalf of the director in the director's absence.~~
- ~~_____ (6) The provider shall ensure that the director designee:~~
 - ~~_____ (a) is at least 18 years old;~~
 - ~~_____ (b) is considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~_____ (c) if hired after January 1, 2023, has completed the 2 1/2 hour preservice training offered by the department before beginning job duties;~~
 - ~~_____ (d) knows and follows any applicable laws and requirements under Rule R381-60;~~
 - ~~_____ (e) completes at least ten hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year; and~~
 - ~~_____ (f) has current first aid and cardio-pulmonary resuscitation (CPR) certification.~~
- ~~_____ (7) The provider shall ensure that the director or the director designee is present at the facility when the center is open for care.~~
- ~~_____ (8) The provider shall have on site for review by the department documentation of having employees who are on call and, when needed, can arrive at the facility within 20 minutes.~~
- ~~_____ (9) The provider shall ensure that caregivers:~~
 - ~~_____ (a) are at least 16 years old;~~
 - ~~_____ (b) are considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~_____ (c) complete the 2 1/2 hour preservice training offered by the department before caring for children;~~
 - ~~_____ (d) know and follow any applicable laws and requirements under Rule R381-60;~~
 - ~~_____ (e) are introduced to other program staff and to the caregiver's assigned group of children;~~
 - ~~_____ (f) review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs; and~~

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- ~~_____ (g) complete at least ten hours of child care training each year, based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year.~~
- ~~_____ (10) The provider shall ensure that any other staff including drivers, cooks, and clerks:~~
 - ~~_____ (a) are considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~_____ (b) complete the 2 1/2 hour preservice training offered by the department before beginning job duties; and~~
 - ~~_____ (c) know and follow any applicable laws and requirements under Rule R381-60.~~
- ~~_____ (11) The provider shall ensure that volunteers are eligible by a CCL background check before becoming involved with child care.~~
- ~~_____ (12) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests wear a guest nametag:~~
 - ~~_____ (13) The provider shall ensure that household members who are:~~
 - ~~_____ (a) 12 to 17 years old are considered eligible by a CCL background check; and~~
 - ~~_____ (b) 18 years old or older are eligible by a CCL background check that includes fingerprints.~~
 - ~~_____ (14) The provider shall ensure that individuals who provide Individualized Educational Plan or Individualized Family Service plan services including physical, occupational, or speech therapists:~~
 - ~~_____ (a) provide proper identification before having access to the facility or to a child at the facility; and~~
 - ~~_____ (b) have received the child's parent's permission for services to take place at the facility.~~
 - ~~_____ (15) The provider shall ensure that individuals from law enforcement, Child Protective Services, the department, and any similar entities provide proper identification before having access to the facility or to a child at the facility.~~
 - ~~_____ (16) The provider shall ensure that each covered individual required to complete preservice training receives the 2 1/2 hour preservice training offered by the department that includes at least the following topics:~~
 - ~~_____ (a) applicable laws and requirements under Rule R381-60;~~
 - ~~_____ (b) children whose special needs may include disabilities;~~
 - ~~_____ (c) recognizing the signs of homelessness and available assistance;~~
 - ~~_____ (d) building and physical premises safety;~~
 - ~~_____ (e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;~~
 - ~~_____ (f) pediatric first aid and CPR;~~
 - ~~_____ (g) emergency preparedness, response, and recovery plan;~~
 - ~~_____ (h) prevention of and response to emergencies due to food and allergy reactions;~~
 - ~~_____ (i) safe handling and disposal of hazardous materials and bio-contaminants;~~
 - ~~_____ (j) prevention and control of infectious diseases including immunizations;~~
 - ~~_____ (k) administration of medication;~~
 - ~~_____ (l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;~~
 - ~~_____ (m) precautions in transporting children;~~
 - ~~_____ (n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and~~
 - ~~_____ (o) prevention of sudden infant death syndrome and the use of safe sleeping practices.~~
 - ~~_____ (17) The provider shall ensure that annual child care training includes at least the following topics:~~
 - ~~_____ (a) current department rule Sections R381-60-7 through R381-60-24; and~~
 - ~~_____ (b) each topic listed in Subsections R381-60-7(16)(a) through (o).~~
 - ~~_____ (18) The provider shall ensure that documentation of each individual's annual child care training is on site for review by the department and includes the following:~~
 - ~~_____ (a) training topic;~~
 - ~~_____ (b) date of the training;~~
 - ~~_____ (c) name of the individual or organization that presented the training; and~~
 - ~~_____ (d) total hours or minutes of training.~~
 - ~~_____ (19) The provider shall ensure that at least one staff member with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when children are in care:~~
 - ~~_____ (a) at the facility;~~
 - ~~_____ (b) in each vehicle transporting children; and~~
 - ~~_____ (c) at each offsite activity.~~
 - ~~_____ (20) The provider shall ensure that CPR certification includes hands-on testing.~~
 - ~~_____ (21) The provider shall ensure that the following records for each covered individual are on site for review by the department:~~
 - ~~_____ (a) the date of initial employment or association with the program;~~
 - ~~_____ (b) a current pediatric first aid and CPR certification, if required in this rule; and~~
 - ~~_____ (c) a six-week record of the times worked each day.~~

R381-60-8. Background Checks.

- ~~_____ (1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:~~
 - ~~_____ (a) associate that individual with their facility; or~~
 - ~~_____ (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.~~

- ~~_____ (2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:~~
- ~~_____ (a) require the individual to submit an online background check form and fingerprints for individuals age 18 years old and older;~~
 - ~~_____ (b) authorize the individual's background check through the CCL provider's portal;~~
 - ~~_____ (c) pay any required fees; and~~
 - ~~_____ (d) receive written notice from CCL that the individual is eligible.~~
- ~~_____ (3) To keep their background check eligibility current, the provider shall require a covered individual to submit a new background check form, fingerprints, and fees if the covered individual has:~~
- ~~_____ (a) resided outside of Utah since their last background check was completed;~~
 - ~~_____ (b) not been associated with an active, CCL approved child care facility within the past 180 days; or~~
 - ~~_____ (c) turned 18 years old and has not previously submitted fingerprints for a CCL background check, except when the 18 year old has previously submitted fingerprints for a CCL background check, then only a new background check form will be required.~~
- ~~_____ (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:~~
- ~~_____ (a) ensure that an online background check form is submitted;~~
 - ~~_____ (b) authorize the child's background check through the CCL provider's portal; and~~
 - ~~_____ (c) pay any required fees.~~
- ~~_____ (5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.~~
- ~~_____ (6) If a covered individual submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.~~
- ~~_____ (7) The department may consider a covered individual not eligible for any of the following reasons:~~
- ~~_____ (a) LIS supported findings;~~
 - ~~_____ (b) the covered individual's name appears on the Utah or national sex offender registry;~~
 - ~~_____ (c) the covered individual refuses to consent to the criminal background check;~~
 - ~~_____ (d) the covered individual knowingly makes a false statement in connection with their background check;~~
 - ~~_____ (e) any felony convictions; or~~
 - ~~_____ (f) for any of the reasons listed under Subsection R381-60-8(8).~~
- ~~_____ (8) The department may also consider a covered individual not eligible for any of the following convictions regardless of severity:~~
- ~~_____ (a) child pornography;~~
 - ~~_____ (b) sexual enticing of a minor;~~
 - ~~_____ (c) voyeurism;~~
 - ~~_____ (d) a sexual exploitation act;~~
 - ~~_____ (e) pornographic material or performance;~~
 - ~~_____ (f) any crime against an individual;~~
 - ~~_____ (g) providing dangerous weapons or fire arms to a minor; or~~
 - ~~_____ (h) driving under the influence while a child is present in the vehicle.~~
- ~~_____ (9) The department shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check.~~
- ~~_____ (10) If the provider is not eligible by CCL, the department may suspend or deny their license until the reason for the background check finding is resolved.~~
- ~~_____ (11) If a covered individual is considered not eligible by CCL, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.~~
- ~~_____ (12) If the department denies a covered individual a license or employment by the provider based upon the criminal background check and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information to the Department of Public Safety.~~
- ~~_____ (13) The provider and the covered individual shall notify the department within 48 hours of becoming aware of the covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding. Failure to notify the department within 48 hours may result in disciplinary action, including revocation of the license.~~
- ~~_____ (14) The Executive Director of the department, or their designee may overturn a CCL background check decision if they determine that the nature of the background finding or mitigating circumstances do not pose a risk to children.~~

R381-60-9. Facility.

- ~~_____ (1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.~~
- ~~_____ (2) The department may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:~~
 - ~~_____ (a) by children;~~
 - ~~_____ (b) for the care of children; or~~
 - ~~_____ (c) to store materials for children.~~
- ~~_____ (3) The department may not include the following areas when measuring indoor space for children's use:~~

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- ~~_____ (a) bathrooms;~~
- ~~_____ (b) closets and staff lockers;~~
- ~~_____ (c) hallways;~~
- ~~_____ (d) lobbies and entryways;~~
- ~~_____ (e) kitchens; and~~
- ~~_____ (f) staff offices.~~
- ~~_____ (4) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license.~~
- ~~_____ (5) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead based paint is found, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.~~
- ~~_____ (6) The provider shall ensure that each room and indoor area that is used by children is ventilated by mechanical ventilation, or by windows that open and have screens.~~
- ~~_____ (7) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity being conducted.~~
- ~~_____ (8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.~~
- ~~_____ (9) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.~~
- ~~_____ (10) The provider shall ensure that there is at least one working handwashing sink used exclusively for handwashing that is accessible to the children.~~
- ~~_____ (11) The provider shall ensure that there is at least one working toilet and one working sink for each group of one to 25 children in the center who are two years old and older.~~
- ~~_____ (12) The provider shall ensure that there is a bathroom that provides privacy available for use by school age children.~~
- ~~_____ (13) If there is an outdoor area used by the children in care, the provider shall ensure that the area:~~
 - ~~_____ (a) is safely accessible to children;~~
 - ~~_____ (b) has at least 40 square feet of space for each child using the area at one time; and~~
 - ~~_____ (c) is enclosed within a fence, wall, or solid natural barrier that is at least four feet high and that has no gap five by five inches or greater in or under.~~
- ~~_____ (14) The provider shall ensure that when outdoors:~~
 - ~~_____ (a) children are in an enclosed area, except during offsite activities; and~~
 - ~~_____ (b) there is shade available to protect the children from excessive sun and heat.~~
- ~~_____ (15) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:~~
 - ~~_____ (a) meet applicable state and local laws and ordinances related to the operation of a swimming pool;~~
 - ~~_____ (b) maintain the pool in a safe manner; and~~
 - ~~_____ (c) when not in use, cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four foot high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.~~
- ~~_____ (16) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:~~
 - ~~_____ (a) ceilings, walls, and floor coverings;~~
 - ~~_____ (b) lighting, bathroom, and other fixtures;~~
 - ~~_____ (c) draperies, blinds, and other window coverings;~~
 - ~~_____ (d) indoor and outdoor play equipment;~~
 - ~~_____ (e) furniture, toys, and materials accessible to the children; and~~
 - ~~_____ (f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.~~
- ~~_____ (17) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.~~
- ~~_____ (18) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with the rules, except when:~~
 - ~~_____ (a) there is a separate entrance for the child care program;~~
 - ~~_____ (b) there are no connecting interior doorways that can be used by unauthorized individuals; and~~
 - ~~_____ (c) there is no shared access to the outdoor area used for child care.~~

R381-60-10. Ratios and Group Size.

- ~~_____ (1) As listed in Table 1 for any group of children, the provider shall:~~
 - ~~_____ (a) maintain at least the number of caregivers and not exceed the number of children in the caregiver to child ratio; and~~
 - ~~_____ (b) not exceed the group sizes.~~

TABLE 1 Caregiver to Child Ratios		
Number of caregivers	Number of Children	Limits for Mixed Ages
1	4 per group	No more than 4 children younger than 2 years old
1	12 per group	No children younger than 2 years old
1	8 per group	2 children younger than 2 years old
1	6 in the facility	3 children younger than 2 years old
2	24 per group	No children younger than 2 years old
2	16 per group	4 Children younger than 2 years old

- ~~(2) The provider shall ensure that there are at least two caregivers with a mixed-age group if:~~
 - ~~(a) there are more than six children in the facility;~~
 - ~~(b) there are more than two infants or toddlers included in the mixed-age group; and~~
 - ~~(c) the group has more than six children total.~~
- ~~(3) When caring for children younger than two years old, the provider shall ensure that:~~
 - ~~(a) there are no more than four children with one caregiver; and~~
 - ~~(b) children are cared for in an area that is physically separated from older children.~~
- ~~(4) If there is only one caregiver in the facility and no children younger than two years old are present, the provider can be temporarily out of ratio if:~~
 - ~~(a) a second caregiver arrives within 20 minutes from when the 13th child arrived; and~~
 - ~~(b) the total number of children present does not exceed 16.~~
- ~~(5) The provider shall include the provider's and employees' children age four years old or older in care:~~
 - ~~(a) in the group size when the parent of the child is working at the facility; and~~
 - ~~(b) in the group size and the caregiver to child ratio when the parent of the child is not working at the facility.~~
- ~~(6) The provider may include caregivers, student interns who are registered in a high school or college child care course, and volunteers who are 16 or 17 years old in the caregiver to child ratio.~~
- ~~(7) The provider shall ensure that guests do not count in caregiver to child ratios.~~

R381-60-11. Child Supervision and Security.

- ~~(1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:~~
 - ~~(a) for children younger than five years old, a caregiver is physically present in the room or area with the children;~~
 - ~~(b) for school age children, a caregiver can hear the children and is close enough to intervene;~~
 - ~~(c) caregivers know the number of children in their care at any time;~~
 - ~~(d) caregivers' attention is focused on the children and not on caregivers' personal interests;~~
 - ~~(e) caregivers are aware of the entire group of children even when interacting with a smaller group or an individual child; and~~
 - ~~(f) caregivers position themselves so each child in their assigned group is actively supervised.~~
- ~~(2) The provider shall ensure that staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:~~
 - ~~(a) they are left unsupervised for no more than two consecutive hours per group;~~
 - ~~(b) the director or the director designee is physically present and available as needed; and~~
 - ~~(c) they are not volunteers.~~
- ~~(3) The provider shall ensure that staff, volunteers, and household members who are younger than 16 years old are not assigned to care for or supervise any child in care.~~
- ~~(4) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.~~
- ~~(5) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.~~
- ~~(6) The provider shall ensure that when video cameras or mirrors are used to supervise napping children:~~
 - ~~(a) the napping room is adjacent to a non-napping room;~~
 - ~~(b) there is a staff member in the non-napping room;~~
 - ~~(c) cameras or mirrors are positioned so that the staff member can see and hear each child;~~
 - ~~(d) there is an open door without a barrier, including a gate, between the napping room and the non-napping room; and~~
 - ~~(e) the staff member moves children who wake up to the non-napping room.~~

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- ~~_____ (7) The provider shall ensure that a blanket or other item is not placed over sleeping equipment in a way that prevents the caregiver from seeing the sleeping child.~~
- ~~_____ (8) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.~~
- ~~_____ (9) To maintain security and supervision of children, the provider shall ensure that:~~
 - ~~_____ (a) each child is signed in and out in accordance with this section;~~
 - ~~_____ (b) only parents or individuals with written authorization from the parent may sign out a child;~~
 - ~~_____ (c) photo identification is required if the individual signing the child out is unknown to the provider;~~
 - ~~_____ (d) individuals signing children in and out use identifiers, including a signature, initials, or electronic code;~~
 - ~~_____ (e) the sign in and sign out records include the date and time each child arrives and leaves; and~~
 - ~~_____ (f) there is written permission from the child's parent if school-age children sign themselves in or out.~~
- ~~_____ (10) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:~~
 - ~~_____ (a) the individual giving verbal authorization; and~~
 - ~~_____ (b) the individual picking up the child.~~
- ~~_____ (11) The provider shall ensure that a six-week record of each child's daily attendance, including sign in and sign out records, is kept on-site for review by the department.~~

~~R381-60-12. Child Guidance and Interaction.~~

- ~~_____ (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.~~
- ~~_____ (2) The provider shall inform parents, children, and those who interact with the children of the center's behavioral expectations and how any misbehavior will be handled.~~
- ~~_____ (3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.~~
- ~~_____ (4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.~~
- ~~_____ (5) The provider shall ensure that interactions with the children do not include:~~
 - ~~_____ (a) any form of corporal punishment or any action that produces physical pain or discomfort including hitting, spanking, shaking, biting, or pinching;~~
 - ~~_____ (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;~~
 - ~~_____ (c) shouting at children;~~
 - ~~_____ (d) any form of emotional abuse;~~
 - ~~_____ (e) forcing or withholding food, rest, or toileting; or~~
 - ~~_____ (f) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage.~~
- ~~_____ (6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Section 80-2-602.~~

~~R381-60-13. Child Safety and Injury Prevention.~~

- ~~_____ (1) The provider shall ensure that children and staff use the building, outdoor area, toys, and equipment safely and as intended by the manufacturer to prevent injury to children.~~
- ~~_____ (2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.~~
- ~~_____ (3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.~~
- ~~_____ (4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.~~
- ~~_____ (5) The provider shall ensure that strangulation hazards including ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.~~
- ~~_____ (6) The provider shall ensure that tripping hazards including unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.~~
- ~~_____ (7) The provider shall ensure that empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons are inaccessible to children younger than five years old.~~
- ~~_____ (8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.~~
- ~~_____ (9) The provider shall ensure that toxic or hazardous chemicals including cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:~~
 - ~~_____ (a) inaccessible to children;~~
 - ~~_____ (b) used according to manufacturer instructions;~~
 - ~~_____ (c) stored in containers labeled with the contents of the container; and~~
 - ~~_____ (d) disposed of properly.~~
- ~~_____ (10) The provider shall ensure that the following items are inaccessible to children:~~
 - ~~_____ (a) matches or cigarette lighters;~~
 - ~~_____ (b) open flames;~~
 - ~~_____ (c) hot wax or other hot substances; and~~
 - ~~_____ (d) when in use, portable space heaters, wood burning stoves, and fireplaces.~~

- ~~_____ (11) The provider shall ensure that the following items are inaccessible to children:

 - ~~_____ (a) live electrical wires; and~~
 - ~~_____ (b) for children younger than five years old, electrical outlets and surge protectors without protective caps or safety devices when not in use.~~~~
- ~~_____ (12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that firearms including guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:

 - ~~_____ (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and~~
 - ~~_____ (b) stored unloaded and separate from ammunition.~~~~
- ~~_____ (13) The provider shall ensure that weapons including paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.~~
- ~~_____ (14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in center vehicles any time a child is in care.~~
- ~~_____ (15) The provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.~~
- ~~_____ (16) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, including furniture, unsecured televisions, and standing ladders.~~
- ~~_____ (17) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.~~
- ~~_____ (18) The provider shall ensure that highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.~~
- ~~_____ (19) The provider shall ensure that infant walkers with wheels are inaccessible to children.~~
- ~~_____ (20) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, are not used:

 - ~~_____ (a) in the facility or any other building when a child is in care;~~
 - ~~_____ (b) in any vehicle that is being used to transport a child in care;~~
 - ~~_____ (c) within 25 feet of any entrance to the facility or other building occupied by a child in care; or~~
 - ~~_____ (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.~~~~

~~R381-60-14. Emergency Preparedness, Response, and Recovery.~~

- ~~_____ (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:

 - ~~_____ (a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;~~
 - ~~_____ (b) includes procedures for accommodations for infants and toddlers, children with disabilities, and children with chronic medical conditions;~~
 - ~~_____ (c) includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health;~~
 - ~~_____ (d) is available for review by parents, staff, and the department during business hours; and~~
 - ~~_____ (e) is followed if an emergency happens, unless otherwise instructed by emergency personnel.~~~~
- ~~_____ (2) The provider shall post the center's street address and emergency numbers, including at least fire, police, and poison control, near each telephone in the center or in an area clearly visible to anyone needing the information.~~
- ~~_____ (3) The provider shall keep first aid supplies in the center, including at least antiseptic, bandages, and tweezers.~~
- ~~_____ (4) The provider shall conduct fire evacuation drills monthly and make sure drills include a complete exit of each child, staff, and volunteers from the building.~~
- ~~_____ (5) The provider shall document each fire drill, including:

 - ~~_____ (a) the date and time of the drill;~~
 - ~~_____ (b) the number of children participating;~~
 - ~~_____ (c) the name of the individual supervising the drill;~~
 - ~~_____ (d) the total time to complete the evacuation; and~~
 - ~~_____ (e) any problems encountered and remediation.~~~~
- ~~_____ (6) The provider shall conduct drills for disasters other than fires at least once every six months.~~
- ~~_____ (7) The provider shall document each disaster drill, including:

 - ~~_____ (a) the type of disaster, including earthquake, flood, prolonged power or water outage, or tornado;~~
 - ~~_____ (b) the date and time of the drill;~~
 - ~~_____ (c) the number of children participating;~~
 - ~~_____ (d) the name of the individual supervising the drill; and~~
 - ~~_____ (e) any problems encountered and remediation.~~~~
- ~~_____ (8) The provider shall vary the days and times when fire and other disaster drills are held.~~
- ~~_____ (9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by the department.~~
- ~~_____ (10) The provider shall:

 - ~~_____ (a) give parents a written report on the day of occurrence of each incident, accident, or injury involving their child;~~
 - ~~_____ (b) ensure the report has the signatures of the caregivers involved, the center director or director designee, and the individual picking up the child; and~~
 - ~~_____ (c) if school-age children sign themselves out of the center, send a copy of the report to the parent on the day following the occurrence.~~~~

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- ~~(11) If a child is injured and the injury appears serious but not life-threatening, the provider shall contact the child's parent immediately.~~
- ~~(12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:
 - ~~(a) call emergency personnel immediately;~~
 - ~~(b) contact the parent after emergency personnel are called; and~~
 - ~~(c) if the parent cannot be reached, try to contact the child's emergency contact individual.~~~~
- ~~(13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:
 - ~~(a) submit a completed accident report form to the department within the next business day of the incident; or~~
 - ~~(b) contact the department within the next business day and submit a completed accident report form within five business days of the incident.~~~~
- ~~(14) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by the department.~~

R381-60-15. Health and Infection Control.

- ~~(1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:
 - ~~(a) walls and flooring clean and free of spills, dirt, and grime;~~
 - ~~(b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;~~
 - ~~(c) surfaces free of rotting food or a build-up of food;~~
 - ~~(d) the building and grounds free of a build-up of litter, trash, and garbage;~~
 - ~~(e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and~~
 - ~~(f) the facility free of animal feces.~~~~
- ~~(2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.~~
- ~~(3) The provider shall clean and sanitize any toys and materials used by children:
 - ~~(a) at least once a week or more often if needed;~~
 - ~~(b) after being put in a child's mouth and before another child plays with the toy; and~~
 - ~~(c) after being contaminated by a body fluid.~~~~
- ~~(4) The provider shall ensure that fabric toys and items including stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.~~
- ~~(5) The provider shall clean and sanitize highchair trays before each use.~~
- ~~(6) The provider shall clean and sanitize water play tables or tubs daily if used by the children.~~
- ~~(7) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.~~
- ~~(8) The provider shall clean and sanitize potty chairs after each use.~~
- ~~(9) The provider shall keep toilet paper in a dispenser that is accessible to children.~~
- ~~(10) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that each staff follow the procedures.~~
- ~~(11) The provider shall ensure that staff and volunteers wash their hands thoroughly with liquid soap and running water:
 - ~~(a) upon arrival;~~
 - ~~(b) before handling or preparing food or bottles;~~
 - ~~(c) before and after eating meals and snacks or feeding a child;~~
 - ~~(d) after using the toilet or helping a child use the toilet;~~
 - ~~(e) after contact with a body fluid;~~
 - ~~(f) when coming in from outdoors; and~~
 - ~~(g) after cleaning up or taking out garbage.~~~~
- ~~(12) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.~~
- ~~(13) The provider shall ensure that children wash their hands thoroughly with liquid soap and running water:
 - ~~(a) upon arrival;~~
 - ~~(b) before and after eating meals and snacks;~~
 - ~~(c) after using the toilet;~~
 - ~~(d) after contact with a body fluid;~~
 - ~~(e) before using a water play table or tub; and~~
 - ~~(f) when coming in from outdoors.~~~~
- ~~(14) The provider shall ensure that only single-use towels from a covered dispenser or an electric hand-dryer is used to dry hands.~~
- ~~(15) The provider shall store personal hygiene items, including toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.~~
- ~~(16) The provider shall ensure that pacifiers, bottles, and nondisposable drinking cups are:
 - ~~(a) labeled with each child's name or individually identified; and~~
 - ~~(b) not shared, or washed and sanitized before being used by another child.~~~~
- ~~(17) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.~~
- ~~(18) The provider shall ensure that children's clothing that is wet or soiled from a body fluid is:
 - ~~(a) not rinsed or washed at the center;~~~~

- _____ (b) placed in a leakproof container that is labeled with the child's name; and
- _____ (c) returned to the parent, or thrown away with parental consent.
- _____ (19) The provider shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids:
 - _____ (a) wear waterproof gloves;
 - _____ (b) clean the surface using a detergent solution;
 - _____ (c) rinse the surface with clean water;
 - _____ (d) sanitize the surface;
 - _____ (e) throw away in a leakproof plastic bag the disposable materials, including paper towels, that were used to clean up the body fluid;
 - _____ (f) wash and sanitize any nondisposable materials used to clean up the body fluid, including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and
 - _____ (g) wash their hands after cleaning up the body fluid.
- _____ (20) The provider may not care for a child who is ill with an infectious disease at the center except when the child shows signs of illness after arriving at the center.
 - _____ (21) If a child becomes ill while in care:
 - _____ (a) the provider shall contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact to immediately pick up the child; and
 - _____ (b) if the child is ill with an infectious disease, the provider shall make the child comfortable in a safe, supervised area that is separated from the other children until the parent arrives.
 - _____ (22) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the provider discovers the illness.
 - _____ (23) If any staff member or child has an infectious disease or parasite, the provider shall post a notice at the center that:
 - _____ (a) does not disclose any personal identifiable information;
 - _____ (b) is posted in a conspicuous place where it can be seen by parents;
 - _____ (c) is posted and dated on the same day that the disease or parasite is discovered; and
 - _____ (d) remains posted for at least five business days.
 - _____ (24) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that:
 - _____ (a) individuals who prepare food in the kitchen do not change diapers or help in toileting children;
 - _____ (b) caregivers who care for diapered children only prepare food for the children in their care, and they do not prepare food outside of the room used by the diapered children or prepare food for other children and adults in the facility; and
 - _____ (c) individuals with an infectious disease or showing symptoms including diarrhea, fever, coughing, or vomiting do not prepare or serve foods.

R381-60-16. Food and Nutrition.

- _____ (1) The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.
- _____ (2) If the provider supplies food for children's meals or snacks, the provider shall ensure that:
- _____ (3) The provider shall ensure that the individual who serves food to children:
 - _____ (a) is aware of the children in their assigned group who have food allergies or sensitivities; and
 - _____ (b) ensures that the children are not served the food or drink they are allergic or sensitive to.
- _____ (4) The provider may not place children's food on a bare table, and shall serve children's food on dishes, napkins, or sanitary highchair trays, except an individual finger food including a cracker, that may be placed directly in a child's hand.
- _____ (5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:
 - _____ (a) labeled with the child's name;
 - _____ (b) refrigerated if needed; and
 - _____ (c) consumed only by that child.

R381-60-17. Medications.

- _____ (1) The provider shall lock nonrefrigerated medications or store them at least 48 inches above the floor.
- _____ (2) The provider shall lock refrigerated medications or store them at least 36 inches above the floor and, if liquid, store them in a separate leakproof container.
- _____ (3) If parents supply any over-the-counter or prescription medications, the provider shall ensure those medications:
 - _____ (a) are labeled with the child's full name;
 - _____ (b) are stored in the original or pharmacy container;
 - _____ (c) have the original label; and
 - _____ (d) have child safety caps.
- _____ (4) The provider shall have a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.
- _____ (5) The provider shall ensure that the medication permission form includes at least:
 - _____ (a) the name of the child;
 - _____ (b) the name of the medication;
 - _____ (c) written instructions for administration; and
 - _____ (d) the parent signature and the date signed.

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- ~~_____ (6) The provider shall ensure that instructions for administering the medication include at least:~~
 - ~~_____ (a) the dosage;~~
 - ~~_____ (b) how the medication will be given;~~
 - ~~_____ (c) the times and dates to administer the medication; and~~
 - ~~_____ (d) the disease or condition being treated.~~
- ~~_____ (7) If the provider supplies an over the counter medication for children's use, the provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:~~
 - ~~_____ (a) written; or~~
 - ~~_____ (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.~~
- ~~_____ (8) The provider shall ensure that the staff administering the medication:~~
 - ~~_____ (a) washes their hands;~~
 - ~~_____ (b) check the medication label to confirm the child's name if the parent supplied the medication;~~
 - ~~_____ (c) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer; and~~
 - ~~_____ (d) administers the medication.~~
- ~~_____ (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:~~
 - ~~_____ (a) the date, time, and dosage of the medication given;~~
 - ~~_____ (b) any error in administering the medication or adverse reactions; and~~
 - ~~_____ (c) their signature or initials.~~
- ~~_____ (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life threatening.~~
- ~~_____ (11) The provider shall notify the parent before the scheduled medication dosage to a child if the provider chooses not to administer medication as instructed by the parent.~~
- ~~_____ (12) The provider shall keep a six week record of medication permission and administration forms on site for review by the department.~~

R381-60-18. Activities.

- ~~_____ (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.~~
- ~~_____ (2) If an approved outdoor area is available, the provider shall ensure that daily activities include outdoor play as weather and air quality allow.~~
- ~~_____ (3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.~~
- ~~_____ (4) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.~~
- ~~_____ (5) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media including television, cell phones, tablets, and computers is:~~
 - ~~_____ (a) not allowed for children zero to 17 months old;~~
 - ~~_____ (b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and~~
 - ~~_____ (c) planned to address the needs of children five to 12 years old.~~
- ~~_____ (6) If the provider offers swimming activities or if wading pools are used, the provider shall ensure that:~~
 - ~~_____ (a) the parent gives permission before their child in care uses the pool;~~
 - ~~_____ (b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;~~
 - ~~_____ (c) diapered children wear swim diapers when they are in the pool;~~
 - ~~_____ (d) wading pools are emptied and sanitized after use by each group of children;~~
 - ~~_____ (e) if the pool is over four feet deep, there is a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and~~
 - ~~_____ (f) lifeguards and pool personnel do not count toward the caregiver to child ratio.~~
- ~~_____ (7) If the provider offers swimming activities or if wading pools are used, the provider shall ensure that:~~
 - ~~_____ (a) the parent gives written consent before each activity;~~
 - ~~_____ (b) the required caregiver to child ratio and supervision are maintained during the entire activity;~~
 - ~~_____ (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;~~
 - ~~_____ (d) children wear or carry with them the name and phone number of the center;~~
 - ~~_____ (e) children's names are not used on nametags, t shirts, or in other visible ways; and~~
 - ~~_____ (f) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.~~
- ~~_____ (8) The provider shall ensure a caregiver with the children takes the written emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:~~
 - ~~_____ (a) the child's name;~~

- _____ (b) the parent's name and phone number;
- _____ (c) the name and phone number of an individual to notify if an emergency happens and the parent cannot be contacted;
- _____ (d) the names of people authorized by the parents to pick up the child; and
- _____ (e) current emergency medical treatment and emergency medical transportation releases.

R381-60-19. Play Equipment.

- _____ (1) The provider shall ensure that children using play equipment use it safely and in the manner intended by the manufacturer.
- _____ (2) The provider shall ensure that the highest designated play surface on stationary play equipment used by infants or toddlers does not exceed three feet in height.
- _____ (3) The provider shall ensure that swings used by infants or toddlers have enclosed seats.
- _____ (4) The provider shall ensure that stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment and that, with the exception of swings, stationary play equipment that is:
 - _____ (a) used by infants or toddlers has at least a three-foot use zone if any designated play surface is higher than 18 inches;
 - _____ (b) used by preschoolers has at least a six-foot use zone if any designated play surface is higher than 20 inches; and
 - _____ (c) used by school-age children has at least a six-foot use zone if any designated play surface is higher than 30 inches.
- _____ (5) The provider shall ensure that the use zone in the front and rear of a single-axis, enclosed swing extends at least twice the distance of the swing pivot point to the swing seat.
- _____ (6) The provider shall ensure that the use zone in the front and rear of a single-axis swing extends at least twice the distance of the swing pivot point to the ground.
- _____ (7) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends:
 - _____ (a) at least the measurement of the suspending rope or chain plus three feet, if the swing is used by infants or toddlers; or
 - _____ (b) at least the measurement of the suspending rope or chain plus six feet, if the swing is used by preschoolers or school-age children.
- _____ (8) The provider shall ensure that the use zone for a merry-go-round extends at least six feet in any direction from its outermost edge.
- _____ (9) The provider shall ensure that the use zone for a spring rocker extends:
 - _____ (a) at least three feet from the outermost edge of the rocker when at rest; or
 - _____ (b) at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches, and the rocker is used by preschoolers or school-age children.
- _____ (10) The provider shall ensure that the following use-zones do not overlap the use zone of any other piece of play equipment:
 - _____ (a) the use zone in front of a slide;
 - _____ (b) the use zone in the front and rear of any single-axis swing, including a single-axis enclosed swing;
 - _____ (c) the use zone of a multi-axis swing; and
 - _____ (d) the use zone of a merry-go-round if the platform diameter measures 20 inches or more.
- _____ (11) Unless prohibited in Subsection R381-60-19(10), the provider shall ensure that the use zones of play equipment only overlap when:
 - _____ (a) the equipment is used by infants or toddlers, and there is at least three feet between the pieces of equipment; or
 - _____ (b) the equipment is used by preschoolers or school-age children and there is at least six feet between the pieces of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between the pieces of equipment if the designated play surface is higher than 30 inches.
- _____ (12) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, or the bare floor.
- _____ (13) The provider shall ensure that protective cushioning covers the entire surface of each required use zone and that its depth or thickness is determined by the highest designated play surface of the equipment.
- _____ (14) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall:
 - _____ (a) ensure that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 2 if compacted;
 - _____ (b) if the material cannot be loosened due to extreme weather conditions, not allow children to play on the equipment until the material can be loosened to the required depth; and
 - _____ (c) ensure that the depth of the material meets the guidelines in Table 2.

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires and Rubber Products
Up to 5' high	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"

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Over 6' up to 9'	9"	Not allowed	9"	Not allowed	6"
Over 9' up to 10'	Not allowed	Not allowed	9"	Not allowed	6"
Over 10' up to 12'	Not allowed	Not allowed	Not allowed	Not allowed	6"

~~(15) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall:~~

- ~~(a) keep on site for review by the department documentation from the manufacturer that the wood product is protective cushioning;~~
- ~~(b) ensure there is adequate drainage under the material; and~~
- ~~(c) ensure the depth of the shredded wood meets the guidelines in Table 3.~~

Highest Designated Play Surface, Climbing Bar, or Swing — Pivot Point	Engineered Wood fibers	Wood Chips	Double Shredded Bark Mulch
Up to 6' high	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 11'	9"	9"	9"
Over 11'	9"	Not allowed	Not allowed

~~(16) If the provider uses a unitary cushioning, the provider shall maintain on site for review by the department documentation from the manufacturer that the material is cushioning for playgrounds.~~

~~(17) If the provider uses a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.~~

~~(18) The provider shall ensure that a play equipment platform that is more than:~~

- ~~(a) 18 inches above the floor or ground and used by infants or toddlers has a protective barrier that is at least 24 inches high;~~
- ~~(b) 30 inches above the floor or ground and used by preschoolers has a protective barrier that is at least 29 inches high; and~~
- ~~(c) 48 inches above the floor or ground and used by school age children has a protective barrier that is at least 38 inches high.~~

~~(19) The provider shall ensure that there is no gap greater than 3 1/2 inches in or under a required protective barrier on a play equipment platform.~~

~~(20) The provider shall ensure that stationary play equipment is stable or securely anchored.~~

~~(21) The provider shall ensure that there are no trampolines on the premises that are accessible to any child in care.~~

~~(22) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.~~

~~(23) The provider shall ensure that there are no strangulation hazards on or within the use zone of any piece of stationary play equipment.~~

~~(24) The provider shall ensure that there are no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.~~

~~(25) The provider shall ensure that there are no tripping hazards including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.~~

R381-60-20. Transportation:

~~(1) For each child that the licensee transports, the provider shall obtain a transportation permission form:~~

- ~~(a) signed by the parent; and~~
- ~~(b) on site for review by the department.~~

~~(2) The provider shall ensure that each vehicle used for transporting children:~~

- ~~(a) is enclosed with a roof or top;~~
- ~~(b) is equipped with safety restraints;~~
- ~~(c) has a current vehicle registration;~~
- ~~(d) is maintained in a safe and clean condition; and~~
- ~~(e) contains first aid supplies, including at least antiseptic, band-aids, and tweezers.~~

~~(3) The provider shall ensure that the safety restraints in each vehicle that transports children are:~~

- ~~_____ (a) appropriate for the age and size of each child who is transported, as required by Utah law;~~
- ~~_____ (b) properly installed; and~~
- ~~_____ (c) in safe condition and working order.~~
- ~~_____ (4) The provider shall ensure that the driver of each vehicle who is transporting children:~~
 - ~~_____ (a) is at least 18 years old;~~
 - ~~_____ (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;~~
 - ~~_____ (c) has with them the emergency contact information for each child being transported;~~
 - ~~_____ (d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;~~
 - ~~_____ (e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;~~
 - ~~_____ (f) never leaves a child in the vehicle unattended by an adult;~~
 - ~~_____ (g) ensures that children stay seated while the vehicle is moving;~~
 - ~~_____ (h) never leaves the keys in the ignition when not in the driver's seat; and~~
 - ~~_____ (i) ensures that the vehicle is locked during transport.~~
- ~~_____ (5) If the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:~~
 - ~~_____ (a) each child being transported has a completed transportation permission form signed by their parent;~~
 - ~~_____ (b) a caregiver goes with the children and actively supervises the children;~~
 - ~~_____ (c) the caregiver to child ratio is maintained; and~~
 - ~~_____ (d) a caregiver with the children has emergency contact information and releases for the children being transported.~~
- ~~_____ (6) The provider shall:~~
 - ~~_____ (a) have transport liability insurance; or~~
 - ~~_____ (b) inform parents in writing that the provider does not have transport liability insurance.~~

R381-60-21. Animals.

- ~~_____ (1) The provider shall inform parents of the kinds of animals allowed at the facility.~~
- ~~_____ (2) The provider shall ensure that there is no animal on the premises that:~~
 - ~~_____ (a) is naturally aggressive;~~
 - ~~_____ (b) has a history of dangerous, attacking, or aggressive behavior; or~~
 - ~~_____ (c) has a history of biting even one individual.~~
- ~~_____ (3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.~~
- ~~_____ (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.~~
- ~~_____ (5) The provider shall ensure that children younger than five years old do not assist with the cleaning of animals or animal cages, pens, or equipment.~~
- ~~_____ (6) If school-age children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.~~
- ~~_____ (7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.~~
- ~~_____ (8) The provider shall ensure that dogs, cats, and ferrets that are housed at the facility have current rabies vaccinations.~~
- ~~_____ (9) The provider shall keep current animal vaccination records on-site for review by the department.~~

R381-60-22. Rest and Sleep.

- ~~_____ (1) The provider shall use a separate crib, cot, mat, or other sleeping equipment for each child during nap times.~~
- ~~_____ (2) The provider shall ensure that each crib:~~
 - ~~_____ (a) has a tight fitting mattress;~~
 - ~~_____ (b) has slats spaced no more than 2 3/8 inches apart;~~
 - ~~_____ (c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;~~
 - ~~_____ (d) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and~~
 - ~~_____ (e) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date.~~
- ~~_____ (3) When in use, the provider shall place sleeping equipment including cribs, cots, and mats at least two feet apart.~~
- ~~_____ (4) The provider shall ensure that sleeping equipment does not block exits.~~
- ~~_____ (5) The provider shall clean and sanitize sleeping equipment before each use.~~

R381-60-23. Diapering.

- ~~_____ (1) This section applies only to a provider that accepts children who wear diapers.~~
- ~~_____ (2) The provider shall post diapering procedures at each diapering station and ensure that each staff member follows those procedures.~~
- ~~_____ (3) The provider shall ensure that each child's diaper is:~~
 - ~~_____ (a) checked at least once every two hours;~~
 - ~~_____ (b) promptly changed if wet or soiled; and~~
 - ~~_____ (c) checked as soon as a sleeping child awakens.~~

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- ~~_____ (4) The provider shall ensure that caregivers change children's diapers at a diapering station and not on surfaces used for any other purpose.~~
- ~~_____ (5) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.~~
- ~~_____ (6) The provider shall ensure that each diapering station is equipped with railings to prevent a child from falling when being diapered.~~
- ~~_____ (7) The provider shall ensure that caregivers do not leave children unattended on the diapering surface.~~
- ~~_____ (8) The provider shall ensure that caregivers clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.~~
- ~~_____ (9) The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.~~
- ~~_____ (10) The provider shall ensure that caregivers place wet and soiled disposable diapers:~~
 - ~~_____ (a) in a container that has a disposable plastic lining and a tight fitting lid;~~
 - ~~_____ (b) directly in an outdoor garbage container that has a tight fitting lid; or~~
 - ~~_____ (c) in a container that is inaccessible to children.~~
- ~~_____ (11) Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.~~
- ~~_____ (12) If cloth diapers are used, the provider shall:~~
 - ~~_____ (a) not rinse cloth diapers at the facility; and~~
 - ~~_____ (b) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or~~
 - ~~_____ (c) place the cloth diapers in a leakproof diapering service container.~~

R381-60-24. Infant and Toddler Care.

- ~~_____ If the provider cares for infants or toddlers:~~
 - ~~_____ (1) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 20 minutes.~~
 - ~~_____ (2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults; including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.~~
 - ~~_____ (3) The provider shall ensure that caregivers respond promptly to infants and toddlers who are in emotional distress due to conditions including hunger, fatigue, a wet or soiled diaper, fear, teething, or illness.~~
 - ~~_____ (4) For their healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.~~
 - ~~_____ (5) The provider shall ensure that mobile infants and toddlers have freedom of movement in a safe area.~~
 - ~~_____ (6) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.~~
 - ~~_____ (7) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.~~
 - ~~_____ (8) The provider shall make objects made of styrofoam inaccessible to infants and toddlers.~~
 - ~~_____ (9) The provider shall allow each infant and toddler to eat and sleep on their own schedule.~~
 - ~~_____ (10) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual child's use is:~~
 - ~~_____ (a) labeled with the child's name;~~
 - ~~_____ (b) labeled with the date and time of preparation or opening of the container, including a jar of baby food;~~
 - ~~_____ (c) kept refrigerated if needed; and~~
 - ~~_____ (d) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.~~
 - ~~_____ (11) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each infant during bottle feeding and that bottles are not propped.~~
 - ~~_____ (12) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to children.~~
 - ~~_____ (13) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.~~
 - ~~_____ (14) The provider shall ensure that caregivers cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.~~
 - ~~_____ (15) The provider shall ensure that infants sleep in equipment designed for sleep including a crib, bassinet, porta crib or playpen, and that infants are not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.~~
 - ~~_____ (16) The provider shall place infants on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.~~
 - ~~_____ (17) The provider may not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.]~~

R381-60-1. Authority and Purpose.

- ~~_____ (1) Section 26B-2-402 authorizes this rule.~~
- ~~_____ (2) This rule establishes the foundational standards necessary to protect the health and safety of children in hourly child care centers and defines the general procedures and requirements to get and maintain a license to provide child care.~~

R381-60-2. Definitions.

- ~~_____ (1) Terms used in this rule are defined in Rule R380-600. Additionally:~~
- ~~_____ (2) "Background finding" means information in a background check that OBP uses to determine if a covered individual is or is not eligible to be involved with child care.~~
- ~~_____ (3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.~~

- (4) "Body fluid" means blood, urine, feces, vomit, mucus, or saliva.
- (5) "Business day" means a day of the week the facility is open for business.
- (6) "Business hours" means the hours the facility is open for business.
- (7) "CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.
- (8) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.
- (9) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:
- (a) count in the caregiver-to-child ratio;
- (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or
- (c) supervise children.
- (10) "Caregiver-to-child ratio" means the number of caregivers responsible for a specific number of children.
- (11) "Child care" means continuous care and supervision of at least one qualifying child that:
- (a) is in place of care ordinarily provided by a parent in the parent's home;
- (b) occurs for less than 24 hours a day; and
- (c) is provided for direct or indirect compensation.
- (12) "Child care program" means a person or business that offers child care.
- (13) "Choking hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking the airway and making it difficult or impossible to breathe.
- (14) "Covered individual" means the same as defined in Rule R380-600.
- (15) "Crib" means an infant's bed with sides to protect them from falling, including a bassinet, porta-crib, or play pen.
- (16) "Department" means the Utah Department of Health and Human Services.
- (17) "Designated play surface" means any:
- (a) accessible elevated surface for standing, walking, crawling, sitting or climbing; or
- (b) accessible flat surface that is at least two by two inches in size and has an angle less than 30 degrees from horizontal.
- (18) "Director" means an individual who meets the director qualifications in this rule, and who assumes the child care program's day-to-day responsibilities for compliance with CCL rules.
- (19) "Eligible" means the same as defined in Rule R380-600.
- (20) "Entrapment hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing entrapment and strangulation.
- (21) "Facility" means a program or premises approved by OL to be used for child care.
- (22) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.
- (23) "Group size" means the total number of children in a group per room or area.
- (24) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.
- (25) "Health care provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.
- (26) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.
- (27) "Inaccessible" means out of reach for children by being:
- (a) behind a properly secured child safety gate;
- (b) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb;
- (c) located at least 36 inches above the floor;
- (d) locked, including in a locked room, cupboard, or drawer; or
- (e) secured with a child safety device, including a child safety cupboard lock or doorknob device.
- (28) "Infant" means a child who is younger than 12 months old.
- (29) "Infectious disease" means an illness that is capable of being spread from one individual to another.
- (30) "Involved with child care" means to do any of the following at or for a child care program:
- (a) care for or supervise children;
- (b) count in the caregiver-to-child ratio;
- (c) have unsupervised contact with a child in care;
- (d) own, operate, direct;
- (e) reside; or
- (f) volunteer.
- (31) "License" means a license issued by OL to provide child care services.
- (32) "Licensee" means the legally responsible person or business that holds a valid license from OL.
- (33) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (34) "OBP" means the same as defined in Rule R380-600.
- (35) "OL" means the same as defined in Rule R380-600.
- (36) "Older toddler" means a child age 18 through 23 months old.
- (37) "Over-the-counter medication" means medication that an individual can purchase without a written prescription including any herbal remedy, vitamin, and mineral supplement.

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- (38) "Parent" means the parent or legal guardian of a child in care.
- (39) "Person" means the same as defined in Rule R380-600.
- (40) "Play equipment platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on and upon which a child can move freely.
- (41) "Preschooler" means a child age two through four years old.
- (42) "Protective barrier" means a structure including bars, lattice, or a panel around an elevated platform intended to prevent accidental or deliberate movement through or access to something.
- (43) "Protective cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of an injury from a fall.
- (44) "Qualifying child" means a child:
- (a) who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
 - (b) who is younger than four years old and is the child of the provider or a caregiver; or
 - (c) with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver.
- (45) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (46) "Room" means a designated area or a physical space enclosed by solid barriers or partitions as follows:
- (a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:
 - (i) one room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable;
 - (ii) one room, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely;
 - (iii) two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate, including a diaper changing station that is located behind a closed gate;
 - (iv) two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate; or
 - (v) if there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway;
 - (b) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:
 - (i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, otherwise OL shall consider this to be two rooms; or
 - (ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas;
 - (c) if in outdoor areas separated by interior fences, OL considers it:
 - (i) one area, if the interior fence is 24 inches in height, or lower, whether or not the fence has an opening;
 - (ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;
 - (iii) two areas if the interior fence is higher than 24 inches and there is no opening; or
 - (iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.
- (47) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.
- (48) "School-age child" means a child age five through 12 years old.
- (49) "Sexually explicit material" means any depiction of actual or simulated sexual conduct.
- (50) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.
- (51) "Stationary play equipment" means equipment designed to stay in one location when a child uses it, including a climber, merry-go-round, slide, spring rocker, or swing. Stationary play equipment does not include a:
- (a) playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber;
 - (b) sandbox;
 - (c) sensory table; or
 - (d) stationary circular tricycle.
- (52) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled, including:
- (a) a protruding bolt end that extends more than two threads beyond the face of the nut;
 - (b) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck; or
 - (c) hardware that forms a hook or leaves a gap or space between components including a protruding open S-hook.
- (53) "Unsupervised contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by OBP.
- (54) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment and onto which a child falling from or exiting the equipment could be expected to land.
- (55) "Working day" means any day of the week the department is open for business.
- (56) "Younger toddler" means a child age 12 through 17 months old.

R381-60-3. License Required.

- (1) A person shall obtain a license for an hourly child care center from OL if the person provides care:
 - (a) for direct or indirect compensation;
 - (b) for each child for less than 24 hours a day;
 - (c) for five or more unrelated children;
 - (d) for four or more hours a day, and no child is cared for on a regular schedule;
 - (e) in a place other than the provider's home or the child's home;
 - (f) in the absence of a child's parent; and
 - (g) on an ongoing basis for four or more weeks in a year.
- (2) OL will not issue a license if care is only for related children or on a sporadic basis.
- (3) OL may license a provider to provide child care in a facility that is also licensed by OL if the part of the facility requesting a CCL license is physically separate from the other facility services.
- (4) An hourly child care center licensee shall comply with Rule R380-600.

R381-60-4. Fire and Other Health Inspections.

- (1) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, OL shall verify the applicant's compliance by ensuring:
 - (a) address numbers and letters are readable from the street;
 - (b) boiler, mechanical, and electrical panel rooms are not used for storage;
 - (c) exit doors are unlocked from the inside during business hours;
 - (d) exit doors operate properly and are well maintained;
 - (e) exits are clearly identified;
 - (f) there are no obstructions in exits, aisles, corridors, and stairways;
 - (g) there are working smoke detectors that are properly installed on each level of the building; and
 - (h) there is at least one unobstructed fire extinguisher on each level of the building, that is charged and serviced, and mounted not more than five feet above the floor.
- (2) If an applicant for a new license or a renewal serves food and the local health department states in writing that a kitchen inspection is not required, OL shall verify the applicant's compliance by ensuring:
 - (a) any chemical is stored away from food and food service items;
 - (b) any cook has a current food handler's permit that is available on-site for review by OL;
 - (c) any cook uses hair restraints and wears clean clothing;
 - (d) any reusable food holder, utensil, and food preparation surface is washed, rinsed, and sanitized before each use;
 - (e) food is properly stored, kept to the proper temperature, and in good condition;
 - (f) only necessary staff are present in the kitchen;
 - (g) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
 - (h) there is a working handwashing sink in the kitchen, and handwashing instructions posted by the sink;
 - (i) there is a working stem thermometer available to check cooking and hot-hold temperatures; and
 - (j) there is a working thermometer in the refrigerator.

R381-60-5. Immediate Closure.

- (1) In accordance with Rule R380-600, OL may order the immediate closure of a facility if conditions at the facility create a clear and present danger to any child in care.
- (2) Upon receipt of an immediate closure notice, the provider shall give OL the names and mailing addresses of each enrolled child's parent so OL may notify the parents of the immediate closure.
- (3) If there is a severe injury or death of a child in care, OL may order a child care provider to suspend services and prohibit new enrollments, pending a review by the Utah Child Fatality Review Committee or a determination of the probable cause of the injury or death by a medical professional.

R381-60-6. Administration and Children's Records.

- (1) The provider shall:
 - (a) be at least 21 years old;
 - (b) be considered eligible by an OBP background check before becoming involved with child care; and
 - (c) complete the new provider training offered by OL.
- (2) If the owner is not a sole proprietor, the business entity shall submit to OL the name and contact information of each individual who shall legally represent the business entity and who shall comply with Subsection R381-60-6(1).
- (3) The provider shall protect children from conduct that endangers any child in care or is contrary to the health, welfare, and safety of the public.
- (4) The provider shall know and comply with applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.
- (5) The provider shall comply with licensing rules any time a child in care is present.

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(6) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public.

(7) The provider shall post a current copy of OL's Parent Guide at the facility for parent review during business hours, or give a current copy to each parent.

(8) The provider shall inform each parent and OL of any changes to the program's telephone number and other contact information within 48 hours of the change.

(9) The provider shall:

(a) have liability insurance; or

(b) inform parents in writing that the provider does not have liability insurance.

(10) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.

(11) The provider shall ensure that each child's admission and health assessment form includes:

(a) the child's name;

(b) the child's date of birth;

(c) each parent's name, address, and phone number, including a daytime phone number.

(d) the name of any individual authorized by the parent to sign the child out from the facility; and

(e) the name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;

(f) any special health instructions for the caregiver;

(g) certification that immunizations for the child are current or an exemption for foster children and children who are homeless;

(12) The provider shall ensure that the admission and health assessment form is:

(a) signed by the parent; and

(b) kept on-site for review by OL; and

(13) The provider shall ensure that each child's information is confidential and not released without written parental permission except to OL.

R381-60-7. Personnel and Training Requirements.

(1) The provider shall ensure that each employee and volunteer is supervised, qualified, and trained to:

(a) meet the needs of each child; and

(b) comply with this rule.

(2) The provider shall ensure that the center has a qualified director.

(3) The provider shall ensure that the director:

(a) completes at least ten hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year;

(b) completes the new director training offered by OL within 60 working days of assuming director duties;

(c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL;

(d) is at least 21 years old;

(e) is considered eligible by an OBP background check before becoming involved with child care; and

(f) knows and follows any applicable law and this rule.

(4) The provider shall ensure that each new director has at least one of the following educational credentials:

(a) a currently valid national certification including:

(i) a Certified Childcare Professional issued by the National Child Care Association;

(ii) a Child Development Associate issued by the Council for Early Childhood Professional Recognition; or

(iii) other equivalent credential as approved by OL;

(b) a National Administrator Credential and at least 60 hours of course work in child development, social and emotional development, and the child care environment, or 60 hours of equivalent training as approved by OL;

(c) any bachelor's or higher education degree, with at least 60 hours of coursework in child development, social and emotional development, and the child care environment, or 60 hours of equivalent training as approved by OL;

(d) at least 12 college credit hours of child development courses; or

(e) at least an associate degree in early childhood development or related field.

(5) The provider shall ensure that there is a director designee with authority to act on behalf of the director in the director's absence.

(6) The provider shall ensure that the director designee:

(a) completes at least ten hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year;

(b) completes the director designee training offered by OL;

(c) has current first aid and cardio pulmonary resuscitation (CPR) certification in accordance with Subsections R381-100-7(20) and (21);

(d) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL before becoming involved with child care;

(e) is at least 18 years old;

(f) is considered eligible by an OBP background check before becoming involved with child care; and

(g) knows and follows any applicable law and this rule.

- (7) The provider shall ensure that the director or the director designee is present at the facility during business hours.
- (8) The provider shall have on-site for review by OL documentation of having employees who are on call and, when needed, can arrive at the facility within 20 minutes.
- (9) The provider shall ensure that each caregiver:
- (a) completes at least ten hours of child care training each year, based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year;
 - (b) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (c) is at least 16 years old;
 - (d) is considered eligible by an OBP background check before becoming involved with child care;
 - (e) is introduced to other program staff and to the caregiver's assigned group;
 - (f) knows and follows any applicable law and this rule; and
 - (g) reviews the information in each child's health assessment in the caregiver's assigned group, including any allergies, food sensitivities, and other individual needs.
- (10) The provider shall ensure that any other staff, including any driver, cook, and clerk:
- (a) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (b) knows and follows any applicable law and this rule;
 - (c) is considered eligible by an OBP background check before becoming involved with child care.
- (11) The provider shall ensure that each volunteer is considered eligible by an OBP background check before becoming involved with child care.
- (12) The provider shall ensure that each guest or student intern who is registered and participating in a high school or college child care course wears a guest nametag.
- (13) The provider shall ensure that each household member who is:
- (a) 12 to 17 years old is considered eligible by an OBP background check; and
 - (b) 18 years old or older is considered eligible by an OBP background check that includes fingerprints.
- (14) The provider shall ensure that an individual who provides an Individualized Educational Plan or Individualized Family Service plan services, including any physical, occupational, or speech therapist:
- (a) provides identification before having access to the facility or to a child at the facility; and
 - (b) has received the child's parent's permission for services to take place at the facility.
- (15) The provider shall ensure that any individual from law enforcement, Child Protective Services, the department, and any similar entity provides proper identification before having access to the facility or to a child at the facility.
- (16) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by OL that includes at least the following topics:
- (a) administration of medication;
 - (b) applicable laws and requirements under this rule;
 - (c) building and physical premises safety;
 - (d) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
 - (e) children whose special needs may include a disability;
 - (f) emergency preparedness, response, and recovery plan;
 - (g) pediatric first aid and CPR;
 - (h) precautions in transporting children;
 - (i) prevention and control of infectious diseases including immunizations;
 - (j) prevention of and response to emergencies due to food and allergy reactions;
 - (k) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;
 - (l) prevention of sudden infant death syndrome and the use of safe sleeping practices;
 - (m) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 - (n) recognizing the signs of homelessness and available assistance; and
 - (o) safe handling and disposal of hazardous materials and bio contaminants.
- (17) The provider shall ensure that annual child care training includes at least each topic listed in:
- (a) Sections R381-60-7 through R381-60-24; and
 - (b) Subsections R381-60-7(16)(a) through (o).
- (18) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by OL and includes the:
- (a) date of the training;
 - (b) name of the individual or organization that presented the training;
 - (c) total hours or minutes of the training; and
 - (d) training topic.
- (19) The provider shall ensure that at least one staff member with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when a child is in care:
- (a) at each offsite activity;
 - (b) at the facility; and
 - (c) in each vehicle transporting a child;.
- (20) The provider shall ensure that CPR certification includes hands-on testing.

(21) The provider shall ensure that the following records for each covered individual are on-site for review by OL:

- (a) the date of initial employment or association with the program;
- (b) a current pediatric first aid and CPR certification, if required in this rule; and
- (c) a six-week record of the times worked each day.

R381-60-8. Background Checks.

(1) Before a new covered individual becomes involved with child care, the provider shall use the licensing provider portal search to verify that the individual is eligible and:

- (a) associate that individual with the provider's facility; or
- (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.

(2) Before a new covered individual who does not appear in the licensing provider portal search becomes involved with child care in the program, the provider must require the individual to submit an online background check application and fingerprints for any individual age 16 years old and older, except for individuals 12-17 years old who are only listed as household members, and:

- (a) authorize the individual's background check through the licensing provider portal;
- (b) pay any required fees; and
- (c) only allow the individual to be involved with child care if they have an eligible OBP background check determination.

(3) To keep a covered individual's background check eligibility current, the provider shall require a covered individual to submit a new background check application, fingerprints, and fees if the covered individual has:

- (a) not been associated with an active, CCL approved child care facility within the past 180 days;
- (b) resided outside of Utah since their last background check was completed; or
- (c) turned 18 years old and has not previously submitted fingerprints for an OBP background check, except when the 18-year-old has previously submitted fingerprints for an OBP background check, then only a new background check application will be required.

(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall ensure that an online background check application is submitted, and:

- (a) authorize the child's background check through the licensing provider portal; and
 - (b) pay any required fee.
- (5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.

(6) If a covered individual submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows OBP's fingerprinting requirements.

(7) OBP may consider a covered individual not eligible for any of the following reasons:

- (a) any felony conviction;
 - (b) any of the reasons listed under Subsection R381-60-8(8);
 - (c) LIS supported findings that occurred no more than 15 years from the date the application was submitted;
 - (d) the covered individual knowingly making a false statement related to their background check;
 - (e) the covered individual refusing to consent to the criminal background check; or
 - (f) the covered individual's name appearing on the Utah or national sex offender registry.
- (8) OBP may also consider a covered individual not eligible for any of the following criminal findings, regardless of severity:

- (a) child pornography;
- (b) driving under the influence while a child is present in the vehicle;
- (c) pornographic material or performance;
- (d) providing dangerous weapons or firearms to a minor;
- (e) sexual enticing of a minor;
- (f) sexual exploitation;
- (g) voyeurism; or
- (h) any crime against an individual.

(9) OBP shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before OBP conducted the background check.

(10) If the provider is not eligible by OBP, OL may suspend or deny their license until the reason for the background check finding is resolved.

(11) If a covered individual is considered not eligible by OBP, including if the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.

(12) If OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), the covered individual may appeal the information to DPS.

(13) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including license revocation.

(14) The executive director or designee of the department may overturn an OBP background check decision if the executive director or designee determines that the nature of the background finding or mitigating circumstances do not pose a risk to a child.

R381-60-9. Facility.

(1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's or employee's own child.

(2) The provider may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:

(a) by children;

(b) for the care of children; or

(c) to store materials for children.

(3) When measuring indoor space for children's use, the provider may not include any:

(a) bathroom;

(b) closet and staff locker;

(c) hallway;

(d) kitchen;

(e) lobby and entryway; and

(f) staff office.

(4) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license.

(5)(a) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint undergoes a test for lead.

(b) If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.

(6) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation, or by windows that open and have screens.

(7) The provider shall ensure that each room and area has adequate light intensity for the safety of the children and the type of activity the provider is conducting.

(8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(9) The provider shall ensure that there is a working telephone:

(a) at the facility;

(b) during any offsite activity; and

(c) in each vehicle while transporting a child.

(10) The provider shall ensure that there is at least one working handwashing sink used exclusively for handwashing that is accessible to any child.

(11) The provider shall ensure that there is at least one working toilet and one working sink for each group of one to 25 children in the center who are two years old and older.

(12) The provider shall ensure that there is a bathroom that provides privacy available for use by any school-age child.

(13) If there is an outdoor area used by a child in care, the provider shall ensure that the area:

(a) has a fence, wall or solid natural barrier that is at least four feet high encloses the outdoor area;

(b) has at least 40 square feet of space for each child using the area at one time;

(c) has no gaps five by five inches or greater in or under any fence or barrier; and

(d) is safely accessible to any child.

(14) The provider shall ensure that when outdoors:

(a) each child is in an enclosed area, except during offsite activities; and

(b) there is shade available to protect each child from excessive sun and heat.

(15) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:

(a) maintain the pool in a safe manner;

(b) meet applicable state and local laws and ordinances related to the operation of a swimming pool; and

(c) when not in use:

(i) cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions or

(ii) enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.

(16) The provider shall maintain any building and outdoor area in good repair and safe condition, including any:

(a) ceiling, wall, and floor covering;

(b) drape, blind, and other window covering;

(c) entrance, exit, step, and walkway, including keeping them free of ice, snow, and other hazards; and

(d) furniture, toy, and material accessible to a child;

(e) indoor and outdoor equipment; and

(f) lighting, bathroom, and other fixture.

(17) The provider shall ensure that a protective barrier of at least three feet or higher exists for:

(a) any accessible raised deck or balcony that is five feet or higher; and

(b) any open stairwell that is five feet or deeper.

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(18) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, OL may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:

- (a) there is a separate entrance for the child care program;
- (b) there are no connecting interior doorways that can be used by unauthorized individuals; and
- (c) there is no shared access to the outdoor area used for child care.

R381-60-10. Ratios and Group Size.

(1) As listed in Table 1 for any group of children, the provider shall:

- (a) maintain at least the number of required caregivers;
- (b) not exceed the maximum group sizes; and
- (c) not exceed the number of children in the caregiver-to-child ratio.

TABLE 1 Caregiver-to-Child Ratios		
Number of Caregivers	Number of Children	Limits for Mixed Ages
<u>1</u>	<u>4 per group</u>	<u>No more than 4 children younger than 2 years old</u>
<u>1</u>	<u>12 per group</u>	<u>No children younger than 2 years old</u>
<u>1</u>	<u>8 per group</u>	<u>2 children younger than 2 years old</u>
<u>1</u>	<u>6 in the facility</u>	<u>3 children younger than 2 years old</u>
<u>2</u>	<u>24 per group</u>	<u>No children younger than 2 years old</u>
<u>2</u>	<u>16 per group</u>	<u>4 Children younger than 2 years old</u>

(2) The provider shall ensure that there are at least two caregivers with a mixed-age group if:

- (a) the group has more than six children total;
- (b) there are more than six children in the facility; and
- (c) there are more than two infants or toddlers included in the mixed-age group.

(3) When caring for children younger than two years old, the provider shall ensure that:

- (a) children are cared for in an area that is physically separated from older children;
- (b) there are no more than four children with one caregiver.

(4) If there is only one caregiver in the facility and no children younger than two years old are present, the provider can be temporarily out of ratio if:

- (a) a second caregiver arrives within 20 minutes from when the 13th child arrived; and
- (b) the total number of children present does not exceed 16.

(5) The provider shall include the provider's and employees' children age four years old or older in care:

- (a) in the group size and the caregiver-to-child ratio when the parent of the child is not working at the facility; and
- (b) in the group size when the parent of the child is working at the facility.

(6) The provider may include each caregiver, student intern who is registered in a high school or college child care course, and volunteer who is 16 or 17 years old in the caregiver-to-child ratio.

(7) The provider shall ensure that a guest does not count in a caregiver-to-child ratio.

R381-60-11. Child Supervision and Security.

(1) The provider shall ensure that each caregiver provides and maintains active supervision of each child, including:

- (a) for children younger than five years old, remaining physically present in the room or area with the children; and
- (b) for school-age children:
 - (i) being able to hear the children;
 - (ii) being close enough to intervene if needed;
 - (iii) focusing attention on the children and not on caregivers' personal interests;
 - (iv) interacting in-person with the children at least every 15 minutes;
 - (v) knowing the number of children in their care at any time;
 - (vi) positioning themselves so each child in their assigned group is actively supervised; and
 - (vii) remaining aware of the entire group of children even when interacting with a smaller group or an individual child.

(2) The provider shall ensure a 16 or 17 year old staff or household member may only have unsupervised contact with a child in care, including during offsite activities and transportation, if:

- (a) the director or the director designee is physically present and available as needed;
- (b) the staff or household member is left unsupervised for no more than two consecutive hours per group; and
- (c) the staff or household member is not a volunteer.

(3) The provider may not assign a staff member, volunteer, or household member who is younger than 16 years old to care for or supervise any child in care.

(4) The provider shall ensure that any guest or student intern who is registered and participating in a high school or college child care course does not have unsupervised contact with any child in care, including during any offsite activity and transportation.

(5) The provider shall ensure that any parent of a child in care does not have unsupervised contact with any child in care, except with their own child.

- (6) The provider shall ensure that when video cameras or mirrors are used to supervise napping children:
 - (a) the napping room is adjacent to a non-napping room;
 - (b) the staff member moves children who wake up to the non-napping room;
 - (c) there is a camera or mirror positioned so that the staff member can see and hear the child;
 - (d) there is a staff member in the non-napping room; and
 - (e) there is an open door without a barrier, including a gate, between the napping room and the non-napping room.
- (7) The provider shall ensure that a blanket or other item is not placed over sleeping equipment in a way that prevents the caregiver from seeing the sleeping child.
- (8) The provider shall ensure that a parent has access to their child and the areas used to care for their child when their child is in care.
 - (9) To maintain security and supervision of children, the provider shall ensure that:
 - (a) any individual signing a child in and out uses an identifier, including a signature, initials, or electronic code;
 - (b) each child is signed in and out in accordance with this section;
 - (c) only a child's parent or an individual with written authorization from the parent may sign-out a child;
 - (d) photo identification is required if the individual signing the child out is unknown to the provider;
 - (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
 - (f) there is written permission from the child's parent if school-age children sign themselves in or out.
 - (10) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
 - (a) the person giving verbal authorization; and
 - (b) the person picking up the child.
- (11) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is kept on-site for review by OL.

R381-60-12. Child Guidance and Interaction.

- (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.
- (2) The provider shall inform each child, each parent, and anyone who interacts with any child in care of the center's behavioral expectations and how any misbehavior will be handled.
- (3) The provider shall ensure that any individual who interacts with a child guides the child's behavior by using positive reinforcement, redirection, and by setting clear limits that promote the child's ability to become self-disciplined.
- (4) The provider shall ensure that each caregiver uses gentle, passive restraint with a child only when it is needed to protect a child from injuring themselves or others, or to stop a child from destroying property.
- (5) The provider shall ensure that each interaction with a child does not include:
 - (a) any action that produces physical pain or discomfort including hitting, spanking, shaking, biting, or pinching;
 - (b) any form of corporal punishment;
 - (c) any form of emotional mistreatment;
 - (d) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage;
 - (e) forcing or withholding food, rest, or toileting;
 - (f) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint; or
 - (g) shouting at children.
- (6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Section 80-2-602.

R381-60-13. Child Safety and Injury Prevention.

- (1) The provider shall ensure that any child and staff use each building, outdoor area, toy, and any equipment safely and as intended by the manufacturer to prevent injury to children.
- (2) The provider shall ensure that any poisonous or harmful plant is inaccessible to children.
- (3) The provider shall ensure that any sharp object, edge, corner, or point that could cut or puncture skin is inaccessible to children.
- (4) The provider shall ensure that any choking hazard is inaccessible to any child younger than three years old.
- (5) The provider shall ensure that any strangulation hazard, including any rope, cord, chain, and wire attached to a structure and long enough to encircle a child's neck is inaccessible to children.
- (6) The provider shall ensure that any tripping hazard including unsecured flooring, any rug with a curled edge, or cord in a walkway is inaccessible to children.
- (7) The provider shall ensure that any empty plastic bag large enough for a child's head to fit inside, any latex glove, or balloon is inaccessible to any child younger than five years old.
- (8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.
- (9) The provider shall ensure that any toxic or hazardous chemical, including any cleaner, insecticide, lawn product, and flammable, corrosive, and reactive material is:
 - (a) disposed of properly;
 - (b) inaccessible to any child;
 - (c) stored in a container labeled with the contents of the container; and

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- (d) used according to manufacturer instructions.
- (10) The provider shall ensure that the following items are inaccessible to children:
 - (a) cigarette lighters;
 - (b) hot wax or other hot substances;
 - (c) matches;
 - (d) open flames; and
 - (e) when in use, portable space heaters, wood burning stoves, and fireplaces.
- (11) The provider shall ensure that the following items are inaccessible to a child:
 - (a) any live electrical wire; and
 - (b) for a child younger than five years old, any electrical outlet and surge protector without a protective cap or safety device when not in use.
- (12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that any firearm, including a gun, muzzleloader, rifle, shotgun, handgun, pistol, and automatic gun, is:
 - (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and
 - (b) stored unloaded and separate from ammunition.
- (13) The provider shall ensure that any weapon, including a paintball gun, BB gun, airsoft gun, sling shot, arrow, and mace, is inaccessible to children.
- (14) The provider shall ensure that any alcohol, illegal substance, or sexually explicit material is inaccessible and not used on the premises, during any offsite activity, or in any center vehicle any time a child is in care.
- (15) The provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees Fahrenheit or higher.
- (16) The provider shall ensure that each area accessible to a child is free of any heavy or unstable object that a child could pull down on themselves, including any furniture, unsecured television, and standing ladder.
- (17) The provider shall ensure that hot water accessible to a child does not exceed 120 degrees Fahrenheit.
- (18) The provider shall ensure that highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.
- (19) The provider shall ensure that infant walkers with wheels are inaccessible to children.
- (20) The provider shall ensure that any tobacco, e-cigarette, e-juice, e-liquid, or similar product is inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, is not used:
 - (a) in a facility or any other building when a child is in care;
 - (b) in any vehicle that is being used to transport a child in care;
 - (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care;
 - (c) within 25 feet of any entrance to a facility or other building occupied by a child in care.

R381-60-14. Emergency Preparedness, Response, and Recovery.

- (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:
 - (a) includes a procedure for:
 - (i) accommodating a child with a disability;
 - (ii) accommodating a child with a chronic medical condition;
 - (iii) accommodating any infant and toddler;
 - (iv) communication with and reunification of families;
 - (v) continuity of operations;
 - (vi) evacuation;
 - (vii) lockdown;
 - (viii) relocation; and
 - (ix) shelter in place.
 - (b) includes instructions to follow if there is an allergy, serious reaction to food, or any other trigger that may affect a child's health;
 - (c) is available for review by any parent, staff member, and OL during business hours; and
 - (d) is followed if an emergency happens, unless otherwise instructed by emergency personnel.
- (2) The provider shall post the center's street address and any emergency numbers, including at least fire, police, and poison control, near each telephone in the center or in an area clearly visible to anyone needing the information.
- (3) The provider shall keep first aid supplies in the center, including at least antiseptic, bandages, and tweezers.
- (4) The provider shall conduct a fire evacuation drill monthly and ensure each drill includes a complete exit of each child, staff member, and volunteer from the building.
- (5) The provider shall document each fire drill, including:
 - (a) any problems encountered and remediation;
 - (b) the date and time of the drill;
 - (c) the name of the individual supervising the drill;
 - (d) the number of children participating; and
 - (e) the total time to complete the evacuation.
- (6) The provider shall conduct a drill for disasters, other than fires, at least once every six months.

- (7) The provider shall document each disaster drill, including:
 - (a) any problems encountered and remediation;
 - (b) the date and time of the drill;
 - (c) the name of the individual supervising the drill;
 - (d) the number of children participating; and
 - (e) the type of disaster, including earthquake, flood, prolonged power or water outage, or tornado;
- (8) The provider shall vary the days and times when fire and other disaster drills are held.
- (9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by OL.
- (10) The provider shall:
 - (a) give each parent a written report on the day of occurrence of each incident, accident, or injury involving their child;
 - (b) ensure the report has the signatures of the caregivers involved, the center director or director designee, and the individual picking up the child; and
 - (c) if a school-age child signs themselves out of the center, send a copy of the report to the parent on the day following the occurrence.
- (11) If a child is injured and the injury appears serious but not life-threatening, the provider shall contact the child's parent immediately.
- (12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:
 - (a) call emergency personnel immediately;
 - (b) contact the parent after emergency personnel are called; and
 - (c) if the parent cannot be reached, try to contact the child's emergency contact individual.
- (13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall submit a completed critical incident report to the OL within the next business day of the incident.
- (14) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by OL.
- (15) The provider shall ensure compliance with incident reporting in accordance with Subsection R380-600-7(16).

R381-60-15. Health and Infection Control.

- (1) The provider shall maintain the building, furnishings, equipment, and outdoor area clean and sanitary, including keeping:
 - (a) any frequently touched surface, including each doorknob and light switch, clean and sanitized;
 - (b) each area and any equipment used for the storage, preparation, and service of food clean and sanitized;
 - (c) each surface free of rotting food or a build-up of food;
 - (d) each wall and floor clean and free of spills, dirt, and grime;
 - (e) the building and grounds free of a build-up of litter and garbage; and
 - (f) the building and grounds free of animal feces.
- (2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.
- (3) The provider shall clean and sanitize any toy and material used by a child:
 - (a) after being contaminated by a body fluid;
 - (b) after being put in a child's mouth and before another child plays with the toy; and
 - (c) at least once a week or more often if needed.
- (4) The provider shall ensure that any fabric toy and item, including any stuffed animal, cloth doll, pillow cover, and dress-up clothing, is machine washable and if used, washed at least each week or as needed.
- (5) The provider shall clean and sanitize each highchair tray before each use.
- (6) The provider shall clean and sanitize each water play table or tub daily if used by a child.
- (7) The provider shall clean and sanitize each bathroom surface, including each toilet, sink, faucet, toilet and sink handle, and counter each business day.
- (8) The provider shall clean and sanitize each potty chair after each use.
- (9) The provider shall ensure that toilet paper is accessible and kept in a dispenser that is accessible to each child.
- (10) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that each staff follow the procedures.
- (11) The provider shall ensure that each staff member and volunteer washes their hands thoroughly with liquid soap and running water:
 - (a) after cleaning up or taking out garbage;
 - (b) after contact with a body fluid;
 - (c) after using the toilet or helping a child use the toilet;
 - (d) before and after eating meals and snacks or feeding a child;
 - (e) before handling or preparing food or bottles;
 - (f) upon arrival; and
 - (g) when coming in from outdoors.
- (12) The provider shall ensure that each caregiver teaches each child how to wash the child's hands thoroughly and that the caregiver oversees handwashing when possible.
- (13) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water:
 - (a) after contact with a body fluid;
 - (b) after using the toilet;

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- (c) before and after eating meals and snacks;
- (d) before using a water play table or tub;
- (e) upon arrival; and
- (f) when coming in from outdoors.
- (14) The provider shall ensure that only single-use towels from a covered dispenser or an electric hand dryer is used to dry hands.
- (15) The provider shall ensure that any personal hygiene items, including a toothbrush, comb, and hair accessory, are not shared and are stored so they do not touch each other or they are sanitized between each use.
- (16) The provider shall ensure that any pacifier, bottle, and nondisposable drinking cup is:
 - (a) labeled with each child's name or individually identified; and
 - (b) not shared, or washed and sanitized before being used by another child.
- (17) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.
- (18) The provider shall ensure that a child's clothing that is wet or soiled from a body fluid is:
 - (a) not rinsed or washed at the center;
 - (b) placed in a leakproof container that is labeled with the child's name; and
 - (c) returned to the parent or thrown away with parental consent.
- (19) The provider shall ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids shall:
 - (a) clean the surface using a detergent solution;
 - (b) rinse the surface with clean water;
 - (c) sanitize the surface;
 - (d) throw away, in a leakproof plastic bag, any disposable material, including paper towels, that were used to clean up the body fluid;
 - (e) wash and sanitize any non-disposable material used to clean up the body fluid, including any cleaning cloth, mop, or reusable rubber glove, before reusing it;
 - (f) wear waterproof gloves; and
 - (g) wash their hands after cleaning up the body fluid.
- (20) The provider may not care for a child who is ill with an infectious disease at the center except when the child shows signs of illness after arriving at the center.
 - (21) If a child becomes ill while in care:
 - (a) the provider shall contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact to immediately pick up the child; and
 - (b) if the child is ill with an infectious disease, the provider shall make the child comfortable in a safe, supervised area that is separated from any other child until the parent arrives.
 - (22) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the provider discovers the illness.
 - (23) If any staff member or child has an infectious disease or parasite, the provider shall post a notice at the center that:
 - (a) does not disclose any personal identifiable information;
 - (b) is posted and dated on the same day that the disease or parasite is discovered;
 - (c) is posted in a conspicuous place where it can be seen by parents; and
 - (d) remains posted for at least five business days.
 - (24) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that:
 - (a) a caregiver who cares for any diapered child only prepares food for the children in their care, and they do not:
 - (i) prepare food outside of the room used by any diapered child; or
 - (ii) prepare food for any other child and adult in the facility;
 - (b) an individual who prepares food in the kitchen does not change diapers or help in toileting any child; and
 - (c) an individual with an infectious disease, or showing symptoms including diarrhea, fever, coughing, or vomiting, does not prepare or serve foods.

R381-60-16. Food and Nutrition.

- (1) The provider shall ensure that each child two years old and older is offered a meal or snack at least once every three hours.
- (2) If the provider supplies food for children's meals or snacks, the provider shall ensure that the individual who serves food to children:
 - (a) ensures that a child is not served the food or drink they are allergic or sensitive to; and
 - (b) is aware of each child in their assigned group who has any food allergy or sensitivity.
- (3) The provider may not place a child's food on a bare table and shall serve a child's food on a dish, napkin, or sanitary highchair tray, except an individual finger food, including a cracker, that may be placed directly in a child's hand.
- (4) If a parent brings food and drink for their child's use, the provider shall ensure that the food and drink is:
 - (a) consumed only by that child;
 - (b) labeled with the child's name; and
 - (c) refrigerated if needed.

R381-60-17. Medications.

- (1) The provider shall lock any nonrefrigerated medication or store it at least 48 inches above the floor.

- (2) The provider shall lock any refrigerated medication or store it at least 36 inches above the floor and, if liquid, store it in a separate leakproof container.
- (3) If a parent supplies any over-the-counter or prescription medication, the provider shall ensure that medication:
- (a) is labeled with the child's full name;
 - (b) is stored in the original or pharmacy container; and
 - (c) has the original label.
- (4) The provider shall obtain a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.
- (5) The provider shall ensure that the medication permission form includes at least:
- (a) a parent signature and the date signed;
 - (b) any written instructions for administration;
 - (c) the name of the child; and
 - (d) the name of the medication.
- (6) The provider shall ensure that instructions for administering the medication include at least:
- (a) how the medication will be given;
 - (b) the disease or condition being treated;
 - (c) the dosage; and
 - (d) the times and dates to administer the medication.
- (7) If the provider supplies an over-the-counter medication for a child's use, the provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:
- (a) written; or
 - (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.
- (8) The provider shall ensure that the staff administering the medication:
- (a) checks the medication label to confirm the child's name if the parent supplied the medication;
 - (b) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer;
 - (c) washes their hands; and
 - (d) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records:
- (a) any error in administering the medication or adverse reactions;
 - (b) the date, time, and dosage of the medication given; and
 - (c) their signature or initials.
- (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.
- (11) The provider shall notify the parent before the scheduled medication dosage to a child if the provider chooses not to administer medication as instructed by the parent.
- (12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by OL.

R381-60-18. Activities.

- (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- (2) If an approved outdoor area is available, the provider shall ensure that daily activities include outdoor play as weather and air quality allow.
- (3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours that children spend in the program.
- (4) The provider shall ensure that any toy, material, and equipment needed to support a child's healthy development is available to each child.
- (5) Except for occasional special events, the provider shall ensure that each child's primary screen time activity on media, including any television, cell phone, tablet, and computer, is:
- (a) not allowed for a child zero to 17 months old;
 - (b) limited for a child 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and
 - (c) planned to address the needs of a child five to 12 years old.
- (6) If the provider offers swimming activities or if a wading pool is used, the provider shall ensure that:
- (a) a caregiver stays at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;
 - (b) any diapered child wears a swim diaper when the child is in the pool;
 - (c) each wading pool is emptied and sanitized after use by each group of children;
 - (d) if the pool is over four feet deep, there is a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool;
 - (e) lifeguards and pool personnel do not count toward the caregiver-to-child ratio; and
 - (f) the parent gives permission before their child in care uses the pool.

NOTICES OF PROPOSED RULES

- (7) If the provider offers offsite activities, the provider shall ensure that:
 - (a) a child's name is not used on a nametag, t-shirt, or in any other visible way;
 - (b) each child wears or carries with them the name and phone number of the center;
 - (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (d) the child's parent gives written consent before each activity;
 - (e) the required staff-to-child ratio and supervision are maintained during the entire activity; and
 - (f) there is a way for each child and caregiver to wash their hands with soap and water, or, if there is no source of running water, with a wet wipe or hand sanitizer.
- (8) The provider shall ensure that a caregiver with the children takes the written emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:
 - (a) the child's name;
 - (b) the parent's name and phone number;
 - (c) the name and phone number of a person to notify if there is an emergency and the parent cannot be contacted;
 - (d) the name of any person authorized by the parent to pick up the child; and
 - (e) current emergency medical treatment and emergency medical transportation releases.

R381-60-19. Play Equipment.

- (1) The provider shall ensure that each child using play equipment use it safely and as intended by the manufacturer.
- (2) The provider shall ensure that the highest designated play surface on any stationary play equipment used by infants or toddlers does not exceed three feet in height.
- (3) The provider shall ensure that any swings used by an infants or toddler has an enclosed seat.
- (4) The provider shall ensure that any stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment and that, with the exception of a swing, stationary play equipment that is:
 - (a) used by an infant or toddler has at least a three-foot use zone if any designated play surface is higher than 18 inches;
 - (b) used by a preschooler has at least a six-foot use zone if any designated play surface is higher than 20 inches; and
 - (c) used by a school-age child has at least a six-foot use zone if any designated play surface is higher than 30 inches.
- (5) The provider shall ensure that the use zone in the front and rear of a single-axis, enclosed swing extends at least twice the distance of the swing pivot point to the swing seat.
- (6) The provider shall ensure that the use zone in the front and rear of a single-axis swing extends at least twice the distance of the swing pivot point to the ground.
- (7) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends:
 - (a) at least the measurement of the suspending rope or chain plus three feet, if the swing is used by infants or toddlers; or
 - (b) at least the measurement of the suspending rope or chain plus six feet, if the swing is used by preschoolers or school-age children.
- (8) The provider shall ensure that the use zone for a merry-go-round extends at least six feet in any direction from its outermost edge.
- (9) The provider shall ensure that the use zone for a spring rocker extends:
 - (a) at least three feet from the outermost edge of the rocker when at rest; or
 - (b) at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches, and the rocker is used by preschoolers or school-age children.
- (10) The provider shall ensure that each use zone does not overlap with the use zone of any other piece of play equipment when the use zone is:
 - (a) in front of a slide;
 - (b) in the front and rear of any single-axis swing, including a single-axis enclosed swing;
 - (c) that of a multi-axis swing; and
 - (d) that of a merry-go-round, if the platform diameter measures 20 inches or more.
- (11) Unless prohibited in Subsection R381-60-19(10), the provider shall ensure that the use zones of play equipment only overlap when:
 - (a) the equipment is used by an infant or toddler, and there is at least three feet between each piece of equipment; or
 - (b) the equipment is used by a preschooler or school-age child and there is at least six feet between each piece of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between each piece of equipment if the designated play surface is higher than 30 inches.
- (12) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, and the bare floor.
- (13) The provider shall ensure that protective cushioning covers the entire surface of each required use zone and that its depth or thickness is determined by the highest designated play surface of the equipment.
- (14) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall ensure that:
 - (a) the depth of the material meets the guidelines in Table 2,
 - (b) the cushioning is periodically checked for compaction and if compacted, loosened to the depth listed in Table 2; and
 - (c) if the material cannot be loosened to the depth listed in Table 2 due to extreme weather conditions, a child may not play on the equipment until the material can be loosened to the required depth.

TABLE 2 Depths of Protective Cushioning Required for Sand, Gravel, and Shredded Tires and Rubber Products					
Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires and Rubber Products
Up to 5' high	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' up to 9'	9"	Not allowed	9"	Not allowed	6"
Over 9' up to 10'	Not allowed	Not allowed	9"	Not allowed	6"
Over 10' up to 12'	Not allowed	Not allowed	Not allowed	Not allowed	6"

(15) If the provider uses shredded wood products as protective cushioning, the provider shall:

- (a) ensure the depth of the shredded wood meets the guidelines in Table 3;
- (b) ensure there is adequate drainage under the material; and
- (c) keep on-site for review by OL documentation from the manufacturer that the wood product is protective cushioning.

TABLE 3 Depths of Protective Cushioning Required for Shredded Wood Products			
Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood Fibers	Wood Chips	Double Shredded Bark Mulch
Up to 6' high	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 11'	9"	9"	9"
Over 11'	9"	Not allowed	Not allowed

(16) If the provider uses a unitary cushioning, the provider shall keep on-site for review by OL documentation from the manufacturer specifying that the material is playground cushioning.

(17) If the provider uses a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot be:

- (a) displaced when a child jumps, runs, walks, lands, or moves on it; or
- (b) moved or picked up by a child.

(18) The provider shall ensure that a play equipment platform that is more than:

- (a) 18 inches above the floor or ground and used by an infant or toddler has a protective barrier that is at least 24 inches high;
- (b) 30 inches above the floor or ground and used by a preschooler has a protective barrier that is at least 29 inches high; and
- (c) 48 inches above the floor or ground and used by a school-age child has a protective barrier that is at least 38 inches high.

(19) The provider shall ensure that there is no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.

(20) The provider shall ensure that stationary play equipment is stable or securely anchored.

(21) The provider shall ensure that there is no trampoline on the premises that is accessible to any child in care.

(22) The provider shall ensure that there is no entrapment hazard on or within the use zone of any piece of stationary play equipment.

(23) The provider shall ensure that there is no strangulation hazard on or within the use zone of any piece of stationary play equipment.

(24) The provider shall ensure that there is no crush, shearing, or sharp edge hazard on or within the use zone of any piece of stationary play equipment.

(25) The provider shall ensure that there is no tripping hazard including any concrete footing, tree stump, tree root, or rock within the use zone of any piece of stationary play equipment.

R381-60-20. Transportation.

(1) For each child that the provider transports, the provider shall obtain a transportation permission form that is:

- (a) signed by a parent; and
- (b) on-site for review by OL.

(2) The provider shall ensure that each vehicle used for transporting children:

- (a) is enclosed with a roof or top;
- (b) is equipped with safety restraints;
- (c) has a current vehicle registration;
- (d) is maintained in a safe and clean condition; and
- (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.

(3) The provider shall ensure that the safety restraints in each vehicle that transports children are:

- (a) appropriate for the age and size of each child who is transported, as required by law;
- (b) properly installed; and
- (c) in safe condition and working order.

NOTICES OF PROPOSED RULES

- (4) The provider shall ensure that the driver of each vehicle who is transporting children:
 - (a) is at least 18 years old;
 - (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;
 - (c) has with them the emergency contact information for each child being transported;
 - (d) ensures that each child being transported is in an individual safety restraint as required by law;
 - (e) ensures that the inside vehicle temperature is between 60 and 85 degrees Fahrenheit;
 - (f) ensures that each child stay seated while the vehicle is moving;
 - (g) ensures that the vehicle is locked during transport;
 - (h) never leaves a child in the vehicle unattended by an adult; and
 - (i) never leaves the keys in the ignition when not in the driver's seat.
- (5) If the provider walks or uses public transportation to transport a child to or from a facility, the provider shall ensure that:
 - (a) each child being transported has a completed transportation permission form signed by their parent;
 - (b) a caregiver goes with and actively supervises each child;
 - (c) a caregiver transporting a child has emergency contact information and a release for each child being transported; and
 - (d) the caregiver-to-child ratio is maintained.
- (6) The provider shall:
 - (a) have transport liability insurance; or
 - (b) inform parents in writing that the provider does not have transport liability insurance.

R381-60-21. Animals.

- (1) The provider shall inform each parent of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is no animal on the premises that:
 - (a) has a history of biting even one individual;
 - (b) has a history of dangerous, attacking, or aggressive behavior; or
 - (c) is naturally aggressive.
- (3) The provider shall ensure that any animal at the facility is clean and free of any obvious disease or health problem that could adversely affect a child.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) The provider shall ensure that no child younger than five years old assists with the cleaning of any animal or animal cage, pen, or equipment.
- (6) If a school-age child helps in the cleaning of animals or animal equipment, the provider shall ensure that the child washes their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that each child and staff wash their hands immediately after playing with or touching any reptile or amphibian.
- (8) The provider shall ensure that any dog, cat, or ferret that the facility houses have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by OL.

R381-60-22. Rest and Sleep.

- (1) The provider shall use a separate crib, cot, mat, or other sleeping equipment for each child during nap times.
- (2) The provider shall ensure that each crib:
 - (a) has a tight-fitting mattress;
 - (b) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;
 - (c) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date;
 - (d) has slats spaced no more than 2-3/8 inches apart; and
 - (e) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child.
- (3) When in use, the provider shall place sleeping equipment, including a crib, cot, and mat, at least two feet apart.
- (4) The provider shall ensure that sleeping equipment does not block any exit.
- (5) The provider must clean and sanitize sleeping equipment before each use.

R381-60-23. Diapering.

- (1) This section applies only to a provider that accepts children who wear diapers.
- (2) The provider shall post diapering procedures at each diapering station and ensure that each staff member follows the procedures.
- (3) The provider shall ensure that each child's diaper is:
 - (a) checked as soon as a sleeping child awakens;
 - (b) checked at least once every two hours; and
 - (c) promptly changed when wet or soiled.
- (4) The provider shall ensure that a caregiver changes each child's diaper at a diapering station and not on a surface used for any other purpose.
- (5) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (6) The provider shall ensure that each diapering station is equipped with railings to prevent a child from falling when being diapered.

- (7) The provider shall ensure that a caregiver does not leave any child unattended on the diapering surface.
- (8) The provider shall ensure that a caregiver cleans and sanitizes the diapering surface after each diaper change or uses a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (9) The provider shall ensure that a caregiver washes their hands after each diaper change.
- (10) The provider shall ensure that a caregiver places any wet and soiled disposable diaper:
 - (a) in a container that has a disposable plastic lining and a tight-fitting lid;
 - (b) directly in an outdoor garbage container that has a tight-fitting lid; or
 - (c) in a container that is inaccessible to children.
- (11) The provider shall ensure that each indoor container where any wet and soiled diaper is placed is cleaned and sanitized each day.
- (12) If cloth diapers are used, the provider shall:
 - (a) not rinse cloth diapers at the facility; and
 - (b)(i) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or
 - (ii) place the cloth diapers in a leakproof diapering service container.

R381-60-24. Infant and Toddler Care.

- (1) This section only applies to a provider that accepts an infant or toddler.
- (2) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 15 minutes.
- (3) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults, including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.
- (4) The provider shall ensure that a caregiver responds promptly to an infant and toddler who is in emotional distress due to any conditions including:
 - (a) a wet or soiled diaper;
 - (b) fatigue;
 - (c) fear;
 - (d) hunger;
 - (e) illness; or
 - (f) teething.
- (5) To stimulate healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.
- (6) The provider shall ensure that each mobile infant and toddler has freedom of movement in a safe area.
- (7) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.
- (8) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.
- (9) The provider shall make any object made of styrofoam inaccessible to any infant and toddler.
- (10) The provider shall allow each infant and toddler to eat and sleep on their own schedule.
- (11) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual child's use is:
 - (a) labeled with the child's name;
 - (b) labeled with the date and time of preparation or opening of the container, including a jar of baby food;
 - (c) kept refrigerated if needed; and
 - (d) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.
- (12) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each infant during bottle feeding and that a bottle is not propped.
- (13) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to a child.
- (14) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.
- (15) The provider shall ensure that a caregiver cuts solid food for:
 - (a) an infant into pieces no larger than 1/4 inch in diameter; and
 - (b) a toddler into pieces no larger than 1/2 inch in diameter.
- (16) The provider shall ensure that each infant sleeps in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that an infant is not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.
- (17) The provider shall place an infant on their back for sleeping unless there is documentation from a health care provider requiring a different sleep position.
- (18) The provider may not place any soft toy, loose blanket, or other object in sleep equipment while in use by a sleeping infant.

R381-60-25. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: child care, child care facilities, hourly child care centers

Date of Last Change: ~~2024~~November 9, 2023]

Notice of Continuation: April 14, 2020
 Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	R381-70	Filing ID: 56885

Agency Information

1. Title catchline:	Health and Human Services, Child Care Center Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
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:
R381-70. Out-of-School-Time Child Care Programs
3. Purpose of the new rule or reason for the change:
The reason for this proposed repeal and reenact is to consolidate extensive nonsubstantive edits made to comply with the Rulewriting Manual for Utah. Substantive changes remove redundant or outdated content that is now addressed in Rule R380-600 and reflect the new statute governing Division of Licensing and Background Checks (DLBC) enforcement and penalties in accordance with SB229 from the 2024 General Session. The Child Care Licensing Committee has reviewed and approved the changes made in this repeal and reenact filing.
4. Summary of the new rule or change:
Section R381-70-22 is added to reflect the new statute governing DLBC enforcement and penalties in accordance with SB229 from the 2024 General Session. Content was removed, changed, or updated to reflect Rule R380-600 and DLBC processes. An immunization record requirement is added to Section R381-70-6 to capture any children's immunization records not collected or maintained by the schools or other organization. Additionally, this filing makes style and formatting changes to comply with the Rulewriting Manual for Utah. The Child Care Licensing Committee has reviewed and approved the changes made in this repeal and reenact.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This filing is not anticipated to have a fiscal impact to the budget of DLBC, as it updates citations and removes outdated and redundant content. There is no anticipated fiscal impact as this filing removes previous requirements that are now reflected in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations. The Office of Licensing (OL) reviews providers for compliance with rules and there is no anticipated cost or savings to reviewing immunization records for children who do not already have those records reported by schools or other organizations.
B) Local governments:
This filing is not anticipated to have a fiscal impact to local governments, as it updates citations and removes outdated and redundant content. There is no anticipated fiscal impact as this filing removes previous requirements that are now reflected in

Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations. Local governments do not have any involvement in the enforcement or immunization requirements of OL.

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

This filing only impacts small businesses, as out-of-school-time programs never serve more than ten children at a time. This filing is not anticipated to have a fiscal impact to the budget of small business child care providers, as it updates citations and removes outdated and redundant content. There is no anticipated fiscal impact as this filing removes previous requirements that are now reflected in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations. Schools are already required to collect the immunization data for each student, and OL will accept that information as compliance with the rule requirement. If a student is not enrolled in a school, the small business will be required to collect a current immunization record at intake. If a child is homeless or in foster care, the small business will have 90-days from admission to collect the immunization record. It is unknown how many school-age children do not have immunization records maintained by the schools, and the fiscal impact of collecting the records is inestimable due to the variable nature of why there are no records and how each parent or guardian chooses to proceed.

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

This filing is not anticipated to have a fiscal impact to the budget of non-small businesses because this rule does not apply to out-of-school-time programs that serve more than 10 children at a time or employ more than 50 employees.

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 filing is not anticipated to have a fiscal impact to the budget of persons other than small businesses, non-small businesses, state, or local government entities, as it updates citations and removes outdated and redundant content. There is no anticipated fiscal impact as this filing removes previous requirements that are now reflected in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations. Parents or guardians of children needing immunizations are not anticipated to incur a cost for obtaining immunizations because anyone not covered by insurance, or otherwise qualified, can enroll in the Utah Vaccines for Children Program to obtain vaccinations at no cost.

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 anticipated compliance costs associated with this filing for impacted entities, as it updates citations and removes outdated and redundant content and permits schools or other organizations to meet the requirement. Parents or guardians can receive vaccinations for no cost through the Utah Vaccines for Children Program, and providers are not anticipated to incur a cost for collecting and maintaining the immunizations in existing client records.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-2-402		

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:	12/16/2024

9. This rule change MAY become effective on:	12/23/2024
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:	10/27/2024
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R381. Health and Human Services, Child Care Center Licensing.

R381-70. Out-of-School-Time Child Care Programs.

~~R381-70-1. Legal Authority and Purpose.~~

- ~~(1) This rule is enacted and enforced in accordance with Section 26B-2-402.~~
- ~~(2) This rule establishes the foundational standards necessary to protect the health and safety of children in out of school time programs and defines the general procedures and requirements to get and maintain a license.~~

~~R381-70-2. Definitions.~~

- ~~(1) "Applicant" means a person or business who has applied for a new or a renewal of a license from the department.~~
- ~~(2) "Background Finding" means information in a background check that the department uses to determine if a covered individual is or is not eligible to be involved with child care.~~
- ~~(3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.~~
- ~~(4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.~~
- ~~(5) "Business Days and Hours" means the days of the week and times the facility is open for business.~~
- ~~(6) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:~~
 - ~~(a) count in the caregiver to child ratio;~~
 - ~~(b) meet the physical or emotional needs of the children, including toileting, feeding, or protecting them from harm; or~~
 - ~~(c) supervise children.~~
- ~~(7) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.~~
- ~~(8) "CCL" means the Child Care Licensing Program under the Office of Licensing that is delegated with the responsibility to enforce the rules under Titles R381 and R430.~~
- ~~(9) "Child Care Provider Licensing Committee" means the Child Care Provider Licensing Committee created in Section 26B-1-414.~~
- ~~(10) "Conditional Status" means that the provider is at risk of losing their child care license because compliance with any laws or administrative rules has not been maintained.~~
- ~~(11) "Covered Individual" means any of the following individuals involved with the program:~~
 - ~~(a) an owner;~~
 - ~~(b) a director;~~
 - ~~(c) a member of the governing body;~~
 - ~~(d) an employee;~~
 - ~~(e) a volunteer, except a parent of a child enrolled in the program; and~~
 - ~~(f) anyone who has unsupervised contact with a child in the program.~~

- ~~(12) "Department" means the Utah Department of Health and Human Services.~~
- ~~(13) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.~~
- ~~(14) "Director" means an individual who meets the director qualifications in this rule, and who assumes the child care program's day to day responsibilities for compliance with Child Care Licensing rules.~~
- ~~(15) "Eligible" means that there were no findings in a covered individual's background check that would prohibit that covered individual from being involved with child care.~~
- ~~(16) "Emotional Abuse" is defined in Subsection R512-80-2(12) and also means behavior that could harm a child's emotional development, including threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.~~
- ~~(17) "Entrapment Hazard" means an opening greater than 3 1/2 by 6 1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.~~
- ~~(18) "Facility" means a program or the premises approved and licensed by the department.~~
- ~~(19) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.~~
- ~~(20) "Group Size" means the total number of children in a group per room or area.~~
- ~~(21) "Guest" means an individual who is not a covered individual and is at the facility with the provider's permission.~~
- ~~(22) "Health Care Provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.~~
- ~~(23) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.~~
- ~~(24) "Inaccessible" means out of reach of children by being:~~
- ~~(a) locked, including in a locked room, cupboard, or drawer;~~
 - ~~(b) secured with a safety device;~~
 - ~~(c) behind a properly secured safety gate;~~
 - ~~(d) located in a cupboard or on a shelf that is at least 48 inches above the floor; or~~
 - ~~(e) in a bathroom, locked or secured with a safety device.~~
- ~~(25) "Infectious Disease" means an illness that is capable of being spread from one person to another.~~
- ~~(26) "Involved with Children" means to do any of the following at or for an out of school time program:~~
- ~~(a) supervise or be assigned to work with children;~~
 - ~~(b) volunteer;~~
 - ~~(c) own, operate, direct;~~
 - ~~(d) reside;~~
 - ~~(e) count in the staff to child ratio; or~~
 - ~~(f) have unsupervised contact with a child in care.~~
- ~~(27) "License" means a license issued by the department to provide out of school time program services.~~
- ~~(28) "Licensee" means the legally responsible person or business that holds a valid license from the department.~~
- ~~(29) "LIS Supported Finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.~~
- ~~(30) "Over the Counter Medication" means medication that an individual can purchase without a written prescription including herbal remedies, vitamins, and mineral supplements.~~
- ~~(31) "Parent" means the parent or legal guardian of a child in the program.~~
- ~~(32) "Person" means an individual or a business entity.~~
- ~~(33) "Physical Abuse" is defined in Subsection R512-80-2(25) and also means causing nonaccidental physical harm to a child.~~
- ~~(34) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on, and upon which the children can move freely.~~
- ~~(35) "Protective Barrier" means a structure including bars, lattice, or a panel that is around an elevated platform and is intended to prevent accidental or deliberate movement through or access to something.~~
- ~~(36) "Protective Cushioning" means a shock absorbing surface under and around play equipment that reduces the severity of injuries from falls.~~
- ~~(37) "Provider" means the legally responsible person or business that holds a valid license or certification from the department.~~
- ~~(38) "Qualifying Child" means:~~
- ~~(a) a child who is between five and 13 years old and is the child of a person other than the provider or a staff member; and~~
 - ~~(b) a child with a disability who is between five and 18 years old and is the child of a person other than the provider or a staff member.~~
- ~~(39) "Related Child" means a child for whom a provider is the parent, legal guardian, stepparent, grandparent, step grandparent, great grandparent, sibling, step sibling, aunt, step aunt, great aunt, uncle, step uncle, or great uncle.~~
- ~~(40) "Room" is defined as follows:~~
- ~~(a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:~~
 - ~~(i) one room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable;~~
 - ~~(ii) one room, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely;~~

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- ~~_____ (iii) two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate, including a diaper changing station that is located behind a closed gate;~~
- ~~_____ (iv) two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate; or~~
- ~~_____ (v) if there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway;~~
- ~~_____ (b) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:~~
 - ~~_____ (i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, otherwise the department shall consider this to be two rooms; or~~
 - ~~_____ (ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas; and~~
- ~~_____ (c) if in outdoor areas separated by interior fences, the department considers it:~~
 - ~~_____ (i) one area, if the interior fence is lower than 24 inches in height, whether or not the fence has an opening;~~
 - ~~_____ (ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;~~
 - ~~_____ (iii) two areas if the interior fence is higher than 24 inches and there is no opening; or~~
 - ~~_____ (iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.~~
- ~~_____ (41) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.~~
- ~~_____ (42) "School Age Child" means a child age five through 12 years old.~~
- ~~_____ (43) "Services" means the supervision and response to the needs of five or more qualifying children:~~
 - ~~_____ (a) in the absence of the children's parents;~~
 - ~~_____ (b) in a place other than the provider's home or the child's home;~~
 - ~~_____ (c) for less than 24 hours a day; and~~
 - ~~_____ (d) for direct or indirect compensation.~~
- ~~_____ (44) "Sexual Abuse" is defined in Subsection R512-80-2(30) and also means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.~~
- ~~_____ (45) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.~~
- ~~_____ (46) "Staff to Child Ratio" means the number of staff responsible for a specific number of children.~~
- ~~_____ (47) "Stationary Play Equipment" means equipment including a climber, slide, swing, merry go round, or spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:~~
 - ~~_____ (a) a sandbox;~~
 - ~~_____ (b) a stationary circular tricycle;~~
 - ~~_____ (c) a sensory table; or~~
 - ~~_____ (d) a playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber.~~
- ~~_____ (48) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled including:~~
 - ~~_____ (a) a protruding bolt end that extends more than two threads beyond the face of the nut;~~
 - ~~_____ (b) hardware that forms a hook or leaves a gap or space between components including a protruding open S hook; or~~
 - ~~_____ (c) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck.~~
- ~~_____ (49) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a staff member who is at least 18 years old and is considered eligible by CCL.~~
- ~~_____ (50) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.~~
- ~~_____ (51) "Working Days" means the days of the week the department is open for business.~~

R381-70-3. License Required.

- ~~_____ (1) A person shall obtain a license for an out-of-school time program from the department if they provide services:~~
 - ~~_____ (a) in the absence of the child's parent;~~
 - ~~_____ (b) in a place other than the provider's home or the child's home;~~
 - ~~_____ (c) for five or more qualifying children;~~
 - ~~_____ (d) for each individual child for less than 24 hours a day;~~
 - ~~_____ (e) on an ongoing basis, on three or more days a week and for 30 or more days in a calendar year;~~
 - ~~_____ (f) to children who are at least five years of age; and~~
 - ~~_____ (g) for direct or indirect compensation.~~
- ~~_____ (2) A person who does not meet licensing requirements may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.~~
- ~~_____ (3) The department may license a provider to provide child care in a facility that the department licensed to offer foster or respite care services, or another licensed or certified human services program, if the part of the building requesting a CCL license is physically separate from the other building services.~~

R381-70-4. License Application, Renewal, Changes, and Variances.

- (1) Each applicant for a new care license shall:
- (a) submit a CCL online application;
 - (b) submit a copy of a current local fire clearance or a written statement from the local fire authority that a fire inspection is not required;
 - (c) submit a copy of a current local health department kitchen clearance for a facility providing food service or a written statement from the local health department that a kitchen inspection is not required;
 - (d) submit a copy of a current local business license or a written statement from the city that a business license is not required;
 - (e) submit a copy of the educational credentials of the individual who will be the director as required in Section R381-70-7;
 - (f) complete CCL background checks for covered individuals as required in Section R381-70-8;
 - (g) complete CCL new provider training no more than six months before becoming licensed; and
 - (h) pay any required fees, that are nonrefundable.
- (2) Each applicant shall pass a department's inspection of the facility before the department issues a new license or a renewal.
- (3) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, the department shall verify the applicant's compliance with the following:
- (a) address numbers and letters are readable from the street;
 - (b) exit doors operate properly and are well maintained;
 - (c) there are no obstructions in exits, aisles, corridors, and stairways;
 - (d) exit doors are unlocked from the inside during business hours;
 - (e) exits are clearly identified;
 - (f) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor;
 - (g) there are working smoke detectors that are properly installed on each level of the building; and
 - (h) boiler, mechanical, and electrical panel rooms are not used for storage.
- (4) If an applicant for a new license or a renewal serves food and the local health department states in writing that a kitchen inspection is not required, the department shall verify the applicant's compliance with the following:
- (a) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
 - (b) there is a working thermometer in the refrigerator;
 - (c) there is a working stem thermometer available to check cooking and hot hold temperatures;
 - (d) cooks have a current food handler's permit available on site for review by the department;
 - (e) cooks use hair restraints and wear clean outer clothing;
 - (f) only necessary staff are present in the kitchen;
 - (g) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;
 - (h) chemicals are stored away from food and food service items;
 - (i) food is properly stored, kept to the proper temperature, and in good condition; and
 - (j) there is a working handwashing sink in the kitchen and handwashing instructions posted by the sink.
- (5)(a) Each applicant for a new license shall complete the licensing process within six months from the time any portion of the application is submitted to the department.
- (b) If the applicant cannot achieve successful licensure within six months, the applicant shall reapply.
 - (c) For any resubmission, the applicant shall include the required documentation and payment of licensing fees.
 - (d) The applicant shall successfully pass a new inspection conducted by the department before receiving a license.
 - (6) The department may deny an application for a license if, within the five years preceding the application date, the applicant held a license or a certificate that was:
 - (a) closed under an immediate closure;
 - (b) revoked;
 - (c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;
 - (d) voluntarily closed after an inspection of the facility found a rule violation that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or
 - (e) voluntarily closed having unpaid fees or civil money penalties issued by the department.
- (7) Each child care license expires at midnight on the last day of the month shown on the license, unless the department revokes the license or the provider voluntarily closes the license.
- (8) Within 30 to 90 days before a current license expires, each provider shall submit for renewal:
- (a) an online renewal request;
 - (b) applicable renewal fees;
 - (c) any previous unpaid fees; and
 - (d) a copy of a current fire inspection report.
- (9) The department may grant a provider who fails to renew their license by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.
- (10) The department may deny renewal of a license for a provider who is no longer caring for children.
- (11) Each provider shall submit a complete application for a new license at least 30 days before any of the following changes occur:
- (a) a change of the child care facility's location; or

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- ~~_____ (b) a change that transfers 50% or more ownership or controlling interest to a new individual or entity.~~
- ~~_____ (12) A provider shall submit a complete online changes request to amend an existing license at least 30 days before any of the following changes:~~
 - ~~_____ (a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where child care is provided;~~
 - ~~_____ (b) a change in the name of the program;~~
 - ~~_____ (c) a change in the regulation type of the program;~~
 - ~~_____ (d) a change in the name of the provider;~~
 - ~~_____ (e) an addition or loss of a director; or~~
 - ~~_____ (f) a change in ownership that does not require a new license.~~
- ~~_____ (13) The department may amend a license after verifying that the applicant is in compliance with any applicable rules and has paid the required fees. The expiration date of the amended license remains the same as the previous license.~~
- ~~_____ (14) Only the department may assign, transfer, or amend a license.~~
- ~~_____ (15)(a) If an applicant or provider cannot comply with a rule under Rule R381-40 but can meet the intent of the rule in another way, the applicant or provider may apply for a variance to that rule by submitting a request to the department.~~
 - ~~_____ (b) The department may:~~
 - ~~_____ (i) require additional information before acting on a variance request; and~~
 - ~~_____ (ii) impose health and safety requirements as a condition of granting a variance.~~
 - ~~_____ (c) Each provider shall comply with the existing Rule R381-40 unless the department approves a variance.~~
 - ~~_____ (d) If the Department approves a variance, the provider shall keep a copy of the written approval on-site for review by parents and the department.~~
 - ~~_____ (e) The department may grant variances for up to 12 months.~~
 - ~~_____ (f) The department may revoke a variance if:~~
 - ~~_____ (i) the provider is not meeting the intent of the rule as stated in their approved variance;~~
 - ~~_____ (ii) the provider fails to comply with the conditions of the variance; or~~
 - ~~_____ (iii) a change in statute, rule, or case law affects the basis for the variance.~~

R381-70 5. Rule Noncompliance, Penalties, and Agency Action Reviews.

- ~~_____ (1) The department may place a program's license on a conditional status for the following causes:~~
 - ~~_____ (a) chronic, ongoing noncompliance with rules;~~
 - ~~_____ (b) unpaid fees; or~~
 - ~~_____ (c) a serious rule violation that places children's health or safety in immediate jeopardy.~~
- ~~_____ (2) The department shall establish the length of the conditional status and set the conditions that the child care provider shall satisfy to remove the conditional status.~~
- ~~_____ (3) The department may increase monitoring of the program that is on conditional status to verify compliance with rules.~~
- ~~_____ (4) The department may deny or revoke a license if the provider:~~
 - ~~_____ (a) fails to meet the conditions of a license on conditional status;~~
 - ~~_____ (b) violates any part of Title 26B, Chapter 2, Part 4 Child Care Licensing;~~
 - ~~_____ (c) provides false or misleading information to the department;~~
 - ~~_____ (d) misrepresents information by intentionally altering a license or any other document issued by the department;~~
 - ~~_____ (e) fails to allow authorized representatives of the department access to the facility to ensure compliance with this rule;~~
 - ~~_____ (f) fails to submit or make available to the department any written documentation required to verify compliance with this rule;~~
 - ~~_____ (g) commits a serious rule violation that results in death or serious harm to a child, or that places a child at risk of death or serious harm; or~~
 - ~~_____ (h) has committed an illegal act that would exclude an individual from having a license.~~
- ~~_____ (5) Within ten working days of receipt of a revocation notice, the provider shall submit to the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the revocation.~~
- ~~_____ (6) The department may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect the children's health or safety.~~
- ~~_____ (7) Upon receipt of an immediate closure notice, the provider shall give the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the immediate closure.~~
- ~~_____ (8) If there is a severe injury or the death of a child while in the program, the department may order the provider to suspend services and prohibit new enrollments, pending a review by the DHHS Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.~~
- ~~_____ (9) An unlicensed person providing care that requires a license may be charged with a civil money penalty and a class A misdemeanor unless they:~~
 - ~~_____ (a) stop providing child care that requires a license; or~~
 - ~~_____ (b) apply for the appropriate license within 30 calendar days of notification by the department.~~
- ~~_____ (10) If a person providing services without the appropriate license agrees to apply for a license but does not submit an application and the required application documents within 30 days, the department may issue a cease and desist order.~~
- ~~_____ (11) A violation of any rule is punishable by an administrative civil money penalty of up to \$5,000 a day as provided in Section 26B-2-409.~~

~~(12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.~~

~~(13) The department may deny an application or revoke a license for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background checks, civil money penalties, and other fees assessed by the department.~~

~~(14) An applicant or provider may request a hearing to appeal any department decision within ten working days of the department informing the applicant in writing of the decision.~~

R381-70-6. Administration and Children's Records.

~~(1) The provider shall:~~

- ~~(a) be at least 21 years old;~~
- ~~(b) be considered eligible by a CCL background check before becoming involved with child care; and~~
- ~~(c) complete the new provider training offered by the department.~~

~~(2) If the owner is not a sole proprietor, the business entity shall submit to the department the name and contact information of the individual or individuals who shall legally represent them and who shall comply with the requirements stated in Subsection R381-70-6(1).~~

~~(3) The provider shall protect children from conduct that endangers children in the program, or is contrary to the health, welfare, and safety of the public.~~

~~(4) The provider shall know and comply with each applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.~~

~~(5) The provider shall comply with licensing rules any time a child is present.~~

~~(6) The provider shall post their unaltered license on the facility premises in a place readily visible and accessible to the public.~~

~~(7) The provider shall post a current copy of the department's Parent Guide at the facility for parent review during business hours.~~

~~(8) The provider shall inform parents and the department of any changes to the program's telephone number and other contact information within 48 hours of the change.~~

~~(9) The provider shall:~~

- ~~(a) have liability insurance; or~~
- ~~(b) inform parents in writing that the provider does not have liability insurance.~~

~~(10) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the program.~~

~~(11) The provider shall ensure that each child's admission and health assessment form includes the following information:~~

- ~~(a) child's name;~~
- ~~(b) child's date of birth;~~
- ~~(c) parent's name, address, and phone number, including a daytime phone number;~~
- ~~(d) names of individuals authorized by the parent to sign the child out from the facility;~~
- ~~(e) name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;~~
- ~~(f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;~~
- ~~(g) parent's permission for emergency transportation and emergency medical treatment;~~
- ~~(h) any known allergies of the child;~~
- ~~(i) any known food sensitivities of the child;~~
- ~~(j) any chronic medical conditions that the child may have;~~
- ~~(k) instructions for special or nonroutine daily health care of the child;~~
- ~~(l) current ongoing medications that the child may be taking; and~~
- ~~(m) any other special health instructions for the caregiver.~~

~~(12) The provider shall ensure that the admission and health assessment form is:~~

- ~~(a) reviewed, updated, and signed or initialed by the parent at least annually; and~~
- ~~(b) kept on-site for review by the department.~~

~~(13) The provider shall ensure that each child's information is confidential and not released without written parental permission except to the department.~~

R381-70-7. Personnel and Training Requirements.

~~(1) The provider shall ensure that employees and volunteers are supervised, qualified, and trained to:~~

- ~~(a) meet the needs of the children as required by rule; and~~
- ~~(b) be in compliance with licensing requirements under Rule R381-70.~~

~~(2) The provider shall ensure that the center has a qualified director as required by licensing rules.~~

~~(3) The provider shall ensure that the director:~~

- ~~(a) is at least 21 years old;~~
- ~~(b) is considered eligible by a CCL background check before becoming involved with child care;~~
- ~~(c) if hired after January 1, 2023, has completed the 2 1/2 hour preservice training offered by the department;~~
- ~~(d) completes the new director training offered by the department within 60 working days of assuming director duties;~~
- ~~(e) knows and follows any applicable laws and requirements under Rule R381-70; and~~

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- ~~_____ (f) completes at least ten hours of child related training each year based on the facility's license date, or at least 45 minutes of child related training each month they work if hired partway through the facility's licensing year.~~
- ~~_____ (4) The provider shall ensure that each new director has one of the following educational credentials:~~
 - ~~_____ (a) any bachelor's or higher education degree, and at least 60 clock hours of coursework in child development, social and emotional development, and the child care environment, or 60 clock hours of equivalent training as approved by the department;~~
 - ~~_____ (b) at least 12 college credit hours of child development courses, elementary education, or related field;~~
 - ~~_____ (c) a currently valid national certification including a Certified Childcare Professional issued by the National Child Care Association, a Child Development Associate issued by the Council for Early Childhood Professional Recognition, or other equivalent credential as approved by the department;~~
 - ~~_____ (d) at least an associate degree in early childhood development or related field; or~~
 - ~~_____ (e) a National Administrator Credential and at least 60 clock hours of course work in child development, social and emotional development, and the child care environment, or 60 clock hours of equivalent training as approved by the department.~~
- ~~_____ (5) The provider shall ensure that the director is on duty at the facility during operating hours for at least 50% each time the program is open and has sufficient freedom from other responsibilities to manage the center and respond to emergencies.~~
- ~~_____ (6) The provider shall ensure that there is a director designee with authority to act on behalf of the director in the director's absence.~~
- ~~_____ (7) The provider shall ensure that the director designee:~~
 - ~~_____ (a) is at least 18 years old;~~
 - ~~_____ (b) is considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~_____ (c) if hired after January 1, 2023, has completed the 2 1/2 hour preservice training offered by the department before beginning job duties;~~
 - ~~_____ (d) knows and follows any applicable laws and rules;~~
 - ~~_____ (e) completes at least ten hours of child related training each year based on the facility's license date, or at least 45 minutes of child related training each month they work if hired partway through the facility's licensing year; and~~
 - ~~_____ (f) has current first aid and cardio pulmonary resuscitation (CPR).~~
 - ~~_____ (8) The provider shall ensure that the director or the director designee is present at the facility when the center is open for business.~~
 - ~~_____ (9) The provider shall ensure that staff working with children:~~
 - ~~_____ (a) are at least 16 years old;~~
 - ~~_____ (b) are considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~_____ (c) complete the 2 1/2 hour preservice training offered by the department before caring for children;~~
 - ~~_____ (d) know and follow any applicable laws and requirements under Rule R381-70;~~
 - ~~_____ (e) are introduced to other program staff and to the caregiver's assigned group of children;~~
 - ~~_____ (f) review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs; and~~
 - ~~_____ (g) complete at least ten hours of child related training each year, based on the facility's license date, or at least 45 minutes of child related training each month they work if hired partway through the facility's licensing year.~~
 - ~~_____ (10) The provider shall ensure that any other staff including drivers, cooks, and clerks:~~
 - ~~_____ (a) are considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~_____ (b) complete the 2 1/2 hour preservice training offered by the department before beginning job duties; and~~
 - ~~_____ (c) know and follow any applicable laws and requirements under Rule R381-70.~~
 - ~~_____ (11) The provider shall ensure that volunteers are eligible by a CCL background check before becoming involved with child care.~~
 - ~~_____ (12) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests wear a guest nametag.~~
 - ~~_____ (13) The provider shall ensure that household members who are:~~
 - ~~_____ (a) 12 to 17 years old are considered eligible by a CCL background check; and~~
 - ~~_____ (b) 18 years old or older are eligible by a CCL background check that includes fingerprints.~~
 - ~~_____ (14) The provider shall ensure that individuals who provide Individualized Educational Plan or Individualized Family Service plan services including physical, occupational, or speech therapists:~~
 - ~~_____ (a) provide proper identification before having access to the facility or to a child at the facility; and~~
 - ~~_____ (b) have received the child's parent's permission for services to take place at the facility.~~
 - ~~_____ (15) The provider shall ensure that individuals from law enforcement, Child Protective Services, the department, and any similar entities provide proper identification before having access to the facility or to a child at the facility.~~
 - ~~_____ (16) The provider shall ensure that each covered individual required to complete preservice training receives the 2 1/2 hour preservice training offered by the department that includes at least the following topics:~~
 - ~~_____ (a) applicable laws and requirements under Rule R381-70;~~
 - ~~_____ (b) children whose special needs may include a disability;~~
 - ~~_____ (c) recognizing the signs of homelessness and available assistance;~~
 - ~~_____ (d) building and physical premises safety;~~
 - ~~_____ (e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;~~
 - ~~_____ (f) pediatric first aid and CPR;~~
 - ~~_____ (g) emergency preparedness, response, and recovery plan;~~
 - ~~_____ (h) prevention of and response to emergencies due to food and allergy reactions;~~
 - ~~_____ (i) safe handling and disposal of hazardous materials and bio-contaminants;~~

- ~~_____ (j) prevention and control of infectious diseases including immunizations;~~
- ~~_____ (k) administration of medication;~~
- ~~_____ (l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;~~
- ~~_____ (m) precautions in transporting children;~~
- ~~_____ (n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and~~
- ~~_____ (o) prevention of sudden infant death syndrome and the use of safe sleeping practices.~~
- ~~_____ (17) The provider shall ensure that annual child care training includes at least the following topics:~~
 - ~~_____ (a) Sections R381-70-7 through R381-70-22; and~~
 - ~~_____ (b) each topic listed in Subsections R381-70-7(16)(a) through (o).~~
- ~~_____ (18) The provider shall ensure that documentation of each individual's annual child care training is on site for review by the department and includes the following:~~
 - ~~_____ (a) training topic;~~
 - ~~_____ (b) date of the training;~~
 - ~~_____ (c) name of the individual or organization that presented the training; and~~
 - ~~_____ (d) total hours or minutes of training.~~
- ~~_____ (19) The provider shall ensure that at least one staff member with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when children are in care:~~
 - ~~_____ (a) at the facility;~~
 - ~~_____ (b) in each vehicle transporting children; and~~
 - ~~_____ (c) at each offsite activity.~~
- ~~_____ (20) The provider shall ensure that CPR certification includes hands on testing.~~
- ~~_____ (21) The provider shall ensure that the following records for each covered individual are on site for review by the department:~~
 - ~~_____ (a) the date of initial employment or association with the program;~~
 - ~~_____ (b) a current pediatric first aid and CPR certification, if required in this rule; and~~
 - ~~_____ (c) a six-week record of the times worked each day.~~

R381-70-8. Background Checks.

- ~~_____ (1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:~~
 - ~~_____ (a) associate that individual with their facility; or~~
 - ~~_____ (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.~~
- ~~_____ (2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:~~
 - ~~_____ (a) require the individual to submit an online background check form and fingerprints for individuals age 18 years old and older;~~
 - ~~_____ (b) authorize the individual's background check through the CCL provider's portal;~~
 - ~~_____ (c) pay any required fees; and~~
 - ~~_____ (d) receive written notice from CCL that the individual is eligible.~~
- ~~_____ (3) To keep their background check eligibility current, the provider shall require a covered individual to submit a new background check form, fingerprints, and fees if the covered individual has:~~
 - ~~_____ (a) resided outside of Utah since their last background check was completed;~~
 - ~~_____ (b) not been associated with an active, CCL approved child care facility within the past 180 days; or~~
 - ~~_____ (c) has turned 18 years old and has not previously submitted fingerprints for a CCL background check. If the 18-year-old has previously submitted fingerprints for a CCL background check, only a new background check form will be required.~~
- ~~_____ (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:~~
 - ~~_____ (a) ensure that an online background check form is submitted;~~
 - ~~_____ (b) authorize the child's background check through the CCL provider's portal; and~~
 - ~~_____ (c) pay any required fees.~~
- ~~_____ (5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.~~
- ~~_____ (6) If a covered individual submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.~~
- ~~_____ (7) The department may consider a covered individual not eligible for any of the following reasons:~~
 - ~~_____ (a) LIS supported findings;~~
 - ~~_____ (b) the covered individual's name appears on the Utah or national sex offender registry;~~
 - ~~_____ (c) the covered individual refuses to consent to the criminal background check;~~
 - ~~_____ (d) the covered individual knowingly makes a false statement in connection with their background check;~~
 - ~~_____ (e) any felony convictions; or~~
 - ~~_____ (f) for any of the reasons listed under Subsection R381-70-8(8).~~
- ~~_____ (8) The department may also consider a covered individual not eligible for any of the following convictions regardless of severity:~~
 - ~~_____ (a) child pornography;~~
 - ~~_____ (b) sexual enticing of a minor;~~

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- ~~_____ (c) voyeurism;~~
- ~~_____ (d) a sexual exploitation act;~~
- ~~_____ (e) pornographic material or performance;~~
- ~~_____ (f) any crime against an individual;~~
- ~~_____ (g) providing dangerous weapons or firearms to a minor; or~~
- ~~_____ (h) driving under the influence while a child is present in the vehicle.~~
- ~~_____ (9) The department shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before CCL conducted the background check.~~
- ~~_____ (10) If the provider is not eligible by CCL, the department may suspend or deny their license until the reason for the background check finding is resolved.~~
- ~~_____ (11) If a covered individual is considered not eligible by CCL, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.~~
- ~~_____ (12) If the department denies a covered individual a license or employment by the provider based upon the criminal background check and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information to the Department of Public Safety.~~
- ~~_____ (13) The provider and the covered individual shall notify the department within 48 hours of becoming aware of the covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding. Failure to notify the department within 48 hours may result in disciplinary action, including revocation of the license.~~
- ~~_____ (14) The Executive Director of the department or their designee may overturn a CCL background check decision if they determine that the nature of the background finding or mitigating circumstances do not pose a risk to children.~~

R381-70-9. Facility.

- ~~_____ (1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in the program, including the provider's and employees' children.~~
- ~~_____ (2) The department may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:
 - ~~_____ (a) by children;~~
 - ~~_____ (b) for the use of children; or~~
 - ~~_____ (c) to store materials for children.~~~~
- ~~_____ (3) The department may not include the following areas when measuring indoor space for children's use:
 - ~~_____ (a) bathrooms;~~
 - ~~_____ (b) closets and staff lockers;~~
 - ~~_____ (c) hallways;~~
 - ~~_____ (d) lobbies and entryways;~~
 - ~~_____ (e) kitchens; and~~
 - ~~_____ (f) staff offices.~~~~
- ~~_____ (4) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license.~~
- ~~_____ (5) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint undergoes a test for lead. If the provider or the department find lead-based paint, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.~~
- ~~_____ (6) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation, or by windows that open and have screens.~~
- ~~_____ (7) The provider shall ensure that windows and glass doors within 36 inches from the floor or ground are made of safety or tempered glass, or have a protective guard.~~
- ~~_____ (8) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity the provider is conducting.~~
- ~~_____ (9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.~~
- ~~_____ (10) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.~~
- ~~_____ (11) The provider shall ensure that there are at least two working toilets and two working handwashing sinks accessible to children in the center.~~
- ~~_____ (12) The provider shall ensure that there is at least one additional working toilet and one additional handwashing sink for each additional group of one to 25 children.~~
- ~~_____ (13) The provider shall ensure that there are bathrooms that provide privacy available for use by children.~~
- ~~_____ (14) The provider shall ensure that there is an outdoor area that is safely accessible to children.~~
- ~~_____ (15) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.~~
- ~~_____ (16) The provider shall ensure that the total square footage of the outdoor area accommodates at least one third of the approved capacity at one time or is at least 1,600 square feet.~~
- ~~_____ (17) The provider shall ensure that a fence encloses the outdoor area, wall, or solid natural barrier that is at least four feet high.~~

- ~~_____ (18) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.~~
- ~~_____ (19) The provider shall ensure that children are in an enclosed area when children are outdoors, except during offsite activities.~~
- ~~_____ (20) The provider shall ensure that there is shade available to protect the children from excessive sun and heat when children are in the outdoor area.~~
- ~~_____ (21) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:~~
 - ~~_____ (a) meet applicable state and local laws and ordinances related to the operation of a swimming pool;~~
 - ~~_____ (b) maintain the pool in a safe manner; and~~
 - ~~_____ (c) when not in use, cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.~~
- ~~_____ (22) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:~~
 - ~~_____ (a) ceilings, walls, and floor coverings;~~
 - ~~_____ (b) lighting, bathroom, and other fixtures;~~
 - ~~_____ (c) draperies, blinds, and other window coverings;~~
 - ~~_____ (d) indoor and outdoor play equipment;~~
 - ~~_____ (e) furniture, toys, and materials accessible to the children; and~~
 - ~~_____ (f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.~~
- ~~_____ (23) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.~~
- ~~_____ (24) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with the rules, except when:~~
 - ~~_____ (a) there is a separate entrance for the program;~~
 - ~~_____ (b) there are no connecting interior doorways that can be used by unauthorized individuals; and~~
 - ~~_____ (c) there is no shared access to the outdoor area used for the program.~~

~~R381-70-10. Ratios and Group Size.~~

- ~~_____ (1) The provider shall maintain the staff to child ratio of at least one staff member for every 20 children.~~
- ~~_____ (2) The provider may not exceed the maximum group size of 40 children per group.~~
- ~~_____ (3) The provider shall ensure that there are at least two staff members present when there are more than eight children on the premises.~~
- ~~_____ (4) The provider shall include the provider's and employees' children:~~
 - ~~_____ (a) in the group size when the parent of the child is working at the facility; and~~
 - ~~_____ (b) in the group size and the staff to child ratio when the parent of the child is not working at the facility.~~
- ~~_____ (5) The provider may include caregivers, student interns who are registered in a high school or college child care course, and volunteers who are 16 or 17 years old in the caregiver to child ratio.~~
- ~~_____ (6) The provider shall ensure that guests do not count in caregiver to child ratios.~~

~~R381-70-11. Child Supervision and Security.~~

- ~~_____ (1) The provider shall ensure that staff provide and maintain active supervision of each child, including that staff:~~
 - ~~_____ (a) can hear the children and are close enough to intervene;~~
 - ~~_____ (b) know the number of children in their assigned group at any time;~~
 - ~~_____ (c) focus attention on the children and not on the staff's personal interests;~~
 - ~~_____ (d) are aware of the entire group of children even when interacting with a smaller group or an individual child; and~~
 - ~~_____ (e) position themselves so each child in their assigned group is actively supervised.~~
- ~~_____ (2) The provider shall ensure that staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:~~
 - ~~_____ (a) they are left unsupervised for no more than two consecutive hours per group;~~
 - ~~_____ (b) the director or the director designee is physically present and available as needed; and~~
 - ~~_____ (c) they are not volunteers.~~
- ~~_____ (3) The provider shall not assign staff, volunteers, and household members who are younger than 16 years old to care for or supervise any child in care.~~
- ~~_____ (4) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.~~
- ~~_____ (5) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.~~
- ~~_____ (6) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.~~
- ~~_____ (7) To maintain security and supervision of children, the provider shall ensure that:~~
 - ~~_____ (a) each child is signed in and out in accordance with this section;~~
 - ~~_____ (b) only parents or individuals with written authorization from the parent may sign out a child;~~
 - ~~_____ (c) photo identification is required if the individual signing the child out is unknown to the provider;~~
 - ~~_____ (d) individuals signing children in and out use identifiers, including a signature, initials, or electronic code;~~

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- ~~_____ (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and~~
- ~~_____ (f) there is written permission from the child's parent if children sign themselves in or out.~~
- ~~_____ (8) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:~~
 - ~~_____ (a) the individual giving verbal authorization; and~~
 - ~~_____ (b) the individual picking up the child.~~
- ~~_____ (9) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is kept on-site for review by the department.~~

~~R381-70-12. Child Guidance and Interaction.~~

- ~~_____ (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in the program.~~
- ~~_____ (2) The provider shall inform parents, children, and those who interact with the children of the center's behavioral expectations and how any misbehavior will be handled.~~
- ~~_____ (3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.~~
- ~~_____ (4) The provider shall ensure that staff use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.~~
- ~~_____ (5) The provider shall ensure that interactions with the children do not include:~~
 - ~~_____ (a) any form of corporal punishment or any action that produces physical pain or discomfort including hitting, spanking, shaking, biting, or pinching;~~
 - ~~_____ (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;~~
 - ~~_____ (c) shouting at children;~~
 - ~~_____ (d) any form of emotional abuse;~~
 - ~~_____ (e) forcing or withholding food, rest, or toileting; or~~
 - ~~_____ (f) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage.~~
- ~~_____ (6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Section 80-2-602.~~

~~R381-70-13. Child Safety and Injury Prevention.~~

- ~~_____ (1) The provider shall ensure that children and staff use the building, outdoor area, toys, and equipment safely and as intended by the manufacturer to prevent injury to children.~~
- ~~_____ (2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.~~
- ~~_____ (3) The provider shall ensure that razors and other similar blades are inaccessible to children.~~
- ~~_____ (4) The provider shall ensure that strangulation hazards including ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.~~
- ~~_____ (5) The provider shall ensure that tripping hazards including unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.~~
- ~~_____ (6) The provider shall ensure that exits are free of any blocking objects.~~
- ~~_____ (7) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.~~
- ~~_____ (8) The provider shall ensure that toxic or hazardous chemicals including cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:~~
 - ~~_____ (a) inaccessible to children;~~
 - ~~_____ (b) used according to manufacturer instructions;~~
 - ~~_____ (c) stored in containers labeled with the contents of the container; and~~
 - ~~_____ (d) disposed of properly.~~
- ~~_____ (9) The provider shall ensure that the following items are inaccessible to children:~~
 - ~~_____ (a) matches or cigarette lighters;~~
 - ~~_____ (b) open flames;~~
 - ~~_____ (c) hot wax or other hot substances; and~~
 - ~~_____ (d) when in use, portable space heaters, wood-burning stoves, and fireplaces.~~
- ~~_____ (10) The provider shall ensure that live electrical wires are inaccessible to children.~~
- ~~_____ (11) Unless used and stored as allowed by any state or federal law, the provider shall ensure that firearms including guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:~~
 - ~~_____ (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and~~
 - ~~_____ (b) stored unloaded and separate from ammunition.~~
- ~~_____ (12) The provider shall ensure that weapons including paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.~~
- ~~_____ (13) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in center vehicles any time a child is present.~~
- ~~_____ (14) The provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.~~

- ~~_____ (15) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, including furniture, unsecured televisions, and standing ladders.~~
- ~~_____ (16) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.~~
- ~~_____ (17) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, are not used:~~
 - ~~_____ (a) in the facility or any other building when a child is present;~~
 - ~~_____ (b) in any vehicle that is being used to transport children;~~
 - ~~_____ (c) within 25 feet of any entrance to the facility or other building occupied by children; or~~
 - ~~_____ (d) in any outdoor area or within 25 feet of any outdoor area occupied by children.~~

R381-70-14. Emergency Preparedness, Response, and Recovery:

- ~~_____ (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:~~
 - ~~_____ (a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;~~
 - ~~_____ (b) includes procedures for accommodations for children with disabilities and children with chronic medical conditions;~~
 - ~~_____ (c) includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health;~~
 - ~~_____ (d) is available for review by parents, staff, and the department during business hours; and~~
 - ~~_____ (e) is followed if an emergency happens, unless otherwise instructed by emergency personnel.~~
- ~~_____ (2) The provider shall post the center's street address and emergency numbers, including at least fire, police, and poison control, near each telephone in the center or in an area clearly visible to anyone needing the information.~~
- ~~_____ (3) The provider shall keep first aid supplies in the center, including at least antiseptic, bandages, and tweezers.~~
- ~~_____ (4) The provider shall conduct fire evacuation drills monthly and make sure drills include a complete exit of each child, staff, and volunteers from the building.~~
 - ~~_____ (5) The provider shall document each fire drill, including:~~
 - ~~_____ (a) the date and time of the drill;~~
 - ~~_____ (b) the number of children participating;~~
 - ~~_____ (c) the name of the individual supervising the drill;~~
 - ~~_____ (d) the total time to complete the evacuation; and~~
 - ~~_____ (e) any problems encountered and remediation.~~
 - ~~_____ (6) The provider shall conduct drills for disasters other than fires at least once every six months.~~
 - ~~_____ (7) The provider shall document each disaster drill, including:~~
 - ~~_____ (a) the type of disaster, including earthquake, flood, prolonged power or water outage, or tornado;~~
 - ~~_____ (b) the date and time of the drill;~~
 - ~~_____ (c) the number of children participating;~~
 - ~~_____ (d) the name of the individual supervising the drill; and~~
 - ~~_____ (e) any problems encountered and remediation.~~
 - ~~_____ (8) The provider shall vary the days and times when fire and other disaster drills are held.~~
 - ~~_____ (9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by the department.~~
 - ~~_____ (10) The provider shall:~~
 - ~~_____ (a) give parents a written report on the day of occurrence of each incident, accident, or injury involving their child;~~
 - ~~_____ (b) ensure the report has the signatures of the staff involved, the center director or director designee, and the individual picking up the child; and~~
 - ~~_____ (c) if children sign themselves out of the center, send a copy of the report to the parent on the day following the occurrence.~~
- ~~_____ (11) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the child's parent immediately.~~
- ~~_____ (12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:~~
 - ~~_____ (a) call emergency personnel immediately;~~
 - ~~_____ (b) contact the parent after emergency personnel are called; and~~
 - ~~_____ (c) if the parent cannot be reached, try to contact the child's emergency contact individual.~~
- ~~_____ (13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:~~
 - ~~_____ (a) submit a completed accident report form to the department within the next business day of the incident; or~~
 - ~~_____ (b) contact the department within the next business day and submit a completed accident report form within five business days of the incident.~~
- ~~_____ (14) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by the department.~~

R381-70-15. Health and Infection Control:

- ~~_____ (1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:~~
 - ~~_____ (a) walls and flooring clean and free of spills, dirt, and grime;~~
 - ~~_____ (b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;~~
 - ~~_____ (c) surfaces free of rotting food or a build-up of food;~~

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- _____ (d) the building and grounds free of a build-up of litter, trash, and garbage;
- _____ (e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and
- _____ (f) the facility free of animal feces.
- _____ (2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.
- _____ (3) The provider shall clean and sanitize any toys and materials used by children:
 - _____ (a) at least once a week or more often if needed; and
 - _____ (b) after being contaminated by a body fluid.
- _____ (4) The provider shall ensure that fabric toys and items including stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.
- _____ (5) The provider shall clean and sanitize water play tables or tubs daily if used by the children.
- _____ (6) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.
- _____ (7) The provider shall keep toilet paper in a dispenser that is accessible to children.
- _____ (8) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that each staff follow the procedures.
- _____ (9) The provider shall ensure that staff and volunteers wash their hands thoroughly with liquid soap and running water:
 - _____ (a) upon arrival;
 - _____ (b) before handling or preparing food;
 - _____ (c) before and after eating meals and snacks or feeding a child;
 - _____ (d) after using the toilet or helping a child use the toilet;
 - _____ (e) after contact with a body fluid;
 - _____ (f) when coming in from outdoors; and
 - _____ (g) after cleaning up or taking out garbage.
- _____ (10) The provider shall ensure that staff teach children how to wash their hands thoroughly and oversee handwashing when possible.
- _____ (11) The provider shall ensure that children wash their hands thoroughly with liquid soap and running water:
 - _____ (a) upon arrival;
 - _____ (b) before and after eating meals and snacks;
 - _____ (c) after using the toilet;
 - _____ (d) after contact with a body fluid;
 - _____ (e) before using a water play table or tub; and
 - _____ (f) when coming in from outdoors.
- _____ (12) The provider shall ensure that only single-use towels from a covered dispenser or an electric hand-dryer is used to dry hands.
- _____ (13) The provider shall store personal hygiene items, including toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.
- _____ (14) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.
- _____ (15) The provider shall ensure that children's clothing that is wet or soiled from a body fluid is:
 - _____ (a) not rinsed or washed at the center;
 - _____ (b) placed in a leakproof container that is labeled with the child's name; and
 - _____ (c) returned to the parent, or thrown away with parental consent.
- _____ (16) The provider shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids:
 - _____ (a) wear waterproof gloves;
 - _____ (b) clean the surface using a detergent solution;
 - _____ (c) rinse the surface with clean water;
 - _____ (d) sanitize the surface;
 - _____ (e) throw away in a leakproof plastic bag the disposable materials, including paper towels, that were used to clean up the body fluid;
 - _____ (f) wash and sanitize any nondisposable materials used to clean up the body fluid, including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and
 - _____ (g) wash their hands after cleaning up the body fluid.
- _____ (17) The provider may not care for a child who is ill with an infectious disease at the center except when the child shows signs of illness after arriving at the center.
- _____ (18) If a child becomes ill while in care:
 - _____ (a) the provider shall contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact to immediately pick-up the child; and
 - _____ (b) if the child is ill with an infectious disease, the provider shall make the child comfortable in a safe, supervised area that is separated from the other children until the parent arrives.
- _____ (19) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the provider discovers the illness.
- _____ (20) If any staff member or child has an infectious disease or parasite, the provider shall post a notice at the center that:
 - _____ (a) does not disclose any personal identifiable information;
 - _____ (b) is posted in a conspicuous place where it can be seen by parents;
 - _____ (c) is posted and dated on the same day that the disease or parasite is discovered; and

- ~~_____ (d) remains posted for at least five business days.~~
- ~~_____ (21) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that:~~
 - ~~_____ (a) individuals who prepare food in the kitchen do not help in toileting children;~~
 - ~~_____ (b) caregivers who care for diapered children only prepare food for the children in their care, and they do not prepare food outside of the room used by the diapered children or prepare food for other children and adults in the facility; and~~
 - ~~_____ (c) individuals with an infectious disease or showing symptoms including diarrhea, fever, coughing, or vomiting do not prepare or serve foods.~~

R381-70-16. Food and Nutrition.

- ~~_____ (1) The provider shall offer a meal or snack to each child at least once every three hours on days when services are provided for three or more hours.~~
- ~~_____ (2) If the provider supplies food for children's meals or snacks, the provider shall ensure that:~~
 - ~~_____ (a) the meal service meets local health department food service rules;~~
 - ~~_____ (b) the foods that are served meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;~~
 - ~~_____ (c) the provider uses the CACFP meal pattern requirements, the standard department approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;~~
 - ~~_____ (d) the current week's menu is posted for review by parents and the department; and~~
 - ~~_____ (e) if not participating or in good standing with the CACFP, keep a six week record of foods served at each meal and snack.~~
- ~~_____ (3) The provider shall ensure that the individual who serves food to children:~~
 - ~~_____ (a) is aware of the children in their assigned group who have food allergies or sensitivities; and~~
 - ~~_____ (b) ensures that the children are not served the food or drink they are allergic or sensitive to.~~
- ~~_____ (4) The provider may not place children's food on a bare table, and shall serve children's food on dishes, napkins, or sanitary trays, except an individual finger food including a cracker, may be placed directly in a child's hand.~~
- ~~_____ (5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:~~
 - ~~_____ (a) labeled with the child's name;~~
 - ~~_____ (b) refrigerated if needed; and~~
 - ~~_____ (c) consumed only by that child.~~

R381-70-17. Medications.

- ~~_____ (1) The provider shall lock nonrefrigerated medications or store them at least 48 inches above the floor.~~
- ~~_____ (2) The provider shall lock refrigerated medications or store them at least 36 inches above the floor and, if liquid, store them in a separate leakproof container.~~
- ~~_____ (3) If parents supply any over the counter or prescription medications, the provider shall ensure those medications:~~
 - ~~_____ (a) are labeled with the child's full name;~~
 - ~~_____ (b) are stored in the original or pharmacy container;~~
 - ~~_____ (c) have the original label; and~~
 - ~~_____ (d) have child safety caps.~~
- ~~_____ (4) The provider shall have a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.~~
- ~~_____ (5) The provider shall ensure that the medication permission form includes at least:~~
 - ~~_____ (a) the name of the child;~~
 - ~~_____ (b) the name of the medication;~~
 - ~~_____ (c) written instructions for administration; and~~
 - ~~_____ (d) the parent signature and the date signed.~~
- ~~_____ (6) The provider shall ensure that instructions for administering the medication include at least:~~
 - ~~_____ (a) the dosage;~~
 - ~~_____ (b) how the medication will be given;~~
 - ~~_____ (c) the times and dates to administer the medication; and~~
 - ~~_____ (d) the disease or condition being treated.~~
- ~~_____ (7) If the provider supplies an over the counter medication for children's use, the provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:~~
 - ~~_____ (a) written; or~~
 - ~~_____ (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.~~
- ~~_____ (8) The provider shall ensure that the staff administering the medication:~~
 - ~~_____ (a) washes their hands;~~
 - ~~_____ (b) check the medication label to confirm the child's name if the parent supplied the medication;~~
 - ~~_____ (c) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer; and~~
 - ~~_____ (d) administers the medication.~~
- ~~_____ (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:~~

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- ~~_____ (a) the date, time, and dosage of the medication given;~~
- ~~_____ (b) any error in administering the medication or adverse reactions; and~~
- ~~_____ (c) their signature or initials.~~
- ~~_____ (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life threatening.~~
- ~~_____ (11) The provider shall notify the parent before the scheduled medication dosage to a child if the provider chooses not to administer medication as instructed by the parent.~~
- ~~_____ (12) The provider shall keep a six week record of medication permission and administration forms on site for review by the department.~~

R381-70-18. Activities.

- ~~_____ (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.~~
- ~~_____ (2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.~~
- ~~_____ (3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.~~
- ~~_____ (4) The provider shall post a daily schedule that includes:~~
 - ~~_____ (a) activities that support children's healthy development; and~~
 - ~~_____ (b) the times activities occur including at least meal, snack, and outdoor play times.~~
- ~~_____ (5) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.~~
- ~~_____ (6) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media including television, cell phones, tablets, and computers is planned to address the needs of children.~~
- ~~_____ (7) If the provider offers swimming activities or if wading pools are used, the provider shall ensure that:~~
 - ~~_____ (a) the parent gives permission before their child in care uses the pool;~~
 - ~~_____ (b) staff stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;~~
 - ~~_____ (c) if the pool is over four feet deep, there is a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and~~
 - ~~_____ (d) lifeguards and pool personnel do not count toward the staff to child ratio.~~
- ~~_____ (8) If the provider offers offsite activities, the provider shall ensure that:~~
 - ~~_____ (a) the parent gives written consent before each activity;~~
 - ~~_____ (b) the required staff to child ratio and supervision are maintained during the entire activity;~~
 - ~~_____ (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;~~
 - ~~_____ (d) children wear or carry with them the name and phone number of the center;~~
 - ~~_____ (e) children's names are not used on nametags, t-shirts, or in other visible ways; and~~
 - ~~_____ (f) there is a way for staff and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.~~
- ~~_____ (9) The provider shall ensure that a staff member with the children takes the written emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:~~
 - ~~_____ (a) the child's name;~~
 - ~~_____ (b) the parent's name and phone number;~~
 - ~~_____ (c) the name and phone number of an individual to notify if an emergency happens and the parent cannot be contacted;~~
 - ~~_____ (d) the names of people authorized by the parents to pick up the child; and~~
 - ~~_____ (e) current emergency medical treatment and emergency medical transportation releases.~~

R381-70-19. Play Equipment.

- ~~_____ (1) The provider shall ensure that children using play equipment use it safely and as intended by the manufacturer.~~
- ~~_____ (2) The provider shall ensure that stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment and that, with the exception of swings, stationary play equipment has at least a six foot use zone if any designated play surface is higher than 30 inches.~~
- ~~_____ (3) The provider shall ensure that the use zone in the front and rear of a single axis swing extends at least twice the distance of the swing pivot point to the ground.~~
- ~~_____ (4) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends at least the measurement of the suspending rope or chain plus six feet.~~
- ~~_____ (5) The provider shall ensure that the use zone for a merry-go-round extends at least six feet in any direction from its outermost edge.~~
- ~~_____ (6) The provider shall ensure that the use zone for a spring rocker extends:~~
 - ~~_____ (a) at least three feet from the outermost edge of the rocker when at rest; or~~
 - ~~_____ (b) at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches.~~
- ~~_____ (7) The provider shall ensure that the following use zones do not overlap the use zone of any other piece of play equipment:~~
 - ~~_____ (a) the use zone in front of a slide;~~
 - ~~_____ (b) the use zone in the front and rear of any single axis swing, including a single axis enclosed swing;~~

- ~~_____ (c) the use zone of a multi-axis swing; and~~
- ~~_____ (d) the use zone of a merry-go-round if the platform diameter measures 20 inches or more.~~
- ~~_____ (8) Unless prohibited in Subsection R381-70-19(7), the provider shall ensure that the use zones of play equipment only overlap when there is at least six feet between the pieces of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between the pieces of equipment if the designated play surface is higher than 30 inches.~~
- ~~_____ (9) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, or the bare floor.~~
- ~~_____ (10) The provider shall ensure that protective cushioning covers the entire surface of each required use zone and that its depth or thickness is determined by the highest designated play surface of the equipment.~~
- ~~_____ (11) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall:~~
 - ~~_____ (a) ensure that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 1 if compacted;~~
 - ~~_____ (b) if the material cannot be loosened due to extreme weather conditions, not allow children to play on the equipment until the material can be loosened to the required depth; and~~
 - ~~_____ (c) ensure that the depth of the material meets the guidelines in Table 1.~~

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires and Rubber Products
Up to 5' high	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' up to 9'	9"	Not allowed	9"	Not allowed	6"
Over 9' up to 10'	Not allowed	Not allowed	9"	Not allowed	6"
Over 10' up to 12'	Not allowed	Not allowed	Not allowed	Not allowed	6"

- ~~_____ (12) If the provider uses shredded wood products as protective cushioning, the provider shall:~~
 - ~~_____ (a) keep on-site for review by the department documentation from the manufacturer that the wood product is protective cushioning;~~
 - ~~_____ (b) ensure there is adequate drainage under the material; and~~
 - ~~_____ (c) ensure the depth of the shredded wood meets the guidelines in Table 2.~~

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood fibers	Wood Chips	Double Shredded Bark Mulch
Up to 6' high	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 11'	9"	9"	9"
Over 11'	9"	Not allowed	Not allowed

- ~~_____ (13) If the provider uses a unitary cushioning, the provider shall maintain on-site for review by the department documentation from the manufacturer that the material is cushioning for playgrounds.~~
- ~~_____ (14) If a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.~~

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- ~~_____ (15) The provider shall ensure that a play equipment platform that is more than 48 inches above the floor or ground has a protective barrier that is at least 38 inches high.~~
- ~~_____ (16) The provider shall ensure that there is no gap greater than 3 1/2 inches in or under a required protective barrier on a play equipment platform.~~
- ~~_____ (17) The provider shall ensure that stationary play equipment is stable or securely anchored.~~
- ~~_____ (18) The provider shall ensure that there are no trampolines on the premises that are accessible to any child in care.~~
- ~~_____ (19) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.~~
- ~~_____ (20) The provider shall ensure that there are no strangulation hazards on or within the use zone of any piece of stationary play equipment.~~
- ~~_____ (21) The provider shall ensure that there are no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.~~
- ~~_____ (22) The provider shall ensure that there are no tripping hazards including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.~~

R381-70-20. Transportation.

- ~~_____ (1) For each child that the licensee transports, the provider shall obtain a transportation permission form:~~
 - ~~_____ (a) signed by the parent; and~~
 - ~~_____ (b) on site for review by the department.~~
- ~~_____ (2) The provider shall ensure that each vehicle used for transporting children:~~
 - ~~_____ (a) is enclosed with a roof or top;~~
 - ~~_____ (b) is equipped with safety restraints;~~
 - ~~_____ (c) has a current vehicle registration;~~
 - ~~_____ (d) is maintained in a safe and clean condition; and~~
 - ~~_____ (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.~~
- ~~_____ (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:~~
 - ~~_____ (a) appropriate for the age and size of each child who is transported, as required by Utah law;~~
 - ~~_____ (b) properly installed; and~~
 - ~~_____ (c) in safe condition and working order.~~
- ~~_____ (4) The provider shall ensure that the driver of each vehicle who is transporting children:~~
 - ~~_____ (a) is at least 18 years old;~~
 - ~~_____ (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;~~
 - ~~_____ (c) has with them the emergency contact information for each child being transported;~~
 - ~~_____ (d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;~~
 - ~~_____ (e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;~~
 - ~~_____ (f) never leaves a child in the vehicle unattended by an adult;~~
 - ~~_____ (g) ensures that children stay seated while the vehicle is moving;~~
 - ~~_____ (h) never leaves the keys in the ignition when not in the driver's seat; and~~
 - ~~_____ (i) ensures that the vehicle is locked during transport.~~
- ~~_____ (5) If the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:~~
 - ~~_____ (a) each child being transported has a completed transportation permission form signed by their parent;~~
 - ~~_____ (b) a staff member goes with the children and actively supervises the children;~~
 - ~~_____ (c) the staff to child ratio is maintained; and~~
 - ~~_____ (d) a staff member with the children has emergency contact information and releases for the children being transported.~~
- ~~_____ (6) The provider shall:~~
 - ~~_____ (a) have transport liability insurance; or~~
 - ~~_____ (b) inform parents in writing that the provider does not have transport liability insurance.~~
- ~~_____ (7) Section R381-70-20 only applies to providers who offer transportation services.~~

R381-70-21. Animals.

- ~~_____ (1) The provider shall inform parents of the kinds of animals allowed at the facility.~~
- ~~_____ (2) The provider shall ensure that there is no animal on the premises that:~~
 - ~~_____ (a) is naturally aggressive;~~
 - ~~_____ (b) has a history of dangerous, attacking, or aggressive behavior; or~~
 - ~~_____ (c) has a history of biting even one individual.~~
- ~~_____ (3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.~~
- ~~_____ (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.~~
- ~~_____ (5) If children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.~~
- ~~_____ (6) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.~~

~~(7) The provider shall ensure that dogs, cats, and ferrets that the facility houses have current rabies vaccinations.~~

~~(8) The provider shall keep current animal vaccination records on-site for review by the department.]~~

R381-70-1. Authority and Purpose.

~~(1) Section 26B-2-402 authorizes this rule.~~

~~(2) This rule establishes the foundational standards necessary to protect the health and safety of children in out-of-school-time programs and defines the general procedures and requirements to get and maintain a license.~~

R381-70-2. Definitions.

~~(1) Definitions in this rule are found in Rule R380-600. Additionally:~~

~~(2) "Background finding" means information in a background check that OBP uses to determine if a covered individual is or is not eligible to be involved with child care.~~

~~(3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.~~

~~(4) "Body fluid" means blood, urine, feces, vomit, mucus, or saliva.~~

~~(5) "Business day" means a day of the week the facility is open for business.~~

~~(6) "Business hours" means the hours the facility is open for business.~~

~~(7) "CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.~~

~~(8) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.~~

~~(9) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:~~

~~(a) count in the caregiver-to-child ratio;~~

~~(b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or~~

~~(c) supervise children.~~

~~(10) "Covered Individual" means the same as defined in Rule R380-600.~~

~~(11) "Department" means the Utah Department of Health and Human Services.~~

~~(12) "Designated play surface" means any:~~

~~(a) accessible elevated surface for standing, walking, crawling, sitting or climbing; or~~

~~(b) accessible flat surface that is at least two by two inches in size and has an angle less than 30 degrees from horizontal.~~

~~(13) "Director" means an individual who meets the director qualifications in this rule, and who assumes the child care program's day-to-day responsibilities for compliance with CCL rules.~~

~~(14) "Eligible" means the same as defined in Rule R380-600.~~

~~(15) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing entrapment and strangulation.~~

~~(16) "Facility" means a program or the premises approved and licensed by OL to be used for child care.~~

~~(17) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.~~

~~(18) "Group size" means the total number of children in a group per room or area.~~

~~(19) "Guest" means an individual who is not a covered individual and is at the child care facility with the provider's permission.~~

~~(20) "Health care provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.~~

~~(21) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.~~

~~(22) "Inaccessible" means out of reach of children by being:~~

~~(a) behind a properly secured child safety gate;~~

~~(b) if in a bathroom, locked or secured with a safety device;~~

~~(c) located in a cupboard or on a shelf that is at least 48 inches above the floor;~~

~~(d) locked, including in a locked room, cupboard, or drawer; or~~

~~(e) secured with a safety device, including a child safety cupboard lock or doorknob device.~~

~~(23) "Infectious disease" means an illness that is capable of being spread from one person to another.~~

~~(24) "Involved with child care" means to do any of the following at or for an out-of-school-time program:~~

~~(a) count in the staff-to-child ratio;~~

~~(b) have unsupervised contact with a child in care;~~

~~(c) own, operate, direct;~~

~~(d) reside;~~

~~(e) supervise or be assigned to work with children; or~~

~~(f) volunteer.~~

~~(25) "License" means a license issued by OL to provide out-of-school-time program services.~~

~~(26) "Licensee" means the legally responsible person or business that holds a valid license from OL.~~

~~(27) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.~~

~~(28) "OBP" means the same as defined in Rule R380-600.~~

~~(29) "OL" means the same as defined in Rule R380-600.~~

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- (30) "Over-the-counter medication" means medication that an individual can purchase without a written prescription, including any herbal remedy, vitamin, and mineral supplement.
- (31) "Parent" means the parent or legal guardian of a child in the program.
- (32) "Person" means the same as defined in Rule R380-600.
- (33) "Play equipment platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on and upon which a child can move freely.
- (34) "Protective barrier" means a structure including bars, lattice, or a panel around an elevated platform intended to prevent accidental or deliberate movement through or access to something.
- (35) "Protective cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of an injury from a fall.
- (36) "Qualifying child" means a child:
- (a) who is between five and 13 years old and is the child of a person other than the provider or a staff member; and
 - (b) with a disability who is between five and 18 years old and is the child of a person other than the provider or a staff member.
- (37) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (38) "Room" means a designated area or a physical space enclosed by solid barriers or partitions as follows:
- (a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:
 - (i) one room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable;
 - (ii) one room, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely;
 - (iii) two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate, including a diaper changing station that is located behind a closed gate;
 - (iv) two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate; or
 - (v) if there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway;
 - (b) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:
 - (i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, otherwise OL shall consider this to be two rooms; or
 - (ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas; and
 - (c) if in outdoor areas separated by interior fences, OL considers it:
 - (i) one area, if the interior fence is 24 inches in height or lower, whether or not the fence has an opening;
 - (ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;
 - (iii) two areas if the interior fence is higher than 24 inches and there is no opening; or
 - (iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.
- (39) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.
- (40) "School-age child" means a child age five through 12 years old.
- (41) "Services" means the supervision and response to the needs of five or more qualifying children:
- (a) in the absence of the children's parents;
 - (b) in a place other than the provider's home or the child's home;
 - (c) for less than 24 hours a day; and
 - (d) for direct or indirect compensation.
- (42) "Sexually explicit material" means any depiction of actual or simulated sexual conduct.
- (43) "Staff-to-child ratio" means the number of staff responsible for a specific number of children.
- (44) "Stationary play equipment" means equipment, including a climber, slide, swing, merry-go-round, or spring rocker, that is meant to stay in one location when a child uses it. Stationary play equipment does not include a:
- (a) playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber;
 - (b) sandbox;
 - (c) sensory table; or
 - (d) stationary circular tricycle.
- (45) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught or in which a child could become entangled, including:
- (a) a protruding bolt end that extends more than two threads beyond the face of the nut;
 - (b) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck; or
 - (c) hardware that forms a hook or leaves a gap or space between components including a protruding open S-hook.

(46) "Unsupervised contact" means being with, caring for, communicating with, or touching a child in the absence of a staff member who is at least 18 years old and is considered eligible by OBP.

(47) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

(48) "Working day" means any day of the week the department is open for business.

R381-70-3. License Required.

(1) A person shall obtain a license for an out-of-school-time program from OL if the person provides services:

(a) for direct or indirect compensation;

(b) for each individual child for less than 24 hours a day;

(c) for five or more qualifying children;

(d) in a place other than the provider's home or the child's home;

(e) in the absence of a child's parent;

(f) on an ongoing basis, on three or more days a week and for 30 or more days in a calendar year; and

(g) to children who are at least five years of age.

(2) A person who does not meet licensing requirements may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.

(3) OL may license a provider to provide child care in a facility that is also licensed by OL if the part of the facility requesting a CCL license is physically separate from the other facility services.

(4) An out of school time child care program licensee shall comply with Rule R380-600.

R381-70-4. Fire and Other Health Inspections.

(1) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, OL shall verify the applicant's compliance with the following:

(a) address numbers and letters are readable from the street;

(b) boiler, mechanical, and electrical panel rooms are not used for storage;

(c) exit doors are unlocked from the inside during business hours;

(d) exit doors operate properly and are well maintained;

(e) exits are clearly identified;

(f) there are no obstructions in exits, aisles, corridors, and stairways;

(g) there are working smoke detectors that are properly installed on each level of the building; and

(h) there is at least one unobstructed fire extinguisher on each level of the building that is charged and serviced and mounted not more than five feet above the floor.

(2) If an applicant for a new license or a renewal serves food and the local health department states in writing that a kitchen inspection is not required, OL shall verify the applicant's compliance by ensuring:

(a) any chemical is stored away from food and food service items;

(b) any cook has a current food handler's permit that is available on-site for review;

(c) any cook uses hair restraints and wears clean clothing;

(d) any reusable food holder, utensil, and food preparation surface is washed, rinsed, and sanitized before each use;

(e) food is properly stored, kept to the proper temperature, and in good condition;

(f) only necessary staff are present in the kitchen;

(g) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;

(h) there is a working handwashing sink in the kitchen, and handwashing instructions posted by the sink;

(i) there is a working stem thermometer available to check cooking and hot-hold temperatures; and

(j) there is a working thermometer in the refrigerator.

R381-70-5. Immediate Closure.

(1) In accordance with Rule R380-600, OL may order the immediate closure of a facility if conditions at the facility create a clear and present danger to any child in care.

(2) Upon receipt of an immediate closure notice, the provider shall give OL the names and mailing addresses of each enrolled child's parent so OL may notify the parents of the immediate closure.

(3) If there is a severe injury or death of a child while in the program, OL may order a provider to suspend services and prohibit new enrollments, pending a review by the Utah Child Fatality Review Committee or a determination of the probable cause of the injury or death by a medical professional.

R381-70-6. Administration and Children's Records.

(1) The provider shall:

(a) be at least 21 years old;

(b) be considered eligible by an OBP background check before becoming involved with child care; and

(c) complete the new provider training offered by OL.

(2) If the owner is not a sole proprietor, the business entity shall submit to OL the name and contact information of each individual who shall legally represent the business entity and who shall comply with Subsection R381-70-6(1).

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- (3) The provider shall protect children from conduct that endangers any child in the program or is contrary to the health, welfare, and safety of the public.
- (4) The provider shall know and comply with applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.
- (5) The provider shall comply with licensing rules any time a child is present.
- (6) The provider shall post their unaltered license on the facility premises in a place readily visible and accessible to the public.
- (7) The provider shall post a current copy of OL's Parent Guide at the facility for parent review during business hours, or give a current copy to each parent.
- (8) The provider shall inform each parent and OL of any changes to the program's telephone number and other contact information within 48 hours of the change.
- (9) The provider shall:
 - (a) have liability insurance; or
 - (b) inform parents in writing that the provider does not have liability insurance.
- (10) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the program.
- (11) The provider shall ensure that each child's admission and health assessment form includes:
 - (a) the child's name;
 - (b) the child's date of birth;
 - (c) each parent's name, address, and phone number, including a daytime phone number;
 - (d) the names of individuals authorized by the parent to sign the child out from the facility;
 - (e) the name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;
 - (f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;
 - (g) the parent's permission for emergency transportation and emergency medical treatment;
 - (h) any known allergy of the child;
 - (i) any known food sensitivity of the child;
 - (j) any chronic medical condition that the child may have;
 - (k) any instructions for special or nonroutine daily health care of the child;
 - (l) any current ongoing medication that the child may be taking; and
 - (m) any other special health instructions for the caregiver.
- (12) The provider shall ensure that the admission and health assessment form is:
 - (a) reviewed, updated, and signed or initialed by the parent at least annually; and
 - (b) kept on-site for review by OL.
- (13)(a) If a child's immunization documentation is not maintained by a school or another organization, the provider shall ensure there is documentation of current immunizations for each child in care available for review by OL staff.
 - (b) the provider may have a 90-day exemption from the immunization documentation requirement if the children being served are experiencing homelessness or are in foster care.
- (14) The provider shall ensure that each child's information is confidential and not released without written parental permission except to OL.

R381-70-7. Personnel and Training Requirements.

- (1) The provider shall ensure that each employee and volunteer is supervised, qualified, and trained to:
 - (a) meet the needs of the children as required by rule; and
 - (b) comply with this rule.
- (2) The provider shall ensure that the center has a qualified director.
- (3) The provider shall ensure that the director:
 - (a) completes at least ten hours of child-related training each year based on the facility's license date, or at least 45 minutes of child-related training each month they work, if hired partway through the facility's licensing year.
 - (b) completes the new director training offered by OL within 60 working days of assuming director duties;
 - (c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL;
 - (d) is at least 21 years old;
 - (e) is considered eligible by an OBP background check before becoming involved with child care; and
 - (f) knows and follows any applicable laws and requirements under Rules R381-70 and R380-600.
- (4) The provider shall ensure that each new director has at least one of the following educational credentials:
 - (a) a currently valid national certification, including:
 - (i) a Certified Childcare Professional issued by the National Child Care Association;
 - (ii) a Child Development Associate issued by the Council for Early Childhood Professional Recognition; or
 - (iii) other equivalent credential as approved by OL;
 - (b) a National Administrator Credential with at least 60 hours of equivalent training as approved by OL;
 - (c) any bachelor's or higher education degree with at least 60 hours of coursework in child development, social and emotional development and the child care environment, or 60 hours of equivalent training as approved by OL;
 - (d) at least 12 college credit hours of child development courses; or

- (e) at least an associate degree in early childhood development or related field.
- (5) The provider shall ensure that the director is on duty at the facility at least half of time the facility is open and has sufficient freedom from other responsibilities to manage the center and respond to emergencies.
- (6) The provider shall ensure that there is a director designee with authority to act on behalf of the director in the director's absence.
- (7) The provider shall ensure that the director designee:
- (a) completes at least ten hours of child-related training each year based on the facility's license date, or at least 45 minutes of child-related training each month they work if hired partway through the facility's licensing year;
- (b) completes the director designee training offered by OL;
- (c) has current first aid and cardio pulmonary resuscitation (CPR) certification in accordance with Subsections R381-70-7(20) and (21);
- (d) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
- (e) is at least 18 years old;
- (f) is considered eligible by a CCL background check before becoming involved with child care; and
- (g) knows and follows any applicable law and this rule.
- (8) The provider shall ensure that the director or the director designee is present at the facility during business hours.
- (9) The provider shall ensure that each staff member working with a child:
- (a) completes at least ten hours of child care training each year, based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year;
- (b) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
- (c) is at least 16 years old;
- (d) is considered eligible by an OBP background check before becoming involved with child care;
- (e) is introduced to other program staff and to the staff member's assigned group;
- (f) knows and follows any applicable law and this rule; and
- (g) reviews the information in each child's health assessment in the staff member's assigned group, including allergies, food sensitivities, and other individual needs.
- (10) The provider shall ensure that any other staff, including any driver, cook, and clerk:
- (a) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
- (b) knows and follows any applicable law and this rule; and
- (c) is considered eligible by an OBP background check before becoming involved with child care.
- (11) The provider shall ensure that each volunteer is considered eligible by an OBP background check before becoming involved with child care.
- (12) The provider shall ensure that each guest or student intern who is registered and participating in a high school or college child care course wears a guest nametag.
- (13) The provider shall ensure that each household member who is:
- (a) 12 to 17 years old is considered eligible by an OBP background check; and
- (b) 18 years old or older is considered eligible by an OBP background check that includes fingerprints.
- (14) The provider shall ensure that an individual who provides an Individualized Educational Plan or Individualized Family Service plan services including any physical, occupational, or speech therapist:
- (a) provides identification before having access to the facility or to a child at the facility; and
- (b) has received the child's parent's permission for services to take place at the facility.
- (15) The provider shall ensure that any individual from law enforcement, Child Protective Services, the department, and any similar entity provides identification before having access to the facility or to a child at the facility.
- (16) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by OL that includes at least the following topics:
- (a) administration of medication;
- (b) applicable laws and requirements under Rule R381-70;
- (c) building and physical premises safety;
- (d) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
- (e) children whose special needs may include a disability;
- (f) emergency preparedness, response, and recovery plan;
- (g) pediatric first aid and CPR;
- (h) precautions in transporting children;
- (i) prevention and control of infectious diseases including immunizations;
- (j) prevention of and response to emergencies due to food and allergy reactions;
- (k) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;
- (l) prevention of sudden infant death syndrome and the use of safe sleeping practices;
- (m) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
- (n) recognizing the signs of an individual experiencing homelessness and available assistance; and
- (o) safe handling and disposal of hazardous materials and bio contaminants.
- (17) The provider shall ensure that annual child care training includes at least each topic listed in:
- (a) Sections R381-70-7 through R381-70-22; and

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(b) Subsections R381-70-7(16)(a) through (o).

(18) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by the OL and includes the:

(a) date of the training;

(b) name of the individual or organization that presented the training;

(c) total hours or minutes of the training; and

(d) training topic.

(19) The provider shall ensure that at least one staff member with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when a child is in care:

(a) at each offsite activity;

(b) at the facility; and

(c) in each vehicle transporting a child.

(20) The provider shall ensure that CPR certification includes hands-on testing.

(21) The provider shall ensure that the following records for each covered individual are on-site for review by OL:

(a) the date of initial employment or association with the program;

(b) a current pediatric first aid and CPR certification, if required in this rule; and

(c) a six-week record of the times worked each day.

R381-70-8. Background Checks.

(1) Before a new covered individual becomes involved with child care, the provider shall use the licensing provider portal search to verify that the individual is eligible and:

(a) associate that individual with the provider's facility; or

(b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.

(2) Before a new covered individual who does not appear in the licensing provider portal search becomes involved with child care in the program, the provider must require the individual to submit an online background check application and fingerprints for any individual age 16 years old and older, except for individuals 12-17 years old who are only listed as household members, and:

(a) authorize the individual's background check through the licensing provider portal;

(b) pay any required fees; and

(c) only allow the individual to be involved with child care if they have an eligible OBP background check determination.

(3) To keep a covered individual's background check eligibility current, the provider shall require a covered individual to submit a new background check application, fingerprints, and fees if the covered individual has:

(a) not been associated with an active, CCL approved child care facility within the past 180 days;

(b) resided outside of Utah since their last background check was completed; or

(c) turned 18 years old and has not previously submitted fingerprints for an OBP background check, except when the 18-year-old has previously submitted fingerprints for an OBP background check, then only a new background check application will be required.

(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall ensure that an online background check application is submitted, and:

(a) authorize the child's background check through the licensing provider portal; and

(b) pay any required fee.

(5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.

(6) If a covered individual submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the OBP's fingerprinting requirements.

(7) OBP may consider a covered individual not eligible for any of the following reasons:

(a) any felony conviction;

(b) any of the reasons listed under Subsection R381-70-8(8);

(c) LIS supported findings that occurred no more than 15 years from the date the application was submitted;

(d) the covered individual knowingly making a false statement related to their background check;

(e) the covered individual refusing to consent to the criminal background check; or

(f) the covered individual's name appearing on the Utah or national sex offender registry.

(8) OBP may also consider a covered individual not eligible for any of the following criminal findings regardless of severity:

(a) child pornography;

(b) driving under the influence while a child is present in the vehicle;

(c) pornographic material or performance;

(d) providing dangerous weapons or firearms to a minor;

(e) sexual enticing of a minor;

(f) sexual exploitation;

(g) voyeurism; or

(h) any crime against an individual.

(9) OBP shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before OBP conducted the background check.

(10) If the provider is not eligible by OBP, OL may suspend or deny their license until the reason for the background check finding is resolved.

(11) If a covered individual is considered not eligible by OBP, including if the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.

(12) If OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), the covered individual may appeal the information to DPS.

(13) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including license revocation.

(14) The executive director, or designee of the department may overturn an OBP background check decision if the executive director or designee determines that the nature of the background finding or mitigating circumstances do not pose a risk to a child.

R381-70-9. Facility.

(1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in the program, including the provider's or employee's own child.

(2) The provider may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:

(a) by children;

(b) for the use of children; or

(c) to store materials for children.

(3) When measuring indoor space for children's use, the provider may not include any:

(a) bathroom;

(b) closet and staff locker;

(c) hallway;

(d) kitchen;

(e) lobby and entryway; and

(f) staff office.

(4) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license.

(5)(a) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint undergoes a test for lead.

(b) If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.

(6) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation or by windows that open and have screens.

(7) The provider shall ensure that windows and glass doors within 36 inches from the floor or ground are made of safety or tempered glass, or have a protective guard.

(8) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity the provider is conducting.

(9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(10) The provider shall ensure that there is a working telephone:

(a) at the facility;

(b) during any offsite activity; and

(c) in each vehicle while transporting a child.

(11) The provider shall ensure that there are at least two working toilets and two working handwashing sinks accessible to children in the center.

(12) The provider shall ensure that there is at least one additional working toilet and one additional handwashing sink for each additional group of one to 25 children.

(13) The provider shall ensure that there is a bathroom that provides privacy available for use by any child.

(14) The provider shall ensure that any child outdoors is in an enclosed area, except during offsite activities.

(15) The provider shall ensure that the outdoor area:

(a) has a fence, wall or solid natural barrier that is at least four feet high encloses the outdoor area;

(b) has at least 40 square feet of space for each child using the area at one time;

(c) has no gaps five by five inches or greater in or under any fence or barrier;

(d) has shade available to protect any child from excessive sun and heat when in the outdoor area;

(e) is safely accessible to any child; and

(f) the total square footage of the outdoor area accommodates at least one-third of the approved capacity at one time, or is at least 1,600 square feet.

(16) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:

(a) maintain the pool in a safe manner;

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- (b) meet applicable state and local laws and ordinances related to the operation of a swimming pool; and
- (c) when not in use;
- (i) cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions or
- (ii) enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.
- (17) The provider shall maintain any building and outdoor area in good repair and safe condition, including any:
 - (a) ceiling, wall, and floor covering;
 - (b) drape, blind, and other window covering;
 - (c) entrance, exit, step, and walkway, including keeping them free of ice, snow, and other hazards;
 - (d) furniture, toy, and material accessible to a child;
 - (e) indoor and outdoor equipment; and
 - (f) lighting, bathroom, and other fixture.
- (18) The provider shall ensure that a protective barrier of at least three feet or higher exists for:
 - (a) any accessible raised deck or balcony that is five feet or higher; and
 - (b) any open stairwell that is five feet or deeper.
- (19) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, OL may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:
 - (a) there is a separate entrance for the program;
 - (b) there are no connecting interior doorways that can be used by unauthorized individuals; and
 - (c) there is no shared access to the outdoor area used for the program.

R381-70-10. Ratios and Group Size.

- (1) The provider shall maintain the staff-to-child ratio of at least one staff member for every 20 children.
- (2) The provider may not exceed the maximum group size of 40 children per group.
- (3) The provider shall ensure that there are at least two staff members present when there are more than eight children on the premises.
- (4) The provider shall include any child of the provider or an employee:
 - (a) in the group size when the parent of the child is working at the facility; and
 - (b) in the group size and the staff-to-child ratio when the parent of the child is not working at the facility.
- (5) The provider may include the following in the staff-to-child ratio any:
 - (a) caregiver;
 - (b) student intern who is registered in a high school or college child care course; and
 - (c) volunteer who is 16 or 17 years old.
- (6) The provider shall ensure that any guest does not count in caregiver-to-child ratios.

R381-70-11. Child Supervision and Security.

- (1) The provider shall ensure that each staff member provides and maintains active supervision of each child, including:
 - (a) being able hear the children;
 - (b) being aware of the entire group even when interacting with a smaller group or an individual child;
 - (c) being close enough to intervene;
 - (d) focusing attention on the children and not on the staff's personal interests;
 - (e) knowing the number of children in their assigned group at any time; and
 - (f) positioning themselves so each child in their assigned group is actively supervised.
- (2) The provider shall ensure a 16 or 17 year old staff or household member may only have unsupervised contact with a child in care, including during offsite activities and transportation, if:
 - (a) the director or the director designee is physically present and available as needed;
 - (b) the staff or household member is left unsupervised for no more than two consecutive hours per group; and
 - (c) the staff or household member is not a volunteer.
- (3) The provider may not assign a staff member, volunteer, and household member who is younger than 16 years old to care for or supervise any child in care.
- (4) The provider shall ensure that any guest or student intern who is registered and participating in a high school or college child care course does not have unsupervised contact with any child in care, including during any offsite activity and transportation.
- (5) The provider shall ensure that any parent of a child in care does not have unsupervised contact with any child in care, except with their own child.
- (6) The provider shall ensure that a parent has access to their child and the areas used to care for their child when their child is in care.
 - (7) To maintain security and supervision of children, the provider shall ensure that:
 - (a) any individual signing a child in and out uses an identifier, including a signature, initials, or electronic code;
 - (b) each child is signed in and out in accordance with this section;
 - (c) only a child's parent or an individual with written authorization from the parent may sign-out a child;
 - (d) photo identification is required if the individual signing the child out is unknown to the provider;
 - (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
 - (f) there is written permission from the child's parent if children sign themselves in or out.

(8) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:

- (a) the person giving verbal authorization; and
- (b) the person picking up the child.

(9) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is kept on-site for review by the OL.

R381-70-12. Child Guidance and Interaction.

(1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in the program.

(2) The provider shall inform each child, each parent, and anyone who interacts with any child in care of the center's behavioral expectations and how any misbehavior will be handled.

(3) The provider shall ensure that any individual who interacts with a child guides the child's behavior by using positive reinforcement, redirection, and by setting clear limits that promote the child's ability to become self-disciplined.

(4) The provider shall ensure that each staff uses gentle, passive restraint with a child only when it is needed to protect a child from injuring themselves or others, or to stop a child from destroying property.

(5) The provider shall ensure that each interaction with the child does not include:

- (a) any action that produces physical pain or discomfort, including hitting, spanking, shaking, biting, or pinching;
- (b) any form of corporal punishment;
- (c) any form of emotional mistreatment;
- (d) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage;
- (e) forcing or withholding food, rest, or toileting;
- (f) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint; or
- (g) shouting at children.

(6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Section 80-2-602.

R381-70-13. Child Safety and Injury Prevention.

(1) The provider shall ensure that any child and staff use each building, outdoor area, toy, and any equipment safely and as intended by the manufacturer to prevent injury to children.

(2) The provider shall ensure that any poisonous or harmful plant is inaccessible to children.

(3) The provider shall ensure that any razor and any other similar blade is inaccessible to children.

(4) The provider shall ensure that any strangulation hazard, including any rope, cord, chain, and wire attached to a structure and long enough to encircle a child's neck is inaccessible to children.

(5) The provider shall ensure that any tripping hazard including unsecured flooring, any rug with a curled edge, or cord in a walkway is inaccessible to children.

(6) The provider shall ensure that exits are free of any blocking objects.

(7) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.

(8) The provider shall ensure that any toxic or hazardous chemical, including any cleaner, insecticide, lawn product, and flammable, corrosive, and reactive material is:

- (a) disposed of properly;
- (b) inaccessible to any child;
- (c) stored in a container labeled with the contents of the container; and
- (d) used according to manufacturer instructions.

(9) The provider shall ensure that the following items are inaccessible to children:

- (a) cigarette lighters;
- (b) hot wax or other hot substances;
- (c) matches;
- (d) open flames; and
- (e) when in use, portable space heaters, wood burning stoves, and fireplaces.

(10) The provider shall ensure that any live electrical wire is inaccessible to children.

(11) Unless used and stored as allowed by any state or federal law, the provider shall ensure that any firearm, including a gun, muzzleloader, rifle, shotgun, handgun, pistol, and automatic gun, is:

- (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and
- (b) stored unloaded and separate from ammunition.

(12) The provider shall ensure that any weapon, including a paintball gun, BB gun, airsoft gun, sling shot, arrow, and mace, is inaccessible to children.

(13) The provider shall ensure that any alcohol, illegal substance, or sexually explicit material is inaccessible and not used on the premises, during any offsite activity, or in any center vehicle any time a child is present.

(14) The provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain, is available to each child when the outside temperature is 75 degrees Fahrenheit or higher.

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- (15) The provider shall ensure that each area accessible to a child is free of any heavy or unstable object that a child could pull down on themselves, including any furniture, unsecured television, and standing ladder.
- (16) The provider shall ensure that hot water accessible to a child does not exceed 120 degrees Fahrenheit.
- (17) The provider shall ensure that any tobacco, e-cigarette, e-juice, e-liquid, or similar product is inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, is not used:
 - (a) in a facility or any other building when a child is in care;
 - (b) in any vehicle that is being used to transport a child in care;
 - (c) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care;
 - (d) within 25 feet of any entrance to a facility or other building occupied by a child in care.

R381-70-14. Emergency Preparedness, Response, and Recovery.

- (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:
 - (a) includes a procedure for:
 - (i) accommodating a child with a chronic medical condition;
 - (ii) accommodating a child with a disability;
 - (iii) communication with and reunification of families;
 - (iv) continuity of operations;
 - (v) evacuation;
 - (vi) lockdown;
 - (vii) relocation; and
 - (viii) shelter in place.
 - (b) includes instructions to follow if there is an allergy, serious reaction to food, or any other trigger that may affect a child's health;
 - (c) is available for review by any parent, staff member, and OL during business hours; and
 - (d) is followed if an emergency happens, unless otherwise instructed by emergency personnel.
- (2) The provider shall post the center's street address and any emergency numbers, including at least fire, police, and poison control, near each telephone in the center or in an area clearly visible to anyone needing the information.
- (3) The provider shall keep first aid supplies in the center, including at least antiseptic, bandages, and tweezers.
- (4) The provider shall conduct a fire evacuation drill monthly and make sure each drill includes a complete exit of each child, staff, and volunteer, from the building.
 - (5) The provider shall document each fire drill, including:
 - (a) any problems encountered and remediation;
 - (b) the date and time of the drill;
 - (c) the name of the individual supervising the drill;
 - (d) the number of children participating; and
 - (e) the total time to complete the evacuation.
 - (6) The provider shall conduct a drill for disasters, other than fires, at least once every six months.
 - (7) The provider shall document each disaster drill, including:
 - (a) any problems encountered and remediation;
 - (b) the date and time of the drill;
 - (c) the name of the individual supervising the drill;
 - (d) the number of children participating; and
 - (e) the type of disaster, including earthquake, flood, prolonged power or water outage, or tornado;
 - (8) The provider shall vary the days and times when fire and other disaster drills are held.
 - (9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by OL.
 - (10) The provider shall:
 - (a) give each parent a written report on the day of occurrence of each incident, accident, or injury involving their child;
 - (b) ensure the report has the signatures of the staff members involved, the center director or director designee, and the individual picking up the child; and
 - (c) if a school-age child signs themselves out of the center, send a copy of the report to the parent on the day following the occurrence.
 - (11) If a child is injured and the injury appears serious but not life-threatening, the provider shall submit a critical incident report to OL within one business day and contact the child's parent immediately.
 - (12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall submit a critical incident report to OL within one business day and:
 - (a) call emergency personnel immediately;
 - (b) contact the parent after emergency personnel are called; and
 - (c) if the parent cannot be reached, try to contact the child's emergency contact individual.
 - (13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall submit a critical incident report to OL within one business day.
 - (14) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by OL.
 - (15) The provider shall ensure compliance with critical incident reporting in accordance with Subsection R380-600-7(16).

R381-70-15. Health and Infection Control.

- (1) The provider shall maintain the building, furnishings, equipment, and outdoor area including keeping:
- (a) any frequently touched surface, including each doorknob and light switch, clean and sanitized;
 - (b) each area and any equipment used for the storage, preparation, and service of food clean and sanitized;
 - (c) each surface free of rotting food or a build-up of food;
 - (d) each wall and floor clean and free of spills, dirt, and grime;
 - (e) the building and grounds free of a build-up of litter and garbage; and
 - (f) the building and grounds free of animal feces.
- (2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.
- (3) The provider shall clean and sanitize any toy and material used by a child:
- (a) at least once a week or more often if needed; and
 - (b) after being contaminated by a body fluid.
- (4) The provider shall ensure that any fabric toy and item including any stuffed animal, cloth doll, pillow cover, and dress-up clothing is machine washable and if used, washed at least each week or as needed.
- (5) The provider shall clean and sanitize each water play table or tub daily, if used by a child.
- (6) The provider shall clean and sanitize each bathroom surface including each toilet, sink, faucet, toilet and sink handle, and counter each business day.
- (7) The provider shall ensure that toilet paper is accessible and kept in a dispenser that is accessible to each child.
- (8) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that each staff follow the procedures.
- (9) The provider shall ensure that each staff member and volunteer washes their hands thoroughly with liquid soap and running water:
- (a) after cleaning up or taking out garbage.
 - (b) after contact with a body fluid;
 - (c) after using the toilet or helping a child use the toilet;
 - (d) before and after eating meals and snacks or feeding a child;
 - (e) before handling or preparing food;
 - (f) upon arrival;
 - (g) when coming in from outdoors; and
- (10) The provider shall ensure that each staff member teaches each child how to wash their hands thoroughly and oversee handwashing when possible.
- (11) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water:
- (a) after contact with a body fluid;
 - (b) after using the toilet;
 - (c) before and after eating meals and snacks;
 - (d) before using a water play table or tub;
 - (e) upon arrival; and
 - (f) when coming in from outdoors.
- (12) The provider shall ensure that only single-use towels from a covered dispenser or an electric hand dryer are used to dry hands.
- (13) The provider shall ensure that any personal hygiene items, including a toothbrush, comb, and hair accessory, are not shared and are stored so they do not touch each other or they are sanitized between each use.
- (14) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.
- (15) The provider shall ensure that a child's clothing that is wet or soiled from a body fluid is:
- (a) not rinsed or washed at the center;
 - (b) placed in a leakproof container that is labeled with the child's name; and
 - (c) returned to the parent or thrown away with parental consent.
- (16) The provider shall ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids shall:
- (a) clean the surface using a detergent solution;
 - (b) rinse the surface with clean water;
 - (c) sanitize the surface;
 - (d) throw away, in a leakproof plastic bag, any disposable material, including paper towels, that were used to clean up the body fluid;
 - (e) wash and sanitize any non-disposable material used to clean up the body fluid, including any cleaning cloth, mop, or reusable rubber glove, before reusing it;
 - (f) wear waterproof gloves; and
 - (g) wash their hands after cleaning up the body fluid.
- (17) The provider may not care for a child who is ill with an infectious disease at the center except when the child shows signs of illness after arriving at the center.
- (18) If a child becomes ill while in care:
- (a) the provider shall contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact, to immediately pick up the child; and

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(b) if the child is ill with an infectious disease, the provider shall make the child comfortable in a safe, supervised area that is separated from any other child until the parent arrives.

(19) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the provider discovers the illness.

(20) If any staff member or child has an infectious disease or parasite, the provider shall post a notice at the center that:

(a) does not disclose any personal identifiable information;

(b) is posted and dated on the same day that the disease or parasite is discovered;

(c) is posted in a conspicuous place where it can be seen by parents; and

(d) remains posted for at least five business days.

(21) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that:

(a) an individual who cares for any diapered child only prepares food for the children in their care, and they do not:

(i) prepare food outside of the room used by any diapered child; or

(ii) prepare food for any other child and adult in the facility;

(b) an individual who prepares food in the kitchen does not help in toileting any child; and

(c) an individual with an infectious disease, or showing symptoms including diarrhea, fever, coughing, or vomiting, does not prepare or serve foods.

R381-70-16. Food and Nutrition.

(1) The provider shall ensure that each child is offered a meal or snack at least once every three hours when services are provided for three or more hours.

(2) If the provider supplies food for a child's meals or snacks, the provider shall ensure that:

(a) the meal service meets local health department food service rules;

(b) the foods that are served meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;

(c) the provider uses the CACFP meal pattern requirements, the standard OL-approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;

(d) the current week's menu is posted for review by parents and OL; and

(e) if not participating or in good standing with the CACFP, keep a six-week record of foods served at each meal and snack.

(3) The provider shall ensure that the individual who serves food to a child:

(a) is aware of each child in their assigned group who has any food allergy or sensitivity; and

(b) ensures that a child is not served the food that the child is allergic or sensitive to.

(4) The provider may not place a child's food on a bare table, and shall serve a child's food on a dish, napkin, or sanitary highchair tray, except an individual finger food, including a cracker, that may be placed directly in a child's hand.

(5) If a parent brings food and drink for their child's use, the provider shall ensure that the food and drink is:

(a) consumed only by that child;

(b) labeled with the child's name; and

(c) refrigerated if needed.

R381-70-17. Medications.

(1) The provider shall lock any nonrefrigerated medication or store it at least 48 inches above the floor.

(2) The provider shall lock any refrigerated medication or store it at least 36 inches above the floor and, if liquid, store it in a separate leakproof container.

(3) If a parent supplies any over-the-counter or prescription medication, the provider shall ensure that medication:

(a) is labeled with the child's full name;

(b) is stored in the original or pharmacy container; and

(c) has the original label.

(4) The provider shall obtain a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.

(5) The provider shall ensure that the medication permission form includes at least:

(a) a parent signature and the date signed;

(b) any written instructions for administration;

(c) the name of the child; and

(d) the name of the medication.

(6) The provider shall ensure that instructions for administering the medication include at least:

(a) how the medication will be given;

(b) the disease or condition being treated;

(c) the dosage; and

(d) the times and dates to administer the medication.

(7) If the provider supplies an over-the-counter medication for a child's use, the provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:

(a) written; or

(b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.

- (8) The provider shall ensure that the staff administering the medication:
- (a) checks the medication label to confirm the child's name if the parent supplied the medication;
 - (b) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer;
 - (c) washes their hands; and
 - (d) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records:
- (a) any error in administering the medication or adverse reactions;
 - (b) the date, time, and dosage of the medication given; and
 - (c) their signature or initials.
- (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.
- (11) The provider shall notify the parent before the scheduled medication dosage to a child if the provider chooses not to administer medication as instructed by the parent.
- (12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by OL.

R381-70-18. Activities.

- (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- (2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.
- (3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours that children spend in the program.
- (4) The provider shall post a daily schedule that includes:
- (a) activities that support a child's healthy development; and
 - (b) the times activities occur including at least meal, snack, and outdoor play times.
- (5) The provider shall ensure that any toy, material, and equipment needed to support a child's healthy development is available to each child.
- (6) Except for occasional special events, the provider shall ensure that each child's primary screen time activity on media, including any television, cell phone, tablet, and computer, is planned to address the needs of each child.
- (7) If the provider offers swimming activities or if a wading pool is used, the provider shall ensure that:
- (a) a staff member stays at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;
 - (b) each lifeguard and pool personnel does not count toward the staff-to-child ratio;
 - (c) if the pool is deeper than four feet, there is a lifeguard on duty who is certified by the Red Cross or another approved certification program any time a child has access to the pool; and
 - (d) the parent gives permission before their child uses the pool;
- (8) If the provider offers offsite activities, the provider shall ensure that:
- (a) a child's name is not used on a nametag, t-shirt, or in any other visible way;
 - (b) each child wears or carries with them the name and phone number of the center;
 - (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (d) the child's parent gives written consent before each activity;
 - (e) the required staff-to-child ratio and supervision are maintained during the entire activity; and
 - (f) there is a way for each child and staff member to wash their hands with soap and water, or, if there is no source of running water, with a wet wipe or hand sanitizer.
- (9) The provider shall ensure that a staff member with the children takes the written emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:
- (a) the child's name;
 - (b) the parent's name and phone number;
 - (c) the name and phone number of a person to notify if an emergency happens and the parent cannot be contacted;
 - (d) the names of people authorized by the parents to pick up the child; and
 - (e) current emergency medical treatment and emergency medical transportation releases.

R381-70-19. Play Equipment.

- (1) The provider shall ensure that each child using play equipment uses it safely and as intended by the manufacturer.
- (2) The provider shall ensure that:
- (a) stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment; and
 - (b) with the exception of a swing, stationary play equipment has at least a six-foot use zone if any designated play surface is higher than 30 inches.
- (3) The provider shall ensure that the use zone in the front and rear of a single-axis swing extends at least twice the distance of the swing pivot point to the ground.
- (4) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends at least the measurement of the suspending rope or chain plus six feet.

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- (5) The provider shall ensure that the use zone for a merry-go-round extends at least six feet in any direction from its outermost edge.
- (6) The provider shall ensure that the use zone for a spring rocker extends:
 - (a) at least three feet from the outermost edge of the rocker when at rest; or
 - (b) at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches.
- (7) The provider shall ensure that each use zone does not overlap with the use zone of any other piece of play equipment when the use zone is:
 - (a) in front of a slide;
 - (b) in the front and rear of any single-axis swing, including a single-axis enclosed swing;
 - (c) that of a multi-axis swing; and
 - (d) that of a merry-go-round, if the platform diameter measures 20 inches or more.
- (8) Unless prohibited in Subsection R381-70-19(7), the provider shall ensure that the use zones of play equipment only overlap when:
 - (a) there is at least six feet between each piece of equipment if the designated play surface is 30 inches or lower; or
 - (b) there is at least nine feet between each piece of equipment if the designated play surface is higher than 30 inches.
- (9) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface, including concrete, asphalt, dirt, and the bare floor.
- (10) The provider shall ensure that protective cushioning covers the entire surface of each required use zone and that its depth or thickness is determined by the highest designated play surface of the equipment.
- (11) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall ensure that:
 - (a) the cushioning is periodically checked for compaction and if compacted, loosened to the depth listed in Table 1;
 - (b) if the material cannot be loosened to the depth listed in Table 1 due to extreme weather conditions, a child may not play on the equipment until the material can be loosened to the required depth; and
 - (c) the depth of the material meets the guidelines in Table 1.

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires and Rubber Products
Up to 5' high	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' up to 9'	9"	Not allowed	9"	Not allowed	6"
Over 9' up to 10'	Not allowed	Not allowed	9"	Not allowed	6"
Over 10' up to 12'	Not allowed	Not allowed	Not allowed	Not allowed	6"

- (12) If the provider uses shredded wood products as protective cushioning, the provider shall:
 - (a) ensure the depth of the shredded wood meets the guidelines in Table 2;
 - (b) ensure there is adequate drainage under the material; and
 - (c) keep on-site for review by OL documentation from the manufacturer that the wood product is protective cushioning.

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood Fibers	Wood Chips	Double Shredded Bark Mulch
Up to 6' high	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 11'	9"	9"	9"
Over 11'	9"	Not allowed	Not allowed

- (13) If the provider uses a unitary cushioning, the provider shall keep on-site for review by OL documentation from the manufacturer specifying that the material is playground cushioning.
- (14) If the provider uses a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot be:
 - (a) displaced when a child jumps, runs, walks, lands, or moves on it; or
 - (b) moved or picked up by a child.
- (15) The provider shall ensure that a play equipment platform more than 48 inches above the floor or ground has a protective barrier that is at least 38 inches high.
- (16) The provider shall ensure that there is no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.

- (17) The provider shall ensure that stationary play equipment is stable or securely anchored.
- (18) The provider shall ensure that there is no trampoline on the premises that is accessible to any child in care.
- (19) The provider shall ensure that there is no entrapment hazard on or within the use zone of any piece of stationary play equipment.
- (20) The provider shall ensure that there is no strangulation hazard on or within the use zone of any piece of stationary play equipment.
- (21) The provider shall ensure that there is no crush, shearing, or sharp edge hazard on or within the use zone of any piece of stationary play equipment.
- (22) The provider shall ensure that there is no tripping hazard including any concrete footing, tree stump, tree root, or rock within the use zone of any piece of stationary play equipment.

R381-70-20. Transportation.

- (1) For each child that the provider transports, the provider shall obtain a transportation permission form that is:
 - (a) signed by a parent; and
 - (b) on-site for review by OL.
- (2) The provider shall ensure that each vehicle used for transporting children:
 - (a) is enclosed with a roof or top;
 - (b) is equipped with safety restraints;
 - (c) has a current vehicle registration;
 - (d) is maintained in a safe and clean condition; and
 - (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.
- (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:
 - (a) appropriate for the age and size of each child who is transported, as required by law;
 - (b) properly installed; and
 - (c) in safe condition and working order.
- (4) The provider shall ensure that the driver of each vehicle who is transporting children:
 - (a) is at least 18 years old;
 - (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;
 - (c) has with them the emergency contact information outlined in Subsection R381-70-18(9) for each child being transported;
 - (d) ensures that each child being transported is in an individual safety restraint as required by law;
 - (e) ensures that the inside vehicle temperature is between 60 and 85 degrees Fahrenheit;
 - (f) ensures that each child stay seated while the vehicle is moving;
 - (g) ensures that the vehicle is locked during transport;
 - (h) never leaves a child in the vehicle unattended by an adult; and
 - (i) never leaves the keys in the ignition when not in the driver's seat.
- (5) If the provider walks or uses public transportation to transport a child to or from a facility, the provider shall ensure that:
 - (a) each child being transported has a completed transportation permission form signed by their parent;
 - (b) a staff member goes with and actively supervises each child;
 - (c) a staff member transporting a child has emergency contact information outlined in Subsection R381-70-18(9) and a release for each child being transported; and
 - (d) the staff-to-child ratio is maintained.
- (6) The provider shall:
 - (a) have transport liability insurance; or
 - (b) inform parents in writing that the provider does not have transport liability insurance.
- (7) Section R381-70-20 only applies to providers who offer transportation services.

R381-70-21. Animals.

- (1) The provider shall inform each parent of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is no animal on the premises that:
 - (a) has a history of biting even one individual;
 - (b) has a history of dangerous, attacking, or aggressive behavior; or
 - (c) is naturally aggressive.
- (3) The provider shall ensure that any animal at the facility is clean and free of any obvious disease or health problem that could adversely affect a child.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) If children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.
- (6) The provider shall ensure that each child and staff wash their hands immediately after playing with or touching any reptile or amphibian.
- (7) The provider shall ensure that any dog, cat, or ferret that the facility houses have current rabies vaccinations.
- (8) The provider shall keep current animal vaccination records on-site for review by OL.

R381-70-22. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: child care facilities, child care, child care centers, out of school time child care programs

Date of Last Change: 2024[November 9, 2023]

Notice of Continuation: April 14, 2020

Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	R381-100	Filing ID: 56903

Agency Information

1. Title catchline:	Health and Human Services, Child Care Center Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
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:
R381-100. Child Care Centers
3. Purpose of the new rule or reason for the change:
The reason for this proposed repeal and reenact is to consolidate extensive nonsubstantive edits made to comply with the Rulewriting Manual for Utah. Substantive changes remove redundant or outdated content that is now addressed in Rule R380-600 and reflect the new statute governing Division of Licensing and Background Checks (DLBC) enforcement and penalties in accordance with SB229 from the 2024 General Session. The Child Care Licensing Committee has reviewed and approved the changes made in this repeal and reenact filing.
4. Summary of the new rule or change:
Section R381-100-25 is added to reflect the new statute governing DLBC enforcement and penalties in accordance with SB229 from the 2024 General Session. Portions of this rule have been updated or removed to reflect Rule R380-600 and new DLBC processes. Additionally, this filing makes style and formatting changes to comply with the Rulewriting Manual for Utah. The Child Care Licensing Committee has reviewed and approved the changes made in this repeal and reenact.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This filing is not anticipated to have a fiscal impact to the budget of DLBC, as it updates citations and removes outdated and redundant content. There is no anticipated fiscal impact as this filing removes previous requirements that are now reflected in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations. The Office of Licensing (OL) reviews providers for compliance with rules and there is no anticipated cost or savings to reviewing immunization records for children who do not already have those records reported by schools or other organizations.

B) Local governments:			
This filing is not anticipated to have a fiscal impact to local governments, as it updates citations and removes outdated and redundant content. There is no anticipated fiscal impact as this filing removes previous requirements that are now reflected in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations. Local governments do not have any involvement in the enforcement or immunization requirements of OL.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
This filing is not anticipated to have a fiscal impact on small business child care centers, as it updates citations and removes outdated and redundant content. This filing contains a new reference to Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations. There is no anticipated fiscal impact as any removed references will still exist in Rule R380-600.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
This filing is not anticipated to have a fiscal impact on non-small business child care centers, as it updates citations and removes outdated and redundant content. This filing contains a new reference to Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations. There is no anticipated fiscal impact as any removed references will still exist in Rule R380-600.			
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 filing is not anticipated to have a fiscal impact to the budget of persons other than small businesses, non-small businesses, state, or local government entities, as it updates citations and removes outdated and redundant content. There is no anticipated fiscal impact as this filing removes previous requirements that are now reflected in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no compliance costs associated with this filing for impacted entities, as it updates citations and removes outdated and redundant content.			
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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-2-402		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	10/30/2024
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R381. Health and Human Services, Child Care Center Licensing.

R381-100. Child Care Centers.

~~**R381-100 1. Legal Authority and Purpose:**~~

- ~~_____ (1) This rule is enacted and enforced in accordance with Section 26B-1-414.~~
- ~~_____ (2) This rule establishes the foundational standards necessary to protect the health and safety of children in child care centers and defines the general procedures and requirements to get and maintain a license to provide child care.~~

~~**R381-100 2. Definitions:**~~

- ~~_____ (1) "Applicant" means a person or business who has applied for a new or a renewal of a license from the department.~~
- ~~_____ (2) "Background Finding" means information in a background check that the department uses to determine if a covered individual is or is not eligible to be involved with child care.~~
- ~~_____ (3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.~~
- ~~_____ (4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.~~
- ~~_____ (5) "Business Days and Hours" means the days of the week and times the facility is open for business.~~
- ~~_____ (6) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:

 - ~~_____ (a) count in the caregiver to child ratio;~~
 - ~~_____ (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or~~
 - ~~_____ (c) supervise children.~~~~
- ~~_____ (7) "Capacity" means the maximum number of children allowable for the provider to care for at any given time.~~
- ~~_____ (8) "Caregiver to Child Ratio" means the number of caregivers responsible for a specific number of children.~~
- ~~_____ (9) "CCL" means the Child Care Licensing Program under the Office of Licensing that is delegated with the responsibility to enforce the rules under Titles R381 and R430.~~
- ~~_____ (10) "Child Care" means continuous care and supervision of one or more qualifying children that is:

 - ~~_____ (a) in place of care ordinarily provided by a parent in the parent's home;~~
 - ~~_____ (b) for less than 24 hours a day; and~~
 - ~~_____ (c) for direct or indirect compensation.~~~~
- ~~_____ (11) "Child Care Program" means a person or business that offers child care.~~
- ~~_____ (12) "Child Care Provider Licensing Committee" means the Child Care Provider Licensing Committee created in Section 26B-1-414.~~
- ~~_____ (13) "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1 1/4 inches and a length of less than 2 1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.~~
- ~~_____ (14) "Conditional Status" means that the provider is at risk of losing their child care license because compliance with any laws or administrative rules has not been maintained.~~
- ~~_____ (15) "Covered Individual" means any of the following individuals involved with a child care program:

 - ~~_____ (a) an owner;~~
 - ~~_____ (b) a director;~~
 - ~~_____ (c) a member of the governing body;~~
 - ~~_____ (d) an employee;~~
 - ~~_____ (e) a caregiver;~~
 - ~~_____ (f) a volunteer, except a parent of a child enrolled in the child care program;~~~~

- ~~_____ (g) an individual age 12 years old or older who resides in the facility; and~~
- ~~_____ (h) anyone who has unsupervised contact with a child in care.~~
- ~~_____ (16) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta-crib, or play pen.~~
- ~~_____ (17) "Department" means the Utah Department of Health and Human Services.~~
- ~~_____ (18) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.~~
- ~~_____ (19) "Director" means an individual who meets the director qualifications in this rule, and who assumes the child care program's day to day responsibilities for compliance with Child Care Licensing rules.~~
- ~~_____ (20) "Eligible" means that there were no findings in a covered individual's background check that would prohibit that covered individual from being involved with child care.~~
- ~~_____ (21) "Emotional Abuse" is defined in Subsection R512-80-2(12) and also means behavior that could harm a child's emotional development, including threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.~~
- ~~_____ (22) "Entrapment Hazard" means an opening greater than 3 1/2 by 6 1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.~~
- ~~_____ (23) "Facility" means the premises approved by the department to be used for child care.~~
- ~~_____ (24) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.~~
- ~~_____ (25) "Group Size" means the total number of children in a group per room or area.~~
- ~~_____ (26) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.~~
- ~~_____ (27) "Health Care Provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.~~
- ~~_____ (28) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.~~
- ~~_____ (29) "Inaccessible" means out of reach of children by being:~~
 - ~~_____ (a) locked, including in a locked room, cupboard, or drawer;~~
 - ~~_____ (b) secured with a child safety device, including a child safety cupboard lock or doorknob device;~~
 - ~~_____ (c) behind a properly secured child safety gate;~~
 - ~~_____ (d) located at least 36 inches above the floor; or~~
 - ~~_____ (e) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb.~~
- ~~_____ (30) "Infant" means a child who is younger than 12 months old.~~
- ~~_____ (31) "Infectious Disease" means an illness that is capable of being spread from one individual to another.~~
- ~~_____ (32) "Involved with Child Care" means to do any of the following at or for a child care program:~~
 - ~~_____ (a) care for or supervise children;~~
 - ~~_____ (b) volunteer;~~
 - ~~_____ (c) own, operate, direct;~~
 - ~~_____ (d) reside;~~
 - ~~_____ (e) count in the caregiver to child ratio; or~~
 - ~~_____ (f) have unsupervised contact with a child in care.~~
- ~~_____ (33) "License" means a license issued by the department to provide child care services.~~
- ~~_____ (34) "Licensee" means the legally responsible person or business that holds a valid license from the department.~~
- ~~_____ (35) "LIS Supported Finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.~~
- ~~_____ (36) "Older Toddler" means a child age 18 through 23 months old.~~
- ~~_____ (37) "Over the Counter Medication" means medication that an individual can purchase without a written prescription including herbal remedies, vitamins, and mineral supplements.~~
- ~~_____ (38) "Parent" means the parent or legal guardian of a child in care.~~
- ~~_____ (39) "Person" means an individual or a business entity.~~
- ~~_____ (40) "Physical Abuse" is defined in Subsection R512-80-2(25) and also means causing nonaccidental physical harm to a child.~~
- ~~_____ (41) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on, and upon which the children can move freely.~~
- ~~_____ (42) "Preschooler" means a child age two through four years old.~~
- ~~_____ (43) "Protective Barrier" means a structure including bars, lattice, or a panel that is around an elevated platform and is intended to prevent accidental or deliberate movement through or access to something.~~
- ~~_____ (44) "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.~~
- ~~_____ (45) "Provider" means the legally responsible person or business that holds a valid license or certification from the department.~~
- ~~_____ (46) "Qualifying Child" means:~~
 - ~~_____ (a) a child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;~~
 - ~~_____ (b) a child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver;~~
 - ~~_____ (c) a child who is younger than four years old and is the child of the provider or a caregiver.~~

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~~(47) "Related Child" means a child for whom a provider is the parent, legal guardian, stepparent, grandparent, step grandparent, great grandparent, sibling, step sibling, aunt, step aunt, great aunt, uncle, step uncle, or great uncle.~~

~~(48) "Room" is defined as follows:~~

~~(a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:~~

~~(i) one room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable;~~

~~(ii) one room, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely;~~

~~(iii) two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate, including a diaper changing station that is located behind a closed gate;~~

~~(iv) two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate; or~~

~~(v) if there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway;~~

~~(b) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:~~

~~(i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, otherwise the department shall consider this to be two rooms; or~~

~~(ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas;~~

~~(c) if in outdoor areas separated by interior fences, the department considers it:~~

~~(i) one area, if the interior fence is lower than 24 inches in height, whether or not the fence has an opening;~~

~~(ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;~~

~~(iii) two areas if the interior fence is higher than 24 inches and there is no opening; or~~

~~(iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.~~

~~(49) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.~~

~~(50) "School Age Child" means a child age five through 12 years old.~~

~~(51) "Sexual Abuse" is defined in Subsection R512-80-2(30) and also means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.~~

~~(52) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.~~

~~(53) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.~~

~~(54) "Stationary Play Equipment" means equipment including a climber, slide, swing, merry-go-round, or spring-rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:~~

~~(a) a sandbox;~~

~~(b) a stationary circular tricycle;~~

~~(c) a sensory table; or~~

~~(d) a playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber.~~

~~(55) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled including:~~

~~(a) a protruding bolt end that extends more than two threads beyond the face of the nut;~~

~~(b) hardware that forms a hook or leaves a gap or space between components including a protruding open S hook; or~~

~~(c) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck.~~

~~(56) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by CCL.~~

~~(57) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.~~

~~(58) "Working Days" means the days of the week the department is open for business.~~

~~(59) "Younger Toddler" means a child age 12 through 17 months old.~~

R381-100-3. License Required.

~~(1) A person shall obtain a license for a child care center from the department if they provide care:~~

~~(a) in the absence of the child's parent;~~

~~(b) in a place other than the provider's home or the child's home;~~

~~(c) for five or more unrelated children;~~

~~(d) for each individual child for less than 24 hours a day;~~

~~(e) on an ongoing basis for four or more weeks in a year; and~~

~~(f) for direct or indirect compensation.~~

~~(2) A person who does not meet licensing requirements may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.~~

~~(3) The department may license a provider to provide child care in a facility that the department licensed to offer foster or respite care services, or another licensed or certified human services program, if the part of the building requesting a CCL license is physically separate from the other building services.~~

~~R381-100-4. License Application, Renewal, Changes, and Variances.~~

- ~~(1) Each applicant for a new child care license shall:~~
- ~~(a) submit a CCL online application;~~
 - ~~(b) submit a copy of a current local fire clearance or a written statement from the local fire authority that a fire inspection is not required;~~
 - ~~(c) submit a copy of a current local health department kitchen clearance for a facility providing food service or a written statement from the local health department that a kitchen inspection is not required;~~
 - ~~(d) submit a copy of a current local business license or a written statement from the city that a business license is not required;~~
 - ~~(e) submit a copy of the educational credentials of the individual who will be the director as required in Section R381-100-7;~~
 - ~~(f) complete CCL background checks for covered individuals as required in Section R381-100-8;~~
 - ~~(g) complete CCL new provider training no more than six months before becoming licensed; and~~
 - ~~(h) pay any required fees, which are nonrefundable.~~
- ~~(2) Each applicant shall pass a department's inspection of the facility before the department issues a new license or a renewal.~~
- ~~(3) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, the department shall verify the applicant's compliance with the following:~~
- ~~(a) address numbers and letters are readable from the street;~~
 - ~~(b) exit doors operate properly and are well maintained;~~
 - ~~(c) there are no obstructions in exits, aisles, corridors, and stairways;~~
 - ~~(d) exit doors are unlocked from the inside during business hours;~~
 - ~~(e) exits are clearly identified;~~
 - ~~(f) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor;~~
 - ~~(g) there are working smoke detectors that are properly installed on each level of the building; and~~
 - ~~(h) boiler, mechanical, and electrical panel rooms are not used for storage.~~
- ~~(4) If an applicant for a new license or a renewal serves food and the local health department states in writing that a kitchen inspection is not required, the department shall verify the applicant's compliance with the following:~~
- ~~(a) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;~~
 - ~~(b) there is a working thermometer in the refrigerator;~~
 - ~~(c) there is a working stem thermometer available to check cooking and hot hold temperatures;~~
 - ~~(d) cooks have a current food handler's permit available on-site for review by the department;~~
 - ~~(e) cooks use hair restraints and wear clean outer clothing;~~
 - ~~(f) only necessary staff are present in the kitchen;~~
 - ~~(g) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;~~
 - ~~(h) chemicals are stored away from food and food service items;~~
 - ~~(i) food is properly stored, kept to the proper temperature, and in good condition; and~~
 - ~~(j) there is a working handwashing sink in the kitchen and handwashing instructions posted by the sink.~~
- ~~(5)(a) Each applicant for a new license shall complete the licensing process within six months from the time any portion of the application is submitted to the department.~~
- ~~(b) If the applicant cannot achieve successful licensure within six months, the applicant shall reapply.~~
 - ~~(c) Any resubmission shall include the required documentation and payment of licensing fees.~~
 - ~~(d) The department shall conduct a new inspection of the facility before issuing a license.~~
- ~~(6) The department may deny an application for a license if, within the five years preceding the application date, the applicant held a license or a certificate that was:~~
- ~~(a) closed under an immediate closure;~~
 - ~~(b) revoked;~~
 - ~~(c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;~~
 - ~~(d) voluntarily closed after an inspection of the facility found a rule violation that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or~~
 - ~~(e) voluntarily closed having unpaid fees or civil money penalties issued by the department.~~
- ~~(7) Each child care license expires at midnight on the last day of the month shown on the license, unless the department revokes the license or the provider voluntarily closes the license.~~
- ~~(8) Within 30 to 90 days before a current license expires, each provider shall submit for renewal:~~
- ~~(a) an online renewal request;~~
 - ~~(b) applicable renewal fees;~~
 - ~~(c) any previous unpaid fees; and~~
 - ~~(d) a copy of a current fire inspection report.~~

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- ~~_____ (9) The department may grant a provider who fails to renew their license by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.~~
- ~~_____ (10) The department may deny renewal of a license for a provider who is no longer caring for children.~~
- ~~_____ (11) Each provider shall submit a complete application for a new license at least 30 days before any of the following changes occur:
 - ~~_____ (a) a change of the child care facility's location; or~~
 - ~~_____ (b) a change that transfers 50% or more ownership or controlling interest to a new individual or entity.~~~~
- ~~_____ (12) A provider shall submit a complete online changes request to amend an existing license at least 30 days before any of the following changes:
 - ~~_____ (a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where child care is provided;~~
 - ~~_____ (b) a change in the name of the program;~~
 - ~~_____ (c) a change in the regulation type of the program;~~
 - ~~_____ (d) a change in the name of the provider;~~
 - ~~_____ (e) an addition or loss of a director; or~~
 - ~~_____ (f) a change in ownership that does not require a new license.~~~~
- ~~_____ (13) The department may amend a license after verifying that the applicant is in compliance with any applicable rules and has paid the required fees. The expiration date of the amended license remains the same as the previous license.~~
- ~~_____ (14) Only the department may assign, transfer, or amend a license.~~
- ~~_____ (15)(a) If an applicant or provider cannot comply with Rule R381-40 but can meet the intent of the rule in another way, the applicant or provider may apply for a variance to that rule by submitting a request to the department.
 - ~~_____ (b) The department may:
 - ~~_____ (i) require additional information before acting on a variance request; and~~
 - ~~_____ (ii) impose health and safety requirements as a condition of granting a variance.~~~~
 - ~~_____ (c) Each provider shall comply with the existing Rule R381-40 unless the department approves a variance.~~
 - ~~_____ (d) If the department approves a variance, the provider shall keep a copy of the written approval on-site for review by parents and the department.
 - ~~_____ (e) The department may grant variances for up to 12 months.~~
 - ~~_____ (f) The department may revoke a variance if:
 - ~~_____ (i) the provider is not meeting the intent of the rule as stated in their approved variance;~~
 - ~~_____ (ii) the provider fails to comply with the conditions of the variance; or~~
 - ~~_____ (iii) a change in statute, rule, or case law affects the basis for the variance.~~~~~~~~

R381-100 5. Rule Noncompliance, Penalties, and Agency Action Reviews.

- ~~_____ (1) The department may place a program's child care license on a conditional status for the following causes:
 - ~~_____ (a) chronic, ongoing noncompliance with rules;~~
 - ~~_____ (b) unpaid fees; or~~
 - ~~_____ (c) a serious rule violation that places children's health or safety in immediate jeopardy.~~~~
- ~~_____ (2) The department shall establish the length of the conditional status and set the conditions that the child care provider shall satisfy to remove the conditional status.~~
- ~~_____ (3) The department may increase monitoring of the program that is on conditional status to verify compliance with rules.~~
- ~~_____ (4) The department may deny or revoke a license if the child care provider:
 - ~~_____ (a) fails to meet the conditions of a license on conditional status;~~
 - ~~_____ (b) violates any part of Title 26B, Chapter 2, Part 4, Child Care Licensing;~~
 - ~~_____ (c) provides false or misleading information to the department;~~
 - ~~_____ (d) misrepresents information by intentionally altering a license or any other document issued by the department;~~
 - ~~_____ (e) fails to allow authorized representatives of the department access to the facility to ensure compliance with this rule;~~
 - ~~_____ (f) fails to submit or make available to the department any written documentation required to verify compliance with this rule;~~
 - ~~_____ (g) commits a serious rule violation that results in death or serious harm to a child, or that places a child at risk of death or serious harm; or~~
 - ~~_____ (h) has committed an illegal act that would exclude an individual from having a license.~~~~
- ~~_____ (5) Within ten working days of receipt of a revocation notice, the provider shall submit to the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the revocation.~~
- ~~_____ (6) The department may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect the children's health or safety.~~
- ~~_____ (7) Upon receipt of an immediate closure notice, the provider shall give the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the immediate closure.~~
- ~~_____ (8) If there is a severe injury or the death of a child in care, the department may order a child care provider to suspend services and prohibit new enrollments, pending a review by the DHHS Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.~~
- ~~_____ (9) An unlicensed person providing care that requires a license may be charged with a civil money penalty and a class A misdemeanor unless they:
 - ~~_____ (a) stop providing child care that requires a license; or~~~~

- ~~(b) apply for the appropriate license within 30 calendar days of notification by the department.~~
- ~~(10) If a person providing care without the appropriate license agrees to apply for a license but does not submit an application and the required application documents within 30 days, the department may issue a cease and desist order.~~
- ~~(11) A violation of any rule is punishable by an administrative civil money penalty of up to \$5,000 a day as provided in Section 26B-2-409.~~
- ~~(12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.~~
- ~~(13) The department may deny an application or revoke a license for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background checks, civil money penalties, and other fees assessed by the department.~~
- ~~(14) An applicant or provider may request an agency review for any department decision within ten working days of being informed in writing of the decision.~~

R381-100-6. Administration and Children's Records.

- ~~(1) The provider shall:~~
 - ~~(a) be at least 21 years old;~~
 - ~~(b) be considered eligible by a CCL background check before becoming involved with child care; and~~
 - ~~(c) complete the new provider training offered by the department.~~
- ~~(2) If the owner is not a sole proprietor, the business entity shall submit to the department the name and contact information of the individual or individuals who shall legally represent them and who shall comply with the requirements stated in Subsection R381-100-6(1).~~
- ~~(3) The provider shall protect children from conduct that endangers children in care, or is contrary to the health, welfare, and safety of the public.~~
- ~~(4) The provider shall know and comply with each applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.~~
- ~~(5) The provider shall comply with licensing rules any time a child in care is present.~~
- ~~(6) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public.~~
- ~~(7) The provider shall post a current copy of the department's Parent Guide at the facility for parent review during business hours.~~
- ~~(8) The provider shall inform parents and the department of any changes to the program's telephone number and other contact information within 48 hours of the change.~~
- ~~(9) The provider shall:~~
 - ~~(a) have liability insurance; or~~
 - ~~(b) inform parents in writing that the provider does not have liability insurance.~~
- ~~(10) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.~~
- ~~(11) The provider shall ensure that each child's admission and health assessment form includes the following information:~~
 - ~~(a) child's name;~~
 - ~~(b) child's date of birth;~~
 - ~~(c) parent's name, address, and phone number, including a daytime phone number;~~
 - ~~(d) names of individuals authorized by the parent to sign the child out from the facility;~~
 - ~~(e) name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;~~
 - ~~(f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;~~
 - ~~(g) parent's permission for emergency transportation and emergency medical treatment;~~
 - ~~(h) any known allergies of the child;~~
 - ~~(i) any known food sensitivities of the child;~~
 - ~~(j) any chronic medical conditions that the child may have;~~
 - ~~(k) instructions for special or nonroutine daily health care of the child;~~
 - ~~(l) current ongoing medications that the child may be taking; and~~
 - ~~(m) any other special health instructions for the caregiver.~~
- ~~(12) The provider shall ensure that the admission and health assessment form is:~~
 - ~~(a) reviewed, updated, and signed or initialed by the parent at least annually; and~~
 - ~~(b) kept on-site for review by the department.~~
- ~~(13) Before admitting any child younger than five years old into the child care program, including the provider's and employees' own children, the provider shall get the following documentation from the child's parent:~~
 - ~~(a) current immunizations;~~
 - ~~(b) a medical schedule to receive required immunizations;~~
 - ~~(c) a legal exemption; or~~
 - ~~(d) a 90-day exemption for foster children and children who are homeless.~~
- ~~(14) For each child younger than five years old, including the provider's and employees' own children, the provider shall keep their current immunization records on-site for review by the department.~~

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~~(15) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health and Human Services by the date specified by the department.~~

~~(16) The provider shall ensure that each child's information is confidential and not released without written parental permission except to the department.~~

R381-100-7. Personnel and Training Requirements.

~~(1) The provider shall ensure that employees and volunteers are supervised, qualified, and trained to:~~

- ~~(a) meet the needs of the children as required by rule; and~~
- ~~(b) be in compliance with licensing requirements under Rule R381-100.~~

~~(2) The provider shall ensure that the center has a qualified director as required by licensing rules.~~

~~(3) The provider shall ensure that the director:~~

- ~~(a) is at least 21 years old;~~
- ~~(b) is considered eligible by a CCL background check before becoming involved with child care;~~
- ~~(c) if hired after January 1, 2023, has completed the 2 1/2 hour preservice training offered by the department;~~
- ~~(d) completes the new director training offered by the department within 60 working days of assuming director duties;~~
- ~~(e) knows and follows any applicable laws and requirements under Rule R381-100; and~~
- ~~(f) completes at least 20 hours of child care training each year based on the facility's license date, or at least 1 1/2 hours of child care training each month they work if hired partway through the facility's licensing year.~~

~~(4) The provider shall ensure that each new director has one of the following educational credentials:~~

- ~~(a) any bachelor's or higher education degree, and at least 60 clock hours of coursework in child development, social and emotional development, and the child care environment, or 60 clock hours of equivalent training as approved by the department;~~
- ~~(b) at least 12 college credit hours of child development courses;~~
- ~~(c) a currently valid national certification including a Certified Childcare Professional issued by the National Child Care Association, a Child Development Associate issued by the Council for Early Childhood Professional Recognition, or other equivalent credential as approved by the department;~~
- ~~(d) at least an associate degree in early childhood development or related field; or~~
- ~~(e) a National Administrator Credential and at least 60 clock hours of course work in child development, social and emotional development, and the child care environment; or 60 clock hours of equivalent training as approved by the department.~~

~~(5) The provider shall ensure that the director is on duty at the facility for at least 20 hours a week during operating hours and has sufficient freedom from other responsibilities to manage the center and respond to emergencies.~~

~~(6) The provider shall ensure that there is a director designee with authority to act on behalf of the director in the director's absence.~~

~~(7) The provider shall ensure that the director designee:~~

- ~~(a) is at least 18 years old;~~
- ~~(b) is considered eligible by a CCL background check before becoming involved with child care;~~
- ~~(c) if hired after January 1, 2023, has completed the 2 1/2 hour preservice training offered by the department before beginning job duties;~~
- ~~(d) knows and follows any applicable laws and requirements under Rule R381-100;~~
- ~~(e) completes at least 20 hours of child care training each year based on the facility's license date, or at least 1 1/2 hours of child care training each month they work if hired partway through the facility's licensing year; and~~
- ~~(f) has current first aid and cardio-pulmonary resuscitation (CPR) certification.~~

~~(8) The provider shall ensure that the director or the director designee is present at the facility when the center is open for care.~~

~~(9) The provider shall ensure that caregivers:~~

- ~~(a) are at least 16 years old;~~
- ~~(b) are considered eligible by a CCL background check before becoming involved with child care;~~
- ~~(c) complete the 2 1/2 hour preservice training offered by the department before caring for children;~~
- ~~(d) know and follow any applicable laws and requirements under Rule R381-100;~~
- ~~(e) are introduced to other program staff and to the caregiver's assigned group of children;~~
- ~~(f) review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs; and~~
- ~~(g) complete at least 20 hours of child care training each year, based on the facility's license date, or at least 1 1/2 hours of child care training each month they work if hired partway through the facility's licensing year.~~

~~(10) The provider shall ensure that any other staff including drivers, cooks, and clerks:~~

- ~~(a) are considered eligible by a CCL background check before becoming involved with child care;~~
- ~~(b) complete the 2 1/2 hour preservice training offered by the department before beginning job duties; and~~
- ~~(c) know and follow any applicable laws and requirements under Rule R381-100.~~

~~(11) The provider shall ensure that volunteers are eligible by a CCL background check before becoming involved with child care.~~

~~(12) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests wear a guest nametag.~~

~~(13) The provider shall ensure that household members who are:~~

- ~~(a) 12 to 17 years old are considered eligible by a CCL background check; and~~
- ~~(b) 18 years old or older are eligible by a CCL background check that includes fingerprints.~~

- ~~(14) The provider shall ensure that individuals who provide Individualized Educational Plan or Individualized Family Service plan services including physical, occupational, or speech therapists:~~
- ~~(a) provide proper identification before having access to the facility or to a child at the facility; and~~
 - ~~(b) have received the child's parent's permission for services to take place at the facility.~~
- ~~(15) The provider shall ensure that individuals from law enforcement, Child Protective Services, the department, and any similar entities provide proper identification before having access to the facility or to a child at the facility.~~
- ~~(16) The provider shall ensure that each covered individual required to complete preservice training receives the 2 1/2 hour preservice training offered by the department that includes at least the following topics:~~
- ~~(a) applicable laws and requirements under Rule R381-100;~~
 - ~~(b) children whose special needs may include a disability;~~
 - ~~(c) recognizing the signs of homelessness and available assistance;~~
 - ~~(d) building and physical premises safety;~~
 - ~~(e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;~~
 - ~~(f) pediatric first aid and CPR;~~
 - ~~(g) emergency preparedness, response, and recovery plan;~~
 - ~~(h) prevention of and response to emergencies due to food and allergy reactions;~~
 - ~~(i) safe handling and disposal of hazardous materials and bio-contaminants;~~
 - ~~(j) prevention and control of infectious diseases including immunizations;~~
 - ~~(k) administration of medication;~~
 - ~~(l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;~~
 - ~~(m) precautions in transporting children;~~
 - ~~(n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and~~
 - ~~(o) prevention of sudden infant death syndrome and the use of safe sleeping practices.~~
- ~~(17) The provider shall ensure that annual child care training includes at least the following topics:~~
- ~~(a) current department rule Sections R381-100-7 through R381-100-24; and~~
- ~~(b) each topic listed in Subsections R381-100-7(16)(a) through (e).~~
- ~~(18) The provider shall ensure that documentation of each individual's annual child care training is on site for review by the department and includes the following:~~
- ~~(a) training topic;~~
 - ~~(b) date of the training;~~
 - ~~(c) name of the individual or organization that presented the training; and~~
 - ~~(d) total hours or minutes of training.~~
- ~~(19) The provider shall ensure that at least one staff member with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when children are in care:~~
- ~~(a) at the facility;~~
 - ~~(b) in each vehicle transporting children; and~~
 - ~~(c) at each offsite activity.~~
- ~~(20) The provider shall ensure that CPR certification includes hands on testing.~~
- ~~(21) The provider shall ensure that the following records for each covered individual are on site for review by the department:~~
- ~~(a) the date of initial employment or association with the program;~~
 - ~~(b) a current pediatric first aid and CPR certification, if required in this rule; and~~
 - ~~(c) a six week record of the times worked each day.~~

R381-100.8. Background Checks.

- ~~(1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:~~
- ~~(a) associate that individual with their facility; or~~
 - ~~(b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.~~
- ~~(2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:~~
- ~~(a) require the individual to submit an online background check form and fingerprints for individuals age 18 years old and older;~~
 - ~~(b) authorize the individual's background check through the CCL provider's portal;~~
 - ~~(c) pay any required fees; and~~
 - ~~(d) receive written notice from CCL that the individual is eligible.~~
- ~~(3) To keep their background check eligibility current, the provider shall require a covered individual to submit a new background check form, fingerprints, and fees if the covered individual has:~~
- ~~(a) resided outside of Utah since their last background check was completed;~~
 - ~~(b) not been associated with an active, CCL approved child care facility within the past 180 days; or~~
 - ~~(c) turned 18 years old and has not previously submitted fingerprints for a CCL background check, except when the 18 year old has previously submitted fingerprints for a CCL background check, then only a new background check form will be required.~~
- ~~(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:~~

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- ~~_____ (a) ensure that an online background check form is submitted;~~
- ~~_____ (b) authorize the child's background check through the CCL provider's portal; and~~
- ~~_____ (c) pay any required fees.~~
- ~~_____ (5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.~~
- ~~_____ (6) If a covered individual submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.~~
- ~~_____ (7) The department may consider a covered individual not eligible for any of the following reasons:~~
 - ~~_____ (a) LIS supported findings;~~
 - ~~_____ (b) the covered individual's name appears on the Utah or national sex offender registry;~~
 - ~~_____ (c) the covered individual refuses to consent to the criminal background check;~~
 - ~~_____ (d) the covered individual knowingly makes a false statement in connection with their background check;~~
 - ~~_____ (e) any felony convictions; or~~
 - ~~_____ (f) for any of the reasons listed under Subsection R381-100-8(8).~~
- ~~_____ (8) The department may also consider a covered individual not eligible for any of the following convictions regardless of severity:~~
 - ~~_____ (a) child pornography;~~
 - ~~_____ (b) sexual enticing of a minor;~~
 - ~~_____ (c) voyeurism;~~
 - ~~_____ (d) a sexual exploitation act;~~
 - ~~_____ (e) pornographic material or performance;~~
 - ~~_____ (f) any crime against an individual;~~
 - ~~_____ (g) providing dangerous weapons or firearms to a minor; or~~
 - ~~_____ (h) driving under the influence while a child is present in the vehicle.~~
- ~~_____ (9) The department shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check.~~
- ~~_____ (10) If the provider is not eligible by CCL, the department may suspend or deny their license until the reason for the background check finding is resolved.~~
- ~~_____ (11) If a covered individual is considered not eligible by CCL, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.~~
- ~~_____ (12) If the department denies a covered individual a license or employment by the provider based upon the criminal background check and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information to the Department of Public Safety.~~
- ~~_____ (13) The provider and the covered individual shall notify the department within 48 hours of becoming aware of the covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding. Failure to notify the department within 48 hours may result in disciplinary action, including revocation of the license.~~
- ~~_____ (14) The Executive Director or designee of the department may overturn a CCL background check decision if they determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.~~

~~R381-100-9. Facility.~~

- ~~_____ (1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.~~
- ~~_____ (2) The department may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:~~
 - ~~_____ (a) by children;~~
 - ~~_____ (b) for the care of children; or~~
 - ~~_____ (c) to store materials for children.~~
- ~~_____ (3) The department may not include the following areas when measuring indoor space for children's use:~~
 - ~~_____ (a) bathrooms;~~
 - ~~_____ (b) closets and staff lockers;~~
 - ~~_____ (c) hallways;~~
 - ~~_____ (d) lobbies and entryways;~~
 - ~~_____ (e) kitchens; and~~
 - ~~_____ (f) staff offices.~~
- ~~_____ (4) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license.~~
- ~~_____ (5) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint undergoes a test for lead. If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.~~
- ~~_____ (6) The provider shall ensure that each room and indoor area that is used by children is ventilated by mechanical ventilation, or by windows that open and have screens.~~

- ~~_____ (7) The provider shall ensure that windows and glass doors within 36 inches from the floor or ground are made of safety or tempered glass, or have a protective guard.~~
- ~~_____ (8) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity the provider is conducting.~~
- ~~_____ (9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.~~
- ~~_____ (10) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.~~
- ~~_____ (11) The provider shall ensure that there is a working handwashing sink in each classroom or next to each classroom in buildings constructed after July 1, 1997.~~
- ~~_____ (12) The provider shall ensure that rooms where infants or toddlers are cared for have:

 - ~~_____ (a) one sink that is used exclusively for the preparation of food and bottles and handwashing before food preparation, and another sink that is used only for handwashing after diapering and nonfood activities; or~~
 - ~~_____ (b) one working sink that is used only for handwashing in the room, and bottle and food preparation is done in the kitchen and brought to the infant and toddler area by a non-diapering staff member.~~~~
- ~~_____ (13) The provider shall ensure that there is at least one working toilet and one working sink for each group of one to 25 children in the center who are two years old and older.~~
- ~~_____ (14) The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.~~
- ~~_____ (15) The provider shall ensure that there is an outdoor area that is safely accessible to children.~~
- ~~_____ (16) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.~~
- ~~_____ (17) The provider shall ensure that the total square footage of the outdoor area accommodates at least one-third of the approved capacity at one time or is at least 1,600 square feet.~~
- ~~_____ (18) The provider shall ensure that a fence encloses the outdoor area, wall, or solid natural barrier that is at least four feet high.~~
- ~~_____ (19) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.~~
- ~~_____ (20) The provider shall ensure that children are in an enclosed area when children are outdoors, except during offsite activities.~~
- ~~_____ (21) The provider shall ensure that there is shade available to protect the children from excessive sun and heat when children are in the outdoor area.~~
- ~~_____ (22) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:

 - ~~_____ (a) meet applicable state and local laws and ordinances related to the operation of a swimming pool;~~
 - ~~_____ (b) maintain the pool in a safe manner; and~~
 - ~~_____ (c) when not in use, cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.~~~~
- ~~_____ (23) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:

 - ~~_____ (a) ceilings, walls, and floor coverings;~~
 - ~~_____ (b) lighting, bathroom, and other fixtures;~~
 - ~~_____ (c) draperies, blinds, and other window coverings;~~
 - ~~_____ (d) indoor and outdoor play equipment;~~
 - ~~_____ (e) furniture, toys, and materials accessible to the children; and~~
 - ~~_____ (f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.~~~~
- ~~_____ (24) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.~~
- ~~_____ (25) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with the rules, except when:

 - ~~_____ (a) there is a separate entrance for the child care program;~~
 - ~~_____ (b) there are no connecting interior doorways that can be used by unauthorized individuals; and~~
 - ~~_____ (c) there is no shared access to the outdoor area used for child care.~~~~

R381-100-10. Ratios and Group Size.

- ~~_____ (1) As listed in Table 1 for single age groups of children, the provider shall:

 - ~~_____ (a) maintain at least the number of caregivers and not exceed the number of children in the caregiver to child ratio; and~~
 - ~~_____ (b) not exceed the maximum group sizes.~~~~

TABLE 1		
Age Group	Caregiver-to-Child ratio	Maximum Group Size
0-11 Months—Infant	1:4	8
12-17 Months—Younger Toddler	1:4	8
18-23 Months—Older Toddler	1:5	10
2 Years—Twos	1:7	14
3 Years—Threes	1:12	24

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4 Years—Fours	1:15	30
5 Years and older—School age	1:20	40

- ~~(2) For any mixed age groups of children, the provider shall:~~
 - ~~(a) maintain at least the number of required caregivers;~~
 - ~~(b) not exceed the number of children in the caregiver to child ratio;~~
 - ~~(c) not exceed the maximum group sizes; and~~
 - ~~(d) separate any single age group that reaches their maximum group size from the mix.~~
- ~~(3) For mixed age groups of children including infants and toddlers, the provider shall ensure that:~~
 - ~~(a) infants are only mixed with toddlers, unless:~~
 - ~~(i) the group has eight or fewer children;~~
 - ~~(ii) there are no more than three children younger than two years old in the group with one caregiver; and~~
 - ~~(iii) there are at least two caregivers with the group if more than two children who are younger than 18 months old are present and the group has more than four children;~~
 - ~~(b) if older toddlers and two year old children are mixed, there is at least one caregiver for up to seven children and at least two caregivers for eight and up to 14 children in the group; and~~
 - ~~(c) older toddlers and older children are only mixed, besides when only mixed with two year old children, when:~~
 - ~~(i) the group has eight or fewer children;~~
 - ~~(ii) there are no more than three older toddlers in the group; and~~
 - ~~(iii) there are at least two caregivers with the group if more than three younger toddlers are present and the group has more than five children.~~
- ~~(4) For mixed age groups of children not including infants and toddlers, the provider shall ensure that:~~
 - ~~(a) the caregiver to child ratio is determined by the age of the oldest child present in the group minus one child of that age group; and~~
 - ~~(b) the maximum group size is determined by the age of the oldest child present in the group, minus two children of that same age group.~~
- ~~(5) During nap time, the provider shall ensure that the caregiver to child ratio is doubled only if:~~
 - ~~(a) the children in the group are at least 18 months old;~~
 - ~~(b) the children in the group are in a restful and nonactive state; and~~
 - ~~(c) the caregiver supervising the napping children can contact another on-site caregiver without leaving the children unattended.~~
- ~~(6) The provider shall ensure that there are at least two caregivers present when there is only one group of children on the premises and that group has more than eight children, or more than two infants or toddlers.~~
- ~~(7) The provider shall include the provider's and employees' children age four years old or older in care:~~
 - ~~(a) in the group size when the parent of the child is working at the facility; and~~
 - ~~(b) in the group size and the caregiver to child ratio when the parent of the child is not working at the facility.~~
- ~~(8) The provider may include caregivers, student interns who are registered in a high school or college child care course, and volunteers who are 16 or 17 years old in the caregiver to child ratio.~~
- ~~(9) The provider shall ensure that guests do not count in caregiver to child ratios.~~
- ~~(10) The department may exempt a center from maximum group sizes if:~~
 - ~~(a) the center has been constructed, licensed, and continuously operated since January 1, 2004;~~
 - ~~(b) the caregiver to child ratio is maintained; and~~
 - ~~(c) the required square footage for each group of children is maintained.~~

R381-100-11. Child Supervision and Security:

- ~~(1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:~~
 - ~~(a) for children younger than five years old, a caregiver is physically present in the room or area with the children;~~
 - ~~(b) for school age children, a caregiver can hear the children and is close enough to intervene;~~
 - ~~(c) caregivers know the number of children in their care at any time;~~
 - ~~(d) caregivers' attention is focused on the children and not on caregivers' personal interests;~~
 - ~~(e) caregivers are aware of the entire group of children even when interacting with a smaller group or an individual child; and~~
 - ~~(f) caregivers position themselves so each child in their assigned group is actively supervised.~~
- ~~(2) The provider shall ensure that staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:~~
 - ~~(a) they are left unsupervised for no more than two consecutive hours per group;~~
 - ~~(b) the director or the director designee is physically present and available as needed; and~~
 - ~~(c) they are not volunteers.~~
- ~~(3) The provider shall not assign staff, volunteers, and household members who are younger than 16 years old to care for or supervise any child in care.~~
- ~~(4) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.~~
- ~~(5) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.~~

- ~~(6) The provider shall ensure that when video cameras or mirrors are used to supervise napping children:~~
 - ~~(a) the napping room is adjacent to a non-napping room;~~
 - ~~(b) there is a staff member in the non-napping room;~~
 - ~~(c) cameras or mirrors are positioned so that the staff member can see and hear each child;~~
 - ~~(d) there is an open door without a barrier, including a gate, between the napping room and the non-napping room; and~~
 - ~~(e) the staff member moves children who wake up to the non-napping room.~~
- ~~(7) The provider shall ensure that a blanket or other item is not placed over sleeping equipment in a way that prevents the caregiver from seeing the sleeping child.~~
- ~~(8) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.~~
- ~~(9) To maintain security and supervision of children, the provider shall ensure that:~~
 - ~~(a) each child is signed in and out in accordance with this section;~~
 - ~~(b) only parents or individuals with written authorization from the parent may sign out a child;~~
 - ~~(c) photo identification is required if the individual signing the child out is unknown to the provider;~~
 - ~~(d) individuals signing children in and out use identifiers, including a signature, initials, or electronic code;~~
 - ~~(e) the sign in and sign out records include the date and time each child arrives and leaves; and~~
 - ~~(f) there is written permission from the child's parent if school-age children sign themselves in or out.~~
- ~~(10) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:~~
 - ~~(a) the individual giving verbal authorization; and~~
 - ~~(b) the individual picking up the child.~~
- ~~(11) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is kept on-site for review by the department.~~

~~R381-100-12. Child Guidance and Interaction.~~

- ~~(1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.~~
- ~~(2) The provider shall inform parents, children, and those who interact with the children of the center's behavioral expectations and how any misbehavior will be handled.~~
- ~~(3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.~~
- ~~(4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.~~
- ~~(5) The provider shall ensure that interactions with the children do not include:~~
 - ~~(a) any form of corporal punishment or any action that produces physical pain or discomfort including hitting, spanking, shaking, biting, or pinching;~~
 - ~~(b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;~~
 - ~~(c) shouting at children;~~
 - ~~(d) any form of emotional abuse;~~
 - ~~(e) forcing or withholding food, rest, or toileting; or~~
 - ~~(f) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage.~~
- ~~(6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Section 80-2-602.~~

~~R381-100-13. Child Safety and Injury Prevention.~~

- ~~(1) The provider shall ensure that children and staff use the building, outdoor area, toys, and equipment safely and as intended by the manufacturer to prevent injury to children.~~
- ~~(2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.~~
- ~~(3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.~~
- ~~(4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.~~
- ~~(5) The provider shall ensure that strangulation hazards including ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.~~
- ~~(6) The provider shall ensure that tripping hazards including unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.~~
- ~~(7) The provider shall ensure that empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons are inaccessible to children younger than five years old.~~
- ~~(8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.~~
- ~~(9) The provider shall ensure that toxic or hazardous chemicals including cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:~~
 - ~~(a) inaccessible to children;~~
 - ~~(b) used according to manufacturer instructions;~~
 - ~~(c) stored in containers labeled with the contents of the container; and~~

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- ~~_____ (d) disposed of properly.~~
- ~~_____ (10) The provider shall ensure that the following items are inaccessible to children:~~
 - ~~_____ (a) matches or cigarette lighters;~~
 - ~~_____ (b) open flames;~~
 - ~~_____ (c) hot wax or other hot substances; and~~
 - ~~_____ (d) when in use, portable space heaters, wood burning stoves, and fireplaces.~~
- ~~_____ (11) The provider shall ensure that the following items are inaccessible to children:~~
 - ~~_____ (a) live electrical wires; and~~
 - ~~_____ (b) for children younger than five years old, electrical outlets and surge protectors without protective caps or safety devices when not in use.~~
- ~~_____ (12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that firearms including guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:~~
 - ~~_____ (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and~~
 - ~~_____ (b) stored unloaded and separate from ammunition.~~
- ~~_____ (13) The provider shall ensure that weapons including paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.~~
- ~~_____ (14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in center vehicles any time a child is in care.~~
- ~~_____ (15) The provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.~~
- ~~_____ (16) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, including furniture, unsecured televisions, and standing ladders.~~
- ~~_____ (17) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.~~
- ~~_____ (18) The provider shall ensure that highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.~~
- ~~_____ (19) The provider shall ensure that infant walkers with wheels are inaccessible to children.~~
- ~~_____ (20) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, are not used:~~
 - ~~_____ (a) in the facility or any other building when a child is in care;~~
 - ~~_____ (b) in any vehicle that is being used to transport a child in care;~~
 - ~~_____ (c) within 25 feet of any entrance to the facility or other building occupied by a child in care; or~~
 - ~~_____ (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.~~

R381-100-14. Emergency Preparedness, Response, and Recovery.

- ~~_____ (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:~~
 - ~~_____ (a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;~~
 - ~~_____ (b) includes procedures for accommodations for infants and toddlers, children with disabilities, and children with chronic medical conditions;~~
 - ~~_____ (c) includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health;~~
 - ~~_____ (d) is available for review by parents, staff, and the department during business hours; and~~
 - ~~_____ (e) is followed if an emergency happens, unless otherwise instructed by emergency personnel.~~
- ~~_____ (2) The provider shall post the center's street address and emergency numbers, including at least fire, police, and poison control, near each telephone in the center or in an area clearly visible to anyone needing the information.~~
- ~~_____ (3) The provider shall keep first aid supplies in the center, including at least antiseptic, bandages, and tweezers.~~
- ~~_____ (4) The provider shall conduct fire evacuation drills monthly and make sure drills include a complete exit of each child, staff, and volunteers from the building.~~
- ~~_____ (5) The provider shall document each fire drill, including:~~
 - ~~_____ (a) the date and time of the drill;~~
 - ~~_____ (b) the number of children participating;~~
 - ~~_____ (c) the name of the individual supervising the drill;~~
 - ~~_____ (d) the total time to complete the evacuation; and~~
 - ~~_____ (e) any problems encountered and remediation.~~
- ~~_____ (6) The provider shall conduct drills for disasters other than fires at least once every six months.~~
- ~~_____ (7) The provider shall document each disaster drill, including:~~
 - ~~_____ (a) the type of disaster, including earthquake, flood, prolonged power or water outage, or tornado;~~
 - ~~_____ (b) the date and time of the drill;~~
 - ~~_____ (c) the number of children participating;~~
 - ~~_____ (d) the name of the individual supervising the drill; and~~
 - ~~_____ (e) any problems encountered and remediation.~~
- ~~_____ (8) The provider shall vary the days and times on which fire and other disaster drills are held.~~

- ~~_____ (9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on site for review by the department.~~
- ~~_____ (10) The provider shall:~~
 - ~~_____ (a) give parents a written report on the day of occurrence of each incident, accident, or injury involving their child;~~
 - ~~_____ (b) ensure the report has the signatures of the caregivers involved, the center director or director designee, and the individual picking up the child; and~~
 - ~~_____ (c) if school age children sign themselves out of the center, send a copy of the report to the parent on the day following the occurrence.~~
- ~~_____ (11) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the child's parent immediately.~~
- ~~_____ (12) If a life threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:~~
 - ~~_____ (a) call emergency personnel immediately;~~
 - ~~_____ (b) contact the parent after emergency personnel are called; and~~
 - ~~_____ (c) if the parent cannot be reached, try to contact the child's emergency contact individual.~~
- ~~_____ (13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:~~
 - ~~_____ (a) submit a completed accident report form to the department within the next business day of the incident; or~~
 - ~~_____ (b) contact the department within the next business day and submit a completed accident report form within five business days of the incident.~~
- ~~_____ (14) The provider shall keep a six week record of each incident, accident, and injury report on site for review by the department.~~

~~R381-100-15. Health and Infection Control.~~

- ~~_____ (1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:~~
 - ~~_____ (a) walls and flooring clean and free of spills, dirt, and grime;~~
 - ~~_____ (b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;~~
 - ~~_____ (c) surfaces free of rotting food or a build up of food;~~
 - ~~_____ (d) the building and grounds free of a build up of litter, trash, and garbage;~~
 - ~~_____ (e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and~~
 - ~~_____ (f) the facility free of animal feces.~~
- ~~_____ (2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.~~
- ~~_____ (3) The provider shall clean and sanitize any toys and materials used by children:~~
 - ~~_____ (a) at least once a week or more often if needed;~~
 - ~~_____ (b) after being put in a child's mouth and before another child plays with the toy; and~~
 - ~~_____ (c) after being contaminated by a body fluid.~~
- ~~_____ (4) The provider shall ensure that fabric toys and items including stuffed animals, cloth dolls, pillow covers, and dress up clothes are machine washable and if used, washed at least each week or as needed.~~
- ~~_____ (5) The provider shall clean and sanitize highchair trays before each use.~~
- ~~_____ (6) The provider shall clean and sanitize water play tables or tubs daily if used by the children.~~
- ~~_____ (7) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.~~
- ~~_____ (8) The provider shall clean and sanitize potty chairs after each use.~~
- ~~_____ (9) The provider shall keep toilet paper in a dispenser that is accessible to children.~~
- ~~_____ (10) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that each staff follow the procedures.~~
- ~~_____ (11) The provider shall ensure that staff and volunteers wash their hands thoroughly with liquid soap and running water:~~
 - ~~_____ (a) upon arrival;~~
 - ~~_____ (b) before handling or preparing food or bottles;~~
 - ~~_____ (c) before and after eating meals and snacks or feeding a child;~~
 - ~~_____ (d) after using the toilet or helping a child use the toilet;~~
 - ~~_____ (e) after contact with a body fluid;~~
 - ~~_____ (f) when coming in from outdoors; and~~
 - ~~_____ (g) after cleaning up or taking out garbage.~~
- ~~_____ (12) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.~~
- ~~_____ (13) The provider shall ensure that children wash their hands thoroughly with liquid soap and running water:~~
 - ~~_____ (a) upon arrival;~~
 - ~~_____ (b) before and after eating meals and snacks;~~
 - ~~_____ (c) after using the toilet;~~
 - ~~_____ (d) after contact with a body fluid;~~
 - ~~_____ (e) before using a water play table or tub; and~~
 - ~~_____ (f) when coming in from outdoors.~~
- ~~_____ (14) The provider shall ensure that only single use towels from a covered dispenser or an electric hand dryer is used to dry hands.~~
- ~~_____ (15) The provider shall store personal hygiene items, including toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.~~

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- _____ (16) The provider shall ensure that pacifiers, bottles, and nondisposable drinking cups are:
 - _____ (a) labeled with each child's name or individually identified; and
 - _____ (b) not shared, or washed and sanitized before being used by another child.
- _____ (17) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.
- _____ (18) The provider shall ensure that children's clothing that is wet or soiled from a body fluid is:
 - _____ (a) not rinsed or washed at the center;
 - _____ (b) placed in a leakproof container that is labeled with the child's name; and
 - _____ (c) returned to the parent, or thrown away with parental consent.
- _____ (19) The provider shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids:
 - _____ (a) wear waterproof gloves;
 - _____ (b) clean the surface using a detergent solution;
 - _____ (c) rinse the surface with clean water;
 - _____ (d) sanitize the surface;
 - _____ (e) throw away in a leakproof plastic bag the disposable materials, including paper towels, that were used to clean up the body fluid;
 - _____ (f) wash and sanitize any nondisposable materials used to clean up the body fluid, including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and
 - _____ (g) wash their hands after cleaning up the body fluid.
- _____ (20) The provider may not care for a child who is ill with an infectious disease at the center except when the child shows signs of illness after arriving at the center.
- _____ (21) If a child becomes ill while in care:
 - _____ (a) the provider shall contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact to immediately pick up the child; and
 - _____ (b) if the child is ill with an infectious disease, the provider shall make the child comfortable in a safe, supervised area that is separated from the other children until the parent arrives.
- _____ (22) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the provider discovers the illness.
- _____ (23) If any staff member or child has an infectious disease or parasite, the provider shall post a notice at the center that:
 - _____ (a) does not disclose any personal identifiable information;
 - _____ (b) is posted in a conspicuous place where it can be seen by parents;
 - _____ (c) is posted and dated on the same day that the disease or parasite is discovered; and
 - _____ (d) remains posted for at least five business days.
- _____ (24) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that:
 - _____ (a) individuals who prepare food in the kitchen do not change diapers or help in toileting children;
 - _____ (b) caregivers who care for diapered children only prepare food for the children in their care, and they do not prepare food outside of the room used by the diapered children or prepare food for other children and adults in the facility; and
 - _____ (c) individuals with an infectious disease or showing symptoms including diarrhea, fever, coughing, or vomiting do not prepare or serve foods.

R381-100-16. Food and Nutrition.

- _____ (1) The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.
- _____ (2) If the provider supplies food for children's meals or snacks, the provider shall ensure that:
 - _____ (a) the meal service meets local health department food service rules;
 - _____ (b) the foods that are served meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;
 - _____ (c) the provider uses the CACFP meal pattern requirements, the standard department approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;
 - _____ (d) the current week's menu is posted for review by parents and the department; and
 - _____ (e) if not participating or in good standing with the CACFP, keep a six-week record of foods served at each meal and snack.
- _____ (3) The provider shall ensure that the individual who serves food to children:
 - _____ (a) is aware of the children in their assigned group who have food allergies or sensitivities; and
 - _____ (b) ensures that the children are not served the food or drink they are allergic or sensitive to.
- _____ (4) The provider may not place children's food on a bare table, and shall serve children's food on dishes, napkins, or sanitary highchair trays, except an individual finger food including a cracker, which may be placed directly in a child's hand.
- _____ (5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:
 - _____ (a) labeled with the child's name;
 - _____ (b) refrigerated if needed; and
 - _____ (c) consumed only by that child.

R381-100-17. Medications.

- _____ (1) The provider shall lock nonrefrigerated medications or store them at least 48 inches above the floor.

- ~~_____ (2) The provider shall lock refrigerated medications or store them at least 36 inches above the floor and, if liquid, store them in a separate leakproof container.~~
- ~~_____ (3) If parents supply any over the counter or prescription medications, the provider shall ensure those medications:~~
- ~~_____ (a) are labeled with the child's full name;~~
 - ~~_____ (b) are stored in the original or pharmacy container;~~
 - ~~_____ (c) have the original label; and~~
 - ~~_____ (d) have child safety caps.~~
- ~~_____ (4) The provider shall have a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.~~
- ~~_____ (5) The provider shall ensure that the medication permission form includes at least:~~
- ~~_____ (a) the name of the child;~~
 - ~~_____ (b) the name of the medication;~~
 - ~~_____ (c) written instructions for administration; and~~
 - ~~_____ (d) the parent signature and the date signed.~~
- ~~_____ (6) The provider shall ensure that instructions for administering the medication include at least:~~
- ~~_____ (a) the dosage;~~
 - ~~_____ (b) how the medication will be given;~~
 - ~~_____ (c) the times and dates to administer the medication; and~~
 - ~~_____ (d) the disease or condition being treated.~~
- ~~_____ (7) If the provider supplies an over the counter medication for children's use, the provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:~~
- ~~_____ (a) written; or~~
 - ~~_____ (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.~~
- ~~_____ (8) The provider shall ensure that the staff administering the medication:~~
- ~~_____ (a) washes their hands;~~
 - ~~_____ (b) check the medication label to confirm the child's name if the parent supplied the medication;~~
 - ~~_____ (c) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer; and~~
 - ~~_____ (d) administers the medication.~~
- ~~_____ (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:~~
- ~~_____ (a) the date, time, and dosage of the medication given;~~
 - ~~_____ (b) any error in administering the medication or adverse reactions; and~~
 - ~~_____ (c) their signature or initials.~~
- ~~_____ (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life threatening.~~
- ~~_____ (11) The provider shall notify the parent before the scheduled medication dosage to a child if the provider chooses not to administer medication as instructed by the parent.~~
- ~~_____ (12) The provider shall keep a six week record of medication permission and administration forms on site for review by the department.~~

~~R381-100-18. Activities.~~

- ~~_____ (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.~~
- ~~_____ (2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.~~
- ~~_____ (3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.~~
- ~~_____ (4) For each preschool and school age group, the provider shall post a daily schedule that includes:~~
- ~~_____ (a) activities that support children's healthy development; and~~
 - ~~_____ (b) the times activities occur including at least meal, snack, nap or rest, and outdoor play times.~~
- ~~_____ (5) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.~~
- ~~_____ (6) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media including television, cell phones, tablets, and computers is:~~
- ~~_____ (a) not allowed for children zero to 17 months old;~~
 - ~~_____ (b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and~~
 - ~~_____ (c) planned to address the needs of children five to 12 years old.~~
- ~~_____ (7) If the provider offers swimming activities, or if wading pools are used, the provider shall ensure that:~~
- ~~_____ (a) the parent gives permission before their child in care uses the pool;~~
 - ~~_____ (b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;~~

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- ~~_____ (c) diapered children wear swim diapers when they are in the pool;~~
- ~~_____ (d) wading pools are emptied and sanitized after use by each group of children;~~
- ~~_____ (e) if the pool is over four feet deep, there is a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and~~
- ~~_____ (f) lifeguards and pool personnel do not count toward the caregiver to child ratio.~~
- ~~_____ (8) If the provider offers offsite activities, the provider shall ensure that:~~
 - ~~_____ (a) the parent gives written consent before each activity;~~
 - ~~_____ (b) the required caregiver to child ratio and supervision are maintained during the entire activity;~~
 - ~~_____ (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;~~
 - ~~_____ (d) children wear or carry with them the name and phone number of the center;~~
 - ~~_____ (e) children's names are not used on nametags, t-shirts, or in other visible ways; and~~
 - ~~_____ (f) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.~~
- ~~_____ (9) The provider shall ensure that a caregiver with the children takes the written emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:~~
 - ~~_____ (a) the child's name;~~
 - ~~_____ (b) the parent's name and phone number;~~
 - ~~_____ (c) the name and phone number of an individual to notify if an emergency happens and the parent cannot be contacted;~~
 - ~~_____ (d) the names of people authorized by the parents to pick up the child; and~~
 - ~~_____ (e) current emergency medical treatment and emergency medical transportation releases.~~

R381-100-19. Play Equipment.

- ~~_____ (1) The provider shall ensure that children using play equipment use it safely and as intended by the manufacturer.~~
- ~~_____ (2) The provider shall ensure that the highest designated play surface on stationary play equipment used by infants or toddlers does not exceed three feet in height.~~
- ~~_____ (3) The provider shall ensure that swings used by infants or toddlers have enclosed seats.~~
- ~~_____ (4) The provider shall ensure that stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment and that, with the exception of swings, stationary play equipment that is:~~
 - ~~_____ (a) used by infants or toddlers has at least a three-foot use zone if any designated play surface is higher than 18 inches;~~
 - ~~_____ (b) used by preschoolers has at least a six-foot use zone if any designated play surface is higher than 20 inches; and~~
 - ~~_____ (c) used by school-age children has at least a six-foot use zone if any designated play surface is higher than 30 inches.~~
- ~~_____ (5) The provider shall ensure that the use zone in the front and rear of a single-axis, enclosed swing extends at least twice the distance of the swing pivot point to the swing seat.~~
- ~~_____ (6) The provider shall ensure that the use zone in the front and rear of a single-axis swing extends at least twice the distance of the swing pivot point to the ground.~~
- ~~_____ (7) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends:~~
 - ~~_____ (a) at least the measurement of the suspending rope or chain plus three feet, if the swing is used by infants or toddlers; or~~
 - ~~_____ (b) at least the measurement of the suspending rope or chain plus six feet, if the swing is used by preschoolers or school-age children.~~
- ~~_____ (8) The provider shall ensure that the use zone for a merry-go-round extends at least six feet in any direction from its outermost edge.~~
- ~~_____ (9) The provider shall ensure that the use zone for a spring rocker extends:~~
 - ~~_____ (a) at least three feet from the outermost edge of the rocker when at rest; or~~
 - ~~_____ (b) at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches, and the rocker is used by preschoolers or school-age children.~~
- ~~_____ (10) The provider shall ensure that the following use zones do not overlap the use zone of any other piece of play equipment:~~
 - ~~_____ (a) the use zone in front of a slide;~~
 - ~~_____ (b) the use zone in the front and rear of any single-axis swing, including a single-axis enclosed swing;~~
 - ~~_____ (c) the use zone of a multi-axis swing; and~~
 - ~~_____ (d) the use zone of a merry-go-round if the platform diameter measures 20 inches or more.~~
- ~~_____ (11) Unless prohibited in Subsection R381-100-19(10), the provider shall ensure that the use zones of play equipment only overlap when:~~
 - ~~_____ (a) the equipment is used by infants or toddlers, and there is at least three feet between the pieces of equipment; or~~
 - ~~_____ (b) the equipment is used by preschoolers or school-age children and there is at least six feet between the pieces of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between the pieces of equipment if the designated play surface is higher than 30 inches.~~
- ~~_____ (12) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, or the bare floor.~~
- ~~_____ (13) The provider shall ensure that protective cushioning covers the entire surface of each required use zone and that its depth or thickness is determined by the highest designated play surface of the equipment.~~
- ~~_____ (14) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall:~~
 - ~~_____ (a) ensure that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 2 if compacted;~~
 - ~~_____ (b) if the material cannot be loosened due to extreme weather conditions, not allow children to play on the equipment until the material can be loosened to the required depth; and~~

(c) ensure that the depth of the material meets the guidelines in Table 2.

TABLE 2 Depths of Protective Cushioning Required for sand, Gravel, and Shredded Tires and Rubber Products					
Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires and Rubber Products
Up to 5' high	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' up to 9'	9"	Not allowed	9"	Not allowed	6"
Over 9' up to 10'	Not allowed	Not allowed	9"	Not allowed	6"
Over 10' up to 12'	Not allowed	Not allowed	Not allowed	Not allowed	6"

(15) If the provider uses shredded wood products as protective cushioning, the provider shall:

- (a) keep on site for review by the department documentation from the manufacturer that the wood product is protective cushioning;
- (b) ensure there is adequate drainage under the material; and
- (c) ensure the depth of the shredded wood meets the guidelines in Table 3.

TABLE 3 Depths of Protective Cushioning Required for Shredded Wood Products			
Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood fibers	Wood Chips	Double Shredded Bark Mulch
Up to 6' high	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 11'	9"	9"	9"
Over 11'	9"	Not allowed	Not allowed

(16) If the provider uses a unitary cushioning, the provider shall maintain on site for review by the department documentation from the manufacturer that the material is cushioning for playgrounds.

(17) If a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.

(18) The provider shall ensure that a play equipment platform that is more than:

- (a) 18 inches above the floor or ground and used by infants or toddlers has a protective barrier that is at least 24 inches high;
- (b) 30 inches above the floor or ground and used by preschoolers has a protective barrier that is at least 29 inches high; and
- (c) 48 inches above the floor or ground and used by school age children has a protective barrier that is at least 38 inches high.

(19) The provider shall ensure that there is no gap greater than 3 1/2 inches in or under a required protective barrier on a play equipment platform.

(20) The provider shall ensure that stationary play equipment is stable or securely anchored.

(21) The provider shall ensure that there are no trampolines on the premises that are accessible to any child in care.

(22) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.

(23) The provider shall ensure that there are no strangulation hazards on or within the use zone of any piece of stationary play equipment.

(24) The provider shall ensure that there are no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.

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(25) The provider shall ensure that there are no tripping hazards including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

R381-100-20. Transportation:

- (1) For each child that the licensee transports, the provider shall obtain a transportation permission form:
 - (a) signed by the parent; and
 - (b) on-site for review by the department.
- (2) The provider shall ensure that each vehicle used for transporting children:
 - (a) is enclosed with a roof or top;
 - (b) is equipped with safety restraints;
 - (c) has a current vehicle registration;
 - (d) is maintained in a safe and clean condition; and
 - (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.
- (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:
 - (a) appropriate for the age and size of each child who is transported, as required by Utah law;
 - (b) properly installed; and
 - (c) in safe condition and working order.
- (4) The provider shall ensure that the driver of each vehicle who is transporting children:
 - (a) is at least 18 years old;
 - (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;
 - (c) has with them the emergency contact information for each child being transported;
 - (d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;
 - (e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;
 - (f) never leaves a child in the vehicle unattended by an adult;
 - (g) ensures that children stay seated while the vehicle is moving;
 - (h) never leaves the keys in the ignition when not in the driver's seat; and
 - (i) ensures that the vehicle is locked during transport.
- (5) If the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:
 - (a) each child being transported has a completed transportation permission form signed by their parent;
 - (b) a caregiver goes with the children and actively supervises the children;
 - (c) the caregiver to child ratio is maintained; and
 - (d) a caregiver with the children has emergency contact information and releases for the children being transported.
- (6) The provider shall:
 - (a) have transport liability insurance; or
 - (b) inform parents in writing that the provider does not have transport liability insurance.

R381-100-21. Animals:

- (1) The provider shall inform parents of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is no animal on the premises that:
 - (a) is naturally aggressive;
 - (b) has a history of dangerous, attacking, or aggressive behavior; or
 - (c) has a history of biting even one individual.
- (3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) The provider shall ensure that children younger than five years old do not assist with the cleaning of animals or animal cages, pens, or equipment.
- (6) If school age children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.
- (8) The provider shall ensure that dogs, cats, and ferrets that the facility houses have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by the department.

R381-100-22. Rest and Sleep:

- (1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.
- (2) The provider shall not schedule nap or rest times for more than two hours a day.
- (3) The provider shall use a separate crib, cot, mat, or other sleeping equipment for each child during nap times.
- (4) The provider shall keep sleeping equipment in good repair, including that mats and mattresses have smooth, waterproof surfaces.
- (5) The provider shall ensure that each crib:
 - (a) has a tight fitting mattress;

- ~~_____ (b) has slats spaced no more than 2 3/8 inches apart;~~
- ~~_____ (c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;~~
- ~~_____ (d) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and~~
- ~~_____ (e) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date.~~
- ~~_____ (6) When in use, the provider shall place sleeping equipment including cribs, cots, and mats at least two feet apart.~~
- ~~_____ (7) The provider shall ensure that sleeping equipment does not block exits.~~
- ~~_____ (8) The provider shall make a sheet and blanket or acceptable alternative available to each child 12 months or older during nap time, and ensure that these items are:~~
 - ~~_____ (a) clearly assigned to one child;~~
 - ~~_____ (b) stored separately from other children's bedding; and~~
 - ~~_____ (c) laundered as needed, but at least once a week, and before use by another child.~~
- ~~_____ (9) The provider shall clean and sanitize sleeping equipment that is not clearly assigned to and used by an individual child before each use.~~
- ~~_____ (10) The provider shall:~~
 - ~~_____ (a) store sleeping equipment in a way the surfaces children sleep on do not touch each other; or~~
 - ~~_____ (b) clean and sanitize sleeping equipment before each use.~~

~~R381-100-23. Diapering.~~

- ~~_____ (1) This section applies only to a provider that accepts children who wear diapers.~~
- ~~_____ (2) The provider shall post diapering procedures at each diapering station and ensure that each staff member follows these procedures.~~
- ~~_____ (3) The provider shall ensure that each child's diaper is:~~
 - ~~_____ (a) checked at least once every two hours;~~
 - ~~_____ (b) promptly changed if wet or soiled; and~~
 - ~~_____ (c) checked as soon as a sleeping child awakens.~~
- ~~_____ (4) The provider shall ensure that caregivers change children's diapers at a diapering station and not on surfaces used for any other purpose.~~
- ~~_____ (5) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.~~
- ~~_____ (6) The provider shall ensure that each diapering station is equipped with railings to prevent a child from falling when being diapered.~~
- ~~_____ (7) The provider shall ensure that caregivers do not leave children unattended on the diapering surface.~~
- ~~_____ (8) The provider shall ensure that caregivers clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.~~
- ~~_____ (9) The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.~~
- ~~_____ (10) The provider shall ensure that caregivers place wet and soiled disposable diapers:~~
 - ~~_____ (a) in a container that has a disposable plastic lining and a tight fitting lid;~~
 - ~~_____ (b) directly in an outdoor garbage container that has a tight fitting lid; or~~
 - ~~_____ (c) in a container that is inaccessible to children.~~
- ~~_____ (11) Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.~~
- ~~_____ (12) If cloth diapers are used, the provider shall:~~
 - ~~_____ (a) not rinse cloth diapers at the facility; and~~
 - ~~_____ (b) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or~~
 - ~~_____ (c) place the cloth diapers in a leakproof diapering service container.~~

~~R381-100-24. Infant and Toddler Care.~~

- ~~_____ (1) This section only applies to a provider that accepts infants or toddlers.~~
- ~~_____ (2) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 20 minutes.~~
- ~~_____ (3) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults; including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.~~
- ~~_____ (4) The provider shall ensure that infant and toddler areas are not used to pass through or access other indoor and outdoor areas.~~
- ~~_____ (5) The provider shall ensure that infants and toddlers play in the same enclosed outdoor space with older children only when there are eight or fewer children in the group.~~
- ~~_____ (6) The provider shall ensure that caregivers respond promptly to infants and toddlers who are in emotional distress due to conditions including hunger, fatigue, a wet or soiled diaper, fear, teething, or illness.~~
- ~~_____ (7) For their healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.~~
- ~~_____ (8) The provider shall ensure that mobile infants and toddlers have freedom of movement in a safe area.~~
- ~~_____ (9) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.~~
- ~~_____ (10) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.~~

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- ~~(11) The provider shall make objects made of styrofoam inaccessible to infants and toddlers.~~
- ~~(12) The provider shall allow each infant and toddler to eat and sleep on their own schedule.~~
- ~~(13) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual child's use is:
 - ~~(a) labeled with the child's name;~~
 - ~~(b) labeled with the date and time of preparation or opening of the container, including a jar of baby food;~~
 - ~~(c) kept refrigerated if needed; and~~
 - ~~(d) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.~~~~
- ~~(14) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each infant during bottle feeding and that bottles are not propped.~~
- ~~(15) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to children.~~
- ~~(16) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.~~
- ~~(17) The provider shall ensure that caregivers cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.~~
- ~~(18) The provider shall ensure that infants sleep in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that infants are not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.~~
- ~~(19) The provider shall place infants on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.~~
- ~~(20) The provider may not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.~~
- ~~(21) The provider shall document each infant's eating and sleeping patterns each day infants are at the facility, and make sure the record:
 - ~~(a) is completed within an hour of each feeding or nap; and~~
 - ~~(b) includes the infant's name, the food and beverages eaten, and the times the infant slept.~~~~
- ~~(22) Within an hour of each infant or toddler's diaper change, the provider shall record:
 - ~~(a) the infant or toddler's name;~~
 - ~~(b) the time of the diaper change; and~~
 - ~~(c) whether the diaper was dry, wet, soiled, or both.~~~~
- ~~(23) The provider shall maintain on site for review by the department a six week record of:
 - ~~(a) the eating and sleeping patterns for each infant; and~~
 - ~~(b) the diaper changes for each infant and toddler.]~~~~

R381-100-1. Authority and Purpose.

- ~~(1) Section 26B-2-402 authorizes this rule.~~
- ~~(2) This rule establishes the foundational standards necessary to protect the health and safety of children in child care centers and defines the general procedures and requirements to get and maintain a license to provide child care.~~

R381-100-2. Definitions.

- ~~(1) Terms used in this rule are defined in Rule R380-600. Additionally:~~
- ~~(2) "Background finding" means information in a background check that OBP uses to determine if a covered individual is or is not eligible to be involved with child care.~~
- ~~(3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.~~
- ~~(4) "Body fluid" means blood, urine, feces, vomit, mucus, or saliva.~~
- ~~(5) "Business day" means a day of the week the facility is open for business.~~
- ~~(6) "Business hours" means the hours the facility is open for business.~~
- ~~(7) "CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.~~
- ~~(8) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.~~
- ~~(9) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:
 - ~~(a) count in the caregiver-to-child ratio;~~
 - ~~(b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or~~
 - ~~(c) supervise children.~~~~
- ~~(10) "Caregiver-to-child ratio" means the number of caregivers responsible for a specific number of children.~~
- ~~(11) "Child care" means continuous care and supervision of at least one qualifying child that:
 - ~~(a) is in place of care ordinarily provided by a parent in the parent's home;~~
 - ~~(b) occurs for less than 24 hours a day; and~~
 - ~~(c) is provided for direct or indirect compensation.~~~~
- ~~(12) "Child care program" means a person or business that offers child care.~~
- ~~(13) "Choking hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking the airway and making it difficult or impossible to breathe.~~
- ~~(14) "Covered individual" means the same as defined in Rule R380-600.~~
- ~~(15) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta-crib, or play pen.~~
- ~~(16) "Department" means the Utah Department of Health and Human Services.~~

- (17) "Designated play surface" means any:
- (a) accessible elevated surface for standing, walking, crawling, sitting or climbing; or
 - (b) accessible flat surface that is at least two by two inches in size and has an angle less than 30 degrees from horizontal.
- (18) "Director" means an individual who meets the director qualifications in this rule, and who assumes the child care program's day-to-day responsibilities for compliance with CCL rules.
- (19) "Eligible" means the same as defined in Rule R380-600.
- (20) "Entrapment hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing entrapment and strangulation.
- (21) "Facility" means a program or premises approved by OL to be used for child care.
 - (22) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.
 - (23) "Group size" means the total number of children in a group per room or area.
- (24) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.
- (25) "Health care provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.
- (26) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.
- (27) "Inaccessible" means out of reach for children by being:
- (a) behind a properly secured child safety gate;
 - (b) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb;
 - (c) located at least 36 inches above the floor;
 - (d) locked, including in a locked room, cupboard, or drawer; or
 - (e) secured with a child safety device, including a child safety cupboard lock or doorknob device.
- (28) "Infant" means a child who is younger than 12 months old.
- (29) "Infectious disease" means an illness that is capable of being spread from one individual to another.
- (30) "Involved with child care" means to do any of the following at or for a child care program:
- (a) care for or supervise children;
 - (b) count in the caregiver-to-child ratio;
 - (c) have unsupervised contact with a child in care;
 - (d) own, operate, direct;
 - (e) reside; or
 - (f) volunteer.
- (31) "License" means a license issued by OL to provide child care services.
- (32) "Licensee" means the legally responsible person or business that holds a valid license from OL.
- (33) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (34) "OBP" means the same as defined in Rule R380-600.
- (35) "OL" means the same as defined in Rule R380-600.
- (36) "Older toddler" means a child age 18 through 23 months old.
- (37) "Over-the-counter medication" means medication that an individual can purchase without a written prescription, including any herbal remedy, vitamin, and mineral supplement.
- (38) "Parent" means the parent or legal guardian of a child in care.
- (39) "Person" means the same as defined in Rule R380-600.
- (40) "Play equipment platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on and upon which a child can move freely.
- (41) "Preschooler" means a child age two through four years old.
- (42) "Protective barrier" means a structure including bars, lattice, or a panel around an elevated platform intended to prevent accidental or deliberate movement through or access to something.
- (43) "Protective cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of an injury from a fall.
- (44) "Qualifying child" means a child:
- (a) child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
 - (b) child who is younger than four years old and is the child of the provider or a caregiver; or
 - (c) child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver.
- (45) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (46) "Room" means a designated area or a physical space enclosed by solid barriers or partitions as follows:
- (a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:

 - (i) one room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable;
 - (ii) one room, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely;

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(iii) two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate, including a diaper changing station that is located behind a closed gate;

(iv) two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate; or

(v) if there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway;

(b) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:

(i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, otherwise OL shall consider this to be two rooms; or

(ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas;

(c) if in outdoor areas separated by interior fences, OL considers it:

(i) one area, if the interior fence is 24 inches in height, or lower, whether or not the fence has an opening;

(ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;

(iii) two areas if the interior fence is higher than 24 inches and there is no opening; or

(iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.

(47) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(48) "School-age child" means a child age five through 12 years old.

(49) "Sexually explicit material" means any depiction of actual or simulated sexual conduct.

(50) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

(51) "Stationary play equipment" means equipment, including a climber, slide, swing, merry-go-round, or spring rocker, that is meant to stay in one location when a child uses it. Stationary play equipment does not include a:

(a) playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber;

(b) sandbox;

(c) sensory table; or

(d) stationary circular tricycle.

(52) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught or something in which a child could become entangled, including:

(a) a protruding bolt end that extends more than two threads beyond the face of the nut;

(b) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck; or

(c) hardware that forms a hook or leaves a gap or space between components including a protruding open S-hook.

(53) "Unsupervised contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by CCL.

(54) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment and onto which a child falling from or exiting the equipment could be expected to land.

(55) "Working day" means any day of the week the department is open for business.

(56) "Younger toddler" means a child age 12 through 17 months old.

R381-100-3. License Required.

(1) A person shall obtain a license for a child care center from OL if the person provides care:

(a) for direct or indirect compensation;

(b) for each child for less than 24 hours a day;

(c) for five or more unrelated children;

(d) in a place other than the provider's home or the child's home;

(e) in the absence of a child's parent; and

(f) on an ongoing basis for four or more weeks in a year.

(2) OL will not issue a license if care is only for related children or on a sporadic basis.

(3) OL may license a provider to provide child care in a facility that is also licensed by OL if the part of the facility requesting a CCL license is physically separate from the other facility services.

(4) A child care center licensee shall comply with Rule R380-600.

R381-100-4. Fire and Other Health Inspections.

(1) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, OL shall verify the applicant's compliance by ensuring:

(a) address numbers and letters are readable from the street;

(b) boiler, mechanical, and electrical panel rooms are not used for storage;

(c) exit doors are unlocked from the inside during business hours;

(d) exit doors operate properly and are well maintained;

- (e) exits are clearly identified;
- (f) there are no obstructions in exits, aisles, corridors, and stairways;
- (g) there are working smoke detectors that are properly installed on each level of the building; and
- (h) there is at least one unobstructed fire extinguisher on each level of the building that is charged and serviced and mounted not more than five feet above the floor.
- (2) If an applicant for a new license or a renewal serves food and the local health department states in writing that a kitchen inspection is not required, OL shall verify the applicant's compliance by ensuring:
 - (a) any chemical is stored away from food and food service items;
 - (b) any cook has a current food handler's permit that is available on-site for review;
 - (c) any cook uses hair restraints and wears clean clothing;
 - (d) any reusable food holder, utensil, and food preparation surface is washed, rinsed, and sanitized before each use;
 - (e) food is properly stored, kept to the proper temperature, and in good condition;
 - (f) only necessary staff are present in the kitchen;
 - (g) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
 - (h) there is a working handwashing sink in the kitchen, and handwashing instructions posted by the sink;
 - (i) there is a working stem thermometer available to check cooking and hot-hold temperatures; and
 - (j) there is a working thermometer in the refrigerator.

R381-100-5. Immediate Closure.

- (1) In accordance with Rule R380-600, OL may order the immediate closure of a facility if conditions at the facility create a clear and present danger to any child in care.
- (2) Upon receipt of an immediate closure notice, the provider shall give OL the names and mailing addresses of each enrolled child's parent so OL may notify the parents of the immediate closure.
- (3) If there is a severe injury or death of a child in care, OL may order a child care provider to suspend services and prohibit new enrollments, pending a review by the Utah Child Fatality Review Committee or a determination of the probable cause of the injury or death by a medical professional.

R381-100-6. Administration and Children's Records.

- (1) The provider shall:
 - (a) be at least 21 years old;
 - (b) be considered eligible by an OBP background check before becoming involved with child care; and
 - (c) complete the new provider training offered by OL.
- (2) If the owner is not a sole proprietor, the business entity shall submit to OL the name and contact information of each individual who shall legally represent the business entity and who shall comply with Subsection R381-100-6(1).
- (3) The provider shall protect children from conduct that endangers any child in care or is contrary to the health, welfare, and safety of the public.
- (4) The provider shall know and comply with applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.
- (5) The provider shall comply with licensing rules any time a child in care is present.
- (6) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public.
- (7) The provider shall post a current copy of OL's Parent Guide at the facility for parent review during business hours, or give a current copy to each parent.
- (8) The provider shall inform each parent and OL of any changes to the program's telephone number and other contact information within 48 hours of the change.
- (9) The provider shall:
 - (a) have liability insurance; or
 - (b) inform parents in writing that the provider does not have liability insurance.
- (10) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.
- (11) The provider shall ensure that each child's admission and health assessment form includes:
 - (a) the child's name;
 - (b) the child's date of birth;
 - (c) each parent's name, address, and phone number, including a daytime phone number;
 - (d) the names of individuals authorized by the parent to sign the child out from the facility;
 - (e) the name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;
 - (f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;
 - (g) the parent's permission for emergency transportation and emergency medical treatment;
 - (h) any known allergy of the child;
 - (i) any known food sensitivity of the child;
 - (j) any chronic medical condition that the child may have;

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- (k) any instructions for special or nonroutine daily health care of the child;
- (l) any current ongoing medication that the child may be taking; and
- (m) any other special health instructions for the caregiver.
- (12) The provider shall ensure that the admission and health assessment form is:
 - (a) reviewed, updated, and signed or initialed by the parent at least annually; and
 - (b) kept on-site for review by OL.
- (13) Before admitting any child younger than five years old into the program, including the provider's or employee's own child, the provider shall obtain the following documentation from the child's parent:
 - (a) current immunizations;
 - (b) a medical schedule to receive required immunizations;
 - (c) a legal exemption; or
 - (d) a 90-day exemption for any foster child or child who is homeless.
- (14) For each child younger than five years old, including the provider's or employee's own child, the provider shall keep the child's current immunization records on-site for review by OL.
- (15) The provider shall submit the annual immunization report to the Utah Statewide Immunization Information System by the date specified by the department.
- (16) The provider shall ensure that each child's information is confidential and not released without written parental permission except to OL.

R381-100-7. Personnel and Training Requirements.

- (1) The provider shall ensure that each employee and volunteer is supervised, qualified, and trained to:
 - (a) meet the needs of each child; and
 - (b) comply with this rule.
- (2) The provider shall ensure that the center has a qualified director.
- (3) The provider shall ensure that the director:
 - (a) completes at least 20 hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year;
 - (b) completes the new director training offered by OL within 60 working days of assuming director duties;
 - (c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL;
 - (d) is at least 21 years old;
 - (e) is considered eligible by an OBP background check before becoming involved with child care; and
 - (f) knows and follows any applicable law and this rule.
- (4) The provider shall ensure that each new director has at least one of the following educational credentials:
 - (a) a currently valid national certification, including:
 - (i) a Certified Childcare Professional issued by the National Child Care Association;
 - (ii) a Child Development Associate issued by the Council for Early Childhood Professional Recognition; or
 - (iii) other equivalent credential as approved by OL;
 - (b) a National Administrator Credential with at least 60 hours of equivalent training as approved by OL;
 - (c) any bachelor's or higher education degree with at least 60 hours of coursework in child development, social and emotional development and the child care environment, or 60 hours of equivalent training as approved by OL;
 - (d) at least 12 college credit hours of child development courses; or
 - (e) at least an associate degree in early childhood development or related field.
- (5) The provider shall ensure that the director is on duty at the facility for at least 20 hours a week during operating hours and has sufficient freedom from other responsibilities to manage the center and respond to emergencies.
- (6) The provider shall ensure that there is a director designee with authority to act on behalf of the director in the director's absence.
- (7) The provider shall ensure that the director designee:
 - (a) completes at least 20 hours of child care training each year based on the facility's license date, or at least 1-1/2 hours of child care training each month they work if hired partway through the facility's licensing year;
 - (b) completes the director designee training offered by OL;
 - (c) has current first aid and cardio pulmonary resuscitation (CPR) certification in accordance with Subsections R381-100-7(20) and (21);
 - (d) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (e) is at least 18 years old;
 - (f) is considered eligible by an OBP background check before becoming involved with child care; and
 - (g) knows and follows any applicable law and this rule.
- (8) The provider shall ensure that the director or the director designee is present at the facility during business hours.
- (9) The provider shall ensure that each caregiver:
 - (a) completes at least 20 hours of child care training each year, based on the facility's license date, or at least 1-1/2 hours of child care training each month they work if hired partway through the facility's licensing year;
 - (b) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (c) is at least 16 years old;

- (d) is considered eligible by an OBP background check before becoming involved with child care;
- (e) is introduced to other program staff and to the staff member's assigned group;
- (f) knows and follows any applicable law and this rule; and
- (g) reviews the information in each child's health assessment in the staff member's assigned group, including allergies, food sensitivities, and other individual needs.
- (10) The provider shall ensure that any other staff, including any driver, cook, and clerk:
 - (a) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (b) knows and follows any applicable law and this rule; and
 - (c) is considered eligible by an OBP background check before becoming involved with child care.
- (11) The provider shall ensure that each volunteer is considered eligible by an OBP background check before becoming involved with child care.
- (12) The provider shall ensure that each guest or student intern who is registered and participating in a high school or college child care course wears a guest nametag.
- (13) The provider shall ensure that each household member who is:
 - (a) 12 to 17 years old is considered eligible by an OBP background check; and
 - (b) 18 years old or older is considered eligible by an OBP background check that includes fingerprints.
- (14) The provider shall ensure that an individual who provides an Individualized Educational Plan or Individualized Family Service plan services including any physical, occupational, or speech therapist:
 - (a) provides identification before having access to the facility or to a child at the facility; and
 - (b) has received the child's parent's permission for services to take place at the facility.
- (15) The provider shall ensure that any individual from law enforcement, Child Protective Services, the department, and any similar entity provides identification before having access to the facility or to a child at the facility.
- (16) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by OL that includes at least the following topics:
 - (a) administration of medication;
 - (b) applicable laws and requirements under Rule R381-70;
 - (c) building and physical premises safety;
 - (d) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
 - (e) children whose special needs may include a disability;
 - (f) emergency preparedness, response, and recovery plan;
 - (g) pediatric first aid and CPR;
 - (h) precautions in transporting children;
 - (i) prevention and control of infectious diseases including immunizations;
 - (j) prevention of and response to emergencies due to food and allergy reactions;
 - (k) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;
 - (l) prevention of sudden infant death syndrome and the use of safe sleeping practices;
 - (m) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 - (n) recognizing the signs of an individual experiencing homelessness and available assistance; and
 - (o) safe handling and disposal of hazardous materials and bio contaminants.
- (17) The provider shall ensure that annual child care training includes at least each topic listed in:
 - (a) Sections R381-100-7 through R381-100-24; and
 - (b) Subsections R381-100-7(16)(a) through (o).
- (18) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by OL and includes the:
 - (a) date of the training;
 - (b) name of the individual or organization that presented the training;
 - (c) total hours or minutes of the training; and
 - (d) training topic.
- (19) The provider shall ensure that at least one staff member with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when a child is in care:
 - (a) at each offsite activity;
 - (b) at the facility; and
 - (c) in each vehicle transporting a child.
- (20) The provider shall ensure that CPR certification includes hands-on testing.
- (21) The provider shall ensure that the following records for each covered individual are on-site for review by OL:
 - (a) the date of initial employment or association with the program;
 - (b) a current pediatric first aid and CPR certification, if required in this rule; and
 - (c) a six-week record of the times worked each day.

R381-100-8. Background Checks.

- (1) Before a new covered individual becomes involved with child care, the provider shall use the licensing provider portal search to verify that the individual is eligible and:

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- (a) associate that individual with the provider's facility; or
- (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.
- (2) Before a new covered individual who does not appear in the licensing provider portal search becomes involved with child care in the program, the provider must require the individual to submit an online background check application and fingerprints for any individual age 16 years old and older, except for individuals 12-17 years old who are only listed as household members, and:
 - (a) authorize the individual's background check through the licensing provider portal;
 - (b) pay any required fees; and
 - (c) only allow the individual to be involved with child care if they have an eligible OBP background check determination.
- (3) To keep a covered individual's background check eligibility current, the provider shall require a covered individual to submit a new background check application, fingerprints, and fees if the covered individual has:
 - (a) not been associated with an active, CCL approved child care facility within the past 180 days;
 - (b) resided outside of Utah since their last background check was completed; or
 - (c) turned 18 years old and has not previously submitted fingerprints for an OBP background check, except when the 18-year-old has previously submitted fingerprints for an OBP background check, then only a new background check application will be required.
- (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall ensure that an online background check application is submitted, and:
 - (a) authorize the child's background check through the licensing provider portal; and
 - (b) pay any required fee.
- (5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.
- (6) If a covered individual submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows OBP's fingerprinting requirements.
- (7) OBP may consider a covered individual not eligible for any of the following reasons:
 - (a) any felony conviction;
 - (b) any of the reasons listed under Subsection R381-100-8(8);
 - (c) LIS supported findings that occurred no more than 15 years from the date the application was submitted;
 - (d) the covered individual knowingly making a false statement related to their background check;
 - (e) the covered individual refusing to consent to the criminal background check; or
 - (f) the covered individual's name appearing on the Utah or national sex offender registry.
- (8) OBP may also consider a covered individual not eligible for any of the following criminal findings regardless of severity:
 - (a) child pornography;
 - (b) driving under the influence while a child is present in the vehicle;
 - (c) pornographic material or performance;
 - (d) providing dangerous weapons or firearms to a minor;
 - (e) sexual enticing of a minor;
 - (f) sexual exploitation;
 - (g) voyeurism; or
 - (h) any crime against an individual.
- (9) OBP shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before OBP conducted the background check.
- (10) If the provider is not eligible by OBP, OL may suspend or deny their license until the reason for the background check finding is resolved.
- (11) If a covered individual is considered not eligible by OBP, including if the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.
- (12) If OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), the covered individual may appeal the information to DPS.
- (13) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including license revocation.
- (14) The executive director or designee of the department may overturn an OBP background check decision if the executive director or designee determines that the nature of the background finding or mitigating circumstances do not pose a risk to a child.

R381-100-9. Facility.

- (1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's or employee's own child.
- (2) The provider may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:
 - (a) by children;
 - (b) for the care of children; or

- (c) to store materials for children.
- (3) When measuring indoor space for children's use, the provider may not include any:
- (a) bathroom;
 - (b) closet and staff locker;
 - (c) hallway;
 - (d) kitchen;
 - (e) lobby and entryway; and
 - (f) staff office.
- (4) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license.
- (5)(a) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint undergoes a test for lead.
- (b) If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.
- (6) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation or by windows that open and have screens.
- (7) The provider shall ensure that windows and glass doors within 36 inches from the floor or ground are made of safety or tempered glass or have a protective guard.
- (8) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity the provider is conducting.
- (9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.
- (10) The provider shall ensure that there is a working telephone:
- (a) at the facility;
 - (b) during any offsite activity; and
 - (c) in each vehicle while transporting a child.
- (11) The provider shall ensure that there is at least one working handwashing sink in each classroom or next to each classroom in any building constructed after July 1, 1997.
- (12) The provider shall ensure that in any room where an infant or toddler is cared for has:
- (a) one sink that is used exclusively for the preparation of food, bottles, and handwashing before food preparation, and another sink that is used only for handwashing after diapering and nonfood activities; or
 - (b) one working sink that is used only for handwashing in the room, and bottle and food preparation is done in the kitchen and brought to the infant and toddler area by a non-diapering staff member.
- (13) The provider shall ensure that there is at least one working toilet and one working sink for each group of one to 25 children in the center who are two years old and older.
- (14) The provider shall ensure that there is a bathroom that provides privacy available for use by any school-age child.
- (15) The provider shall ensure that any child outdoors is in an enclosed area, except during offsite activities.
- (16) The provider shall ensure that the outdoor area:
- (a) has a fence, wall or solid natural barrier that is at least four feet high encloses the outdoor area;
 - (b) has at least 40 square feet of space for each child using the area at one time;
 - (c) has no gaps five by five inches or greater in or under any fence or barrier;
 - (d) has shade available to protect any child from excessive sun and heat when in the outdoor area;
 - (e) is safely accessible to any child; and
 - (f) the total square footage of the outdoor area accommodates at least one-third of the approved capacity at one time, or is at least 1,600 square feet.
- (17) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:
- (a) maintain the pool in a safe manner;
 - (b) meet applicable state and local laws and ordinances related to the operation of a swimming pool; and
 - (c) when not in use:
 - (i) cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions or
 - (ii) enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.
- (18) The provider shall maintain any building and outdoor area in good repair and safe condition, including any:
- (a) ceiling, wall, and floor covering;
 - (b) drape, blind, and other window covering;
 - (c) entrance, exit, step, and walkway, including keeping them free of ice, snow, and other hazards;
 - (d) furniture, toy, and material accessible to a child;
 - (e) indoor and outdoor equipment; and
 - (f) lighting, bathroom, and other fixture.
- (19) The provider shall ensure that a protective barrier of at least three feet or higher exists for:
- (a) any accessible raised deck or balcony that is five feet or higher; and
 - (b) any open stairwell that is five feet or deeper.

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(20) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, OL may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:

- (a) there is a separate entrance for the child care program;
- (b) there are no connecting interior doorways that can be used by unauthorized individuals; and
- (c) there is no shared access to the outdoor area used for child care.

R381-100-10. Ratios and Group Size.

(1) As listed in Table 1 for a single-age group of children, the provider shall:

- (a) maintain at least the number of required caregivers;
- (b) not exceed the maximum group sizes; and
- (c) not exceed the number of children in the caregiver-to-child ratio.

TABLE 1		
Age Group	Caregiver-to-Child Ratio	Maximum Group Size
0-11 months - infant	1:4	8
12-17 months - younger toddler	1:4	8
18-23 months - older toddler	1:5	10
2 years - twos	1:8	16
3 years - threes	1:12	24
4 years - fours	1:15	30
5 years and older - school-age	1:20	40

(2) For a mixed-age group of children, the provider shall:

- (a) maintain at least the number of required caregivers;
- (b) not exceed the number of children in the caregiver-to-child ratio;
- (c) not exceed the maximum group sizes; and
- (d) separate any single-age group that reaches their maximum group size.

(3) For a mixed-age group of children including any infant and toddler, the provider shall ensure that:

- (a) an infant is only mixed with a toddler if:
 - (i) the group has eight or fewer children;
 - (ii) there are no more than three children younger than two years old in the group with one caregiver; and
 - (iii) there are at least two caregivers with the group if more than two children who are younger than 18 months old are present and the group has more than four children;

(b) if an older toddler and a two-year-old child are mixed, the provider shall ensure:

- (i) there is at least one caregiver for up to seven children; and
- (ii) there are at least two caregivers for eight and up to 14 children in the group; and
- (c) an older toddler and an older child may only be mixed, except when only mixed with a two-year-old child, when:
 - (i) the group has eight or fewer children;
 - (ii) there are no more than three older toddlers in the group; and
 - (iii) there are at least two caregivers with the group if more than three younger toddlers are present and the group has more than five children.

(4) For a mixed-age group of children, not including any infant and toddler, the provider shall ensure that:

- (a) the caregiver-to-child ratio is determined by the age of the oldest child present in the group minus one child of that age group; and
- (b) the maximum group size is determined by the age of the oldest child present in the group, minus two children of that same age group.

(5) During nap time, the provider shall ensure that the caregiver-to-child ratio is doubled only if:

- (a) each child in the group is at least 18 months old;
- (b) each child in the group is in a restful and nonactive state; and
- (c) the caregiver supervising the napping children can contact another on-site caregiver without leaving the children unattended.

(6) The provider shall ensure that there are at least two caregivers present when there is only one group of children on the premises and that group has more than eight children, or more than two infants or toddlers.

(7) The provider shall include the provider's and employee's own child age four years old or older in care:

- (a) in the group size when the parent of the child is working at the facility; and
- (b) in the group size and the caregiver-to-child ratio when the parent of the child is not working at the facility.

(8) The provider may include in the caregiver-to-child ratio any:

- (a) caregiver;
- (b) student intern who is registered in a high school or college child care course; and
- (c) volunteer who is 16 years old or older.

(9) The provider shall ensure that any guest does not count in caregiver-to-child ratios.

(10) OL may exempt a center from maximum group sizes if:

- (a) the center has been constructed, licensed, and continuously operated since January 1, 2004;

- (b) the caregiver-to-child ratio is maintained; and
- (c) the required square footage for each group of children is maintained.

R381-100-11. Child Supervision and Security.

- (1) The provider shall ensure that each caregiver provides and maintains active supervision of each child, including:
 - (a) for children younger than five years old, remaining physically present in the room or area with the children; and
 - (b) for school-age children:
 - (i) being able to hear the children;
 - (ii) being close enough to intervene if needed;
 - (iii) focusing attention on the children and not on caregivers' personal interests;
 - (iv) interacting in-person with the children at least every 15 minutes;
 - (v) knowing the number of children in their care at any time;
 - (vi) positioning themselves so each child in their assigned group is actively supervised; and
 - (vii) remaining aware of the entire group of children even when interacting with a smaller group or an individual child.
- (2) The provider shall ensure a 16 or 17 year old staff or household member may only have unsupervised contact with a child in care, including during offsite activities and transportation, if:
 - (a) the director or the director designee is physically present and available as needed;
 - (b) the staff or household member is left unsupervised for no more than two consecutive hours per group; and
 - (c) the staff or household member is not a volunteer.
- (3) The provider may not assign a staff member, volunteer, or household member who is younger than 16 years old to care for or supervise any child in care.
- (4) The provider shall ensure that any guest or student intern who is registered and participating in a high school or college child care course does not have unsupervised contact with any child in care, including during any offsite activity.
- (5) The provider shall ensure that any parent of a child in care does not have unsupervised contact with any child in care, except with their own child.
- (6) The provider shall ensure that when video cameras or mirrors are used to supervise napping children:
 - (a) the napping room is adjacent to a non-napping room;
 - (b) the staff member moves children who wake up to the non-napping room;
 - (c) there is a camera or mirror positioned so the staff member can see and hear the child;
 - (d) there is a staff member in the non-napping room; and
 - (e) there is an open door without a barrier, including a gate, between the napping room and the non-napping room.
- (7) The provider shall ensure that a blanket or other item is not placed over sleeping equipment in a way that prevents the caregiver from seeing the sleeping child.
- (8) The provider shall ensure that a parent has access to their child and the areas used to care for their child when their child is in care.
 - (9) To maintain security and supervision of children, the provider shall ensure that:
 - (a) any individual signing a child in and out uses an identifier, including a signature, initials, or electronic code;
 - (b) each child is signed in and out in accordance with this section;
 - (c) only a child's parent or an individual with written authorization from the parent may sign-out a child;
 - (d) photo identification is required if the individual signing the child out is unknown to the provider;
 - (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
 - (f) there is written permission from the child's parent if children sign themselves in or out.
- (10) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
 - (a) the person giving verbal authorization; and
 - (b) the person picking up the child.
- (11) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is kept on-site for review by OL.

R381-100-12. Child Guidance and Interaction.

- (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.
- (2) The provider shall inform each child, each parent, and anyone who interacts with any child in care of the center's behavioral expectations and how any misbehavior will be handled.
- (3) The provider shall ensure that any individual who interacts with a child guides the child's behavior by using positive reinforcement, redirection, and by setting clear limits that promote the child's ability to become self-disciplined.
- (4) The provider shall ensure that each caregiver uses use gentle, passive restraint with a child only when it is needed to protect a child from injuring themselves or others, or to stop a child from destroying property.
- (5) The provider shall ensure that each interaction with a child does not include:
 - (a) any action that produces physical pain or discomfort, including hitting, spanking, shaking, biting, or pinching;
 - (b) any form of corporal punishment;
 - (c) any form of emotional mistreatment;
 - (d) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage;

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- (e) forcing or withholding food, rest, or toileting;
- (f) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint; or
- (g) shouting at children.
- (6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Section 80-2-602.

R381-100-13. Child Safety and Injury Prevention.

- (1) The provider shall ensure that any child and staff use each building, outdoor area, toy, and any equipment safely and as intended by the manufacturer to prevent injury to children.
- (2) The provider shall ensure that any poisonous or harmful plant is inaccessible to children.
- (3) The provider shall ensure that any sharp object, edge, corner, or point that could cut or puncture skin is inaccessible to children.
- (4) The provider shall ensure that any choking hazard is inaccessible to any child younger than three years old.
- (5) The provider shall ensure that any strangulation hazard, including any rope, cord, chain, and wire attached to a structure and long enough to encircle a child's neck is inaccessible to children.
- (6) The provider shall ensure that any tripping hazard including unsecured flooring, any rug with a curled edge, or cord in a walkway is inaccessible to children.
- (7) The provider shall ensure that any empty plastic bag large enough for a child's head to fit inside, any latex glove, or balloon is inaccessible to any child younger than five years old.
- (8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.
- (9) The provider shall ensure that any toxic or hazardous chemical, including any cleaner, insecticide, lawn product, and flammable, corrosive, and reactive material is:
 - (a) disposed of properly;
 - (b) inaccessible to any child;
 - (c) stored in a container labeled with the contents of the container; and
 - (d) used according to manufacturer instructions.
- (10) The provider shall ensure that the following items are inaccessible to children:
 - (a) cigarette lighters;
 - (b) hot wax or other hot substances;
 - (c) matches;
 - (d) open flames; and
 - (e) when in use, portable space heaters, wood burning stoves, and fireplaces.
- (11) The provider shall ensure that the following items are inaccessible to a child:
 - (a) any live electrical wire; and
 - (b) for a child younger than five years old, any electrical outlet and surge protector without a protective cap or safety device when not in use.
- (12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that any firearm, including a gun, muzzleloader, rifle, shotgun, handgun, pistol, and automatic gun, is:
 - (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and
 - (b) stored unloaded and separate from ammunition.
- (13) The provider shall ensure that any weapon, including a paintball gun, BB gun, airsoft gun, sling shot, arrow, and mace, is inaccessible to children.
- (14) The provider shall ensure that any alcohol, illegal substance, or sexually explicit material is inaccessible and not used on the premises, during any offsite activity, or in any center vehicle any time a child is in care.
- (15) The provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees Fahrenheit or higher.
- (16) The provider shall ensure that each area accessible to a child is free of any heavy or unstable object that a child could pull down on themselves, including any furniture, unsecured television, and standing ladder.
- (17) The provider shall ensure that hot water accessible to a child does not exceed 120 degrees Fahrenheit.
- (18) The provider shall ensure that highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.
- (19) The provider shall ensure that infant walkers with wheels are inaccessible to children.
- (20) The provider shall ensure that any tobacco, e-cigarette, e-juice, e-liquid, or similar product is inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, is not used:
 - (a) in a facility or any other building when a child is in care;
 - (b) in any vehicle that is being used to transport a child in care;
 - (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care;
 - (c) within 25 feet of any entrance to a facility or other building occupied by a child in care.

R381-100-14. Emergency Preparedness, Response, and Recovery.

- (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:

- (a) includes a procedure for:
 - (i) accommodating a child with a disability;
 - (ii) accommodating a child with a chronic medical condition;
 - (iii) accommodating any infant and toddler;
 - (iv) communication with and reunification of families;
 - (v) continuity of operations;
 - (vi) evacuation;
 - (vii) lockdown;
 - (viii) relocation; and
 - (ix) shelter in place.
- (b) includes instructions to follow if there is an allergy, serious reaction to food, or any other trigger that may affect a child's health;
- (c) is available for review by any parent, staff member, and OL during business hours; and
- (d) is followed if an emergency happens, unless otherwise instructed by emergency personnel.
- (2) The provider shall post the center's street address and any emergency numbers, including at least fire, police, and poison control, near each telephone in the center or in an area clearly visible to anyone needing the information.
- (3) The provider shall keep first aid supplies in the center, including at least antiseptic, bandages, and tweezers.
- (4) The provider shall conduct a fire evacuation drill at least quarterly and ensure each drill includes a complete exit of each child, staff member, and volunteer from the building.
- (5) The provider shall document each fire drill, including:
 - (a) any problems encountered and remediation;
 - (b) the date and time of the drill;
 - (c) the name of the individual supervising the drill;
 - (d) the number of children participating; and
 - (e) the total time to complete the evacuation.
- (6) The provider shall conduct a drill for disasters, other than fires, at least once every six months.
- (7) The provider shall document each disaster drill, including:
 - (a) any problems encountered and remediation;
 - (b) the date and time of the drill;
 - (c) the name of the individual supervising the drill;
 - (d) the number of children participating; and
 - (e) the type of disaster, including earthquake, flood, prolonged power or water outage, or tornado;
- (8) The provider shall vary the days and times when fire and other disaster drills are held.
- (9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by OL.
- (10) The provider shall:
 - (a) give each parent a written report on the day of occurrence of each incident, accident, or injury involving their child;
 - (b) ensure the report has the signatures of the caregivers involved, the center director or director designee, and the individual picking up the child; and
 - (c) if a school-age child signs themselves out of the center, send a copy of the report to the parent on the day following the occurrence.
- (11) If a child is injured and the injury appears serious but not life-threatening, the provider shall submit a critical incident report to OL within one business day and contact the child's parent immediately.
- (12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall submit a critical incident report to OL within one business day and:
 - (a) call emergency personnel immediately;
 - (b) contact the parent after emergency personnel are called; and
 - (c) if the parent cannot be reached, try to contact the child's emergency contact individual.
- (13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall submit a critical incident report to OL within one business day.
- (14) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by OL.
- (15) The provider shall ensure compliance with critical incident reporting in accordance with Subsection R380-600-7(16).

R381-100-15. Health and Infection Control.

- (1) The provider shall maintain the building, furnishings, equipment, and outdoor area including keeping:
 - (a) any frequently touched surface, including each doorknob and light switch, clean and sanitized;
 - (b) each area and any equipment used for the storage, preparation, and service of food clean and sanitized;
 - (c) each surface free of rotting food or a build-up of food;
 - (d) each wall and floor clean and free of spills, dirt, and grime;
 - (e) the building and grounds free of a build-up of litter and garbage; and
 - (f) the building and grounds free of animal feces.
- (2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.
- (3) The provider shall clean and sanitize any toy and material used by a child:
 - (a) at least once a week or more often if needed;
 - (b) after being put in a child's mouth and before another child plays with the toy; and

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- (c) after being contaminated by a body fluid.
- (4) The provider shall ensure that any fabric toy and item including any stuffed animal, cloth doll, pillow cover, and dress-up clothing is machine washable and if used, washed at least each week or as needed.
- (5) The provider shall clean and sanitize each highchair tray before each use.
- (6) The provider shall clean and sanitize each water play table or tub daily, if used by a child.
- (7) The provider shall clean and sanitize each bathroom surface including each toilet, sink, faucet, toilet and sink handle, and counter each business day.
- (8) The provider shall clean and sanitize each potty chair after each use.
- (9) The provider shall ensure that toilet paper is accessible and kept in a dispenser that is accessible to each child.
- (10) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that each staff follow the procedures.
- (11) The provider shall ensure that each staff member and volunteer washes their hands thoroughly with liquid soap and running water:
 - (a) after cleaning up or taking out garbage;
 - (b) after contact with a body fluid;
 - (c) after using the toilet or helping a child use the toilet;
 - (d) before and after eating meals and snacks or feeding a child;
 - (e) before handling or preparing food or bottles;
 - (f) upon arrival; and
 - (g) when coming in from outdoors.
- (12) The provider shall ensure that each caregiver teaches each child how to wash the child's hands thoroughly and that the caregiver oversees handwashing when possible.
- (13) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water:
 - (a) after contact with a body fluid;
 - (b) after using the toilet;
 - (c) before and after eating meals and snacks;
 - (d) before using a water play table or tub;
 - (e) upon arrival; and
 - (f) when coming in from outdoors.
- (14) The provider shall ensure that only single-use towels from a covered dispenser or an electric hand dryer is used to dry hands.
- (15) The provider shall ensure that any personal hygiene items, including a toothbrush, comb, and hair accessory, are not shared and are stored so they do not touch each other or they are sanitized between each use.
- (16) The provider shall ensure that any pacifier, bottle, and nondisposable drinking cup is:
 - (a) labeled with each child's name or individually identified; and
 - (b) not shared, or washed and sanitized before being used by another child.
- (17) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.
- (18) The provider shall ensure that a child's clothing that is wet or soiled from a body fluid is:
 - (a) not rinsed or washed at the center;
 - (b) placed in a leakproof container that is labeled with the child's name; and
 - (c) returned to the parent or thrown away with parental consent.
- (19) The provider shall ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids shall:
 - (a) clean the surface using a detergent solution;
 - (b) rinse the surface with clean water;
 - (c) sanitize the surface;
 - (d) throw away, in a leakproof plastic bag, any disposable material, including paper towels, that were used to clean up the body fluid;
 - (e) wash and sanitize any non-disposable material used to clean up the body fluid, including any cleaning cloth, mop, or reusable rubber glove, before reusing it;
 - (f) wear waterproof gloves; and
 - (g) wash their hands after cleaning up the body fluid.
- (20) The provider may not care for a child who is ill with an infectious disease at the center except when the child shows signs of illness after arriving at the center.
- (21) If a child becomes ill while in care:
 - (a) the provider shall contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact to immediately pick up the child; and
 - (b) if the child is ill with an infectious disease, the provider shall make the child comfortable in a safe, supervised area that is separated from any other child until the parent arrives.
- (22) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the provider discovers the illness.
- (23) If any staff member or child has an infectious disease or parasite, the provider shall post a notice at the center that:
 - (a) does not disclose any personal identifiable information;
 - (b) is posted and dated on the same day that the disease or parasite is discovered;

- (c) is posted in a conspicuous place where it can be seen by parents; and
- (d) remains posted for at least five business days.
- (24) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that:
 - (a) an individual who cares for any diapered child only prepares food for the children in their care, and they do not:
 - (i) prepare food outside of the room used by any diapered child; or
 - (ii) prepare food for any other child and adult in the facility;
 - (b) an individual who prepares food in the kitchen does not help in toileting any child; and
 - (c) an individual with an infectious disease, or showing symptoms including diarrhea, fever, coughing, or vomiting, does not prepare or serve foods.

R381-100-16. Food and Nutrition.

- (1) The provider shall ensure that each child two years old and older is offered a meal or snack at least once every three hours when services are provided for three or more hours.
- (2) If the provider supplies food for children's meals or snacks, the provider shall ensure that:
 - (a) the meal service meets local health department food service rules;
 - (b) the foods that are served meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;
 - (c) the provider uses the CACFP meal pattern requirements, the standard OL-approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;
 - (d) the current week's menu is posted for review by parents and OL; and
 - (e) if not participating or in good standing with the CACFP, keep a six-week record of foods served at each meal and snack.
 - (3) The provider shall ensure that the individual who serves food to a child:
 - (a) is aware of each child in their assigned group who has any food allergy or sensitivity; and
 - (b) ensures that a child is not served the food that the child is allergic or sensitive to.
 - (4) The provider may not place a child's food on a bare table, and shall serve a child's food on a dish, napkin, or sanitary highchair tray, except an individual finger food, including a cracker, that may be placed directly in a child's hand.
 - (5) If a parent brings food and drink for their child's use, the provider shall ensure that the food and drink is:
 - (a) consumed only by that child;
 - (b) labeled with the child's name; and
 - (c) refrigerated if needed.

R381-100-17. Medications.

- (1) The provider shall lock any nonrefrigerated medication or store it at least 48 inches above the floor.
- (2) The provider shall lock any refrigerated medication or store it at least 36 inches above the floor and, if liquid, store it in a separate leakproof container.
- (3) If a parent supplies any over-the-counter or prescription medication, the provider shall ensure that medication:
 - (a) is labeled with the child's full name;
 - (b) is stored in the original or pharmacy container; and
 - (c) has the original label.
- (4) The provider shall obtain a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.
- (5) The provider shall ensure that the medication permission form includes at least:
 - (a) a parent signature and the date signed;
 - (b) any written instructions for administration;
 - (c) the name of the child; and
 - (d) the name of the medication.
- (6) The provider shall ensure that instructions for administering the medication include at least:
 - (a) how the medication will be given;
 - (b) the disease or condition being treated;
 - (c) the dosage; and
 - (d) the times and dates to administer the medication.
- (7) If the provider supplies an over-the-counter medication for a child's use, the provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:
 - (a) written; or
 - (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.
- (8) The provider shall ensure that the staff administering the medication:
 - (a) checks the medication label to confirm the child's name if the parent supplied the medication;
 - (b) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer;
 - (c) washes their hands; and
 - (d) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records:

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- (a) any error in administering the medication or adverse reactions;
- (b) the date, time, and dosage of the medication given; and
- (c) their signature or initials.
- (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.
- (11) The provider shall notify the parent before the scheduled medication dosage to a child if the provider chooses not to administer medication as instructed by the parent.
- (12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by OL.

R381-100-18. Activities.

- (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- (2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.
- (3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours that children spend in the program.
- (4) For each preschool and school-age group, the provider shall post a daily schedule that includes:
 - (a) activities that support a child's healthy development; and
 - (b) the times activities occur including at least meal, snack, nap or rest, and outdoor play times.
- (5) The provider shall ensure that any toy, material, and equipment needed to support a child's healthy development is available to each child.
- (6) Except for occasional special events, the provider shall ensure that each child's primary screen time activity on media, including any television, cell phone, tablet, and computer, is:
 - (a) not allowed for a child zero to 17 months old;
 - (b) limited for a child 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and
 - (c) planned to address the needs of a child five to 12 years old.
- (7) If the provider offers swimming activities, or if a wading pool is used, the provider shall ensure that:
 - (a) a caregiver stays at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;
 - (b) any diapered child wears a swim diaper when the child is in the pool;
 - (c) each lifeguard and pool personnel does not count toward the caregiver-to-child ratio;
 - (d) each wading pool is emptied and sanitized after use by each group of children;
 - (e) if the pool is deeper than four feet, there is a lifeguard on duty who is certified by the Red Cross or another approved certification program any time a child has access to the pool; and
 - (f) the parent gives permission before their child uses the pool.
- (8) If the provider offers offsite activities, the provider shall ensure that:
 - (a) a child's name is not used on a nametag, t-shirt, or in any other visible way;
 - (b) each child wears or carries with them the name and phone number of the center;
 - (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (d) the child's parent gives written consent before each activity;
 - (e) the required staff-to-child ratio and supervision are maintained during the entire activity; and
 - (f) there is a way for each child and caregiver to wash their hands with soap and water, or, if there is no source of running water, with a wet wipe or hand sanitizer.
- (9) The provider shall ensure that a caregiver with the children takes the written emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:
 - (a) the child's name;
 - (b) the parent's name and phone number;
 - (c) the name and phone number of a person to notify if there is an emergency and the parent cannot be contacted;
 - (d) the name of any person authorized by the parent to pick up the child; and
 - (e) current emergency medical treatment and emergency medical transportation releases.

R381-100-19. Play Equipment.

- (1) The provider shall ensure that each child using play equipment use it safely and as intended by the manufacturer.
- (2) The provider shall ensure that the highest designated play surface on any stationary play equipment used by infants or toddlers does not exceed three feet in height.
- (3) The provider shall ensure that any swings used by an infants or toddler has an enclosed seat.
- (4) The provider shall ensure that any stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment and that, with the exception of a swing, stationary play equipment that is:
 - (a) used by an infant or toddler has at least a three-foot use zone if any designated play surface is higher than 18 inches;
 - (b) used by a preschooler has at least a six-foot use zone if any designated play surface is higher than 20 inches; and
 - (c) used by a school-age child has at least a six-foot use zone if any designated play surface is higher than 30 inches.

- (5) The provider shall ensure that the use zone in the front and rear of a single-axis, enclosed swing extends at least twice the distance of the swing pivot point to the swing seat.
- (6) The provider shall ensure that the use zone in the front and rear of a single-axis swing extends at least twice the distance of the swing pivot point to the ground.
- (7) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends:
 - (a) at least the measurement of the suspending rope or chain plus three feet, if the swing is used by infants or toddlers; or
 - (b) at least the measurement of the suspending rope or chain plus six feet, if the swing is used by preschoolers or school-age children.
- (8) The provider shall ensure that the use zone for a merry-go-round extends at least six feet in any direction from its outermost edge.
- (9) The provider shall ensure that the use zone for a spring rocker extends:
 - (a) at least three feet from the outermost edge of the rocker when at rest; or
 - (b) at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches, and the rocker is used by preschoolers or school-age children.
- (10) The provider shall ensure that each use zone does not overlap with the use zone of any other piece of play equipment when the use zone is:
 - (a) in front of a slide;
 - (b) in the front and rear of any single-axis swing, including a single-axis enclosed swing;
 - (c) that of a multi-axis swing; and
 - (d) that of a merry-go-round, if the platform diameter measures 20 inches or more.
- (11) Unless prohibited in Subsection R381-100-19(10), the provider shall ensure that the use zones of play equipment only overlap when:
 - (a) the equipment is used by an infant or toddler, and there is at least three feet between each piece of equipment; or
 - (b) the equipment is used by a preschooler or school-age child and there is at least six feet between each piece of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between each piece of equipment if the designated play surface is higher than 30 inches.
- (12) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, and the bare floor.
- (13) The provider shall ensure that protective cushioning covers the entire surface of each required use zone and that its depth or thickness is determined by the highest designated play surface of the equipment.
- (14) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall ensure that:
 - (a) the depth of the material meets the guidelines in Table 2.
 - (b) the cushioning is periodically checked for compaction and if compacted, loosened to the depth listed in Table 2; and
 - (c) if the material cannot be loosened to the depth listed in Table 2 due to extreme weather conditions, a child may not play on the equipment until the material can be loosened to the required depth.

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires and Rubber Products
Up to 5' high	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' up to 9'	9"	Not allowed	9"	Not allowed	6"
Over 9' up to 10'	Not allowed	Not allowed	9"	Not allowed	6"
Over 10' up to 12'	Not allowed	Not allowed	Not allowed	Not allowed	6"

- (15) If the provider uses shredded wood products as protective cushioning, the provider shall:
 - (a) ensure the depth of the shredded wood meets the guidelines in Table 3;
 - (b) ensure there is adequate drainage under the material; and
 - (c) keep on-site for review by OL documentation from the manufacturer that the wood product is protective cushioning.

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood Fibers	Wood Chips	Double Shredded Bark Mulch
Up to 6' high	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 11'	9"	9"	9"
Over 11'	9"	Not allowed	Not allowed

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(16) If the provider uses a unitary cushioning, the provider shall keep on-site for review by OL documentation from the manufacturer specifying that the material is playground cushioning.

(17) If the provider uses a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot be:

- (a) displaced when a child jumps, runs, walks, lands, or moves on it; or
- (b) moved or picked up by a child.

(18) The provider shall ensure that a play equipment platform that is more than:

- (a) 18 inches above the floor or ground and used by an infant or toddler has a protective barrier that is at least 24 inches high;
- (b) 30 inches above the floor or ground and used by a preschooler has a protective barrier that is at least 29 inches high; and
- (c) 48 inches above the floor or ground and used by a school-age child has a protective barrier that is at least 38 inches high.

(19) The provider shall ensure that there is no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.

(20) The provider shall ensure that stationary play equipment is stable or securely anchored.

(21) The provider shall ensure that there is no trampoline on the premises that is accessible to any child in care.

(22) The provider shall ensure that there is no entrapment hazard on or within the use zone of any piece of stationary play equipment.

(23) The provider shall ensure that there is no strangulation hazard on or within the use zone of any piece of stationary play equipment.

(24) The provider shall ensure that there is no crush, shearing, or sharp edge hazard on or within the use zone of any piece of stationary play equipment.

(25) The provider shall ensure that there is no tripping hazard including any concrete footing, tree stump, tree root, or rock within the use zone of any piece of stationary play equipment.

R381-100-20. Transportation.

(1) For each child that the provider transports, the provider shall obtain a transportation permission form that is:

- (a) signed by a parent; and
- (b) on-site for review by OL.

(2) The provider shall ensure that each vehicle used for transporting children:

- (a) is enclosed with a roof or top;
- (b) is equipped with safety restraints;
- (c) has a current vehicle registration;
- (d) is maintained in a safe and clean condition; and
- (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.

(3) The provider shall ensure that the safety restraints in each vehicle that transports children are:

- (a) appropriate for the age and size of each child who is transported, as required by law;
- (b) properly installed; and
- (c) in safe condition and working order.

(4) The provider shall ensure that the driver of each vehicle who is transporting children:

- (a) is at least 18 years old;
- (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;
- (c) has with them the emergency contact information outlined in Subsection R381-100-18(9) for each child being transported;
- (d) ensures that each child being transported is in an individual safety restraint as required by law;
- (e) ensures that the inside vehicle temperature is between 60 and 85 degrees Fahrenheit;
- (f) ensures that each child stay seated while the vehicle is moving;
- (g) ensures that the vehicle is locked during transport;
- (h) never leaves a child in the vehicle unattended by an adult; and
- (i) never leaves the keys in the ignition when not in the driver's seat.

(5) If the provider walks or uses public transportation to transport a child to or from a facility, the provider shall ensure that:

- (a) each child being transported has a completed transportation permission form signed by their parent;
- (b) a caregiver goes with and actively supervises each child;
- (c) a caregiver transporting a child has emergency contact information outlined in Subsection R381-100-18(9) and a release for each child being transported; and

(d) the caregiver-to-child ratio is maintained.

(6) The provider shall:

- (a) have transport liability insurance; or
- (b) inform parents in writing that the provider does not have transport liability insurance.

R381-100-21. Animals.

(1) The provider shall inform each parent of the kinds of animals allowed at the facility.

(2) The provider shall ensure that there is no animal on the premises that:

- (a) has a history of biting even one individual;
- (b) has a history of dangerous, attacking, or aggressive behavior; or
- (c) is naturally aggressive.

- (3) The provider shall ensure that any animal at the facility is clean and free of any obvious disease or health problem that could adversely affect a child.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) The provider shall ensure that no child younger than five years old assists with the cleaning of any animal or animal cage, pen, or equipment.
- (6) If a school-age child helps in the cleaning of animals or animal equipment, the provider shall ensure that the child washes their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that each child and staff wash their hands immediately after playing with or touching any reptile or amphibian.
- (8) The provider shall ensure that any dog, cat, or ferret that the facility houses have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by OL.

R381-100-22. Rest and Sleep.

- (1) The provider shall offer a child in care a daily opportunity for rest or sleep in an environment with:
 - (a) a low noise level;
 - (b) freedom from distractions; and
 - (c) subdued lighting.
- (2) The provider may not schedule a nap or rest time for more than two hours a day.
- (3) The provider shall use a separate crib, cot, mat, or other sleeping equipment for each child during nap times.
- (4) The provider shall keep sleeping equipment in good repair, and ensure that any mat and mattress has smooth, waterproof surfaces.
- (5) The provider shall ensure that each crib:
 - (a) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child;
 - (b) has a tight-fitting mattress;
 - (c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;
 - (d) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date; and
 - (e) has slats spaced no more than 2-3/8 inches apart.
- (6) The provider shall place sleeping equipment, including a crib, cot, and mat at least two feet apart when they are in use.
- (7) The provider shall ensure that sleeping equipment does not block any exit.
- (8) The provider shall make a sheet and blanket, or acceptable alternative, available to each child 12 months or older during nap time, and ensure that each item is:
 - (a) clearly assigned to one child;
 - (b) laundered as needed, but at least once a week, and before use by another child; and
 - (c) stored separately from other children's bedding.
- (9) The provider shall clean and sanitize sleeping equipment, that is not clearly assigned to and used by an individual child, before each use.
- (10) The provider shall:
 - (a) clean and sanitize sleeping equipment before each use; or
 - (b) store sleeping equipment in a way the surfaces children sleep on do not touch each other.

R381-100-23. Diapering.

- (1) This section applies only to a provider that accepts children who wear diapers.
- (2) The provider shall post diapering procedures at each diapering station and ensure that each staff member follows the procedures.
- (3) The provider shall ensure that each child's diaper is:
 - (a) checked as soon as a sleeping child awakens;
 - (b) checked at least once every two hours; and
 - (c) promptly changed when wet or soiled.
- (4) The provider shall ensure that a caregiver changes each child's diaper at a diapering station and not on a surface used for any other purpose.
- (5) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (6) The provider shall ensure that each diapering station is equipped with railings to prevent a child from falling when being diapered.
- (7) The provider shall ensure that a caregiver does not leave any child unattended on the diapering surface.
- (8) The provider shall ensure that a caregiver cleans and sanitizes the diapering surface after each diaper change or uses a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (9) The provider shall ensure that a caregiver washes their hands after each diaper change.
- (10) The provider shall ensure that a caregiver places any wet and soiled disposable diaper:
 - (a) in a container that has a disposable plastic lining and a tight-fitting lid;
 - (b) directly in an outdoor garbage container that has a tight-fitting lid; or
 - (c) in a container that is inaccessible to children.
- (11) The provider shall ensure that each indoor container where any wet and soiled diaper is placed is cleaned and sanitized each day.

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(12) If cloth diapers are used, the provider shall:

(a) not rinse cloth diapers at the facility; and

(b)(i) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or

(ii) place the cloth diapers in a leakproof diapering service container.

R381-100-24. Infant and Toddler Care.

(1) This section only applies to a provider that accepts an infant or toddler.

(2) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 15 minutes.

(3) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults, including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.

(4) The provider shall ensure that any infant and toddler area is not used to pass through or access any other indoor or outdoor area.

(5) The provider shall ensure that an infant and toddler plays in the same enclosed outdoor space with an older child only when there are eight or fewer children in the group.

(6) The provider shall ensure that a caregiver responds promptly to an infant and toddler who is in emotional distress due to any conditions including:

(a) a wet or soiled diaper;

(b) fatigue;

(c) fear;

(d) hunger;

(e) illness; or

(f) teething.

(7) To stimulate healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.

(8) The provider shall ensure that any mobile infant and toddler has freedom of movement in a safe area.

(9) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.

(10) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.

(11) The provider shall make any object made of styrofoam inaccessible to any infant and toddler.

(12) The provider shall allow each infant and toddler to eat and sleep on their own schedule.

(13) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual child's use is:

(a) labeled with the child's name;

(b) labeled with the date and time of preparation or opening of the container, including a jar of baby food;

(c) kept refrigerated if needed; and

(d) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.

(14) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each infant during bottle feeding and that a bottle is not propped.

(15) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to a child.

(16) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.

(17) The provider shall ensure that a caregiver cuts solid food for:

(a) an infant into pieces no larger than 1/4 inch in diameter; and

(b) a toddler into pieces no larger than 1/2 inch in diameter.

(18) The provider shall ensure that each infant sleeps in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that an infant is not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.

(19) The provider shall place an infant on their back for sleeping unless there is documentation from a health care provider requiring a different sleep position.

(20) The provider may not place any soft toy, loose blanket, or other object in sleep equipment while in use by a sleeping infant.

(21) The provider shall document each infant's eating and sleeping patterns each day the infant is at the facility, and shall ensure the record:

(a) is completed within an hour of each feeding or nap; and

(b) includes the infant's name, the food and beverages eaten, and the times the infant slept.

(22) Within an hour of each infant or toddler's diaper change, the provider shall record:

(a) the infant or toddler's name;

(b) the time of the diaper change; and

(c) whether the diaper was dry, wet, soiled, or both.

(23) The provider shall maintain on-site for review by OL a six-week record of:

(a) the eating and sleeping patterns for each infant; and

(b) the diaper changes for each infant and toddler.

R381-100-25. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: child care facilities, child care, child care centers
Date of Last Change: ~~2024~~ ~~November 9, 2023~~
Notice of Continuation: April 14, 2020
Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R382-10	Filing ID: 56886

Agency Information

1. Title catchline:	Health and Human Services, Children's Health Insurance Program	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 1433325	
City, state and zip:	Salt Lake City, UT 84114-3325	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@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:
R382-10. Eligibility
3. Purpose of the new rule or reason for the change:
The purpose of this change is to update the rule following the conclusion of a public health emergency.
4. Summary of the new rule or change:
This amendment removes provisions for the coronavirus public health emergency that concluded in May 2023 and updates the rule to include minor changes in structure, formatting, and grammar to comply 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 filing is anticipated to have no fiscal impact on the state budget, as there are no fiscal changes that accompany these policy updates and technical corrections. Additionally, these updates neither affect member services nor provider reimbursement.
B) Local governments:
This filing is anticipated to have no fiscal impact on local governments, as they neither fund nor provide services under the Children's Health Insurance Program.

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

This filing is anticipated to have no fiscal impact on small businesses, as there are no fiscal changes that accompany these policy updates and technical corrections. Additionally, these updates neither affect member services nor provider reimbursement.

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

This filing is anticipated to have no fiscal impact on non-small businesses, as there are no fiscal changes that accompany these policy updates and technical corrections. Additionally, these updates neither affect member services nor provider reimbursement.

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

This filing is anticipated to have no fiscal impact on other persons, as there are no fiscal changes that accompany these policy updates and technical corrections. Additionally, these updates neither affect member services nor provider reimbursement.

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 anticipated compliance costs expected for affected persons, as there are no fiscal changes that accompany these policy updates and technical corrections. Additionally, these updates neither affect member services nor provider reimbursement.

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

Regulatory Impact Table			
Fiscal Cost	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-1-213	Section 26B-3-902	
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	10/27/2024
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R382. Health and Human Services, Children's Health Insurance Program.**R382-10. Eligibility.****R382-10-1. Authority and Purpose.**

- (1) This rule is authorized by Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program.
- (2) This rule sets forth eligibility requirements for coverage under the Children's Health Insurance Program (CHIP).

R382-10-2. Definitions.

~~[(1)]~~ The definitions found in Sections 2110(b) and (c) of the Compilation of Social Security Laws, and in Section R382-1-2 apply to this rule. Additionally, the following definitions apply:

~~[(2)]~~ ~~In addition, the department adopts the following definitions:~~

~~[(a)]~~ (1) "American Indian or Alaska Native" means someone having origins in any of the original peoples of North and South America, including Central America, and who maintains tribal affiliation or community attachment.

~~[(b)]~~ (2) "Best estimate" means the eligibility agency's determination of a household's income for the upcoming eligibility period, based on past and current circumstances and anticipated future changes.

~~[(c)]~~ (3) "COBRA" means health insurance coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985.

~~[(d)]~~ (4) "Copayment and coinsurance" means a portion of the cost for a medical service, in which the member is responsible to pay for services received under CHIP.

~~[(e)]~~ (5) "Due process month" means the month that allows time for the member to return verifications, and for the eligibility agency to determine eligibility and notify the member.

~~[(f)]~~ (6) "Eligibility agency" means the Department of Workforce Services (DWS) that determines eligibility for CHIP under contract with the department.

~~[(g)]~~ (7) "Employer-sponsored health plan" means a health insurance plan offered by an employer.

~~[(h)]~~ (8) "Ex parte review" means a review process the agency conducts without contacting the member for information as defined in 42 CFR 457.343~~[-]~~ (2024).

~~[(i)]~~ (9) "Federally Facilitated Marketplace" (FFM) means the entity an individual can access to enroll in health insurance and apply for assistance from insurance affordability programs such as Advanced Premium Tax Credits, Medicaid, and CHIP.

~~[(j)]~~ (10) "Member" means any person who is enrolled in the ~~[Medicaid]~~CHIP program and is eligible to receive ~~[Medicaid]~~CHIP services.

~~[(k)]~~ (11) "Modified Adjusted Gross Income" (MAGI) means the income determined using the methodology defined in 42 CFR 435.603(e).

~~[(l)]~~ (12) "Presumptive eligibility" means a period that a child may receive CHIP benefits based on preliminary information that the child meets the eligibility criteria.

~~[(m)]~~ (13) "Review month" means the last month of the eligibility certification period for a member, in which the eligibility agency determines a member's eligibility for a new certification period.

~~[(n)]~~ (14) "Utah's Premium Partnership for Health Insurance" ~~[or "](UPP["]~~ means the program described in Rule R414-320.

R382-10-3. Actions on Behalf of a Minor.

(1) A parent, legal guardian, or an adult who assumes responsibility for the care or supervision of a child who is under 19 years of age may apply for CHIP enrollment, provide information required by this rule, or otherwise act on behalf of a child in ~~[all]~~any respects under the statutes and rules governing the CHIP program.

(2) If the child's parent, responsible adult, or legal guardian wants to designate an authorized representative, ~~[he]~~the parent must ~~[so indicate]~~state it in writing to the eligibility agency.

(3)(a) A child who is under 19 years of age and is independent of a parent or legal guardian may assume these responsibilities. ~~[-]~~The eligibility agency may not require a child who is independent to have an authorized representative if the child can act on ~~[his]~~the child's own behalf~~[-; however, the]~~.

(b) The eligibility agency may designate an authorized representative if the child needs a representative but cannot make a choice either in writing or orally in the presence of a witness.

NOTICES OF PROPOSED RULES

(4) Where the statutes or rules governing the CHIP program require a child to take an action, the parent, legal guardian, designated representative or adult who assumes responsibility for the care or supervision of the child is responsible to take the action on behalf of the child. If the parent or adult who assumes responsibility for the care or supervision of the child fails to take an action, the failure is attributable as the child's failure to take the action.

(5) The eligibility agency shall consider notice to the parent, legal guardian, designated representative, or adult who assumes responsibility for the care or supervision of a child to be notice to the child. The eligibility agency shall send notice to a child who assumes their own responsibility [~~for himself~~].

R382-10-4. Applicant and Enrollee Rights and Responsibilities.

(1) A parent or an adult who assumes responsibility for the care or supervision of a child may apply or reapply for CHIP benefits on behalf of a child. A child who is independent may apply on the child's own behalf.

(2) If a person needs assistance to apply, the person may request assistance from a friend, family member, the eligibility agency, or outreach staff.

(3) The applicant must provide verification requested by the eligibility agency to establish the eligibility of the child, including information about the parents.

(4) Anyone may look at the eligibility policy manuals located online or at any eligibility agency office that is not an outreach or telephone-only location.

(5) If the eligibility agency determines that the child received CHIP coverage during a period when the child was not eligible for CHIP, the parent, child, or legal guardian who arranges for medical services on behalf of the child must repay the department for the cost of services.

(6) The parent or child, or other responsible person acting on behalf of a child, must report certain changes to the eligibility agency.

(a) The following changes are reportable within ten calendar days of the day of the change:

(i) the member begins to receive coverage or to have access to coverage under a group health plan or other health insurance coverage;

(ii) the member leaves the household or dies;

(iii) the member or the household moves out of state;

(iv) the member or the household changes address; and

(v) the member enters a public institution or an institution for mental disease.

(b) Certain changes are reportable as part of the review process if these changes occurred anytime during the certification period and before the 10-day notice due date in the review month. The member must report a change in the following as part of the review process for any household member:

(i) income source;

(ii) gross income of \$25 or more;

(iii) tax filing status;

(iv) pregnancy or termination of a pregnancy;

(v) number of dependents claimed as tax dependents;

(vi) earnings of a child;

(vii) marital status; and

(viii) student status of a child under 24 years of age.

(7) An applicant and a member may review the information that the eligibility agency uses to determine eligibility.

(8) An applicant and a member have the right to be notified about actions that the agency takes to determine the applicant's or member's eligibility or continued eligibility, the right to be notified about the reason the action was taken, and the right to request an agency conference or agency action as defined in Sections R414-301-6 and [~~Section~~] R414-301-7.

(9) A CHIP member must pay copayments or coinsurance amounts to providers for medical services that the member receives under CHIP.

R382-10-5. Verification and Information Exchange.

(1) [~~The provisions of~~] Section R414-308-4 appl[ies] to applicants and enrollees of CHIP.

(2) The [~~D~~] department and the eligibility agency shall safeguard applicant and enrollee information in accordance with Section R414-301-4.

(3) The [~~D~~] department or the eligibility agency may release information concerning applicants and enrollees and their households to other state and federal agencies to determine eligibility for other public assistance programs.

(4) The [~~Department adopts and incorporates by reference~~] department complies with 42 CFR 457.348, 457.350, and 457.380 [~~; October 1, 2012 ed~~] in regard to eligibility determinations, screening, and verification.

(5) The [~~D~~] department shall enter into an agreement with the Centers for Medicare and Medicaid Services (CMS) to allow the FFM to screen applications and reviews submitted through the FFM for CHIP eligibility.

(a) The agreement must provide for the exchange of file data and eligibility status information between the [~~D~~] department and the FFM as required to determine eligibility and enrollment in insurance affordability programs, and eligibility for advance premium tax credits and reduced cost sharing.

(b) The agreement applies to agencies under contract with the [~~D~~] department to provide CHIP eligibility determination services.

(6) The [~~D~~] department and the eligibility agency shall release information to the Title IV-D agency and Social Security Administration to determine benefits.

R382-10-6. Citizenship and Alienage.

- (1) To be eligible to enroll in CHIP, a child must be a United States (US) citizen, a US national, or a qualified alien.
- (2) Section R414-302-3, regarding citizenship and alien status requirements, applies to CHIP applicants and members.
- (3) The department elects to cover an applicant and a member who are under 19 years of age and lawfully present as defined in 42 U.S.C. 1396b(v) and 42 U.S.C. 1397gg(e)(1), and referenced in Section CS18 of the Utah CHIP State Plan.

R382-10-7. Utah Residence.

- (1) The ~~[Department adopts and incorporates by reference,]department complies with~~ 42 CFR 457.320(d~~), October 1, 2012 ed.] in regard to coverage related to citizenship and immigration status. A child must be a Utah resident to be eligible to enroll in the program.~~
- (2) An American Indian or Alaska Native child in a boarding school is a resident of the state where ~~[his]the child's~~ parents reside. A child in a school for the deaf and blind is a resident of the state where ~~[his]the child's~~ parents reside.
- (3) A child is a resident of the state if ~~[he]the child~~ is temporarily absent from Utah due to employment, schooling, vacation, medical treatment, or military service.
- (4) The child need not reside in a home with a permanent location or fixed address.

R382-10-8. Residents of Institutions.

- (1) Residents of institutions described in Section 2110(b)(2)(A) of the Compilation of Social Security Laws are not eligible for the program.
- (2) A child under the age of 18 is not a resident of an institution if ~~[he]the child~~ is living temporarily in the institution while arrangements are being made for other placement.
- (3) A child who resides in a temporary shelter for a limited period ~~[of time]~~ is not a resident of an institution.

R382-10-9. Social Security Numbers.

- (1) The eligibility agency may request an applicant to provide the correct Social Security Number (SSN) or proof of application for a SSN for each household member ~~[at the time of application]when applying~~ for the program. The eligibility agency shall use the SSN in accordance with the requirements of 42 CFR 457.340(b~~), October 1, 2012 ed., which is incorporated by reference.]).~~
- (2) The eligibility agency shall require that each applicant claiming to be a ~~[U.S.]US~~ citizen or national provide their SSN ~~[for the purpose of verifying]to verify~~ citizenship through the Social Security Administration in accordance with Section 2105(c)(9) of the Compilation of the Social Security Laws.
- (3) The eligibility agency may request the SSN of a lawful permanent resident alien applicant~~;~~ but may not deny eligibility for failure to provide an SSN.
- (4) The ~~[D]department~~ may assign a unique CHIP identification number to an applicant or beneficiary who meets one of the exceptions to the requirement to provide an SSN.

R382-10-10. Creditable Health Coverage.

- (1) To be eligible for enrollment in the program, a child must meet the requirements of Section~~s~~ 2110(b) of the Compilation of Social Security Laws.
- (2) A child who is covered under a group health plan or other health insurance that provides coverage in Utah, including coverage under a parent's or legal guardian's employer, as defined in 29 CFR 2590.701-4~~[- July 1,](2013[- ed.,])~~ is not eligible for CHIP assistance.
- (3) A child who has access to health insurance coverage, where the cost to enroll the child in the least expensive plan offered by the employer is less than 5% of the countable MAGI-based income for the individual, is not eligible for CHIP. The child is considered to have access to coverage even when the employer only offers coverage during an open enrollment period, and the child has had at least one chance to enroll.
- (4) An eligible child who has access to an employer-sponsored health plan, where the cost to enroll the child in the least expensive plan offered by the employer equals or exceeds 5% of the countable MAGI-based income for the individual may choose to enroll in either CHIP or UPP.
 - (a) To enroll in UPP, the child must meet UPP eligibility requirements.
 - (b) If the UPP eligible child enrolls in the employer-sponsored health plan or COBRA coverage, but the plan does not include dental benefits, the child may receive dental-only benefits through CHIP.
 - (c) If the employer-sponsored health plan or COBRA coverage includes dental, the applicant may choose to enroll the child in the dental plan and receive an additional reimbursement from UPP, or receive dental-only benefits through CHIP.
 - (d) A child enrolled in CHIP who gains access to or enrolls in an employer-sponsored health plan may switch to the UPP program if the child meets UPP eligibility requirements.
 - (5) The cost of coverage includes~~[the following]:~~
 - (a) the premium;
 - (b) a deductible, if the employer-sponsored plan has a deductible; and
 - (c) the cost to enroll the employee, if the employee must be enrolled to enroll the child.
 - (6) Subject to ~~[the provisions published in]42 CFR 457.805(b),[- October 1, 2015 ed., which the Department adopts and incorporates by reference,]~~ the eligibility agency shall deny eligibility and impose a 90-day waiting period for enrollment under CHIP if the applicant or a custodial parent voluntarily terminates health insurance that provides coverage in Utah within the 90 days before the application date. In addition, the agency may not apply a 90-day waiting period in the following situations:
 - (a) a non-custodial parent voluntarily terminates coverage;

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- (b) the child is voluntarily terminated from insurance that does not provide coverage in Utah;
 - (c) the child is voluntarily terminated from a limited health insurance plan;
 - (d) a child is terminated from a custodial parent's insurance because ORS reverses the forced enrollment requirement due to the insurance being unaffordable;
 - (e) voluntary termination of COBRA;
 - (f) voluntary termination of Utah Comprehensive Health Insurance Pool coverage; or
 - (g) voluntary termination of UPP reimbursed, employer-sponsored coverage.
- (7) If the 90-day ineligibility period for CHIP ends in the month of application, or by the end of the month that follows, the eligibility agency shall determine the applicant's eligibility.
- (a) If eligible, enrollment in CHIP begins the day after the 90-day ineligibility period ends.
 - (b) If the 90-day ineligibility period does not end by the end of the month that follows the application month, the eligibility agency shall deny CHIP eligibility.
- (8) The ~~[D]~~department shall comply with ~~[the provisions of]~~enrollment after the waiting period as described in [accordance with] 42 CFR 457.340~~[, October 1, 2015 ed., which the Department adopts and incorporates by reference].~~
- (9) A child with creditable health coverage operated or financed by Indian Health Services is not excluded from enrolling in CHIP.
- (10) A child who has access to state-employee health insurance as defined in 42 CFR 457.310 is not eligible for CHIP assistance.

R382-10-11. Household Composition and Income Provisions.

- (1) The ~~[Department adopts and incorporates by reference,]~~department shall comply with 42 CFR 457.315 ~~[(October 1, 2015),]~~ regarding~~[the]~~ household composition and income methodology to determine eligibility for CHIP.
- (a) The eligibility agency shall count in the household size, the number of unborn children that a pregnant household member expects to deliver.
 - (b) The ~~[D]~~department elects the option in 42 CFR 435.603(f)(3)(iv)(B).
 - (c) The eligibility agency will treat separated spouses, who are not living together, as separate households.
- (2) Any individual described in Subsection R382-10-11(1) who is temporarily absent solely by reason of employment, school, training, military service, or medical treatment, or who will return home to live within 30 days from the date of application, is part of the household.
- (3) The eligibility agency may not count as income any payments from sources that federal law specifically prohibits from being counted as income to determine eligibility for federally~~[,]~~ funded programs.
- (4) The eligibility agency may not count as income any payments that an individual receives pursuant to the Individual Indian Money Account Litigation Settlement under the Claims Resettlement Act of 2010, Pub. L. No. 111 291, 124 Stat. 3064.
- (5) The eligibility agency shall count as income cash support received by an individual when:
- (a) it is received from the tax filer who claims a tax exemption for the individual;
 - (b) the individual is not a spouse or child of the tax filer; and
 - (c) the cash support exceeds a nominal amount set by the ~~[D]~~department.
- (6) The eligibility agency determines eligibility by deducting an amount equal to 5% of the federal poverty guideline, as defined in 42 CFR 435.603(d)(4).

R382-10-12. Age Requirement.

- (1) A child must be under 19 years of age sometime during the application month to enroll in the program. An otherwise eligible child who turns 19 years of age during the application month may receive CHIP for the application month and the four-day grace period.
- (2) The month in which a child turns 19 years of age is the last month of eligibility for CHIP enrollment.

R382-10-13. Budgeting.

- (1) The eligibility agency determines countable household income according to MAGI-based methodology as required by 42 CFR 457.315.
- (2) The eligibility agency shall determine a child's eligibility and cost sharing requirements prospectively for the upcoming eligibility period ~~[at]~~when the ~~[time of application]~~child applies and at each renewal for continuing eligibility.
 - (a) The eligibility agency determines prospective eligibility by using the best estimate of the household's average monthly income expected to be received or made available to the household during the upcoming eligibility period.
 - (b) The eligibility agency shall include in its estimate~~[,]~~ reasonably predictable income changes such as seasonal income or contract income, to determine the average monthly income expected to be received during the certification period.
 - (c) The eligibility agency prorates income that is received less often than monthly over the eligibility period to determine an average monthly income.
- (3) Methods of determining the best estimate are income averaging, income anticipating, and income annualizing. The eligibility agency may use a combination of methods to obtain the most accurate best estimate. The best estimate may be a monthly amount that is expected to be received each month of the eligibility period, or an annual amount that is prorated over the eligibility period. Different methods may be used for different types of income received in the same household.
- (4) The eligibility agency determines farm and self-employment income by using the individual's recent tax return forms or other verifications the individual can provide. If tax returns are not available~~[,]~~ or are not reflective of the individual's current farm or self-employment income, the eligibility agency may request income information from a recent ~~[time]~~period during which the individual had farm

or self-employment income. The eligibility agency deducts the same expenses from gross income that the Internal Revenue Service allows as self-employment expenses to determine net self-employment income[7] if those expenses are expected to occur in the future.

R382-10-14. Assets.

An asset test is not required for CHIP eligibility.

R382-10-15. Application and Eligibility Reviews.

- (1) The department conducts application and eligibility reviews in accordance with 42 CFR 457.330, 457.340, 457.343, and 457.348.
- (2) Section R414-308-3 applies to applicants for CHIP, except for Subsection R414-308-3(9) and except for the three months of retroactive coverage.
- (3) An individual can apply without having an interview.
- (4) The eligibility agency may interview an applicant, a member, the parents or spouse, and any adult who assumes responsibility for the care or supervision of the child to resolve discrepancies or to gather information that cannot be obtained otherwise.
- (5) The eligibility agency shall complete a periodic review of a member's eligibility for CHIP medical assistance in accordance with 42 CFR 457.343.
 - (6)(a) If a member fails to respond to a request for information to complete the review during the review month, the agency shall end the member's eligibility effective at the end of the review month and send proper notice to the member.
 - (b) If the member responds to the review or reappplies within three calendar months of the review closure date, the eligibility agency shall treat the response as a new application without requiring the member to reapply. The application processing period then applies for this new request for coverage.
 - (c) If the member is determined eligible based on this reapplication, the new certification period begins the first day of the month that the member contacts the agency to complete the review if verification is provided within the application processing period.
 - (i) Under these circumstances, the four-day grace period may apply.
 - (ii) If the member fails to return verification within the application processing period, or if the member is determined ineligible, the eligibility agency shall send a denial notice to the member.
 - (d) The eligibility agency may not continue eligibility while it makes a new eligibility determination.
- (7) Except as defined in Subsection R382-10-15(5), the member must reapply for CHIP if the member's case is closed for one or more calendar months.
 - (8) If the eligibility agency sends proper notice of an adverse decision during the review month, the agency shall change eligibility for the month that follows.
 - (9) If the eligibility agency does not send proper notice of an adverse change for the month that follows, the agency shall extend eligibility to that month. The eligibility agency shall send proper notice of the effective date of an adverse decision.
 - (10) If the member responds to the review in the review month and the verification due date is in the month that follows, the eligibility agency shall extend eligibility to the month that follows. The member must provide verification by the verification due date.
 - (a) If the member provides requested verification by the verification due date, the eligibility agency shall determine eligibility and send proper notice of the decision.
 - (b) If the member does not provide requested verification by the verification due date, the eligibility agency shall end eligibility effective at the end of the month that the eligibility agency sends proper notice of the closure.
 - (c) If the member returns verification after the verification due date and before the effective closure date, the eligibility agency shall treat the date it receives verification as a new application date. The eligibility agency shall determine eligibility and send a notice to the member.
 - (11) The eligibility agency may not continue eligibility while it determines eligibility. The new certification date for the application is the day after the effective closure date if the member is found eligible.
 - (12) The eligibility agency shall provide ten-day notice of case closure if the member is determined to be ineligible or if the member fails to provide verification by the verification due date.
 - (13) If eligibility for CHIP enrollment ends, the eligibility agency shall review the case for eligibility under any other medical assistance program without requiring a new application. The eligibility agency may request additional verification from the household if there is insufficient information to determine eligibility.
 - (14) An applicant must report at application and review whether any of the children in the household for whom enrollment is being requested have access to or are covered by a group health plan, other health insurance coverage, or a state employee's health benefits plan.
 - (15) The eligibility agency shall deny an application or review if the member fails to respond to questions about health insurance coverage for any children for whom the household seeks to enroll or renew in the program.

R382-10-16. Eligibility Decisions.

- (1) The [~~Department adopts and incorporates by reference~~department shall comply with 42 CFR 457.350[7, October 1, 2013, ed.,] regarding eligibility screening.
- (2) The eligibility agency shall determine eligibility for CHIP within 30 days of the date of application. If the eligibility agency cannot [make a decision]decide in 30 days because the applicant fails to take a required action and requests additional time to complete the application process, or if circumstances beyond the eligibility agency's control delay the eligibility decision, the eligibility agency shall document the reason for the delay in the case record.
- (3) The eligibility agency may not use the time standard as a waiting period before determining eligibility, or as a reason for denying eligibility when the agency does not determine eligibility within that time.
- (4) The eligibility agency shall complete a determination of eligibility or ineligibility for each application unless:

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- (a) the applicant voluntarily withdraws the application and the eligibility agency sends a notice to the applicant to confirm the withdrawal;
- (b) the applicant died; or
- (c) the applicant cannot be located or does not respond to requests for information within the 30-day application period.
- (5) The eligibility agency shall redetermine eligibility every 12 months.
- (6) At application and review, the eligibility agency shall determine if any child applying for CHIP enrollment is eligible for coverage under Medicaid.
 - (a) A child who is eligible for Medicaid coverage is not eligible for CHIP.
 - (b) An eligible child who must meet a spenddown to receive Medicaid and chooses not to meet the spenddown may enroll in CHIP.
- (7) If an enrollee asks for a new income determination during the CHIP certification period and the eligibility agency finds the child is eligible for Medicaid, the agency shall end CHIP coverage and enroll the child in Medicaid.

R382-10-17. Effective Date of Enrollment and Renewal.

- (1) Subject to the limitations in Sections R414-306-6[~~, Section~~] and R382-10-10[~~;~~] and[~~the provisions~~] in Subsection R414-308-3(7), the effective date of CHIP enrollment is the first day of the application month.
- (2) If the eligibility agency receives an application during the first four days of a month, the agency shall allow a grace enrollment period that begins no earlier than four days before the date that the agency receives a completed and signed application.
 - (a) If the eligibility agency allows a grace enrollment period that extends into the month before the application month, the days of the grace enrollment period do not count as a month in the 12-month enrollment period.
 - (b) During the grace enrollment period, the individual must receive medical services, meet eligibility criteria, and have an emergency situation that prevents the individual from applying. The ~~[D]~~ department may not pay for any services that the individual receives before the effective enrollment date.
- (3) For a family who has a child enrolled in CHIP and who adds a newborn or adopted child, the effective date of enrollment is the date of birth or placement for adoption if the family requests the coverage within 60 days of the birth or adoption. If the family makes the request more than 60 days after the birth or adoption, enrollment in CHIP becomes effective the first day of the month in which the date of report occurs, subject to the limitations in Sections R414-306-6[~~, Section~~] and R382-10-10, and[~~the provisions of~~] Subsection R382-10-17(2).
- (4) For an individual who transfers from the ~~[Federally Facilitated Marketplace (FFM)]~~, the effective date of enrollment to add a newborn or adopted child is the date of birth or placement for adoption if the individual requests FFM coverage within 60 days of the birth or adoption. If the request is more than 60 days after the birth or adoption, enrollment in CHIP becomes effective the first day of the month in which the date of report occurs, subject to the limitations in Sections R414-306-6[~~, Section~~] and R382-10-10, and[~~the provisions of~~] Subsection R382-10-17(2).
- (5) The effective date of enrollment for a new certification period after the review month is the first day of the month after the review month, if the review process is completed by the end of the review month. If a due process month is approved, the effective date of enrollment for a renewal is the first day of the month after the due process month if the review process is completed by the end of the due process month. The enrollee must complete the review process and continue to be eligible to be reenrolled in CHIP at review.

R382-10-18. Enrollment Period and Benefit Changes.

- (1) Subject to Subsection (2), a child determined eligible for CHIP receives 12 months of coverage that begins with the effective month of enrollment.
- (2) CHIP coverage may end or change before the end of the 12-month certification period if the child:
 - (a) turns 19 years of age;
 - (b) moves out of the state;
 - (c) becomes eligible for Medicaid;
 - (d) leaves the household;
 - (e) is not eligible, or is eligible for a different plan due to a change described in Subsection R382-10-4(6)(b);
 - (f) enters a public institution or an institution for mental disease;~~[or]~~
 - (g) fails to respond to a request to verify reportable changes as described in Subsection R382-10-4(6)(b); or
 - (h) gained lawfully present eligibility as defined in Subsection R382-10-6(3), and subsequently lost lawfully present status.
- (3) A child who becomes pregnant while enrolled in the program retains eligibility for the ~~[remainder]~~ rest of the pregnancy and the 12-month post-partum period.
- (4) The agency evaluates changes and may redetermine eligibility when it receives a change report as described in Subsection R382-10-4(6). If the agency requests verification of the change, the agency shall give the member at least ten days to provide verification. The agency shall provide proper notice of an adverse action.
- (5) If a member reports a change that occurs during the certification period and requests a redetermination, the agency shall redetermine eligibility.
 - (a) If a member gains access to health insurance under an employer-sponsored plan or COBRA coverage, the member may switch to UPP. The member must report the health insurance within ten calendar days of enrolling, or within ten calendar days of when coverage begins, whichever is later. The employer-sponsored plan must meet UPP criteria.
 - (b) If the change would cause an adverse action, eligibility would remain unchanged through the end of the certification period.
 - (c) If the change makes the enrollee eligible for Medicaid, the eligibility agency shall end CHIP eligibility and enroll the child in Medicaid.
- (6) Failure to make a timely report of a reportable change may result in an overpayment of benefits and case closure.

R382-10-19. Termination and Notice.

(1) The eligibility agency shall notify an applicant or member in writing of the eligibility decision made on the application or periodic eligibility review.

(2) The eligibility agency shall notify a member in writing ten calendar days before the effective date of an action that adversely affects the member's eligibility.

(3) The eligibility agency shall provide the following information:

- (a) the action to be taken;
- (b) the reason for the action;
- (c) the ~~regulations~~ criteria or policy that support the action when the action is a denial, closure, or an adverse change to eligibility;
- (d) the applicant's or member's right to a hearing;
- (e) how an applicant or ~~member~~ may request a hearing; and
- (f) the applicant's or ~~member's~~ right to represent themselves or use legal counsel, a friend, relative, or other spokesperson.

(4) The eligibility agency need not give ten-day notice of termination if:

- (a) the child is deceased;
- (b) the child moves out[-] of state and is not expected to return;
- (c) the child enters a public institution or an institution for mental disease; or
- (d) the child's whereabouts are unknown and the post office has returned mail to show that there is no forwarding address.

R382-10-20. Case Closure or Withdrawal.

(1) The eligibility agency shall end a child's enrollment upon enrollee request or upon discovery that the child is no longer eligible. An applicant may withdraw an application for CHIP benefits any time before the eligibility agency decides on the application.

(2) The eligibility agency shall comply with the requirements of 42 CFR 457.350(i), regarding transfer of the electronic file to determine eligibility for other insurance affordability programs.

~~R382-10-21. Public Health Emergency Provisions.~~

~~(1) During the public health emergency declared by the Secretary of Health and Human Services on January 27, 2020, the department will continue coverage of children enrolled in CHIP.~~

~~(a) This applies to an individual who is eligible and enrolled on March 18, 2020, the date of enactment of Pub. L. No. 116-127, or who subsequently becomes eligible and enrolled in medical assistance during the emergency period and any extensions.~~

~~(b) Coverage for an individual eligible for CHIP during the public health emergency period will end only under the following circumstances:~~

- ~~(i) when a beneficiary is no longer a Utah resident;~~
- ~~(ii) upon a beneficiary's request; or~~
- ~~(iii) upon a beneficiary's death. Coverage continues through the date of death.~~

~~(2) An individual is not required to pay CHIP Premiums through the duration of the emergency period and any extensions. The department will refund the individual any premiums collected during the emergency period and any extensions.~~

~~(3) The department shall exclude the following from an individual's income:~~

~~(a) \$600 per week federal pandemic unemployment payments as defined in Section 2102 and 2104(b) of the Coronavirus Aid, Relief, and Economic Security (Cares) Act, Pub. L. No. 116-136, for programs established under Title XXI of the Social Security Act; and~~

~~(b) recovery rebates for individuals as defined in Section 2201 of the Cares Act, Pub. L. No. 116-136, for programs established under Title XXI of the Social Security Act. These rebates are treated as a refundable tax credit and may be paid in advance or upon filing a 2020 tax return.~~

~~(4) The department shall exclude from income certain employer payments of student loans as defined in Section 2206 of the Cares Act, Pub. L. No. 116-136.~~

~~(a) Payments toward an employee's student loans may be paid directly to the employee or to the lender.~~

~~(b) This exclusion applies to payments made on or after the effective date of Pub. L. No. 116-136 and before January 1, 2021.~~

~~(5) The department shall exclude the amount of qualified charitable contributions made by individuals during the taxable year as defined in Section 2204 of the Cares Act, Pub. L. No. 116-136.~~

~~(a) Allowable taxable years begin in the year 2020.~~

~~(b) The excluded contributions must not exceed \$300.~~

~~(6) An individual is not required to pay any cost sharing fees associated with Coronavirus (COVID-19) testing services and treatments, including vaccines, specialized equipment, and therapies during the duration of the emergency period.~~

[KEY: children's health benefits

Date of Last Change: ~~July 1,~~ 2024

Notice of Continuation: April 10, 2023

Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-902

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: New		
Rule or Section Number:	R383-16	Filing ID: 56896

Agency Information

1. Title catchline:	Health and Human Services, Center for Medical Cannabis	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
Mailing address:	P.O 144340	
City, state and zip:	Salt Lake City, UT, 84116	
Contact persons:		
Name:	Phone:	Email:
Jeremiah Sniffin	385-443-3344	jsniffin@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:
R383-16. Targeted Marketing Requirements
3. Purpose of the new rule or reason for the change:
The Legislature passed SB233 during the 2024 General Session. This legislation stated that a qualified medical provider (QMP) or a medical clinic that employs a QMP may engage in targeted marketing, as determined by the department through rule. The purpose of this new rule is to establish standards that a QMP must comply with when engaged in targeted marketing.
4. Summary of the new rule or change:
Section R383-16-1 adds a citation to the statute that authorizes the department to write this rule. Additional language describes the intent of the rule. Section R383-16-2 establishes standards for targeted marketing. Section R383-16-3 establishes what a QMP is not allowed to do regarding targeted marketing. Section R383-16-4 stipulates that recreational terms or images may be allowed in targeted marketing, but only with department approval.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This filing is not anticipated to have a fiscal impact on the state budget as the department already monitors QMPs and their targeted marketing and is unaware of violations of the standards established in this proposed rule. If there are violations of the standards in the future, the impact on the Center for Medical Cannabis (CMC) compliance team is expected to be less than ten work hours per year. CMC already audits QMPs and medical cannabis clinics to comply with current law. This work can be added to the team's current audit procedures and is not anticipated to impact the state budget, as this new reporting is not expected to necessitate extra work hours for which the state would be billed.
B) Local governments:
This filing is not anticipated to have a fiscal impact on local governments, as they are not impacted by the requirements established in Sections 4-41a-102, 4-41a-602, and 26B-4-201 and do not work with or advertise any QMPs or clinics. Local governments also do not regulate QMPs or medical cannabis clinics. This filing will not require them to regulate these entities to the new standards set and will not require them to utilize financial resources to do so.

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

Calculating the fiscal impact on small businesses that employ QMPs is difficult. The cost of updating or changing any of their targeted marketing practices is unknown. The CMC has seen limited examples of using recreational terms or cartoon characters listed in this filing used in targeted marketing. This filing would prohibit the use of these terms or images.

The CMC has not seen clinics using tobacco paraphernalia or the other unacceptable terms in this filing in targeted marketing. Therefore, the regulation of clinics that include tobacco paraphernalia or these terms in targeted marketing is precautionary.

The CMC is not able to charge fines for non-compliance as the center can only revoke the license of a QMP for violating medical cannabis laws. A fiscal impact to QMPs, or medical cannabis clinics that qualify as small businesses employing them, may occur if they must utilize financial resources to change their targeted marketing practices. An example of this type of potential fiscal cost is having to update their website or social media accounts to comply with this filing. In that case, the CMC may provide the QMP or medical cannabis clinic time to address the violation with their clinic or revoke the QMP's registration. Calculating the cost of possible lost revenue to a QMP or medical cannabis clinic due to a revocation of the QMP's license is difficult, as it would depend on the patient schedule and lost fees charged to patients, which vary.

It is also difficult to calculate the cost of a QMP or clinic updating or changing its targeted marketing campaign to comply with the new standards in this filing. A clinic may utilize an employee of theirs or contract with a third party to make these changes. There are currently 70 medical clinics that are small businesses, according to the Department of Workforce Services. Though not all medical clinics employ QMPs, the department is unable to further narrow the estimated number of clinics affected by this rule. Given the number of active QMPs and clinics, it would be excessively burdensome for the department to determine how many of these QMPs or clinics are engaged in targeted marketing, how many may use financial resources to alter their current targeted marketing practices, and to what extent these practices would need to be altered.

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

Calculating the fiscal impact on non-small businesses that employ QMPs is difficult. The cost of updating or changing any of their targeted marketing practices is unknown. The CMC has seen limited examples of using recreational terms or cartoon characters listed in this filing used in targeted marketing. This filing would prohibit the use of these terms or images.

The CMC has not seen clinics using tobacco paraphernalia or the other unacceptable terms in this filing in targeted marketing. Therefore, the regulation of clinics that include tobacco paraphernalia or these terms in targeted marketing is precautionary.

The CMC is not able to charge fines for non-compliance as the center can only revoke the license of a QMP for violating medical cannabis laws. A fiscal impact to QMPs, or medical cannabis clinics that qualify as non-small businesses employing them, may occur if they must utilize financial resources to change their targeted marketing practices. An example of this type of potential fiscal cost is having to update their website or social media accounts to comply with this filing. In that case, the CMC may provide the QMP or medical cannabis clinic time to address the violation with their clinic or revoke the QMP's registration. Calculating the cost of possible lost revenue to a QMP or medical cannabis clinic due to a revocation of the QMP's license is difficult, as it would depend on the patient schedule and lost fees charged to patients, which vary.

It is also difficult to calculate the cost of a QMP or clinic updating or changing its targeted marketing campaign to comply with the new standards in this filing. A clinic may utilize an employee of theirs or contract with a third party to make these changes. There are currently 77 medical clinics that are non-small businesses, according to the Department of Workforce Services. Though not all medical clinics employ QMPs, the department is unable to further narrow the estimated number of clinics affected by this rule. Given the number of active QMPs and clinics, it would be excessively burdensome for the department to determine how many of these QMPs or clinics are engaged in targeted marketing, how many may use financial resources to alter their current targeted marketing practices, and to what extent these practices would need to be altered.

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**):

Calculating the fiscal impact on QMPs, which are the identified other persons affected by this rule, is difficult. The cost of updating or changing any targeted marketing practices is unknown. The CMC has seen limited examples of QMPs using recreational terms or cartoon characters listed in this filing used in targeted marketing. This filing would prohibit the use of these terms or images.

The CMC has not seen QMPs using tobacco paraphernalia or the other unacceptable terms in this filing in targeted marketing. Therefore, the regulation of QMPs that include tobacco paraphernalia or these terms in targeted marketing is precautionary.

The CMC is not able to charge fines for non-compliance as the center can only revoke the license of a QMP for violating medical cannabis laws. A fiscal impact to QMPs may occur if they use financial resources to change their targeted marketing practices. Calculating the cost of possible lost revenue to a QMP due to a revocation of their license is difficult, as it would depend on the QMP's patient schedule and lost fees charged to patients, which vary among QMPs.

It is also difficult to calculate the cost of a QMP updating or changing a targeted marketing campaign to comply with the new standards in this filing. For example, a QMP may make these changes or could contract with a third party to make these changes for them. There are currently over 480 QMPs, according to the Center for Medical Cannabis website's Find a Provider page. Given the number of active QMPs, it would be excessively burdensome to estimate how many of these QMPs may use financial resources to alter their current targeted marketing practices and to what extent these practices would need to be altered.

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

The CMC is not able to charge fines for non-compliance. The only potential cost would be to QMPs who refuse to comply. In that case, the CMC may provide the QMP time to address the violation with their clinic or have their registration revoked. Calculating the cost of possible lost revenue to the QMP would be difficult, as it would depend on the QMP's patient schedule and fees charged to patients, which vary among QMPs.

While the CMC cannot charge a fine to a QMP for a violation, the Division of Professional Licensing (DPL) can. Per Subsections 58-31b-503(6)(b)(i), 58-67-503(4)(b)(i), and 58-68-503(4)(b)(i), if a licensee violates the unprofessional conduct section, which includes medical cannabis law, DPL may issue a fine of \$10,000 per violation or \$2,000 per day of ongoing violation.

Additionally, commerce department administrative rules have specific fines for violating medical cannabis law. Section R156-31b-501 stipulates a \$1,000-\$5,000 first-time offense fine and a \$5,000-\$10,000 subsequent offense fine for a nurse violating Subsection 58-31b-502(1)(r) and \$250 for a first-time offense and a \$500 subsequent offense fine for violating Subsection R156-31b-502(1)(j). Section R156-67-503 stipulates a \$500-\$5,000 first-time offense fine and a \$2,000-\$10,000 subsequent offense fine for a physician violating Subsection 58-67-502(1)(d). Section R156-68-503 stipulates a \$500 to \$5,000 first-time offense fine and a \$5,000-\$10,000 subsequent offense fine for an individual licensed to practice osteopathy violating Subsection 58-68-502(1).

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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:

Subsection 26B-4-204(6)(c)	Subsection 26B-1-202(1)	
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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:		12/16/2024
B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
11/20/2024	11:00 AM	Physical: Multi-Agency State Office Building 195 N. 1950 W., Room 2026 Salt Lake City, UT
		Virtual: https://utah-gov.zoom.us/j/82721991785

9. This rule change MAY become effective on: 12/23/2024

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:	10/27/2024
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R383. Health and Human Services, Center for Medical Cannabis.**R383-16. Targeted Marketing Requirements.****R383-16-1. Authority and Purpose.**

(1) Subsection 26B-1-202(1) authorizes this rule.

(2) This rule establishes targeted marketing standards for qualified medical providers.

R383-16-2. Targeted Marketing Standards for Qualified Medical Providers and Affiliated Medical Offices.

(1) A qualified medical provider may engage in targeted marketing or affiliate with medical offices that engage in targeted marketing, as defined in Sections 26B-4-201 and 26B-4-204, for advertising medical cannabis recommendation services.

(2) Targeted marketing that makes a statement relating to side effects, consequences, contraindications, or effectiveness of medical cannabis shall accurately reflect the information.

(3) Targeted marketing may not:

(a) be false or misleading or otherwise lack a fair balance, including:

(i) claiming that cannabis cures any medical condition;

(ii) containing favorable information or an opinion about cannabis previously regarded as valid but more recently invalidated by contrary and more credible information;

(iii) containing favorable information or a conclusion from a study that is inadequate in design, scope, or conduct to furnish significant support for the information or conclusion;

(iv) containing any health or other claim that is not substantiated by evidence or substantial clinical data;

(v) representing or suggesting that medical cannabis use is more effective or more useful in a broader range of conditions or safer than other drugs or treatments unless the claim is accompanied by evidence or clinical data;

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

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

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

(b) promote excessive consumption;

(c) have any term, statement, design representation, picture, or illustration that is associated with the recreational use of cannabis;

(d) appeal to a child or minor;

(e) use terms related to recreational cannabis, including: "420," "bake," "blaze," "blunt," "bong," "bud," "budtender," "combust," "cookies," "dab," "dank," "doobie," "euphoria," "frost," "ganja," "grass," "hash," "haze," "high," "joint," "kush," "Mary Jane," "pot," "rec," "reefer," "smoke," "stoned," "toke," or "weed";

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- (f) use slang or phrasing associated with the recreational use of cannabis;
- (g) use an image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;
- (h) use an image of a celebrity or other person whose target audience is children or minors;
- (i) encourage, promote, or otherwise create an impression that the recreational use of cannabis is legal or acceptable or that the recreational use of cannabis has potential health or therapeutic benefits;
- (j) contain content that is obscene or indecent;
- (k) include information and images related to tobacco paraphernalia as defined in Section 76-10-101; or
- (l) violate any other laws.
- (4) The Department of Health and Human Services may approve terms or images otherwise prohibited if the targeted marketing does not promote the recreational use of cannabis.

KEY: medical cannabis, qualified medical provider, medical marijuana
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 26B-1-202(1); 63G-3-201; 63G-3-301

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R384-324	Filing ID: 56927

Agency Information

1. Title catchline:	Health and Human Services, Population Health, Health Promotion and Prevention	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 142106	
City, state and zip:	Salt Lake City, UT 84114-2106	
Contact persons:		
Name:	Phone:	Email:
McKenna Christensen	801-597-0351	tobaccorulescomments@utah.gov
Christal Dent	801-419-1601	tobaccorulescomments@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R384-324. Tobacco Product, Electronic Cigarette Product, and Nicotine Product Retailer Permit Process
3. Purpose of the new rule or reason for the change:
The reason for this change is to align the rule with recent changes introduced in SB61 during the 2024 General Session. Specifically, this change amends the definition of a retail tobacco specialty business to align with electronic cigarette flavor restrictions that become effective January 1, 2025.
4. Summary of the new rule or change:
This filing amends the definition of a retail tobacco specialty business to remove the provision that it is a location where a flavored electronic cigarette product is sold, as it will be illegal to sell flavored electronic cigarette products in Utah (with the exception of only tobacco or menthol flavored products) as of January 1, 2025.
Additionally, this filing amends a typo in Subsection R384-324-3(3) to correct an incorrect pluralization and makes other style and formatting changes in accordance 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:

Enactment of this amendment is not expected to have any fiscal impact on the state budget, as the changes being made are solely to align with recent changes introduced in SB61 during the 2024 General Session. Any fiscal impact was captured in that bill's fiscal note.

B) Local governments:

Enactment of this amendment is not expected to have any fiscal impact on the local government budgets, as the changes being made are solely to align with recent changes introduced in SB61 during the 2024 General Session. Any fiscal impact was captured in that bill's fiscal note.

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

Enactment of this amendment is not expected to have any fiscal impact on small businesses, as the changes being made are solely to align with recent changes introduced in SB61 during the 2024 General Session. Any fiscal impact was captured in that bill's fiscal note.

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

Enactment of this amendment is not expected to have any fiscal impact on non-small businesses, as the changes being made are solely to align with recent changes introduced in SB61 during the 2024 General Session. Any fiscal impact was captured in that bill's fiscal note.

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**):

Enactment of this amendment is not expected to have any fiscal impact on persons, as the changes being made are solely to align with recent changes introduced in SB61 during the 2024 General Session. Any fiscal impact was captured in that bill's fiscal note.

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

Enactment of this amendment is not expected to have any fiscal impact on compliance costs for affected persons, as the changes being made are solely to align with recent changes introduced in SB61 during the 2024 General Session. Any fiscal impact was captured in that bill's fiscal note.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-1-213	Subsection 26B-1-202(26)	Subsection 26B-7-508(6)

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:	12/16/2024

9. This rule change MAY become effective on:	01/01/2025
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:	11/01/2024
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R384. Health and Human Services, Population Health, Health Promotion and Prevention.

R384-324. Tobacco Product, Electronic Cigarette Product, and Nicotine Product Retailer Permit Process.

R384-324-1. Authority and Purpose.

- (1) This rule is authorized by Section 26B-1-213 and Subsections 26B-1-202(26) and 26B-7-508(6).
- (2) This rule establishes the process by which local health departments issue, suspend and revoke a tobacco retail permit.

R384-324-2. Definitions.

As used in this rule:

- (1) "Community location" means the same as ~~the term is~~ defined in Section 17-50-333 and in Section 10-8-41.6.
- (2) "Department" means the Utah Department of Health and Human Services, created in Section 26B-1-201.
- (3) "Electronic cigarette product" means the same as ~~that term is~~ defined in Section 76-10-101.
- (4) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business.
- (5) "Local health department" means the same as ~~the term is~~ defined in Section 26A-1-102.
- (6) "Nicotine product" means the same as ~~that term is~~ defined in Section 76-10-101.
- (7) "Owner" means a person holding a 20% ownership interest in the business that is required to obtain a permit under Title 26B, Chapter 7, Public Health and Prevention.
- (8) "Plan review" means the process by which the local health department will verify the accuracy of the information provided by retail tobacco specialty businesses through the permit application process.
- (9) "Proprietor" means the owner of a retail establishment, or any other place of business that sells, markets, or distributes tobacco products, electronic cigarette products, or nicotine products.
- (10) "Public retail floor space" means the total floor square feet of the business where a customer can see, retrieve, or purchase any item that is offered for sale by the general tobacco retailer, including the areas behind the purchase counter, and including appurtenant areas used for storage.
- (11) "Retail tobacco specialty business" means a commercial establishment in which:
 - (a) sales of tobacco products, electronic cigarette products, and nicotine products accounts for more than 35% of the total quarterly gross receipts for the establishment;
 - (b) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;
 - (c) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;
 - (d) the commercial establishment:
 - (i) holds itself out as a retail tobacco specialty business; and
 - (ii) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business; or

~~_____ (e) any flavored electronic cigarette product is sold; or]~~

~~[(4)](e) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.~~

(12) "Self-service display" means the same as ~~[that term]~~ defined in Section 76-10-105.1.

(13) "Shelf space" means the total cubic feet ~~[(length x depth x height)]~~ of shelf space contained within the retail space that is used for the offer, display, or storage of items that are offered for sale by the tobacco retailer.

~~_____ (a) The shelf height is measured from the top of the tallest item on the top of the shelf.~~

~~_____ (b) The shelf length is measured from the end of the longest item at the end of the shelf.~~

~~_____ (c) Empty shelf space is not included in the total shelf space calculation.~~

(14) "Tax commission license" means a license issued by the State Tax Commission under:

(a) Section 59-14-201 to sell a cigarette at retail;

(b) Section 59-14-301 to sell a tobacco product at retail; or

(c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product at retail.

(15) "Tobacco product" means:

(a) a tobacco product as defined in Section 76-10-101; or

(b) tobacco paraphernalia as defined in Section 76-10-101.

(16) "Tobacco retailer" means a proprietor that is required to obtain a tax commission license and a local health department permit for the sale of tobacco.

(17) "Tobacco retail permit" means the permit issued by the local health department to general tobacco retailers and retail tobacco specialty businesses for the sale, marketing, or distribution of tobacco products, electronic cigarette products, or nicotine products.

R384-324-3. Permit Process.

(1) A tobacco retailer shall hold a valid tobacco retail permit issued by the local health department with jurisdiction over the physical location where the tobacco retailer operates.

(2) To receive a tobacco retail permit, an applicant shall:

(a) submit an application provided by the local health department with jurisdiction over the physical location where the tobacco retailer operates or will operate; and

(b) pay any applicable fees.

(3) To submit an application for a tobacco retail permit, an applicant shall complete each required section~~[s]~~ of the application and submit the application either online or by a hard copy to the local health department. The applicant shall provide~~[the following]~~:

(a) information for each individual listed as a proprietor and owner, including percentage of ownership, or if the proprietor is a corporation, corporate ownership information;

(b) a local individual to contact concerning the application and business must be included under business information on the application;

(c) information concerning the business, including business name, street address, mailing address, and telephone number;

(d) a copy of a valid Utah State Tax Commission license; and

(e) certification that the proposed retail tobacco location meets the requirements as defined in the application for a:

(i) general tobacco retailer; or

(ii) retail tobacco specialty business.

(4) Applications for a retail tobacco specialty business shall:

(a) include a \$250~~[,00]~~ plan review fee; and

(b) include a map that demonstrates the business location meets the proximity requirements for a retail tobacco specialty business, by measuring in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of the location identified as the business address, without regard for intervening structures or zoning districts, to prove that the business is not located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; and~~[r]~~

(iii) 600 feet of property used or zoned for agricultural or residential use.

(5)(a) Notwithstanding Subsection (4)(b), a retail tobacco specialty business that meets the requirements described in Subsection 10-8-41.6(7) or 17-50-333(7) is exempt from the proximity requirements.

(b) A retail tobacco specialty business that does not meet the requirements described in Subsection 10-8-41.6(7) or 17-50-333(7) that desires to sell tobacco products, electronic cigarette products, and nicotine products must complete the application described in this section and demonstrate that the location:

(i) meets the proximity requirements for a retail tobacco specialty business in Subsection (4)(b); or

(ii) has a business model and business layout that meets the requirements for a general tobacco retailer.

(6) The local health department will have 30 days to issue the permit beginning on the date the local health department receives the application and payment.

(a) The local health department will provide online or hard copy receipt of payment and application submission to the proprietor ~~[at the time]~~ when the local health department receives the application and payment.

(b) The receipt provided by the local health department to the proprietor will serve as a temporary operating permit, which will be valid for 30 days.

(7) The permits are non-transferrable.

(8) ~~[Permit length:~~

~~_____ (a)]~~ A general tobacco retailer permit is valid for two years.

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~~[(9)]~~(9) A retail tobacco specialty business permit is valid for one year.

~~[(9)]~~(10) The proprietor of a tobacco retailer is responsible to notify the local health department if there is a change in their business operation requiring a change in their business license between tobacco retail specialty business and general tobacco retailer. If the information described in Subsection 26B-7-508(3) changes, a tobacco retailer:

- (a) may not ~~[renew]~~apply for the renewal of the permit; and
- (b) shall apply for a new permit no later than 15 days after the information in Subsection 26B-7-508(3) changes.

~~[(10)]~~(11) A tobacco retailer may apply for a renewal of a permit no earlier than 30 days before the day on which the permit expires.

(a) A tobacco retailer that fails to renew a permit before the permit expires may apply to reinstate the permit by submitting to the local health department:

(i) an application, as outlined in Subsection R384-324-3(3), for either a general tobacco retailer or a retail tobacco specialty business and the additional requirements outlined in Subsection R384-324-3(4) for retail tobacco specialty businesses;

- (ii) the fee for the reinstatement of a permit; and
- (iii) a signed affidavit affirming that the tobacco retailer has not violated the prohibitions in Subsection 26B-7-507(1).

(b) Until an expired permit is reinstated, a tobacco retailer with an expired permit may not:

- (i) place a tobacco product, electronic cigarette product, or a nicotine product in public view;
- (ii) display any advertisement related to tobacco products, electronic cigarette products, or nicotine products that promotes the sale, distribution, or use of those products; or
- (iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco, tobacco products, electronic cigarette products, or nicotine products.

R384-324-4. Permit Violations.

~~[(1)]~~A proprietor is in violation of the permit issued under this rule if the proprietor violates:

~~[(a) any provision of Title 26B, Chapter 7, Public Health and Prevention;]~~(1) licensing laws under Section 10-8-41.6 or Section 17-50-333;

~~[(b) any provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;]~~(2) Title 26B, Chapter 7, Public Health and Prevention;

~~[(c)]~~(3) ~~[any provision of]~~Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;

~~[(d)]~~(4) ~~[any provision of]~~Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

~~[(e)]~~(5) any regulation restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 CFR 1140 (2024)~~[C.F.R. Part 1140]~~; or

~~[(f)]~~(6) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a tobacco product, an electronic cigarette product, or a nicotine product.

R384-324-5. Enforcement.

In enforcing or seeking penalties of any violation as set forth in this rule or Section 26B-7-515 and Section 26B-7-518, the ~~[(D)]~~department and local health departments shall comply with the enforcement provisions found in Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products.

KEY: tobacco, permits, tobacco retailers

Date of Last Change: ~~[November 5, 2023]~~2024

Notice of Continuation: July 7, 2023

Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-1-202(26); 26B-7-508(6)

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R384-415

Filing ID: 56867

Agency Information

1. Title catchline:	Health and Human Services, Population Health, Health Promotion and Prevention
Building:	Cannon Health Building
Street address:	288 N. 1460 W.
City, state:	Salt Lake City, UT
Mailing address:	PO Box 142106
City, state and zip:	Salt Lake City, UT 84114-2106

Contact persons:		
Name:	Phone:	Email:
McKenna Christensen	801-597-0351	tobaccorulescomments@utah.gov
Christal Dent	801-419-1601	tobaccorulescomments@utah.gov

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

General Information

2. Rule or section catchline:
R384-415. Requirements to Sell Electronic Cigarette Products
3. Purpose of the new rule or reason for the change:
The reason for this change is to align the rule with recent changes introduced in SB61 during the 2024 General Session. Specifically, this change aligns the nicotine content limit for electronic cigarettes and PMTA related requirements with Sections 59-14-810 and 76-10-101. This change also aligns prohibited sales with those outlined in Section 76-10-113.
4. Summary of the new rule or change:
This filing defines "electronic cigarette product registry" and changes the nicotine content limit from 360mg/mL for non-manufacturer sealed electronic cigarette substances and 5% for manufacturer sealed electronic cigarette products to 4% nicotine by weight per container or a nicotine concentration of 40mg/mL. Additionally, this filing changes the terminology for prohibited sales to align with Utah Code by reiterating that a retailer is prohibited from selling a product that is not included in the electronic cigarette product registry. This filing also amends Section R384-415-8 to indicate that both manufacturer sealed electronic cigarette products and nonmanufacturer sealed electronic cigarette substances are subject to the same nicotine limit requirements. This filing revises product quality requirements to align with changes made by SB61 (2024) by redefining exemptions from violations. Finally, this amendment makes style and formatting changes in accordance 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:
Enactment of this amendment is not expected to have any fiscal impact on the state budget, as the changes being made are solely to align with recent changes introduced in SB61 during the 2024 General Session. Any fiscal impact was captured in that bill's fiscal note.
B) Local governments:
Enactment of this amendment is not expected to have any fiscal impact on the local government budgets, as the changes being made are solely to align with recent changes introduced in SB61 during the 2024 General Session. Any fiscal impact was captured in that bill's fiscal note.
C) Small businesses ("small business" means a business employing 1-49 persons):
Enactment of this amendment is not expected to have any fiscal impact on small businesses, as the changes being made are solely to align with recent changes introduced in SB61 during the 2024 General Session. Any fiscal impact was captured in that bill's fiscal note.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
Enactment of this amendment is not expected to have any fiscal impact on non-small businesses, as the changes being made are solely to align with recent changes introduced in SB61 during the 2024 General Session. Any fiscal impact was captured in that bill's fiscal note.

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*):

Enactment of this amendment is not expected to have any fiscal impact on persons, as the changes being made are solely to align with recent changes introduced in SB61 during the 2024 General Session. Any fiscal impact was captured in that bill's fiscal note.

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

Enactment of this amendment is not expected to have any fiscal impact on compliance costs for affected persons, as the changes being made are solely to align with recent changes introduced in SB61 during the 2024 General Session. Any fiscal impact was captured in that bill's fiscal note.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-7-505		
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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:	12/16/2024
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9. This rule change MAY become effective on:	01/01/2025
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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:	Tracy S. Gruber, Executive Director	Date:	10/21/2024
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R384. Health and Human Services, ~~Disease Control and Prevention~~ Population Health, Health Promotion and Prevention.**R384-415. Requirements to Sell Electronic Cigarette Products.****R384-415-1. Authority and Purpose.**

- (1) This rule is authorized by Section 26B-7-505.
- (2) The purpose of this rule is to establish requirements to sell an electronic cigarette product regarding labeling, nicotine content, packaging, and product quality for non-manufacturer sealed electronic cigarette substances and manufacturer sealed electronic cigarette products.
- (3) A person may only sell an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance that is compliant with the established requirements set forth in this rule.
- (4) Beginning on July 1, 2021, a person may only sell a manufacturer sealed electronic cigarette product that is compliant with the established requirements set forth in this rule.
- (5) A product in compliance with this rule is not endorsed as safe.

R384-415-2. Definitions.

As used in this rule:

- (1) "Child resistant" means the same as the term "special packaging" is defined in 16 ~~C.F.R.~~ CFR 1700.1(a)(4) (2024) and is tested in accordance with the method described in 16 ~~C.F.R.~~ CFR 1700.20 (2024).
- (2) "Department" means the Utah Department of Health and Human Services.
- (3) "Electronic cigarette" means the same as ~~that term is~~ defined in Section 76-10-101.
- (4) "Electronic cigarette product" means the same as ~~that term is~~ defined in Section 76-10-101.
- (5) "Electronic cigarette product registry" means the product registry created in Section 59-14-810.
- ~~(5)~~(6) "Electronic cigarette substance" means the same as ~~that term is~~ defined in Section 76-10-101.
- ~~(6)~~(7) "Local health department" means the same as ~~that term is~~ defined in Subsection 26A-1-102(5).
- ~~(7)~~(8) "Industrial hemp product" means the same as ~~that term is~~ defined in Section 4-41-102.
- ~~(8)~~(9) "Manufacturer" means the same as ~~that term is~~ defined in Section 26B-7-501.
- ~~(9)~~(10) "Manufacturer" means the same as ~~that term is~~ defined in Section 26B-7-501.
- ~~(10)~~(11) "Manufacturer sealed electronic cigarette substance" means the same as ~~that term is~~ defined in Section 26B-7-501.
- ~~(11)~~(12) "Mg/mL" means milligrams per milliliter, a ratio for measuring an ingredient, in liquid form, where accuracy is measured in milligrams per milliliter, or a percentage equivalent.
- ~~(12)~~(13) "Manufacturer sealed electronic cigarette product" means the same as ~~that term is~~ defined in Section 26B-7-501.
- ~~(13)~~(14) "Nicotine" means the same as ~~that term is~~ defined in Section 76-10-101.
- ~~(14)~~(15) "Non-manufacturer sealed electronic cigarette substance" means:
 - (a) an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance; and
 - (b) an electronic cigarette substance container the electronic cigarette manufacturer does intend for a consumer to open or refill.
- ~~(15)~~(16) "Package" or "packaging" means a pack, box, carton, or container of any kind, or if no other container, any wrapping, in which an electronic cigarette substance or a manufacturer sealed electronic cigarette product is offered for sale, sold, or otherwise distributed to consumers.
- ~~(16)~~(17) "Permit" means the same as ~~that term is~~ defined in Section 26B-7-501.
- ~~(17)~~(18) "Retailer" means any person who sells, offers for sale, exchanges, or offers to exchange for any form of consideration, a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product to a consumer. This definition is without regard to the quantity of a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product sold, offered for sale, exchanged, or offered for exchange.
- ~~(18)~~(19) "Transaction statement" means a statement, in paper or electronic form, in which the manufacturer transferring ownership of the product certifies that the non-manufacturer sealed electronic cigarette substance or the manufacturer sealed electronic cigarette product is in compliance with the requirements in this rule.

R384-415-3. Labeling.

- (1) The retailer shall ensure that a nicotine containing non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product offered for sale to the consumer features on the product package label the required safety warning stating "WARNING: -This product contains nicotine. -Nicotine is an addictive chemical."
- (2) Consistent with 21 ~~C.F.R.~~ CFR 1143.3 (2024), the safety warning statements required in Subsection (1), the required safety warning statement must appear directly on the package and shall be clearly visible underneath any cellophane or other clear wrapping as follows:
 - (a) be located in a conspicuous and prominent place on the two principal display panels of the package and the warning area must comprise at least 30% of each of the principal display panels;
 - (b) be printed in at least 12-point font size and ensures that the required warning statement occupies the greatest possible proportion of the warning area set aside for the required text;

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(c) be printed in conspicuous and legible Helvetica bold or Arial bold type, or other sans serif fonts, and in black text on a white background or white text on a black background in a manner that contrasts by typography, layout, or color, with other printed material on the package;

(d) be capitalized and punctuated as indicated in Subsection (1); and

(e) be centered in the warning area in which the text ~~[is required to]~~ shall be printed and positioned such that the text of the required warning statement and the other information on the principal display panel have the same orientation.

(3) The retailer shall ensure that a non-manufacturer sealed electronic cigarette substance marketed as nicotine-free and offered for sale to the consumer features a safety warning stating "WARNING: -Keep away from children and pets."

(4) The safety warning statements required in Subsection (3) must appear directly on the package and must be clearly visible underneath any cellophane or other clear wrapping as follows:

(a) be located in a conspicuous and prominent place on the two principal display panels of the package and the warning area must comprise at least 30% of each of the principal display panels;

(b) be printed in at least 12-point font size and ensures that the required warning statement occupies the greatest possible proportion of the warning area set aside for the required text;

(c) be printed in conspicuous and legible Helvetica bold or Arial bold type, or other sans serif fonts, and in black text on a white background or white text on a black background in a manner that contrasts by typography, layout, or color, consistent with the other printed material on the package;

(d) be capitalized and punctuated as indicated in Subsection (3); and

(e) be centered in the warning area in which the text ~~[is required to]~~ shall be printed and positioned such that the text of the required warning statement and the other information on the principal display panel have the same orientation.

(5) A retailer will not be in violation of this section for packaging that:

(a) contains a health warning;

(b) is supplied to the retailer by the electronic cigarette product manufacturer, importer, or distributor, who has the required state, local, or tobacco tax license or permit, if applicable; and

(c) is not altered by the retailer in a way that is material to the requirements of this section.

(6) A non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product package that would otherwise be required to bear the safety warning in Subsection (1) or (3) but is too small or otherwise unable to accommodate a safety warning label with sufficient space to bear such information is exempt from compliance with the requirement provided that:

(a) the information and specifications required in Subsections (1) and (3) appear on the carton or other outer container or wrapper if the carton, outer container, or wrapper has sufficient space to bear the information; or

(b) appear on a tag otherwise firmly and permanently affixed to the non-manufacturer sealed electronic- cigarette substance package or the manufacturer sealed electronic cigarette product package.

(7) In the case of Subsection (6)(a) or (b), the carton, outer container, wrapper, or tag will serve as the location of the principal display panels.

(8) The retailer shall ensure that an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance or an industrial hemp product that is a manufacturer sealed electronic cigarette product is compliant with Title 4, Chapter 41, Part 1, Industrial Hemp and Section R68-26-5, unless:

(a) an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance marketed as containing nicotine and offered for sale or an industrial hemp product that is a manufacturer sealed electronic cigarette product marketed as containing nicotine and offered for sale is in compliance with the safety warning requirements in Subsections (1) and (2); or

(b) an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance marketed as nicotine-free and offered for sale is exempt from the safety warning requirements in Subsections (3) and (4) if the product is compliant with Title 4, Chapter 41, Part 1, Industrial Hemp and Section R68-26-5.

R384-415-4. Prohibited Sales.

(1) The retailer shall be prohibited from selling a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product that is labeled as containing:

(a) additives that create the impression that a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product has a health benefit;

(b) additives that are associated with energy and vitality;

(c) illegal or controlled substances as identified in Section 58-37-3; and

(d) additives having coloring properties for emissions.

(2) The retailer shall be prohibited from selling an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance or an industrial hemp product that is a manufacturer sealed electronic cigarette product unless it is compliant with Title 4, Chapter 41, Part 1, Industrial Hemp~~[, Section R68-26-5, and Section R68-33-5]~~ and Sections R68-26-5 and R68-33-5.

(3) The retailer shall be prohibited from selling an electronic cigarette substance or an electronic cigarette product that is not included in the electronic cigarette product registry~~[has received a Premarket Tobacco Product Application (PMTA) denial from the U.S. Food and Drug Administration (FDA), if:~~

~~(a) no appeal of the PMTA denial was filed; or~~

~~(b) all appeals have been exhausted and the PMTA denial was affirmed.]~~

R384-415-5. Nicotine Content.

~~[(1)]~~ The retailer shall be prohibited from selling a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product to the consumer if the product exceeds:

~~(1) 4% nicotine by weight per container; or~~

~~(2) a nicotine concentration of 40 mg/mL.~~

~~[is not compliant with one of the following:~~

~~(a) the nicotine concentration for an electronic cigarette product or substance that is not subject to a PMTA order from the FDA:~~

~~(i) for a non-manufacturer sealed electronic cigarette substance is limited to 360 mg nicotine per container, or does not exceed a 24mg/mL concentration of nicotine; or~~

~~(ii) for a manufacturer sealed electronic cigarette product is limited to 5% by weight per container or does not exceed a 59mg/mL concentration of nicotine;~~

~~(b) the electronic cigarette product or substance received a PMTA denial from the FDA, but FDA or a court orders or otherwise permits ongoing sales during the pendency of an appeal; or~~

~~(c) the electronic cigarette product or substance received a PMTA approval from FDA.]~~

R384-415-6. Packaging.

(1) The retailer shall ensure that the packaging of a non-manufacturer sealed electronic cigarette substance intended for sale to a consumer is certified as child resistant, and compliant with federal standards and law concerning child nicotine poisoning prevention.

(2) The retailer shall sell non-manufacturer sealed electronic cigarette substances and manufacturer sealed electronic cigarette products in the product's original packaging.

(3) The retailer shall be prohibited from repackaging or dispensing any non-manufacturer sealed electronic cigarette substance or any manufacturer sealed electronic cigarette product for retail sale.

(4) The retailer shall be prohibited from refilling a manufacturer sealed electronic cigarette product that is not intended to be opened by a retailer or a consumer.

(5) The retailer shall ensure that an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance or an industrial hemp product that is a manufacturer sealed electronic cigarette product is compliant with Title 4, Chapter 41, Part 1, Industrial Hemp; and Rule R68-26.

R384-415-7. Product Quality.

(1) Consistent with Food and Drugs, 21 U.S.C. Sec 387j, no manufacturer or retailer shall sell, offer for sale, or distribute an electronic cigarette, an electronic cigarette product, or an electronic cigarette substance unless the product complies with each of the relevant electronic cigarette product standards established by the U.S. Food and Drug Administration under Food and Drugs, 21 U.S.C. Sec 387g(3).

(2) A manufacturer or retailer will not be in violation of Subsection (1) and may continue to sell, offer for sale, or distribute an electronic cigarette, an electronic cigarette product, or an electronic cigarette substance if it is included in the electronic cigarette product registry. ~~[No manufacturer or retailer shall sell, offer for sale, or distribute an electronic cigarette, an electronic cigarette product, or an electronic cigarette substance unless the product has received marketing authorization from the U.S. Food and Drug Administration (FDA) under 21 U.S.C. 387j(c)(1)(A)(i), 21 U.S.C. 387j(a)(2)(A)(i), or 21 U.S.C. 387j(a)(2)(A)(ii) and related FDA regulations, policies, or actions.~~

~~(3) A manufacturer or retailer will not be in violation of Subsection (2) and may continue to sell, offer for sale, or distribute an electronic cigarette, an electronic cigarette product, or an electronic cigarette substance if:~~

~~(a) the manufacturer or retailer only sells, offers for sale, or distributes an electronic cigarette, an electronic cigarette product, or an electronic cigarette substance that is compliant with the requirements set forth in this rule;~~

~~(b) the manufacturer submitted a timely Premarket Tobacco application or Substantial Equivalent application to the FDA by September 9, 2020, verified by being listed on the FDA's website as a deemed new tobacco product with timely application; and~~

~~(c) the FDA has not issued a written marketing order and therefore the product's Premarket Tobacco application or Substantial Equivalent application is pending review by the FDA.~~

~~(4) This section will take effect on the date that manufacturers are required to secure marketing orders from the FDA to continue marketing their products in the United States.]~~

R384-415-8. Record Keeping and Testing.

(1) The retailer shall provide the non-manufacturer sealed electronic cigarette substance transaction statements or manufacturer sealed electronic cigarette product transaction statements to the department or the local health department within 14 calendar days of a request. The retailer shall ensure that the transaction statement includes manufacturer certifications that:

(a) the labeling requirements are compliant with Section R384-415-3;

(b) the nicotine content of a non-manufacturer sealed electronic cigarette substance and a manufacturer sealed electronic cigarette product is compliant with Subsection R384-415-5(1)(a) ~~and the nicotine content of a manufacturer sealed electronic cigarette product is compliant with Subsection R384-415-5(1)(b)];~~

(c) the packaging requirements are compliant with Section R384-415-6; and

(d) the product quality requirements are compliant with Section R384-415-7.

(2) The retailer shall provide evidence that supports the documents described in Subsection R384-415-8(1) to the department or the local health department within 14 calendar days of a request.

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(3) The retailer shall have access to the documents described in Subsections R384-415-8(1) and R384-415-8(2) for a period of two years after the retailer purchases the non-manufacturer sealed electronic cigarette substance or the manufacturer sealed electronic cigarette product.

R384-415-9. Enforcement.

In enforcing or seeking penalties of any violation as set forth in this rule or Section 26B-7-505, the department and local health departments shall comply with the enforcement requirement in Sections 26B-7-514 through 26B-7-520.

KEY: electronic cigarettes, nicotine, Electronic Cigarette Product and Nicotine Product Regulation Act

Date of Last Change: ~~September 12, 2023~~ **2024**

Notice of Continuation: December 8, 2020

Authorizing, and Implemented or Interpreted Law: 26B-7-505

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: New		
Rule or Section Number:	R392-701	Filing ID: 56884

Agency Information

1. Title catchline:	Health and Human Services, Population Health, Environmental Health	
Building:	Cannon Health Building	
Street address:	288 North 1450 West	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 142104	
City, state and zip:	Salt Lake City, UT 84114-2102	
Contact persons:		
Name:	Phone:	Email:
Karl Hartman	801-538-6191	khartman@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:
R392-701. Body Art Facility Sanitation
3. Purpose of the new rule or reason for the change:
This proposed new rule has been developed in direct response to the statutory amendment that came as a result of HB403 from the 2024 General Session. Section 26B-7-402 directs the department to establish and enforce or provide for the enforcement of minimum rules of sanitation necessary to protect the public health, including rules necessary for the design, construction, operation, maintenance, or expansion of numerous places of business. Through the bill, Section 26B-7-402 was amended through to include Subsection 26B-7-402(19), a body art facility. This new rule is authorized under Subsections 26B-7-402(19), 26B-1-202(1), and 26B-1-202(26).
4. Summary of the new rule or change:
This rule establishes minimum standards for the sanitation, operation, and maintenance of a body art facility and a temporary body art facility, as defined by this rule, and provides for the prevention and control of hazards associated with body art industries that are likely to adversely affect public health and wellness, including risk factors contributing to injury, sickness, death, disability, and the spread of disease.

Fiscal Information

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

A) State budget:

Enacting Rule R392-701 is not anticipated to result in a cost or benefit to the state budget because it does not require a change to state operations or programs, and it does not include requirements for the payment of fines or fees to the state.

B) Local governments:

Enacting Rule R392-701 is not anticipated to result in a cost or benefit to a local health jurisdiction because the rule allows a local health department to impose a fee for a body art facility permit or temporary body art facility permit. The fee amount is not established in rule, and each of the local health departments have been permitting and inspecting body art facilities for decades according to their own established health regulations, so local governments will not be undertaking the regulation of a new, previously unregulated industry. The proposed rule does not require alteration or discontinuation of any currently existing body art facility permit issued by a local health department or the associated permit fee.

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

There are approximately 459 small businesses operating in Utah in the industry in question (NAICS code 812199). Enacting Rule R392-701 is not anticipated to result in a cost or benefit to small businesses because the rule does not require construction, equipment, or operational changes to small businesses that operate as a permitted body art facility. This rule does not require a construction change in any portion of the body art facility if the facility was operating in compliance with applicable laws in effect prior to enactment of this rule. The sanitation, operation, maintenance, and infection control standards established by this rule are consistent with industry standard practices, processes, and procedures as currently regulated and enforced by local health departments throughout Utah, so there is no anticipated change to these practices.

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

There are no non-small businesses operating in Utah in the industry in question (NAICS code 812199), and therefore, there is no anticipated fiscal impact to non-small businesses as a result of this rule.

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

Enacting Rule R392-701 is not anticipated to result in a cost or benefit to other persons, as this rule does not apply to other persons.

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 anticipated compliance costs as a result of this rule, as this rule is not anticipated to result in any fiscal impact to the Department of Health and Human Services at the state level, any of the 13 local health departments, or any of the 459 applicable small businesses already operating.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

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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:

Subsection 26B-7-402(19)	Subsection 26B-1-202(1)	Subsection 26B-1-202(26)
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Incorporations by Reference Information

7. Incorporations by Reference:

A) This rule adds or updates the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	29 CFR 1910.1030
Publisher	Office of the Federal Register
Issue Date	October 9, 2024

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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	10/27/2024
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R392. Health and Human Services, Population Health, Environmental Health.

R392-701. Body Art Facility Sanitation.

R392-701-1. Authority and Purpose.

- (1) Subsections 26B-7-402(19), 26B-1-202(1), and 26B-1-202(26) authorize this rule.
- (2) This rule establishes minimum standards for the sanitation, operation, and maintenance of a body art facility and a temporary body art facility, as defined by this rule, and provides for the prevention and control of hazards associated with body art industries that are likely to adversely affect public health and wellness, including risk factors contributing to injury, sickness, death, disability, and the spread of disease.

R392-701-2. Applicability.

- (1) This rule applies to:
 - (a) a body art facility;
 - (b) a temporary body art facility; and
 - (c) a body art school or body art training program.
- (2) This rule does not apply to:
 - (a) physicians, surgeons, nurses, other licensed medical personnel, or persons performing funeral services, if licensed to practice their profession in Utah and when performing their professional duties; or
 - (b) an ear-piercing facility.

R392-701-3. Definitions.

(1) "Aftercare instruction" means verbal and written instructions given to the client, specific to the provided body art procedure regarding the proper care of impacted human tissue.

(2)(a) "Antiseptic" means a product that is a skin disinfectant, labeled as useful in preventing diseases caused by microorganisms present on the skin or on mucosal surfaces of humans, and intended for use in the mitigation, treatment, or prevention of disease.

(b) This includes products meant to kill germs, or products labeled as:

(i) antibacterial;

(ii) antimicrobial;

(iii) antiseptic;

(iv) germicide; or

(v) microbicide.

(3) "Aseptic technique" means a set of specific practices and procedures performed under controlled conditions with the goal of minimizing contamination by pathogens.

(4) "Autoclave" means a device intended to sterilize products using steam and heat at high pressure that is identified by the manufacturer as either type B, N, or S in accordance with standard ISO 17665.

(5) "Automated instrument washer" means a mechanical washer that cleans and decontaminates instruments before packaging and sterilization.

(6) "Biocompatible" means the ability of an object to perform its intended function, with the desired degree of incorporation in the host, without eliciting any undesirable local or systemic effects in that host.

(7)(a) "Bloodborne pathogen" means pathogenic microorganisms that are present in human blood and can cause disease in humans.

(b) These pathogens include:

(i) hepatitis B virus (HBV);

(ii) hepatitis C virus (HCV); and

(iii) human immunodeficiency virus (HIV).

(8)(a) "Body art" means a permissible practice of physical body adornment defined as:

(i) body piercing;

(ii) tattooing;

(iii) permanent cosmetics;

(iv) microblading;

(v) branding; and

(vi) scarification.

(b) Body art does not include ear piercing, as defined in Subsection (22).

(9) "Body art facility" means the same as defined in Subsection 26B-7-401(6).

(10) "Body art procedure" means the act of performing body art.

(11) "Body artist" means any person performing a body art procedure.

(12) "Body piercing" means the same as defined in Subsection 26B-7-401(7) but does not include ear piercing, as defined in Subsection (22).

(13) "Branding" means the same as defined in Subsection 26B-7-401(8).

(14) "Chemical disinfectant" or "disinfectant" means a solution labeled as an EPA-registered bactericidal, fungicidal, and virucidal disinfectant used according to manufacturer's directions to reduce or eliminate the presence of disease-causing microorganisms for use on work surfaces but which does not necessarily eliminate all microbial forms.

(15) "Clean" means the condition of an object being visibly free from dirt, soil, stain, or other materials not intended to be a part of the object.

(16) "Client" means an individual who undergoes a body art procedure from a body artist or who enters a body art facility or a temporary body art facility intending to receive a body art procedure.

(17) "Contamination" means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.

(18) "Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where it is no longer capable of transmitting infectious particles and the surface or item is made safe for handling, use, or disposal.

(19) "Disinfection" means the use of physical means or chemical disinfectant, where sterilization techniques are not feasible, to destroy pathogens on implements and other nonliving surfaces or to reduce pathogens to a level which prevents their rapid reproduction, thereby making the item or surface safe for handling, use, and disposal.

(20) "Distilled water" means water with a neutral pH of 7.0 that has been boiled and condensed to remove impurities and contaminants.

(21) "Dwelling" means a building or structure that is intended or designed to be used, rented, leased, let, or hired out for human habitation.

(22) "Ear piercing" means the puncturing of the fleshy, non-cartilaginous earlobe that is located at the lower end of the external ear with piercing equipment to insert stud-and-clasp jewelry according to the directions provided by the piercing equipment's manufacturer.

(23) "Ear-piercing facility" means a business establishment or kiosk where ear piercing is performed, but body piercing and other body art procedures are not performed.

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- (24) "Enzymatic cleaning solution" means a cleaner that relies on biological enzyme catalysts to remove proteins or biofilms from a surface or item.
- (25) "Equipment" means machinery, containers, vessels, tools, devices, implements, storage areas, and sinks used in conjunction with the storage or application of body art by a body artist to a client or used in sterilization, decontamination, or disinfection processes.
- (26) "FDA" means United States Food and Drug Administration.
- (27) "Furnishing" means any fixture, furniture, and other object within a body art facility that is not integral to the structure of the physical facility and is not used in the storage of body art equipment, application of body art, or sterilization, decontamination, or disinfection processes.
- (28) "Gloves" means medical grade or exam grade, non-powdered, disposable, single-use full-hand covering gloves worn for protection against disease transmission.
- (29)(a) "Guardian" means a person who has qualified as a guardian of a minor pursuant to testamentary or court appointment and according to Section 75-5-202 or by written instrument as provided in Section 75-5-202.5.
- (b) Guardian does not include a guardian ad litem.
- (30) "Hot water" means water heated to a temperature of at least 100 degrees Fahrenheit at the outlet via a mixing valve or combination faucet.
- (31) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is sufficient evidence to show that a product, practice, circumstance, or event creates a situation that can cause infection, disease transmission, pest infestation, or hazardous condition that requires immediate correction or cessation of operation to prevent injury, illness, or death.
- (32) "Integrator" means a strip or device used in an autoclave chamber that confirms sterilization. An integrator changes color when it has been exposed to a combination of steam, pressure, heat, and time.
- (33) "Jewelry" means any biocompatible object that is worn in a body piercing.
- (34) "Local health department" means the same as defined in Subsection 26A-1-102(6).
- (35) "Local health officer" means the director of a local health department as appointed under Section 26A-1-110 or the local health officer's designated representative.
- (36) "Microblading" means the same as defined in Subsection 26B-7-401(14).
- (37) "Microblading implement" means a handheld device typically consisting of a handpiece and a thin, flat blade-like piece that is composed of multiple fine needles used to deposit pigment into the skin to mimic the appearance of natural hair follicles.
- (38) "Minor" means the same as defined in Section 76-10-2201.
- (39) "Mobile body art facility" means a body art establishment:
- (a) on a motor vehicle or a trailer that a motor vehicle pulls to transport; and
- (b) from which a body artist, standing within the frame of the vehicle or trailer, performs a body art procedure.
- (40) "Mucosal surface" means the moisture-secreting membrane lining of body cavities or passages that communicates with the exterior, including the nose, mouth, vulva, and urethra.
- (41) "Operator" means:
- (a) any person who, whether permitted or not, controls, operates, owns, or manages a body art facility or temporary body art facility, whether or not the person performs body art procedures; or
- (b) any individual who has been designated by the person described in Subsection (a) as the person in charge.
- (42) "Permanent cosmetics" means the same as defined in Subsection 26B-7-401(17).
- (43) "Person" means an individual, any form of business or social organization, or any other non-governmental legal entity, including a corporation, partnership, limited-liability company, association, trust, or unincorporated organization.
- (44) "Plumbing Code" means International Plumbing Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.
- (45) "Plumbing fixture" means a receptacle or device that:
- (a) discharges wastewater, liquid-borne waste materials, or sewage to the drainage system of the premises; or
- (b) is connected to the water supply system of the premises.
- (46) "Potentially infectious material" means:
- (a) any unfixed human tissue or organ, other than intact skin, whether living or dead;
- (b) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and
- (c) the following human body fluids:
- (i) amniotic fluid
- (ii) body fluid that is visibly contaminated with blood;
- (iii) body fluids in situations where it is difficult or impossible to differentiate between body fluids;
- (iv) cerebrospinal fluid;
- (v) pericardial fluid;
- (vi) peritoneal fluid;
- (vii) pleural fluid;
- (viii) saliva in dental procedures;
- (ix) semen;
- (x) synovial fluid; and
- (xi) vaginal secretions.
- (47) "Premises" means any lot, parcel, or plot of land, including any building or structure.

- (48)(a) "Pre-sterilized instruments" means tools used in body art procedures that have undergone a sterilization process by the manufacturer before being packaged for sale.
- (b) Pre-sterilized instruments, including needles, jewelry, and disposable ink cartridges, are typically disposable, single-use items that have been packaged to ensure that they are sterile when opened by the body artist for the first time.
- (49) "Procedure area" means a room, portion of a room, or any surface of an inanimate object that is designated only to be used to perform body art procedures or esthetician work incorporating permanent cosmetics.
- (50) "Procedure site" means the area or location on the human body selected for the placement of body art.
- (51) "Processing area" means a room or area in a body art facility or temporary body art facility used only for cleaning, decontamination, sterilization, and related tasks.
- (52) "Regulated Waste" means any:
- (a) contaminated item that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed;
 - (b) contaminated sharp;
 - (c) item that is caked with dried blood or other potentially infectious materials and is capable of releasing these materials during handling;
 - (d) liquid or semi-liquid blood or other potentially infectious material; and
 - (e) pathological and microbiological waste containing blood or other potentially infectious materials as defined.
- (53) "Sanitary" means the condition of being free from:
- (a) infective, physically hurtful, diseased, poisonous, unwholesome, or otherwise unhealthful substances;
 - (b) any pest, vermin, or vector;
 - (c) harborage for any pest, vermin, or vector; and
 - (d) any trace of a pest or vermin.
- (54) "Scarification" means the same as defined in Subsection 26B-7-401(19).
- (55) "Service animal" means the same as defined in 28 CFR 35.104 (2024).
- (56) "Sharp" means any object that may purposefully or accidentally cut or penetrate the skin or mucosa, including a body piercing needle, scalpel blade, tattoo needle, permanent cosmetic needle, and razor blade.
- (57) "Sharps container" means a closable, puncture-resistant container that is:
- (a) closable for handling, storage, transportation, and disposal;
 - (b) labeled with the international biohazard symbol;
 - (c) leak-proof on the sides and bottom; and
 - (d) manufactured specifically to contain sharps.
- (58) "Single-use" means a product or item that is intended for one-time, one-person use and is disposed of after a single use, including:
- (a) cotton swabs or balls;
 - (b) gauze and sanitary coverings;
 - (c) gloves;
 - (d) ink cups;
 - (e) microblades;
 - (f) needles;
 - (g) paper or plastic cups;
 - (h) razors;
 - (i) scalpel blades;
 - (j) stencils; and
 - (k) tissues or paper products.
- (59) "Sterile water" means purified water that is free of preservatives and microorganisms and is stored in a single-use container.
- (60) "Sterilization" means a validated process by the use of physical or chemical agents to make an object or instrument free from living microorganisms.
- (61)(a) "Tattooing" means any method of placing ink or other pigment into or under the skin or mucosa using a needle or any other instrument used to puncture the skin, resulting in permanent or temporary colorization of the skin or mucosa.
- (b) This includes any form of permanent cosmetics, as defined in this rule.
- (62) "Temporary body art facility" means any body art facility operating at a fixed location where a body artist performs body art procedures for no more than 14 consecutive days in conjunction with a single event or celebration.
- (63) "Ultrasonic cleaner" means a device that removes debris by a process called cavitation in which waves of acoustic energy are propagated in aqueous solutions to disrupt the bonds that hold particulate matter to surfaces.
- (64) "Universal precautions" means a method of infection control that requires the personnel to assume that all human blood and specified human body fluids are infectious for HBV, HBC, HIV, and other blood pathogens.
- (65) "Vermin" means any bedbug, cockroach, fly, mouse, rat or other pest or vector as determined by the local health officer to be harmful to the life, health, or welfare of the public.
- (66) "Wastewater" means sewage, industrial waste, or any other liquid or waterborne substance causing or capable of causing pollution of waters of the state.
- (67)(a) "Workstation" means the area within a procedure area where a body artist performs body art.
- (b) The workstation includes the body artist's chair, client chair or table, counter, instrument tray, mayo stand, and storage drawer.

R392-701-4. General Requirements.

- (1) Body art procedures shall be performed only in a body art facility or temporary body art facility operating with a valid permit.
- (2) The operator shall:
 - (a) be responsible for the conduct of body artists and other persons working at the body art facility to ensure compliance with this rule;
 - (b) be present or designate a person in charge when any body art procedure is being performed at the body art facility; and
 - (c) ensure that a body art procedure performed on a minor is carried out:
 - (i) as required in Section 76-10-2201; and
 - (ii) in the presence of a parent or legal guardian who accompanies the minor in the procedure area for the entire procedure;
 - (d) ensure that a body artist does not perform branding or scarification on a minor regardless of parental consent; and
 - (e) not knowingly do any of the following:
 - (i) conceal, withhold, or falsify records or evidence;
 - (ii) interfere with the performance of the duties of the local health officer; or
 - (iii) make a false statement, representation, certification, record, or report or otherwise falsify information required to be maintained or retained pursuant to this rule.
 - (3) A body art facility shall have:
 - (a) an adequate supply of chemical disinfectant for use as required in Subsection R392-701-8(8)(c); and
 - (b) the following first aid supplies in a readily accessible location:
 - (i) adhesive bandages of various sizes and applications;
 - (ii) antiseptic wipes;
 - (iii) compression bandages;
 - (iv) medical tape; and
 - (v) sterile gauze pads.
 - (4) Except for a service animal assisting a person with a disability, no animal, including a pet, emotional support animal, comfort animal, or therapy animal, is permitted in a body art facility.
 - (5) Nothing in this rule shall be construed to require the operator to perform a body art procedure upon any person.
 - (6)(a) This rule does not require a construction change in any portion of a body art facility if the facility was operating in compliance with applicable laws and ordinances in effect before this rule was made effective, except that the local health officer may require construction changes if it is determined the body art facility or a portion of the body art facility is creating an imminent health hazard.
 - (b) A body art facility that is newly established more than 90 days after the effective date of this rule shall comply with this rule.

R392-701-5. Water Supply System.

- The operator shall ensure that:
- (1) the potable water supply system for use in a body art facility or temporary body art facility is designed, installed, and operated according to the requirements set forth by:
 - (a) local health department regulations
 - (b) Plumbing Code; and
 - (c) Title R309, Drinking Water;
 - (2) the body art facility and each toilet room is provided with potable water; and
 - (3) in the event of a potable water service disruption lasting more than 10 minutes, body art procedures are not performed or are discontinued until potable water service is restored.

R392-701-6. Wastewater Disposal System.

- The operator shall ensure that:
- (1) sewer services are made available to the body art facility or temporary body art facility;
 - (2) the sewer system serving a body art facility or temporary body art facility is designed, installed, and operated according to the requirements set forth by:
 - (a) local health department and municipal regulations;
 - (b) Plumbing Code; and
 - (c) Title R317, Water Quality; and
 - (d) the local sewer district with jurisdiction; and
 - (3)(a) wastewater from a body art facility or temporary body art facility is discharged to a public sanitary sewer system when available and practical for use; or
 - (b) where connection to a public sanitary sewer is not practical at a body art facility or temporary body art facility, wastewater is discharged to an approved onsite wastewater disposal system.

R392-701-7. Construction Requirements for a Permanent Body Art Facility.

- (1) Except when an operator ensures that each body artist uses only pre-sterilized disposable body art instruments, pre-sterilized single-use body art materials, and pre-sterilized single-use supplies, the operator shall ensure that the body art facility is equipped with:
 - (a) a processing area that is:
 - (i) inaccessible to the public; and
 - (ii) used only for cleaning, decontamination, sterilization of body art instruments and equipment, and other closely related tasks;

(b) a sink for cleaning contaminated body art instruments according to the procedure described in Subsection R392-701-10(1)(e) that is:

(i) not used for hand washing;
(ii) not located in a procedure area or a toilet room; and
(iii) separated by a permanent plexiglass, stainless steel, or other smooth and non-porous physical barrier between the sink and the autoclave to prevent recontamination of sterilized body art instruments;

(c) an autoclave for sterilization as described in Subsection R392-701-10(1)(f) that is:

(i) large enough to sterilize the largest body art instrument requiring sterilization;
(ii) appropriate for use in a body art facility to sterilize body art instruments or jewelry; and
(iii) located away from any body art procedure area, or any area frequented by the public, except that an autoclave used only to process clean jewelry immediately before the procedure may be located in the body art procedure area; and

(d) an ultrasonic cleaner or an automated instrument washer intended for the cleaning of reusable body art instruments that:

(i) has a solid tight-fitting lid that is left on the ultrasonic cleaner for at least five minutes after any cycle unless directed otherwise by the manufacturer;

(ii) is separated by a permanent plexiglass, stainless steel, or other smooth and non-porous physical barrier between the ultrasonic cleaner and autoclave to prevent recontamination of sterilized body art instruments; and

(iii) is located away from any body art procedure area, or any areas frequented by the public, except that an ultrasonic cleaner used only to process clean jewelry immediately before the procedure may be located in the body art procedure area.

(2) The operator shall ensure that:

(a) each body art facility has a toilet room that is accessible to body artists and clients and is equipped with:

(i) a handwashing sink;

(A) with running hot water and cold water under pressure;

(B) located in or immediately adjacent to the toilet room; and

(C) used solely for hand washing;

(ii) a solid, durable, and easily cleanable waste receptacle;

(iii) a toilet;

(iv) individual disposable towels or other approved hand drying facilities; and

(v) soap and toilet tissue in suitable dispensers;

(b) each body art facility has a handwashing sink in addition to the handwashing sink required in Subsection (2)(a)(i) that is accessible and conveniently located to body artists and clients, except that the local health officer may provide an exemption from this requirement when the handwashing sink described in Subsection (2)(a)(i) is located outside of, but adjacent to, the toilet enclosure;

(c) each body art procedure area:

(i) is separated from waiting clients or observers; and

(ii) has a container for regulated waste that is:

(A) constructed of heavy-grade plastic or metal;

(B) covered; and

(C) operated with a foot-pedal or sensor;

(d) each body art facility has at least one procedure area that may be screened from public view for clients requesting privacy; and

(e) each body art facility is:

(i) well ventilated;

(ii) provided with a light source that, when measured three feet off the floor, is equivalent to:

(A) at least 20 foot candles in areas of general use;

(B) at least 100 foot candles in the body art procedure area; and

(C) at least 100 foot candles in the processing area; and

(iii) completely separated during a body art procedure from any location or practice that may cause contamination of procedure area surfaces or equipment.

R392-701-8. Maintenance Requirements for a Permanent Body Art Facility.

The operator shall ensure that:

(1) any interior wall, floor, and surface of a procedure area is smooth, free of open holes or cracks, washable, and in good repair;

(2) any procedure surface, table, counter, equipment, chair, and other surface in the body art facility is constructed of smooth, easily cleanable materials;

(3) body art instruments and supplies are stored in clean, dry, and covered containers and not stored or located in a toilet room or garbage room, or under sewer lines that are not shielded to intercept potential drips;

(4) during the body art facility's hours of operation, a body artist has access to a sufficient supply of:

(a) any cleaning supplies necessary to maintain a sanitary work environment;

(b) chemical disinfectant;

(c) clean equipment; and

(d) sterile body art instruments;

(5) each plumbing fixture in the body art facility:

(a) complies with Plumbing Code, including backflow prevention requirements;

(b) is free from cracks and similar disrepair which may prevent proper cleaning; and

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- (c) can be used simultaneously without expending all available hot water;
- (6) effective measures are in place to:
 - (a) prevent the presence of vermin in the body art facility; and
 - (b) ensure that exterior openings, windows, skylights, and outer doors are protected against the entrance of flies and other flying insects by self-closing doors, closed windows, 16-mesh or finer screening, controlled air currents, or other means approved by the local health officer;
 - (7) equipment is operated and maintained according to the manufacturer's instructions; and
 - (8) the local health officer is provided with a copy of the manufacturer's recommended procedures for equipment operation and maintenance upon request.

R392-701-9. Specific Health and Sanitation Requirements for a Temporary Body Art Facility.

- (1) A temporary body art facility is exempt from the following provisions:
 - (a) Subsection R392-701-7(1)(b)(iii);
 - (b) Subsection R392-701-7(2)(a);
 - (c) Subsection R392-701-7(2)(b);
 - (d) Subsection R392-701-8(1); and
 - (e) Subsection R392-701-8(5).
- (2) Except for Subsection (1), the operator of a temporary body art facility and any body artist working in a temporary body art facility shall comply with this rule.
 - (3) The operator shall ensure that:
 - (a) body art procedures are only performed inside a building or portion therein that meets the requirements of this rule;
 - (b) any floor and wall or partition of the temporary body art facility is cleanable or disposable;
 - (c) a temporary body art facility has a toilet room that is accessible to body artists and clients, conveniently located to the temporary body art facility, and equipped with:
 - (i) a handwashing sink:
 - (A) with running hot water and cold water under pressure;
 - (B) located in or immediately adjacent to the toilet room; and
 - (C) used solely for hand washing;
 - (ii) a solid, durable, and easily cleanable waste receptacle;
 - (iii) a toilet;
 - (iv) individual disposable towels or other approved hand drying facilities; and
 - (v) soap and toilet tissue in suitable dispensers.
 - (d) a temporary body art facility has a temporary handwash station in addition to the handwashing sink required in Subsection (3)(c)(i) that is:
 - (i) clean and sanitary, and in good repair;
 - (ii) equipped with:
 - (A) a solid, durable, and easily cleanable waste receptacle;
 - (B) a wastewater catch basin;
 - (C) an enclosed and filled water container with a spigot or faucet that allows for continuous water flow without the need for constant hand contact;
 - (D) disposable paper towels; and
 - (E) liquid hand soap;
 - (iii) located within or adjacent to the temporary body art facility;
 - (iv) readily accessible to body artists; and
 - (v) used solely for hand washing.
 - (4) The local health officer may allow for the sharing of a conveniently located handwash station, as described in Subsection (3)(d), for:
 - (a) up to 12 temporary body artists;
 - (b) up to four booths or facilities; or
 - (c) another alternative condition as approved by the local health officer.

R392-701-10. Disinfection and Sterilization Requirements.

- (1) The operator shall ensure that:
 - (a) any item or instrument used for body art that is contaminated during the procedure is immediately replaced with a sterilized instrument or item before the procedure resumes;
 - (b) any reusable item or instrument that may have been exposed to bloodborne pathogen contamination during a body art procedure is sterilized before use;
 - (c) at the conclusion of each client service, multi-use implements, such as a tattoo machine, and other tools which cannot be sterilized in an autoclave or immersed in liquid without being damaged are cleaned and disinfected in the following sequential manner:
 - (i) remove visible debris;
 - (ii) disinfect with a chemical disinfectant spray or wipe according to the manufacturer's directions; and
 - (iii) store covered in a clean, dry location;

- (d) disinfection is carried out using a chemical disinfectant in accordance with the manufacturer's directions;
- (e) each instrument used for a body art procedure remains stored:
 - (i) in a sterile package until just before a body art procedure; or
 - (ii) cleanly in a container, ready for sterilization immediately before the procedure;
- (f) except as specified in Subsection (1)(c), reusable body art instruments are packed individually in sterilization packaging and subsequently sterilized in the autoclave described in Subsections R392-701-7(1)(c)(i) through (iii) after being cleaned as specified in Subsection (1)(g);
- (g) except as specified in Subsection (1)(c), reusable body art instruments are processed after each use in the processing area according to the following sequential order:
 - (i) soak in an enzymatic cleaning solution;
 - (ii) scrub to remove visible debris;
 - (iii) rinse and inspect for visible debris;
 - (iv) process through an ultrasonic cycle or automated instrument washer;
 - (v) rinse;
 - (vi) air dry; and
 - (vii) inspect for any remaining residue or debris;
- (h) floors, walls, ceilings, tables, counters, shelves, furniture, furnishings, and plumbing fixtures are kept clean and in good repair;
- (i) packages, sterile equipment, and body art materials are not used without first being reprocessed and sterilizing again if the package, equipment, or material:
 - (i) has been visibly compromised; or
 - (ii) has not been stored as required in Subsection (1)(e);
- (j) reusable body art instruments are transported from the procedure area to the processing area in a container with a secured lid;
- (k) reusable body art instruments remain stored in sterile packages or other containers designed for sterilizing instruments that are marked with the sterilization date until just before they are used for a body art procedure;
- (l) sterilization packaging contains either an internal temperature sterilization indicator or Class 5 steam sterilization integrator;
- (m) tables, counters, chairs, floors, and other work surfaces are cleaned and disinfected after each use regardless of whether contamination is visible;
- (n) the date of sterilization and cycle number is noted on the sterilization packaging; and
- (o) when utilizing on-demand sterilization in which an instrument or material is placed into an autoclave to be sterilized immediately before the body art procedure, the sterilization cassette contains an internal temperature sterilization indicator or steam sterilization integrator.
- (2) Single-use items may be packed in peel-packs with a clean, reusable instrument before being sterilized provided they are arranged in a manner that will allow each item to be properly sterilized.
- (3)(a) The operator shall conduct spore testing, according to the manufacturer's directions, at least monthly to ensure that the sterilization equipment is capable of attaining sterilization.
- (b) These tests shall be verified through an independent laboratory.

R392-701-11. Body Artist Requirements and Professional Standards.

- (1) Before performing any body art procedure, a body artist shall have:
 - (a) proof of current certificate from a bloodborne pathogen training program that covers each element of OSHA's Bloodborne Pathogens Standard as described in 29 CFR 1910.1030 (2024), incorporated by reference in this rule; and
 - (b) proof of current certificate from a training program such as AHA Heartsaver First Aid that teaches:
 - (i) first aid basics for the most common first aid emergencies;
 - (ii) how to call for help;
 - (iii) how to prevent illness and injury; and
 - (iv) how to recognize medical emergencies.
- (2) A body artist shall be a minimum of 18 years of age.
- (3) Except as allowed in Subsections (3)(a) and (3)(b), no person shall drink, eat, smoke, or vape within the procedure area, processing area, workstation, or any other location where instruments or supplies may be stored, cleaned, or sterilized.
 - (a) A body artist performing a procedure may drink from a closed beverage container if:
 - (i) the container is handled to prevent contamination of the beverage container, the body artist's hands, equipment, and the procedure area; and
 - (ii) hands are washed, and gloves are changed according to Subsection (5).
 - (b) The body artist may allow a client to:
 - (i) eat when symptoms of hypoglycemia or shock are observed or likely to occur based on visual observation, the information provided by the client verbally, or the client consent and disclosure form described in Section R392-701-14; and
 - (ii) drink from a closed beverage container if the container is handled to prevent contamination of the procedure area and equipment.
- (4) A body artist shall:
 - (a) maintain clothes, hair, nails, and skin free of visible particulate matter and debris;
 - (b) use good personal hygiene habits while providing body art services; and
 - (c) utilize clean and sterile equipment, implements, supplies, and tools as required by this rule.
- (5) Before and after performing a body art procedure or at any other time contamination may have occurred, body artists shall wash their hands at a designated hand sink in the following sequential order:

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- (a) remove rings, watches, and bracelets from hands and wrists;
- (b) wet hands with warm water and apply soap;
- (c) rub hands together for a minimum of 20 seconds, making a soapy lather;
- (d) include each finger, between fingers, thumbs, nails, cuticles, wrists, palms, and the top of hands;
- (e) rinse soap from hands;
- (f) pat hands dry with a clean disposable towel; and
- (g) use a new, clean, disposable towel to touch the handles of the sink to turn it off.
- (6) At a minimum, a body artist shall wear a new pair of single-use gloves:
 - (a) during set up and cleaning;
 - (b) during a disinfection and sterilization procedure;
 - (c) when processing contaminated instruments;
 - (d) when transporting contaminated instruments to the processing area;
 - (e) when transporting sterilized instruments from the autoclave to designated storage space;
 - (f) during any contact with a client at the workstation or procedure area;
 - (g) during post-procedure take down; and
 - (h) any other time contamination may have occurred.
- (7)(a) Before a body art procedure is performed, the body artist shall prepare the immediate skin area and the areas of skin surrounding the procedure site by applying an antiseptic solution in accordance with the manufacturer's directions.
- (b) If shaving is necessary, the body artist shall shave the procedure site with a single-use disposable razor before skin preparation, as described in Subsection (7)(a). The body artist shall discard used razors into the sharps container immediately after use on each client.
- (8)(a) If a local anesthetic, numbing agent, is used, the body artist shall apply it before skin preparation, as described in Subsection (7)(a).
 - (b) A local anesthetic shall only be in the form of an FDA-approved over-the-counter local or topical anesthetic or spray and may not be administered by injection.
- (9) A body artist shall perform a body art procedure only on a client who is free of suspected rash or suspected visible infection of skin or the mucosa surface of an intended procedure site.
- (10)(a) A body artist shall be free of any communicable infection or any other visible disease condition that may be transmitted to the client as a result of carrying out the body art procedure. As authorized in Section 26A-1-114, a local health officer may require medical testing or examinations if a contagious or communicable disease is suspected.
- (b) A body artist shall cover any open wound and may not perform a body art procedure if the body artist has an open wound that cannot be covered during the body art procedure.
- (11) The operator shall ensure that, in the event of client bleeding during or immediately after a body art procedure, any product used to stop the flow of blood or to absorb blood is a sanitary, single-use item that is disposed of in an appropriate container immediately after use.
- (12)(a) In performing body art procedures, the body artist shall wear gloves and use aseptic technique to ensure that the instruments and gloves are not contaminated.
 - (b) Gloves shall be discarded and changed, at a minimum:
 - (i) before initial skin preparation and marking;
 - (ii) before the body art procedure;
 - (iii) after the completion of a body art procedure, before post-procedure cleanup; and
 - (iv) when gloves are torn or punctured or contaminated by contact with unclean objects, unclean surfaces, or a third person.
 - (c) If, while performing a body art procedure, a glove is pierced, torn, or otherwise compromised, the compromised gloves shall be immediately discarded, and hands shall be washed as directed in Subsection (5).
 - (d) A single pair of gloves may not be used on more than one client.
 - (e) Used gloves may not be rinsed, washed, disinfected, or sterilized for reuse.
 - (f) A body artist shall use gloves when handling sterile equipment.
- (13) The operator shall ensure that:
 - (a) any reusable item or instrument used for body art that becomes contaminated during a body art procedure is immediately removed from the area and replaced before the procedure resumes;
 - (b) each single-use item is used only on one client and is discarded immediately after use into the waste container required in Subsection R392-701-7(2)(c)(ii);
 - (c) single-use needles, razors, microblades, and other sharps are discarded in a sharps container immediately after use; and
 - (d) in the event of bleeding, any product used to check the flow of blood or to absorb blood is single-use and is disposed of immediately after use in the waste container required in Subsection R392-701-7(2)(c)(ii).
- (14)(a) Upon completion of a body art procedure, the operator or body artist shall provide each client with aftercare instructions, containing the name, address, and phone number of the body art facility and the local health department.
 - (b) Aftercare instructions shall advise the client to consult the body artist and a licensed health care professional if the body art procedure site shows signs of infection.
 - (c) Aftercare instructions shall contain the following information at a minimum and shall be made available to the local health officer upon request:
 - (i) proper wound care instructions following a body art procedure;
 - (ii) potential side effects;
 - (iii) activity restrictions;

- (iv) signs and symptoms of infection; and
- (v) instructions to call the body art facility and a physician if infection occurs.
- (d) Within three days of being made aware, the body artist shall report to the local health department any known infection, complication, or disease resulting from a body art procedure.
- (15) Before performing any branding procedure, the procedure area shall:
 - (a) have walls that extend from floor to ceiling and a tight-fitting closable door;
 - (b) be equipped with an ultraviolet air purifier appropriately sized to the room based on the square footage and the manufacturer's recommendations; and
 - (c) meet requirements of Section R392-701-7.
- (16) When performing a branding procedure, the body artist shall use either a strike branding process or a thermal cautery unit.
 - (a) Only nongalvanized metal may be used for strike branding.
 - (b) Only propylene gas should be used to heat the metal for strike branding.
- (17) Before performing any scarification procedure, the procedure area shall:
 - (a) have walls that extend from floor to ceiling and a tight-fitting closable door;
 - (b) be equipped with an ultraviolet air purifier appropriately sized to the room based on the square footage and the manufacturer's recommendations; and
 - (c) meet requirements of Section R392-701-7.
- (18) A body artist shall:
 - (a) only perform body art procedures in a procedure area, as defined in this rule;
 - (b) review and keep a copy of a valid driver's license or other government-issued picture identification of the parent or legal guardian before the body artist performs a body art procedure on a minor; and
 - (c) consult and follow the guidance of any published FDA safety alerts regarding recalled tattoo inks and body art products.

R392-701-12. Specific Health and Sanitation Requirements for Tattooing and Permanent Cosmetics.

- The operator shall ensure that:
- (1) each body artist cleans and disinfects the body art procedure area as specified in Subsections R392-701-10(1)(d), (h), and (m) before its use for each client;
 - (2) equipment, multi-use implements, tools, and materials are:
 - (a) covered with single-use protective barriers that:
 - (i) may include a bottle bag, clip cord sleeve, and machine bag; and
 - (ii) are changed between clients; and
 - (b) properly cleaned and disinfected after servicing each client in accordance with Section R392-701-10;
 - (3) absorbent products used for drying the skin after disinfecting or scrubbing the skin before tattooing or during application of dyes or inks are:
 - (a) sanitary single-use products; and
 - (b) discarded immediately after use into the waste container required in Subsection R392-701-7(2)(c)(ii);
 - (4) each bench, chair, or table is made of or covered in a non-porous material that can be disinfected;
 - (5) any ink, dye, and pigment is:
 - (a) specifically manufactured for performing body art procedures;
 - (b) used according to the manufacturer's instructions;
 - (c) only mixed or diluted with distilled or sterile water or other thinner recommended by the manufacturer;
 - (d) not diluted with potable water;
 - (e) diluted for single use on a single client; and
 - (f) transferred, immediately before a tattoo is applied, from the bottle or container and placed into a single-use plastic cap or cup, which is:
 - (i) not used on more than one client; and
 - (ii) discarded with its contents upon completion of the tattoo or permanent cosmetic procedure;
 - (6) any product used in the application of a stencil is dispensed and applied on the procedure site in a manner to prevent contamination of the original container and its contents;
 - (7) any product applied to the skin after the skin has been broken, including a body art stencil, is single-use and disposable;
 - (8) each tattoo is applied using sterile equipment or sterilized single-use equipment;
 - (9) each body artist works from a disinfected non-porous tray set up that may be lined with a single-use disposable tray liner during a body art procedure;
 - (10) the body artist removes excess dye or ink from the skin with a single-use item that is immediately discarded into the waste container required in Subsection R392-701-7(2)(c)(ii);
 - (11) the body artist washes the tattooed area with an antiseptic solution after completing a body art procedure;
 - (12) the body artist provides the client with a small amount of antiseptic mouthwash in a disposable cup before any oral tattoo and advises the client to rinse thoroughly for at least 30 seconds.
 - (13) a tattooed or permanent cosmetic procedure site is allowed to dry and is covered using petroleum jelly or antibacterial ointment;
 - (14) each single-use microblading implement is:
 - (a) pre-sterilized;
 - (b) disposable;

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- (c) operated in such a manner that once the needle grouping, or "blade," is affixed to the handle, it is not removed during or after use; and
- (d) the entire microblading implement, including both the handpiece and the blade, is discarded into a sharps container as required in Subsection R392-701-11(13)(c); and
- (15) a microblading implement needle grouping, or "blade," is not used on more than one client; and
- (16) any reusable handpiece part of a microblading implement is cleaned and sterilized as required in Section R392-701-10 after use on each client.

R392-701-13. Specific Health and Sanitation Requirements for Body Piercing.

- The operator shall ensure that:
- (1) body piercing needles are:
 - (a) sterile, single-use, and manufactured for either medical or body piercing purposes;
 - (b) disposed of in a sharps container immediately after use; and
 - (c) not thinner than 20 gauge or thicker than six gauge;
- (2) after use on each client, any equipment, material, multi-use implement, and tool is properly cleaned and sterilized;
- (3) jewelry to be used for a new body piercing is:
 - (a) inspected by the body artist before use to ensure it is free of any nick, scratch, and other imperfection;
 - (b) sterilized before use;
 - (c) only made from the following materials:
 - (i) 00G to 14G gauge glass, fused quartz, borosilicate, and soda-lime that is lead free;
 - (ii) ASTM B-392 compliant niobium, except matte finish black;
 - (iii) ASTM F-67, ASTM F-136, ASTM F-1295, or ASTM F-1295 compliant titanium and titanium alloy;
 - (iv) ASTM F-138 compliant stainless steel;
 - (v) ASTM F-754 compliant PTFE;
 - (vi) platinum;
 - (vii) solid 14K or 18K white, yellow, or rose gold that is nickel free and cadmium free; or
 - (viii) Tygon; and
 - (d) not made from any of the following materials:
 - (i) aluminum;
 - (ii) any type of organic material, including horn, bone, coconut wood, bamboo, or ivory;
 - (iii) glass with gauge size higher than 14G;
 - (iv) gold filled, plated, rolled, or vermeil jewelry;
 - (v) high-density, low-porosity nontoxic plastics such as acrylic;
 - (vi) silver;
 - (vii) stainless steel that is not ASTM F-138 compliant;
 - (viii) stone;
 - (ix) tempered glass; or
 - (x) wood of any type; and
- (4) each body artist provides the client with a small amount of antiseptic mouthwash in a disposable cup before any oral piercing and advises the client to rinse thoroughly for at least 30 seconds.

R392-701-14. Records and Recordkeeping Requirements.

- (1) Before engaging in any body art procedure, the operator shall require a client or potential client to complete a client consent and disclosure form in a printed or digital format.
- (2) The client consent and disclosure form shall include:
 - (a) a risk notification section that provides information detailing the risks and possible consequences of a body art procedure, including that:
 - (i) a body art procedure can cause:
 - (A) an allergic reaction;
 - (B) bleeding, bruising, discomfort, pain, and swelling; and
 - (C) irreversible modifications to the client's body;
 - (ii) a body art procedure increases the client's risk of infection; and
 - (iii) a potential client with a heart condition may have an increased risk of contracting bacterial endocarditis and should contact the potential client's physician before receiving any body art procedure;
 - (b) a client evaluation section that:
 - (i) includes the statement, "If you have health or medical concerns, please consult a physician before engaging in a body art procedure."; and
 - (ii) asks at a minimum the following questions to evaluate the client's condition for receiving body art without violating the client's medical privacy:
 - (A) "Are you 18 years of age or older?";
 - (B) "Have you eaten within the past four hours?";
 - (C) "Are you under the influence of drugs or alcohol?";

- (D) "Have you ingested anticoagulants, anti-platelet drugs, or NSAIDS (aspirin, ibuprofen, naproxen, etc.) in the last 24 hours?";
- (E) "Have you ingested any medication that may inhibit the ability to heal a skin wound?";
- (F) "Do you have any allergies or adverse reactions to dyes, pigments, latex, iodine, or other such products?";
- (G) "Do you have hemophilia, epilepsy, a history of seizure, fainting or narcolepsy, or other conditions that may interfere with the body art procedure?";
- (H) "Do you have a history of skin diseases, skin lesions, or other skin sensitivities to soaps or disinfectants that might inhibit the healing of the body art procedure?";
- (I) "Do you have any communicable diseases (Hep A, Hep B, HIV, or any other disease that can be transmitted through broken skin or mucous membranes during the procedure)?";
- (J) "Do you have diabetes, high blood pressure, heart condition, heart disease, or any other conditions that may interfere with the body art procedure?"; and
- (K) "Are you or have you been pregnant within the last 3 months?";
- (c) a client information section asking for:
- (i) the client's full name and date of birth as verified from a valid government-issued photo identification or, if the client is a minor, identification from a parent or legal guardian;
- (ii) the client's signature or, if the client is a minor, signature of a parent or legal guardian;
- (iii) client's physical address; and
- (iv) client's phone number or, if the client is a minor, a parent or legal guardian's phone number; and
- (d) an informed consent statement that shall confirm at least that:
- (i) the client is voluntarily obtaining services of the client's own free will and volition;
- (ii) the client has had the opportunity to read and understand the consent and disclosure form;
- (iii) the client has the ability to ask questions about the body art procedure before, during, and after the procedure; and
- (iv) the client has received and understands written and verbal aftercare instructions.
- (3) The client shall sign the client's consent and disclosure form acknowledging that the information in the form is understood and correct.
- (4) The operator or body artist shall provide a copy of the completed consent and disclosure form in a printed or digital format upon a client's request.
- (5) A body artist shall make a written or digital record of each administered body art procedure, including:
- (a) a brief description of the procedure performed, including type and location;
- (b) the body artist's name; and
- (c) the date of procedure.
- (6) Within three business days of becoming aware, the operator or body artist shall report to the local health department:
- (a) any adverse events relating to or suspected of being related to materials used during a body art procedure, including the name of the body artist, client information, description of adverse events, and a list of materials used in the procedure along with lot or batch codes; and
- (b) any injury, complaint of injury, infection that required treatment by a licensed medical practitioner, or any communicable disease resulting from the body art procedure.
- (7) The operator shall:
- (a) keep client records confidential;
- (b) keep client records for a minimum of three years after the date of procedure; and
- (c) make client records available to the local health officer upon request.
- (8)(a) The operator shall maintain records sufficient to provide a list of each pre-sterilized instrument used in body art procedures at the body art facility upon the request of the local health officer for three years after the date of procedure. Invoices or orders may satisfy this requirement.
- (b) The operator shall keep records of spore testing, as required in Subsection R392-701-10(3), for at least three years after the date of receipt. These records shall be:
- (i) retained at the body art facility; and
- (ii) provided to the local health officer upon request.
- (9) Information for each body artist shall be kept on file on the premises of a body art facility for inspection by the local health officer, including:
- (a) a full name;
- (b) a job description;
- (c) dates of employment;
- (d) a phone number;
- (e) an email address;
- (f) a copy of a government-issued photo ID; and
- (g) a copy of the certificate for the training required in Subsection R392-701-11(1).

R392-701-15. Solid Waste.

The operator shall ensure that solid waste generated at a body art facility, including regulated waste, is:

- (1) contained, labeled, stored, transported, and disposed in accordance with local health department regulations;
- (2) stored in a leak-proof, non-absorbent container that is kept covered with a tight-fitting lid; and
- (3) disposed with sufficient frequency and in such a manner as to prevent vermin harborage or an imminent health hazard.

R392-701-16. Prohibited Practices.

- A body artist may not:
 - (1) perform body art while under the influence of alcohol or drugs;
 - (2) perform body art on a person who, in the opinion of the operator, is inebriated or appears to be under the influence of alcohol or drugs;
 - (3) use on a client any product that has been recalled by the FDA; or
 - (4) perform a body art procedure in:
 - (a) a mobile body art facility; or
 - (b) an unpermitted facility.

R392-701-17. Permit Requirements.

- (1) A body art facility may not operate in Utah unless the operator has first obtained a permit to operate from the local health department having jurisdiction.
- (2) To obtain a permit from the local health department, the operator shall complete an application provided by that local health department and pay any associated fee.
- (3) Before the body art facility or temporary body art facility is eligible for a permit, the operator shall demonstrate to the local health officer that the facility:
 - (a) can meet the requirements specified in Sections R392-701-4 through R392-701-11; and
 - (b) has the systems in place to meet the consent, disclosure, and record keeping requirements in Section R392-701-14.
- (4) The operator shall be able to demonstrate to the local health officer initially, and upon subsequent inspections, sufficient knowledge of aseptic technique, universal precautions, and sanitary procedural operations, as required in Section R392-701-10.
- (5) The operator shall submit to the local health officer properly prepared plans and specifications for review before:
 - (a) the construction of a body art facility;
 - (b) the conversion of an existing structure for use as a body art facility; or
 - (c) the remodeling of a body art facility, if the local health officer determines plans and specifications are necessary to ensure compliance with this rule.
- (6) A body art facility permit or temporary body art facility permit may not be transferred from one facility, owner, or operator to another. A change in ownership or change of body art facility or temporary body art facility location invalidates the existing permit.
- (7) Temporary body art facilities may be permitted to operate in conjunction with a single event or celebration, for which a permit shall only be valid for 14 consecutive days or less.
- (8) A current body art facility permit shall be posted in a prominent and conspicuous area in the body art facility or temporary body art facility where it may be readily observed by clients and the local health officer.

R392-701-18. Inspections and Investigations.

The operator shall permit the local health officer, upon presenting proper identification, to enter upon the premises of a body art facility or temporary body art facility to perform any inspection and investigation relating to any matter affecting public health and as necessary to ensure compliance with this rule.

R392-701-19. Closing or Restricting Use of a Body Art Facility or Temporary Body Art Facility.

- (1) If the condition or operation of a body art facility or temporary body art facility creates an imminent health hazard to the public, the local health officer may:
 - (a) suspend or revoke the body art facility or temporary body art facility permit;
 - (b) close the affected portion of the body art facility or temporary body art facility; and
 - (c) restrict the use of all or part of the body art facility or temporary body art facility or its equipment or instruments;
- (2) The operator shall restrict public access to each area of a body art facility or temporary body art facility closed or restricted to use by a local health officer within a reasonable time as ordered by the local health officer.
- (3) An operator may not allow the public to utilize any body art facility or temporary body art facility or portion thereof that has been deemed unfit for use until the local health officer gives written approval.

KEY: body art, tattoo, piercing, permanent cosmetics

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Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state	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
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:
R414-1-1. Introduction and Authority
3. Purpose of the new rule or reason for the change:
The purpose of this change is to include a statutory reference to authority for changes in Section R414-1-32 to encourage health care providers to seek prior authorization from a primary payer before seeking third party liability through Medicaid and to prohibit health insurance entities from denying a claim submitted by the Department of Health and Human Services or the department's contractor based solely on the lack of prior authorization, filed in a separate amendment under filing ID 56919. This statutory reference is made in accordance with changes made to Section 26B-3-1004 as a result of HB501 from the 2024 General Session.
4. Summary of the new rule or change:
This amendment adds a statutory reference in Section R414-1-1 to provide authority for changes in Section R414-1-32 to encourage health care providers to seek prior authorization from a primary payer before seeking payment through Medicaid and prohibit health insurance entities from denying a claim submitted by the department or the department's contractor based solely on the lack of prior authorization. Additionally, this amendment makes style and formatting changes for consistency with other Department of Health and Human Services rules.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This filing provides a reference to statutory authority for changes to Section R414-1-32, reflected in a separate filing. There is no direct fiscal impact to the state budget as a result of this filing, and any fiscal impact as a result of changes to Section R414-1-32 are reflected in that amendment.
B) Local governments:
There is no anticipated fiscal impact on local governments, as this proposed section does not apply to this group. There are no identified local governments that would need to add to, remove, or modify processes as a result of this filing.
C) Small businesses ("small business" means a business employing 1-49 persons):
This filing provides a reference to statutory authority for changes to Section R414-1-32, reflected in a separate filing. There is no direct fiscal impact to small businesses as a result of this filing, and any fiscal impact as a result of changes to Section R414-1-32 are reflected in that amendment.

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

This filing provides a reference to statutory authority for changes to Section R414-1-32, reflected in a separate filing. There is no direct fiscal impact to non-small businesses as a result of this filing, and any fiscal impact as a result of changes to Section R414-1-32 are reflected in that amendment.

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 fiscal impact on other persons, as this proposed section does not apply to this group. There are no identified other persons who would need to add to, remove, or modify responsibilities as a result of this filing.

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

This filing provides a reference to statutory authority for changes to Section R414-1-32, reflected in a separate filing. There are no compliance costs as a result of this filing, and any compliance costs as a result of changes to Section R414-1-32 are reflected in that amendment.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-1-213	Section 26B-3-108	Section 26B-3-1004
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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:	11/01/2024
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R414. Health and Human Services, Integrated Healthcare.

R414-1. Utah Medicaid Program.

R414-1-1. ~~Introduction and~~ Authority and Purpose.

~~(1)(a) [This rule generally characterizes the scope of the Medicaid Program in Utah, and defines the provisions necessary to administer the program.~~

~~(2) The rule is authorized by~~ Title XIX of the Social Security Act[,] and Sections 26B-1-213, 26B-3-102, and 26B-3-104 authorize this rule.

~~(b) Section 26B-3-1004 authorizes the Department of Health and Human Services to implement duties related to state claims for Medicaid payments or recovery.~~

~~(2) This rule characterizes the general scope of the Medicaid Program in Utah and defines the provisions necessary to administer the program.~~

KEY: Medicaid

Date of Last Change: ~~October 28, 2024~~ 2024

Notice of Continuation: December 13, 2021

Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108; 26B-8-132; 26B-3-1004

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment		
Rule or Section Number:	R414-1-32	Filing ID: 56919

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state	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
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:
R414-1-32. Prior Authorization from Primary Payers First
3. Purpose of the new rule or reason for the change:
The purpose of this change is to encourage health care providers to seek prior authorization from a primary payer before seeking third party liability through Medicaid. This change also has the effect of prohibiting health insurance entities from denying a claim submitted by the Department of Health and Human Services or the department's contractor based solely on the lack of prior authorization. Both changes are in accordance with changes made to Subsection 26B-3-1004 as a result of HB501 from the 2024 General Session.

4. Summary of the new rule or change:
 This amendment adds language in Section R414-1-32 to encourage health care providers to seek prior authorization from a primary payer before seeking payment through Medicaid and prohibit health insurance entities from denying a claim submitted by the department or the department's contractor based solely on the lack of prior authorization.

Fiscal Information

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

A) State budget:

The Department of Health and Human Services (DHHS) expects Medicaid recovery collections to increase because insurance companies will not be able to deny claims from the Office of Recovery Services for failure to seek pre-authorization, as they had been previous to this filing. Using data available to DHHS for the fiscal response to HB501, the department expects the following fiscal impacts as a result of this rule. Relying on FY2023 data, based on the number of health claim debts referred by Medicaid, average collections per debt, and the number of debts for which no payment was received, approximately two-thirds of which have historically been denied due to no prior authorization, this fiscal impact is estimated to be approximately \$15.7 million dollars collected from health insurance companies and returned to each member's respective Medicaid program.

B) Local governments:

There is no anticipated fiscal impact on local governments, as this proposed section does not apply to this group. There are no identified local governments that would need to add to, remove, or modify processes as a result of this filing.

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

113 health insurance companies have been identified as small businesses (NAICS 524114) and will not be able to use the lack of prior authorization as a pro forma denial for Medicaid claims. These 113 companies are estimated to have 16% of the employees within Utah's health insurance industry and 16% of the \$15.7 million costs estimated for the industry as a whole, or an estimated \$2,530,000 to small business health insurance companies as a direct result of not being able to deny claims solely for a lack of prior authorization.

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

10 health insurance companies have been identified as non-small businesses (NAICS 524114) and will not be able to use the lack of prior authorization as a pro forma denial for Medicaid claims. These 10 companies are estimated to have 84% of the employees within Utah's health insurance industry and 84% of the \$15.7 million costs estimated for the industry as a whole, or an estimated \$13,170,000 to non-small business health insurance companies as a direct result of not being able to deny claims solely for a lack of prior authorization.

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 fiscal impact on other persons, as this proposed section does not apply to this group. There are no identified other persons who would need to add to, remove, or modify responsibilities as a result of this filing.

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

Small and non-small business health insurance companies are identified as affected persons for this filing. The compliance cost will be the same, regardless of whether the health insurance company is considered a small or non-small business. On average, a claim denied before this filing would cost a health insurance company approximately \$1,000 per debt. Any processing costs are inestimable, as they vary depending on the business, client, and claim. Any other group fiscally impacted by this rule is not anticipated to incur a compliance cost.

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	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$2,530,000	\$2,530,000	\$2,530,000
Non-Small Businesses	\$13,170,000	\$13,170,000	\$13,170,000
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2025	FY2026	FY2027
State Government	\$15,700,000	\$15,700,000	\$15,700,000
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-1-213	Section 26B-3-108	Section 26B-3-1004
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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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	11/01/2024
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R414. Health and Human Services, Integrated Healthcare.

R414-1. Utah Medicaid Program.

R414-1-32. Prior Authorization from Primary Payers First.

(1) Health care providers are encouraged to seek prior authorization, when necessary, from a health insurance entity that is the primary payer before seeking third-party liability through Medicaid.

(2) A health insurance entity may not deny a claim submitted by the Office of Recovery Services, the Office of Inspector General of Medicaid Services, Medicaid, or an authorized contractor for an item or service based solely on a lack of prior authorization.

KEY: Medicaid

Date of Last Change: ~~December 6, 2023~~ 2024

Notice of Continuation: December 13, 2021

Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108; 26B-8-132; 26B-3-1004

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R414-40-3	Filing ID: 56915

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 143325	
City, state and zip:	Salt Lake City, UT 84114-3325	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@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:
R414-40-3. Program Access Requirements
3. Purpose of the new rule or reason for the change:
The purpose of this change is to update and clarify current policy for provider requests of prior authorization for private duty nursing services, as a result of internal agency review. Detailed requirements and procedures may be found in Home Health Agencies Utah Medicaid Provider Manual.
4. Summary of the new rule or change:
This amendment removes the requirement for providers to submit initial prior authorization requests and removes the requirement for home health agencies to submit an initial certification and recertification at least every 60 days. Detailed requirements and procedures may be found in Home Health Agencies Utah Medicaid Provider Manual. Additionally, this amendment makes style and formatting changes to comply 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:
There is no anticipated fiscal impact on the state budget as this change updates existing policy that neither affects services nor payment. There are no administrative costs or savings associated with the removal of these provisions.
B) Local governments:
There is no anticipated fiscal impact on local governments, as they neither fund nor provide services under the Medicaid program.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated fiscal impact on small businesses as this change updates existing policy that neither affects services nor payment. There are no administrative costs or savings associated with the removal of these provisions.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no anticipated fiscal impact on non-small businesses as this change updates existing policy that neither affects services nor payment. There are no administrative costs or savings associated with the removal of these provisions.

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 fiscal impact on other persons or entities as this change updates existing policy that neither affects services nor payment. There are no administrative costs or savings associated with the removal of these provisions.

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

There is no anticipated compliance cost for affected persons as this change updates existing policy that neither affects services nor payment. There are no administrative costs or savings associated with the removal of these provisions.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	10/31/2024
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R414. Health and Human Services, Integrated Healthcare.

R414-40. Private Duty Nursing Services.

R414-40-3. Program Access Requirements.

(1) Only a licensed home health agency enrolled as a Medicaid provider may be reimbursed for private duty nursing services.

(2) A member ~~[must]~~shall have a written physician order establishing the need for private duty nursing services. ~~[-]~~The private duty nursing provider ~~[must]~~shall develop a care plan consistent with the member's diagnosis, ~~[the]~~severity of illness, and intensity of services. ~~[-]~~If medically necessary nursing services require four hours or ~~[less]~~fewer of skilled nursing, the service is covered under the home health program.

~~[(3) Medicaid providers shall submit an initial prior authorization request with medical documentation that demonstrates the need for nursing services. The home health agency shall submit an initial certification and recertification at least every 60 days as required by 42 CFR 440.70.]~~

~~[(4)]~~3 Private duty nursing is only available if a parent, guardian, or primary caregiver is committed to and capable of performing the medical skills necessary to ensure safe, quality care.

~~[(5)]~~4(a) The home health agency shall verify that the hospital has provided specialized training for the caregiver before patient discharge to enable the caregiver to provide hands-on care in the home.

b The private duty nurse shall initially supervise~~[s]~~ the caregiver who provides this care to ensure that training has been assimilated to ensure safe, quality patient care.

KEY: Medicaid

Date of Last Change: ~~2024~~November 10, 2023

Notice of Continuation: April 28, 2020

Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R428-2	Filing ID: 56890

Agency Information

1. Title catchline:	Health and Human Services, Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics	
Building:	Cannon Health Building	
Street address:	280 N. 1460 W.	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144004	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	Phone:	Email:
Rick Little	801-915-0138	ricklittle@utah.gov
Bri Murphy	385-501-9347	brilmurphy@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:	R428-2. Health Data Authority Standards for Health Data
3. Purpose of the new rule or reason for the change:	This filing makes changes to comply with HB41 of the 2024 General Session, clarifying department oversight and ownership of Title 26B, Chapter 8, Part 5, Health Data Authority, and updating references to terms and statutory authority; the Definitions section has several additions and deletions to improve readability of the rule; the Penalties section has a new provision which clarifies adjudicative proceedings for all Department committees are governed under Rule R497-100.

4. Summary of the new rule or change:
 This filing changes the word "program" to "department" where necessary, updates statutory references, makes style and formatting changes to comply with the Rulewriting Manual for Utah, and clarifies terms and definitions where necessary to reflect current business practice.

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 benefit to the state budget due to amendment of this rule. The amended rule does not impact how the department functions with other state parties, nor does the amendment add, remove, or modify requirements or restrictions.

B) Local governments:

This rule change is not expected to have a fiscal impact to local governments, nor does the change apply to local governments. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and updates terms and definitions.

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

This rule change is not expected to have a fiscal impact on small businesses, nor does the change apply to small businesses. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and updates terms and definitions.

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

This rule change is not expected to have a fiscal impact on non-small businesses. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to non-small businesses.

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

This rule change is not expected to have a fiscal impact on other persons. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to other 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 change is not expected to have a compliance cost on affected persons. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, including minor updates to terms and definitions.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Other Persons	\$0	\$0	\$0
Total Fiscal 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-8-501.1

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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024
 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:	10/28/2024
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R428. Health and Human Services, Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics.

R428-2. Health Data Authority Standards for Health Data.

R428-2-1. ~~Legal~~ Authority and Purpose.

~~This rule is promulgated in accordance with~~(1) Title 26B, Chapter 8, Part 5, Utah Health Data Authority ~~Act~~authorizes this rule.
 [

R428-2-2. Purpose.

_____](2) This rule establishes definitions, requirements, and general guidelines relating to the collection, control, use, and release of data pursuant to Title 26B, Chapter 8, Part 5, Utah Health Data Authority~~Act~~.

R428-2-~~3~~2. Definitions.

- (1) ~~The terms~~Terms used in this rule are defined in Section 26B-8-501.[
- _____](2) In addition, the following definitions apply to ~~all of~~Title R428:
 - (~~a~~)2) "Adjudicated claim" means a claim submitted to a carrier for payment where the carrier has made a determination whether the services provided fall under the carrier's benefit.
 - (~~b~~)3) "Ambulatory surgery data" means the consolidation of complete billing, medical, and personal information describing a patient, the services received, and charges billed for a surgical or diagnostic procedure treatment in an outpatient setting into a data record.
 - (~~e~~)4) "Ambulatory surgical facility" ~~is~~means the same as defined in Section 26B-2-201.
 - (~~d~~)5) "Carrier" means any of the following ~~Third Party Payers~~third party payors as defined in Subsection 26B-8-501(14):
 - (~~i~~)a) an insurer engaged in the business of health care or dental insurance in Utah, as defined in Section 31A-1-301;
 - (~~ii~~)b) a business under an administrative services organization or administrative services contract arrangement;
 - (~~iii~~)c) a third party administrator, as defined in Section 31A-1-301, licensed by Utah that collects premiums or settles claims of residents of the state, for health care insurance policies or health benefit plans, as defined in Section 31A-1-301;
 - (~~iv~~)d) a governmental plan, as defined in Section 414[-](d), Internal Revenue Code, that provides health care benefits;
 - (~~v~~)e) a program funded or administered by Utah for the provision of health care services, including Medicaid, the Utah Children's Health Insurance Program created under Section 26B-3-902, and the medical assistance programs described in Title 26B, Chapter 3, Part 1, Medical Assistance Act or any entity under a contract with the Utah Department of Health and Human Services to serve clients under such a program;
 - (~~vi~~)f) a non-electing church plan, as described in Section 410[-](d), Internal Revenue Code, that provides health care benefits;
 - (~~vii~~)g) a licensed professional employer organization as defined in Section 31a-40-102 acting as an administrator of a health care insurance plan;
 - (~~viii~~)h) a health benefit plan funded by a self-insurance arrangement;
 - (~~ix~~)i) the Public Employees' Benefit and Insurance Program created in Section 49-20-103;

~~(k)~~ a pharmacy benefit manager, defined to be a person that provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of any other carrier defined in Section R428-2-3.

~~(e)~~ "Claim" means a request or demand on a carrier for payment of a benefit.

~~(f)~~ (7) "Control number" means a number or other identifier that:

~~(a)~~ is assigned by the department to an individual's health data;

~~(b)~~ is consistent with the best practices of data privacy; and

~~(c)~~ is used to ensure health data is not able to be readily associated with an individual when the health data is provided for research or statistical analysis.

~~(8)~~ "Covered period" means the calendar year on which the data used for the calculation of HEDIS measures is based.

~~(g)~~ "Data element" means the specific information collected and recorded for health care and health service delivery. Data elements include information to identify the individual, health care provider, data supplier, service provided, charge for service, payer source, medical diagnosis, and medical treatment.

~~(h)~~ (10) "Department" means the Utah Department of Health and Human Services.

~~(11)~~ "De-identified data" means data that does not contain the 18 identifiers itemized in the Health Insurance Portability and Accountability Act (HIPAA) of 1996, Pub. L. No. 104-191, or specifically, the Privacy Rule, 45 CFR 164.514 (2024), and does not otherwise contain information which can be reasonably used to identify and individual.

~~(12)~~ "Discharge data" means the consolidation of complete billing, medical, and personal information describing a patient, the services received, and charges billed for a single inpatient hospital stay into a discharge data record.

~~(i)~~ "Electronic media" means a compact disc, digital video disc, external hard drive, or other media where data is stored in digital form.

~~(j)~~ "Electronic transaction" means to submit data directly via electronic connection from a hospital or ambulatory surgery facility to the program according to Electronic Data Interchange standards established by the American National Standards Institute's Accredited Standards Committee, known as the Health Care Transaction Set (837) ASC X 12N.

~~(k)~~ (13) "Eligible [E]nrollee" means an enrollee who meets the criteria outlined in ~~the NCQA~~ survey specifications published by the NCQA.

~~(l)~~ (14) "Emergency ~~Room Data~~ room data" means the consolidation of complete billing, medical, and personal information describing a patient, the services received, and charges billed for a single visit and treatment of a patient in an emergency room into an emergency room data record.

~~(m)~~ (15) "Enrollee" means any individual who has entered into a contract with a carrier for health care or on whose behalf such an arrangement has been made.

~~(n)~~ (16) "Health ~~Insurance has~~ insurance" means the same ~~meaning~~ as ~~found~~ defined in Section 31A-1-301.

~~(o)~~ (17) "Healthcare claims data" means information consisting of, or derived directly from ~~the~~ member enrollment, medical claims, ~~and~~ pharmacy claims, and dental claims that this rule requires a carrier to report.

~~(p)~~ (18) "Healthcare ~~F~~ facility" means a hospital or ambulatory surgical facility.

~~(q)~~ (19) "Healthcare ~~Facility Data~~ facility data" means ambulatory surgery data, discharge data, or emergency room data.

~~(r)~~ (20) "HEDIS" means the Healthcare Effectiveness Data and Information Set, a set of standardized performance measures developed by the NCQA.

~~(s)~~ (21) "HEDIS data" means the complete set of HEDIS measures calculated by the carriers according to NCQA specifications, including a set of required measures and voluntary measures defined by the department, in consultation with the carriers.

~~(t)~~ (22) "Hospital" means a general acute hospital or specialty hospital as defined in Section 26B-2-201 that is licensed under Title R432.

~~(u)~~ "Level 1 data element" means a required reportable data element.

~~(v)~~ "Level 2 data element" means a data element that is reported when the information is available from the patient's hospital record.

~~(w)~~ (23) "Identifiable health data" means any item, collection, or grouping of data which makes the individual supplying it or described in the data identifiable. Identifiable data may also be referred to as limited data.

~~(24)~~ (a) "Limited data" means data that does not contain 16 of the 18 identifiers itemized by the HIPAA Privacy Rule for creating de-identified data.

~~(b)~~ Of the 18 identifiers, limited data shall only contain:

~~(i)~~ ages in years, months, or days or hours, and single category for those ages 89 and older;

~~(ii)~~ city, state, five digits or more zip code; and

~~(iii)~~ dates such as admission, discharge, service, date of birth, date of death.

~~(c)~~ Limited data is considered to be identifiable data and subject to the same restrictions unless an exception is granted in writing.

~~(25)~~ "NCQA" means the National Committee for Quality Assurance, a not-for-profit organization committed to evaluating and reporting on the quality of managed care plans.

~~(x)~~ "Order" means an action of the committee that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.

~~(y)~~ (26) "Patient Social Security number" is the social security number of a person receiving health care.

~~(aa)~~ (27) "Performance ~~M~~ measure" means the quantitative, numerical measure of an aspect of the carrier, or its membership in part or in its entirety, or qualitative, descriptive information on the carrier in its entirety as described in HEDIS.

~~(bb)~~ "Program" means the Health Care Statistics Program within the Utah Department of Health and Human Services.

~~(cc)~~ "Public Use Data Set" means a data extract or a subset of a database that is deemed by the program to not include identifiable data or where the probability of identifying individuals is minimal.

NOTICES OF PROPOSED RULES

~~(dd)~~28) "Report" means a disclosure of data or information collected or produced by the ~~[committee or program]~~department, including a compilation, study, or analysis designed to meet the needs of specific audiences.

~~(ee)~~29) "Research and ~~[Statistical Purposes]~~statistical purposes" means having the objective of creating knowledge or answering questions, including a systematic investigation that includes development, testing, and evaluation; the description, estimation, projection, or analysis of the characteristics of individuals, groups, or organizations; an analysis of the relationships between or among these characteristics; the identification or creation of sampling frames and the selection of samples; the preparation and publication of reports describing these matters; and the development, implementation, and maintenance of methods, procedures, or resources to support the efficient use or management of the data.

~~(ff)~~ "Research Data Set" means a data extract or subset of a database intended for use by data users for bona fide research or statistical purposes that may include identifiable information or where there is more than a minimal probability that the data could be used to identify individuals.

~~(gg)~~ "Record linkage number" is an irreversible, unique, encrypted number that will replace patient social security number.

~~(hh)~~ 30) "Sample file" means the data file containing records of selected eligible enrollees drawn by the survey agency from the carrier's sampling frame.

~~(ii)~~31) "Sampling ~~[F]~~frame" means the carrier enrollment file as described in the criteria outlined by the NCQA survey specifications.

~~(jj)~~32) "Submission year" means the year immediately following the covered period.

~~(kk)~~33) "Survey agency" means an independent contractor on contract with the ~~[-]~~Health Care Statistics Program.

~~(ll)~~34) "Utah Health Care Performance Measurement Plan" means the plan for data collection and public reporting of health-related measures, adopted by the ~~[Utah Health Data Committee]~~department to establish a statewide health performance reporting system.

~~(mm)~~ "Uniform billing form" means the uniform billing form recommended for use by the National Uniform Billing Committee.

~~(nn)~~ 35) "Utah Healthcare Facility Data Submission Guide" means the document referenced in Subsection R428-1-4(1).

~~(oo)~~36) "NCQA Survey Specifications" means the document referenced in Subsection R428-1-4(2).

~~(pp)~~37) "NCQA HEDIS Specifications" means the document referenced in Subsection R428-1-4(3).

~~(qq)~~38) "Data Submission Guide for Claims Data" means the document referenced in Subsection R428-1-4(4).

39) "Violation" means a failure to comply with any requirement found in Title R428 by a person or entity subject to Title R428.

40) "Violator" means any person or entity subject to Title R428 who does not comply with a requirement in Title R428.

R428-2-[4]3. Technical Assistance.

The program may provide technical assistance or consultation to a data supplier upon request and resource availability. The consultation shall be to enable a data supplier to submit the required data according to Title R428.

R428-2-[5]4. Data Classification and Access.

~~(1) Data collected by the committee~~ (1) Identifiable health data collected by the department is not subject to subpoena or similar compulsory process in any civil or criminal, judicial, administrative, or legislative proceeding, nor shall any individual or organization with lawful access to identifiable health data be compelled to testify with regard to such health data, except that data pertaining to a party in litigation may be subject to subpoena or similar compulsory process in an action brought by or on behalf of such individual to enforce any liability arising under this part.

~~(2) Data collected by the department~~ are not public, and as such are exempt from the classification and release requirements specified in Title 63g, Chapter 2, Government Records Access and Management Act.

~~(2)3~~ Any person having access to data collected or produced by the ~~[committee or the program]~~department under Title 26B, Chapter 8, Part 5, Utah Health Data Authority ~~[Act shall]~~may not:

- (a) take any action that might provide information to any unauthorized individual or agency;
- (b) scan, copy, remove, or review any information to which specific authorization has not been granted;
- (c) discuss information with unauthorized persons which could lead to the identification of individuals; or
- (d) give access to any information by sharing passwords or file access codes.

~~(3)4~~ Any person having access to data collected or produced by the ~~[committee or the program]~~department under Title 26B, Chapter 8, Part 5, Utah Health Data Authority ~~[Act]~~shall:

- (a) maintain the data in a safe manner which restricts unauthorized access;
- (b) limit the use of the data to the purposes for which access is authorized; and
- (c) immediately report any unauthorized access to the program or its designated security officer.

~~(4)5~~ A failure to report known violations by others is subject to the same punishment as a personal violation.

~~(5)6~~ The ~~[program]~~department shall deny a person access to the facilities, services, and data as a ~~[consequence]~~result of any violation of the responsibilities specified in this section.

R428-2-[6]5. Editing and Validation.

(1) Each data supplier shall review each required record before submission. ~~[-]~~The review shall consist of checks for accuracy, consistency, completeness, and conformity.

(2) The ~~[program]~~department may subject submitted data to edit checks. ~~[-]~~The ~~[program]~~department may require the data supplier to correct data failing an edit check as follows:

- (a) the ~~[program]~~department may, by first class ~~[U.S.]~~US mail or email, inform the submitting data supplier of any data failing an edit check; and

(b) the submitting data supplier shall make necessary corrections and resubmit ~~all~~ any corrected data to the ~~[program]department~~ within ten business days of the date the ~~[program]department~~ notified the supplier.

(3) The ~~[program]department~~ may reject any data submission that fails to conform to the submission requirements. A data supplier whose submission is rejected shall resubmit the data in the appropriate, corrected format to the ~~[program]department~~ or its designee within ten ~~state~~ business days of notice that the data does not meet the submission requirements.

R428-2-~~7~~6. Error Rates.

The ~~[committee]department~~ may establish and order reporting quality standards based on non-reporting or edit failure rates.

R428-2-~~8~~7. Data Disclosure.

(1) The ~~[committee]department~~ may disclose data received from data suppliers or data or information derived from this data as specified in Title 26B, Chapter 8, Part 5, Utah Health Data Authority ~~Act~~.

(2) The ~~[program]department~~ may prepare reports relating to health care cost, quality, access, health promotion programs, or public health. These actions may be to meet legislative intent or upon request from individuals, government agencies, or private organizations. ~~[-]The [program]department may create reports in a variety of formats including print or electronic documents, searchable databases, [websites]websites, or other user-oriented methods for displaying information.~~

(3) Unless otherwise specified by the ~~[committee]department~~, the time period for data suppliers and health care providers to prepare a response as required in Subsections 26B-8-506(1) and 26B-8-506(3) shall be 15 business days. ~~[-]If a data supplier fails to respond in the specified time frame, the [committee]department may conclude that the information is correct and suitable for release.~~

(4) The ~~[committee]department~~ may note in a report that ~~an~~ accurate appraisal of a certain category or entity cannot be presented because of a failure to comply with the ~~[committee's]department's~~ request for data, edit corrections, or data validation.

(5) The ~~[program]department~~ may release to the data supplier or its designee any data elements provided by the supplier without notification when a data supplier requests the data be so supplied.

(6) The ~~[committee]department~~ may disclose data in computer readable formats.

(7) The ~~[Director of the program]department~~ may approve the disclosure of ~~[a public use]de-identified data[set]~~ upon receipt of a written request that includes the following:

- (a) name, address, email, and telephone number of the requesting organization;
- (b) a statement of the purpose for which the data will be used; and
- (c) agreement to other terms and conditions as deemed necessary by the ~~[program]department~~.

(8) As allowed by Section 26B-8-508, the ~~[committee]department~~ may release identifiable~~d~~ data for research or statistical purposes. ~~[-]A person requesting [a research]the identifiable data [set]must provide:~~

- (a) name of ~~the~~ requesting organization, address, email, and telephone number of the organization and for each person who will have access to the ~~[research]identifiable data[set]~~;
 - (b) statement of the purpose for which the ~~[research]identifiable data [set]~~will be used;
 - (c) starting and ending dates for which the ~~[research]identifiable data [set]~~is requested;
 - (d) explanation of why~~[a public use data set] de-identified~~ could not be used to accomplish the stated research purposes, including a separate justification for each ~~identifiable data element [containing identified data]~~requested;
 - (e) evidence of the integrity and ability to safeguard the data from any breach of confidentiality;
 - (f) evidence of competency to effectively use the data in the manner proposed;
 - (g) satisfactory review from a ~~[program]department~~-approved institutional review board;
 - (h) guarantee that no further disclosure will occur without prior approval of the ~~[program]department~~; and
 - (i) a signed agreement to comply with other terms and conditions as stipulated by the ~~[committee]department~~.
- (9) A person receiving data from the ~~[Health Data Committee shall]department may~~ not contact or try to contact any patient or member included in the data.

(10) A person receiving data from the ~~[Health Data Committee shall]department may~~ not contact or try to contact any entity or provider included in the data without formal approval by the ~~[Committee]department~~.

(11) Data disclosed by carriers and received by the department pursuant to Title R428 is exempt from HIPAA. This rule only refers to the data de-identification standards within HIPAA.

R428-2-~~9~~8. Penalties.

(1) The ~~[program]department~~ may apply civil penalties or subject violators to legal prosecution.

(2) Sections 26B-1-224 and 26B-8-509 specify civil and criminal penalties for failure to comply with the requirements of Title R428 or Title 26B, Chapter 8, Part 5, Utah Health Data Authority ~~Act~~.

~~[-] (3) Notwithstanding Subsection R428-2-9(2), any~~ (3) Any person or entity that violates Title R428 may be assessed an administrative civil money penalty not to exceed \$3,000 upon an administrative finding of a first violation and up to \$5,000 for a subsequent similar violation within two years. ~~[-]A person may also be subject to penalties imposed by a civil or criminal court, which may not exceed \$5,000 or a class B misdemeanor for the first violation and a class A misdemeanor for any subsequent similar violation within two years.~~

~~[-] (4) Notwithstanding Subsections R428-2-9(2) and R428-2-9(3), a~~ (4) A data supplier that violates Title R428 may be assessed an administrative civil money penalty for each day of non-compliance. ~~[-]Fines may be imposed as follows:~~

- (a) not to exceed the sum of \$10,000 per violation;
- (b) each day of violation is a separate violation; and
- (c) deadlines established in separate sections of Title R428 are considered as separate provisions.

NOTICES OF PROPOSED RULES

(5) The ~~[program]~~department may impose a fine on any data supplier that misses a deadline to submit data required in Title R428 as follows:

- (a) fine of \$250 per violation shall be imposed until the data has been supplied as required;
- (b) fines shall increase to \$500 per violation for each violation when any data supplier that is currently in violation misses another deadline; and

(c) after 45 consecutive calendar days of violation, the ~~[program]~~department may adjust the per day penalty subject to the limits in Subsection (4)(a) ~~[taking into account]~~considering the following aggravating and mitigating circumstances:

- (i) prior violation history and history of compliance;
- (ii) good faith efforts to prevent violations; and
- (iii) size and financial capability of the data supplier.

(6) The actions described in this section are designated as adjudicative proceedings. Adjudicative proceedings are governed by Rule R497-100.

R428-2-~~10~~9. Exemptions and Extensions.

(1) The ~~[committee]~~department may grant exemptions or extensions from reporting requirements in Title R428 to data suppliers under certain circumstances.

(2) The ~~[committee]~~department may grant an exemption to a data supplier when the supplier demonstrates that compliance imposes an unreasonable cost.

(a) A data supplier may request an exemption from any particular requirement or set of requirements of Title R428. The data supplier must submit a request for exemption no less than 30 calendar days before the date the supplier would have to comply with the requirement.

(b) The ~~[committee]~~department may grant an exemption for a maximum of one calendar year.[-] A data supplier wishing an additional exemption must submit an additional, separate request.

(3) The ~~[committee]~~department may grant an extension to a data supplier when the supplier demonstrates that technical or unforeseen difficulties prevent compliance.

(a) A data supplier may request an extension for any deadline required in Title R428. [-]For each deadline for which the data supplier requests an extension, the data supplier must submit its request no less than seven calendar days before the deadline in question.

(b) The ~~[committee]~~department may grant an extension for a maximum of 30 calendar days.[-] A data supplier wishing an additional extension must submit an additional, separate request.

(4) The supplier requesting an extension or exemption shall include:

- (a) data supplier's name, mailing address, telephone number, and contact person;
- (b) dates the exemption or extension is to start and end;
- (c) description of the relief sought, including reference to specific sections or language of the requirement;
- (d) statement of facts, reasons, or legal authority in support of the request; and
- (e) a proposed alternative to the requirement or deadline.

(5) A carrier that covers fewer than 2,500 individual Utah residents as of January 1 of a given year is exempt from ~~[all]~~the requirements of this title except that once a carrier has covered a cumulative total of 2,500 such individuals during a calendar year, they are no longer considered exempt for the ~~[remainder]~~rest of that year.

(6) A stand-alone dental carrier that covers fewer than 20,000 individual Utah residents as of January 1 of a given year is exempt from ~~[all]~~the requirements of this title except that once a stand-alone dental carrier has covered a cumulative total of 20,000 such individuals during a calendar year, they are no longer considered exempt for the ~~[remainder]~~rest of that year.

R428-2-~~14~~10. Contractor Liability.

(1) A data supplier may contract with another entity to submit required data elements on their behalf under Title R428. [-]In such cases, the data supplier must notify the ~~[program]~~department of the identity and contact information of the contractor.

(2) Regardless of the existence of a contractor, the responsibility for complying with ~~[all]~~the requirements of Title R428 remains solely with the data supplier.

R428-2-~~12~~11. Data Supplier Contacts.

(1) Data suppliers required to submit healthcare claims data or healthcare facility data shall provide current contact information to the ~~[program]~~department by September 1 of each year using a ~~[web site]~~website provided by the ~~[program]~~department for this purpose.

(2) Each data supplier newly required to submit healthcare claims data or healthcare facility data under this rule, including by a change to the rule or because it no longer qualifies for an exemption, shall provide contact information to the ~~[program]~~department within 30 days of learning that they will be required to submit data under this rule.

(3) Each data supplier shall designate a person who is responsible for submitting data and a person who is responsible for communicating with the ~~[program]~~department regarding the submission of the data. Each data supplier shall notify the ~~[program]~~department of changes in this designation within 30 calendar days.

KEY: health, health policy, health planning

Date of Last Change: ~~[November 8, 2023]~~2024

Notice of Continuation: August 13, 2021

Authorizing, and Implemented or Interpreted Law: 26B-1-413

NOTICE OF SUBSTANTIVE CHANGE**TYPE OF FILING:** Repeal**Rule or Section Number:****R428-5****Filing ID: 56864****Agency Information**

1. Title catchline:	Health and Human Services, Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state	Salt Lake City, UT	
Mailing address:	PO 144004	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	Phone:	Email:
Rick Little	385-244-8829	ricklittle@utah.gov
Bri Murphy	385-501-9347	brilmurphy@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:
R428-5. Appeal and Adjudicative Proceedings
3. Purpose of the new rule or reason for the change:
Appeal and adjudicative proceeding provisions for the Department of Health and Human Services have been moved to Rule R497-100. Provisions specific to Utah Health Data Committee operations are not included in Rule R497-100, but as the committee no longer operates the appeals process, these provisions, which previously existed in this rule, should be repealed. Therefore, Rule R428-5 should be repealed in its entirety.
4. Summary of the new rule or change:
This rule is being repealed in its entirety, as any relevant provisions have moved to Rule R497-100 and any remaining provisions have been determined unnecessary.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated fiscal impact to the state budget as a result of this filing, as any relevant provisions have moved to Rule R497-100, which supersedes any other rules related to appeals and adjudications. This repeal does not add, remove, or modify any existing requirements or restrictions for the state.
B) Local governments:
There is no anticipated fiscal impact to local government as a result of this filing, as any relevant provisions have moved to Rule R497-100, which supersedes any other rules related to appeals and adjudications. This repeal does not add, remove, or modify any existing requirements or restrictions for local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated fiscal impact to small businesses as a result of this filing, as any relevant provisions have moved to Rule R497-100, which supersedes any other rules related to appeals and adjudications. This repeal does not add, remove, or modify any existing requirements or restrictions for small businesses.

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

There is no anticipated fiscal impact to non-small businesses as a result of this filing, as any relevant provisions have moved to Rule R497-100, which supersedes any other rules related to appeals and adjudications. This repeal does not add, remove, or modify any existing requirements or restrictions for non-small businesses.

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

There is no anticipated fiscal impact to persons other than small businesses, non-small businesses, state, or local government entities as a result of this filing, as any relevant provisions have moved to RuleR497-100, which supersedes any other rules related to appeals and adjudications. This repeal does not add, remove, or modify any existing requirements or restrictions for other persons.

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 anticipated compliance costs for affected persons as a result of this filing, as any relevant provisions have moved to Rule R497-100.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-8-501.1		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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:	10/21/2024
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R428. Health and Human Services, Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics.

~~R428-5. Appeal and Adjudicative Proceedings.~~

~~R428-5-1. Legal Authority.~~

~~_____ This rule is promulgated in accordance with Title 26B, Chapter 8, Part 5, Utah Health Data Authority Act.~~

~~R428-5-2. Purpose.~~

~~_____ To establish procedures used by the Utah Health Data Committee for its adjudicative proceedings.~~

~~R428-5-3. Type of Proceeding.~~

~~_____ The actions of the committee and requests for committee action are designated as formal adjudicative proceedings. The committee may at any time before a final order is issued in any adjudicative proceeding convert a formal adjudicative proceeding to an informal adjudicative proceeding, or an informal adjudicative proceeding to a formal adjudicative proceeding if conversion of the proceeding is in the public interest and conversion of the proceeding does not unfairly prejudice the rights of any party.~~

~~R428-5-4. Formal Proceedings.~~

~~_____ (1) The committee or its designated representative shall preside over a formal proceeding initiated by a notice of committee action or in response to a request for committee action.~~

~~_____ (2) The content of the notice of committee action shall comply with Subsection 63G-4-201(2). Formal hearings shall be held at the next regularly scheduled committee meeting unless prior arrangements are made for an alternate date and proper notice is provided to each required party.~~

~~_____ (3) Within 30 calendar days of the mailing date of a notice of committee action, the respondent or his representative shall file with the program and with each person known to have a direct interest a written, signed response that includes:~~

- ~~_____ (a) the agency's file number or other reference number;~~
- ~~_____ (b) the name of the adjudicative proceeding;~~
- ~~_____ (c) a statement of the relief or action sought;~~
- ~~_____ (d) a statement of the facts; and~~
- ~~_____ (e) a statement summarizing the reasons for granting the relief requested.~~

~~_____ (4) A conference may be scheduled by the Director of the program or the presiding officer to encourage settlement before the hearing.~~

~~_____ (5) The committee or its designated representative as presiding officer shall have the authority to issue subpoenas at their discretion.~~

~~_____ (6) Within a reasonable time after the hearing, or after the filing of any post-hearing papers permitted by the presiding officer, the presiding officer shall sign and issue an order that includes:~~

- ~~_____ (a) a statement of the presiding officer's findings of fact;~~
- ~~_____ (b) a statement of the presiding officer's conclusions of law;~~
- ~~_____ (c) a statement of the reasons for the presiding officer's decision;~~
- ~~_____ (d) a statement of any relief ordered by the agency;~~
- ~~_____ (e) a notice of the right to apply for committee reconsideration;~~
- ~~_____ (f) a notice of any right to administrative or judicial review available; and~~
- ~~_____ (g) the time limits applicable to any reconsideration or review.~~

~~R428-5-5. Default and Reconsideration.~~

~~_____ (1) The presiding officer may enter an order of default against a party if:~~

- ~~_____ (a) a party in an informal adjudicative proceeding fails to participate in the adjudicative proceedings;~~
- ~~_____ (b) a party to a formal adjudicative proceeding fails to attend or participate in a properly scheduled hearing after receiving proper notice; or~~

~~_____ (c) a respondent in a formal adjudicative proceeding fails to file a response within the time frame specified in Subsection R428-5-4(3).~~

~~_____ (2) The order of default shall include a statement of the grounds for default and shall be mailed, electronically or by paper, to each required party.~~

~~_____ (3) A defaulted party may seek to have the committee set aside the default order and any order in the adjudicative proceeding issued subsequent to the default order, by following the procedures outlined in the Utah Rules of Civil Procedure. A motion to set aside a default and any subsequent order shall be made to the presiding officer.~~

~~_____ (4) In an adjudicative proceeding begun by the agency, or in an adjudicative proceeding that has other parties besides the party in default, the presiding officer shall, after issuing the order of default, conduct any further proceedings necessary to complete the adjudicative~~

NOTICES OF PROPOSED RULES

proceeding without the participation of the party in default and shall determine issues in the adjudicative proceeding, including those affecting the defaulting party.

~~_____ (5) In an adjudicative proceeding that has no parties other than the committee and the party in default, the presiding officer shall, after issuing the order of default, dismiss the proceeding.~~

~~_____ (6) Any party may file a written request for reconsideration with the committee stating the specific grounds upon which relief is requested. The request must be filed within 20 days after:~~

~~_____ (a) the date that an Order of Review is issued in an informal adjudicative proceeding; or~~

~~_____ (b) the date that a request for review is denied; or~~

~~_____ (c) the date that a final order is issued in a formal adjudicative proceeding.~~

~~_____ (7) The request for reconsideration shall be filed with the committee and one copy shall be sent by mail, electronically or by paper, to each party by the person making the request including:~~

~~_____ (a) A written order from the committee granting or denying the request within 30 working days of filing of the request or~~

~~_____ (b) If the committee does not issue an order granting or denying the request within 30 working days after the request is filed, the request for reconsideration shall be considered denied.~~

R428-5-6. Judicial Review.

~~_____ An aggrieved party may obtain judicial review of final committee action upon exhaustion of available administrative remedies. The aggrieved party shall file a petition for judicial review of final agency action within 30 calendar days after the final committee action is issued or is considered to have been issued under Section R428-5-5.~~

R428-5-7. Declaratory Orders.

~~_____ (1) Any person or agency may petition for a committee declaratory ruling of rights, status, or other legal relations under a specific statute or rule by submitting a written petition. The petition shall contain the following information:~~

~~_____ (a) the specific statute or rule to be reviewed;~~

~~_____ (b) the situation or circumstances in which applicability is to be reviewed;~~

~~_____ (c) the reason or need for the applicability review;~~

~~_____ (d) the name, address, and telephone number where the petitioner can be contacted; and~~

~~_____ (e) the date of submission and signature of the petitioner.~~

~~_____ (2) The committee or its authorized representative shall review and consider the petition and may issue a declaratory ruling:~~

~~_____ (a) the applicability or non-applicability of the specific statute or rule;~~

~~_____ (b) the reasons for the applicability or non-applicability of the specific statute or rule; and~~

~~_____ (c) any requirements imposed on the agency, petitioner, or any other person as a result of the ruling.~~

~~_____ (3) The committee may as appropriate:~~

~~_____ (a) interview the petitioner;~~

~~_____ (b) consult with counsel or the Attorney General; or~~

~~_____ (c) take any action the committee in its judgment deems necessary to provide that the petition receives adequate review and due consideration.~~

~~_____ (4) If the committee has not issued a declaratory order within 60 days after receipt of the petition, the petition is denied.~~

~~_____ (5) The committee will not issue a declaratory order concerning any action which could result in the Department imposing sanctions.~~

R428-5-8. Informal Proceedings.

~~_____ (1) The committee may convert a formal proceeding to informal as specified under Section R428-5-3. The Chairperson of the committee or designated representative shall act as presiding officer in an informal proceeding. No response or other pleading is required subsequent to the receipt of a notice of agency decision unless specifically requested and a hearing is not required to be held.~~

~~_____ (2) The presiding officer may schedule a conference to encourage settlement before issuing a decision.~~

~~_____ (3) Before issuing a final order in an informal proceeding, the presiding officer may convert the proceeding to a formal proceeding if such action is deemed to be in the public interest and does not unfairly prejudice the rights of any party.~~

~~_____ (4) Unless a time frame is specified elsewhere in this chapter, the presiding officer shall, within a reasonable time of receipt of a request for agency action, issue a signed order in writing stating:~~

~~_____ (a) the decision;~~

~~_____ (b) the reasons for the decision;~~

~~_____ (c) notice of the right to any administrative or judicial review available; and~~

~~_____ (d) the time limits for requesting review.~~

~~_____ (5) Within 30 calendar days of the issuance of an order by the presiding officer, a party aggrieved by the decision may seek review of that order by filing a written request for review by the full committee. The request shall:~~

~~_____ (a) be signed by the party requesting review;~~

~~_____ (b) state the grounds for review and the relief requested;~~

~~_____ (c) be dated the date of mailing; and~~

~~_____ (d) be sent by mail, electronically or by paper, to the presiding officer and to each party of the proceeding.~~

~~_____ (6) Within 15 calendar days of the mailing of the request for review, any party may file a response with the committee. A copy of the response must also be mailed, electronically or by paper, to the presiding officer and each of the parties.~~

- ~~(7) The committee may issue a notice granting or denying the request for review within 30 working days of filing of the request. If the committee does not issue a notice granting or denying the request within the 30 day period the request for review shall be considered denied.~~
- ~~(8) If a review of the order is granted, the notice shall specify the date a hearing shall be conducted before the full committee.~~
- ~~(9) Within a reasonable time from the completion of the hearing, the committee shall issue a written order on review which shall contain:

 - ~~(a) a designation of the statute or rule permitting or requiring review;~~
 - ~~(b) a statement of the issues reviewed;~~
 - ~~(c) findings of fact as to each of the issues reviewed;~~
 - ~~(d) conclusions of law as to each of the issues reviewed;~~
 - ~~(e) the reasons for the disposition;~~
 - ~~(f) whether the decision of the presiding officer or agency is to be affirmed, reversed, or modified, and whether any portion of the adjudicative proceeding is to be remanded;~~
 - ~~(g) a notice of any right of further administrative reconsideration or judicial review available; and~~
 - ~~(h) the time limit applicable to any review.~~~~

~~KEY: health, health policy, health planning~~
~~Date of Last Change: November 8, 2023~~
~~Notice of Continuation: August 13, 2021~~
~~Authorizing, and Implemented or Interpreted Law: 26B-1-413]~~

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R428-10	Filing ID: 56866

Agency Information

1. Title catchline:	Health and Human Services, Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state	Salt Lake City, UT	
Mailing address:	PO 144004	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	Phone:	Email:
Lori Savoie	385-242-6404	lsavoie@utah.gov
Bri Murphy	385-501-9347	brilmurphy@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:
R428-10. Health Data Authority Healthcare Facility Data Reporting Rule
3. Purpose of the new rule or reason for the change:
This filing makes changes to comply with HB41 of the 2024 General Session, clarifying department oversight and ownership of Title 26B, Chapter 8, Part 5, Health Data Authority, and updating references to statutory authority.
4. Summary of the new rule or change:
This filing changes the word "program" to "department" where necessary, updates statutory references, deletes one provision to adhere to statute for acceptable data release, and makes style and formatting changes to comply 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:

There is no anticipated cost or benefit to the state budget as this amended rule clarifies oversight of Title 26B, Chapter 8, Part 5, Health Data Authority. The amended rule does not impact how the department functions with other state parties, nor does the amendment add, remove, or modify requirements or restrictions.

B) Local governments:

This rule change is not expected to have a fiscal impact to local governments. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to local governments.

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

This rule change is not expected to have a fiscal impact on small businesses. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to small businesses.

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

This rule change is not expected to have a fiscal impact on non-small businesses. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to non-small businesses.

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

This rule change is not expected to have a fiscal impact on other persons. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to other 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 change is not expected to have any compliance 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-8-501.1	Section 26B-8-507	
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	10/21/2024
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R428. Health and Human Services, Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics.

R428-10. Health Data Authority Healthcare Facility Data Reporting Rule.

R428-10-1. ~~Legal~~ Authority.

This rule is promulgated in accordance with Title 26B, Chapter 8, Part 5, Utah Health Data Authority ~~Act~~.

R428-10-2. Purpose.

This rule ~~establishes~~ requirements for ~~healthcare~~ health care facilities to submit data to the ~~Utah~~ Department of Health and Human Services (~~department~~).

R428-10-3. Definitions.

Terms used in this rule are defined in Section R428-2-3.

~~**R428-10-3. Coordination of Rules.**~~

~~The program will use data collected in this section to develop and maintain a statewide Healthcare Facility Database. Upon receipt of emergency room data, the program shall provide a copy of the emergency room data to the Office of Emergency Medical Services and Preparedness for use as described in R426.]~~

R428-10-4. Data Reporting.

(1) ~~A~~ ~~Healthcare~~ health care facilit~~ies~~y shall submit ambulatory surgery data to the ~~program~~ department. In addition, hospitals shall submit discharge data and emergency data to the ~~program~~ department.

(2) ~~A~~ ~~Healthcare~~ health care facilit~~ies~~y shall submit healthcare facility data to the ~~program~~ department or its designee in accordance with the Utah Healthcare Facility Data Submission Guide, incorporated by reference in Rule R428-1.

(3) ~~A~~ ~~Healthcare~~ health care facilit~~ies~~y shall submit data for ~~all~~ each field[s] required in this section if the data ~~are~~ is available. ~~A~~ ~~Healthcare~~ health care facilit~~ies~~y shall notify the ~~program~~ department or its designee of any data element[s] or field[s] required to be reported under this rule ~~but are~~ that is not available to the ~~healthcare~~ health care facility.

(4) ~~A~~ ~~Healthcare~~ health care facilit~~ies~~y shall submit healthcare facility data to the ~~program~~ department or its designee according to the schedule in the Utah Healthcare Facility Data Submission Guide.

(5) The ~~director of the program~~ department may approve an alternate submission date ~~as long as~~ if it meets the needs of the ~~committee~~ department.

(6) ~~A~~ ~~Healthcare~~ health care facilit~~ies~~y shall submit healthcare facility data ~~by~~ using a secure method according to the Utah Healthcare Facility Data Submission Guide.

(7) The ~~program~~ department or its designee may conduct on-site audits to verify the accuracy and completeness of ~~all~~ each submission~~als~~.

KEY: health, health data, health planning, hospital policy

Date of Last Change: ~~November 8, 2023~~ 2024

Notice of Continuation: August 13, 2021

Authorizing, and Implemented or Interpreted Law: ~~26B-1-413~~ 26B-8-501.1; 26B-8-507

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R428-12	Filing ID: 56925

Agency Information

1. Title catchline:	Health and Human Services, Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state	Salt Lake City, UT	
Mailing address:	PO 144004	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	Phone:	Email:
Lori Savoie	385-242-6404	lsavoie@utah.gov
Bri Murphy	385-501-9347	brilmurphy@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:
R428-12. Health Data Authority Survey of Enrollees in Health Plans
3. Purpose of the new rule or reason for the change:
This filing makes changes to comply with HB41 of the 2024 General Session, clarifying department oversight and ownership of Title 26B, Chapter 8, Part 5, Health Data Authority, and updating references to statutory authority.
4. Summary of the new rule or change:
This filing changes the word "program" to "department" where necessary, updates statutory references, and makes style and formatting changes to comply 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:
There is no anticipated cost or benefit to the state budget as this amended rule clarifies oversight of Title 26B, Chapter 8, Part 5, Health Data Authority. The amended rule does not impact how the department functions with other state parties, nor does the amendment add, remove, or modify requirements or restrictions.
B) Local governments:
This rule change is not expected to have a fiscal impact to local governments. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have a fiscal impact on small businesses. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to small businesses.

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

This rule change is not expected to have a fiscal impact on non-small businesses. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to non-small businesses.

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

This rule change is not expected to have a fiscal impact on other persons. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to other 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 change is not expected to have any compliance 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-8-501.1	Section 26B-8-507	
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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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	11/01/2024
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R428. Health and Human Services, Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics.

R428-12. Health Data Authority Survey of Enrollees in Health Plans.

R428-12-1. ~~Legal~~ Authority.

This rule is promulgated in accordance with Title 26B, Chapter 8, Part 5, Utah Health Data Authority ~~Act~~.

R428-12-2. Purpose.

This rule~~e~~ establishes the process for collecting necessary enrollee satisfaction data from Utah health plan carriers (carriers) ~~that are needed~~ to:

- (1) promote informed consumer choice in plan selection; and
- (2) measure the quality of care provided to ~~enrollees of Utah~~ carrier enrollees.

R428-12-3. Definitions.

Terms used in this rule are defined in Section R428-2-3.

R428-12-~~3~~4. Submission of Satisfaction Data.

(1) Each carrier covered by the scope determined in Section R428-12-5 shall compile and submit enrollee satisfaction data provided through the~~s~~ Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey ~~or CAHPS data~~ to the ~~program~~ department ~~according to this rule~~.

(2)(a) By January 1 of each year, each carrier shall submit to the ~~program~~ department a plan for creating and providing CAHPS data for the preceding calendar year.

(b) ~~For each required survey, t~~The plan must ~~clearly indicate~~ state whether the carrier will use the ~~program~~ department's contracted vendor or ~~whether the carrier will~~ contract with a survey agency on ~~their~~ its own.

(3) By July 1 of each year, each carrier shall submit to the ~~program~~ department CAHPS data for the preceding calendar year, unless an alternate timeframe has been determined under Section R428-12-5, in which case the carrier shall submit the data by the alternate due date.

R428-12-~~4~~5. Sampling Frame Submission.

(1) The sources for enrollment data are ~~Utah~~ carriers. ~~Each carrier shall include any eligible enrollee in the sampling frame~~ ~~all eligible enrollees~~.

(2) Each carrier shall create the sampling frame according to the criteria outlined in the ~~most recent~~ National Committee for Quality Assurance Survey Specifications, incorporated by reference in Subsection R428-1-4(2) ~~released by the National Committee for Quality Assurance (NCQA)~~.

(3) The ~~department may audit the~~ sampling frame and ~~any~~ procedure~~s~~ used by the reporting carrier ~~are subject to audit by the program~~.

(4) ~~The~~Each carrier shall copy the sampling frame using an electronic medium acceptable to the survey agency and ~~then send~~ submit the copy to the survey agency.

(5) ~~The~~Each carrier shall fill out the ~~Sample Description~~ sheet ~~to be~~ provided by the survey agency and ~~send it~~ submit the sheet with the electronic sample file. ~~Each carrier shall submit to the survey agency the sampling frame for each of its products no later than four weeks after the receipt of the sampling memo from the survey agency.~~

R428-12-~~5~~6. Administration of Survey.

Each year, the ~~Utah Department of Health and Human Services~~ department, in consultation with carriers, ~~will~~ shall determine the target survey population, survey timeframes, and ~~the~~ scope of the survey.

KEY: health maintenance organization, performance measurement, health care quality, preferred provider organization

Date of Last Change: ~~November 8, 2023~~ 2024

Notice of Continuation: August 13, 2021

Authorizing, and Implemented or Interpreted Law: ~~26B-1-413~~ 26B-8-501.1; 26B-8-507

NOTICE OF SUBSTANTIVE CHANGE**TYPE OF FILING:** Amendment**Rule or Section Number:****R428-13****Filing ID: 56923****Agency Information**

1. Title catchline:	Health and Human Services, Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state	Salt Lake City, UT	
Mailing address:	PO 144004	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	Phone:	Email:
Mike Martin	801-538-9205	mikemartin@utah.gov
Bri Murphy	385-501-9347	brilmurphy@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:
R428-13. Health Data Authority. Audit and Reporting of Health Plan Performance Measures
3. Purpose of the new rule or reason for the change:
This filing makes changes to comply with HB41 of the 2024 General Session, clarifying department oversight and ownership of Title 26B, Chapter 8, Part 5, Health Data Authority, and updating references to statutory authority.
4. Summary of the new rule or change:
This filing changes the word "program" to "department" where necessary, updates statutory references, and makes style and formatting changes to comply 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:
There is no anticipated cost or benefit to the state budget as this amended rule clarifies oversight of Title 26B, Chapter 8, Part 5, Health Data Authority. The amended rule does not impact how the department functions with other state parties, nor does the amendment add, remove, or modify requirements or restrictions.
B) Local governments:
This rule change is not expected to have a fiscal impact to local governments. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have a fiscal impact on small businesses. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to small businesses.

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

This rule change is not expected to have a fiscal impact on non-small businesses. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to non-small businesses.

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

This rule change is not expected to have a fiscal impact on other persons. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to other 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 change is not expected to have any compliance 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-8-501.1		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	11/01/2024
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R428. Health and Human Services, Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics.

R428-13. Health Data Authority[-] Audit and Reporting of Health Plan Performance Measures.

R428-13-1. ~~Legal~~ Authority.

This rule is promulgated in accordance with Title 26B, Chapter 8, Part 5, Utah Health Data Authority[-Act].

R428-13-2. Purpose.

This rule~~e~~ establishes the process for collecting necessary Healthcare Effectiveness Data and Information Set (HEDIS) measures from ~~Utah~~ carriers ~~that are needed~~ to:

- (1) promote informed consumer choice in plan selection; and
- (2) measure the quality of care provided to ~~enrollees of Utah~~ carrier enrollees.

R428-13-3. Definitions.

Terms used in this rule are defined in Section R428-2-3.

R428-13-~~3~~4. Submission of Performance Measures.

- (1) Each carrier shall compile and submit HEDIS data for the preceding calendar year to the program by July 1 of each year.
- (2) By January 1 of each year, each carrier shall submit to the ~~program~~ department a plan for creating and providing HEDIS data for the preceding calendar year.
- (3)(a) ~~Before submitting data to the department.~~ ~~E~~each carrier shall contract with an independent audit agency certified by the National Committee for Quality Assurance (NCQA) to verify the HEDIS data.
- (b) ~~The independent audit agency shall verify the HEDIS data using NCQA HEDIS [s]Specifications referenced in Subsection R428-1-4(3) prior to submitting data to the program.~~
- (4) Each carrier may ~~employ~~ use the rotation strategy for HEDIS measures developed and updated by NCQA and included in the NCQA HEDIS Specifications.
- (5) If a carrier presents ~~[=]Not Reported (NR)[=]~~ for a required measure[s], it must document why it did not report the required measure.
- (6) By August 15 of the submission year. ~~E~~each carrier shall ~~cause~~ require its contracted audit agency to submit a copy of the audit agency's final report to the department ~~[by August 15 of the submission year to the program]~~. The final report shall incorporate the carrier's comments.

R428-13-~~4~~5. Exemptions.

- (1) ~~Notwithstanding~~ Regardless of the requirements in Section R428-2-10, a carrier that cannot comply with the requirements of this rule ~~must~~ shall request an exemption by January 1 of the relevant submission year.
- (2) A carrier may request an exemption from this rule if:
 - (a) the carrier did not operate in Utah ~~for~~ during the reporting year~~[-]~~;
 - (b) ~~if~~ the number of covered lives is too low for HEDIS standards~~[-]~~; or
 - (c) ~~for~~ other similarly prohibitive circumstances beyond the carrier's control apply.

KEY: health, health planning, health policy

Date of Last Change: ~~November 8, 2023~~ 2024

Notice of Continuation: May 31, 2022

Authorizing, and Implemented or Interpreted Law: ~~26B-1-413~~ 26B-8-501.1

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R428-15	Filing ID: 56922

Agency Information

1. Title catchline:	Health and Human Services, Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics
Building:	Cannon Health Building
Street address:	288 N. 1460 W.
City, state	Salt Lake City, UT

Mailing address:	PO 144004	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	Phone:	Email:
Mike Martin	801-538-9205	mikemartin@utah.gov
Bri Murphy	385-501-9347	brilmurphy@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:
R428-15. Health Data Authority Health Insurance Claims Reporting
3. Purpose of the new rule or reason for the change:
This filing makes changes to comply with HB41 of the 2024 General Session, clarifying department oversight and ownership of Title 26B, Chapter 8, Part 5, Health Data Authority, and updating references to statutory authority.
4. Summary of the new rule or change:
This filing changes the word "program" to "department" where necessary, updates statutory references, and makes style and formatting changes to comply 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:
There is no anticipated cost or benefit to the state budget as this amended rule clarifies oversight of Title 26B, Chapter 8, Part 5, Health Data Authority. The amended rule does not impact how the department functions with other state parties, nor does the amendment add, remove, or modify requirements or restrictions.
B) Local governments:
This rule change is not expected to have a fiscal impact to local governments. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have a fiscal impact on small businesses. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule change is not expected to have a fiscal impact on non-small businesses. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to 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 <i>agency</i>):
This rule change is not expected to have a fiscal impact on other persons. This rule change clarifies ownership of pre-existing legislation, the Health Data Authority, and does not apply to other 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 change is not expected to have any compliance 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-8-501.1		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	11/01/2024
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R428. Health and Human Services, Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics.

R428-15. Health Data Authority Health Insurance Claims Reporting.

R428-15-1. ~~Legal~~ Authority.

This rule is promulgated in accordance with Title 26B, Chapter 8, Part 5, Utah Health Data Authority ~~Act~~.

R428-15-2. Purpose.

This rule~~e~~ establishes requirements for ~~certa~~in entities~~a~~ carrier that pays for health care to submit data to the ~~Utah~~ Department of Health and Human Services ~~(department)~~.

R428-15-3. Definitions.

Terms used in this rule are defined in Section R428-2-3.

NOTICES OF PROPOSED RULES

R428-15-~~3~~4. Reporting Requirements.

(1) Each carrier shall submit health care claims data described in the applicable Data Submission Guide for Claims Data, incorporated by reference within Subsection R428-1-4(4), for each covered person whose primary residence is ~~where~~ Utah ~~is the covered person's primary residence~~, regardless of where the services are provided.

(2)(a) Each carrier shall submit data for ~~all~~ each field[s] contained in the Data Submission Guide for Claims Data if the data ~~are~~ is available to the carrier.

(b) Each carrier shall notify the ~~program~~ department or its designee of any data element[s] that ~~are~~ is required to be reported under this rule[s] but ~~that are~~ is not available to the carrier.

(3) Each carrier shall submit the health care claims data ~~on a~~ monthly ~~basis~~.

(4) ~~Each monthly submission is due~~, no later than the last day of the month following the month in which the carrier adjudicated the claim.

R428-15-~~4~~5. Rejection of Files.

(1) The ~~program~~ department or its designee may reject and return any data submission that ~~fails to conform to~~ does not meet the submission requirements.

(2) A carrier whose submission is rejected shall resubmit the data in the appropriate, corrected format to the ~~program~~ department ~~or its designee~~ within ten ~~state~~ business days of notice being sent that the data does not meet the submission requirements.

R428-15-~~5~~6. Limitation of Liability.

As provided in Section 26B-1-229, any data supplier that submits data pursuant to this rule cannot be held liable for having provided the required information to the department.

KEY: data, payers, claims, transparency

Date of Last Change: ~~November 8, 2023~~ 2024

Notice of Continuation: July 1, 2024

Authorizing, and Implemented or Interpreted Law: ~~26B-1-413~~ 26B-8-501.1

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal and Reenact

Rule or Section Number:

R430-8

Filing ID: 56909

Agency Information

1. Title catchline:	Health and Human Services, Residential Child Care Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
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:
R430-8. Exemptions from Child Care Licensing
3. Purpose of the new rule or reason for the change:
Following the consolidation to the Department of Health and Human Services, the Office of Licensing (OL) adopted a new General Provisions Enforcement rule, R380-600. The reason for this proposed amendment is to remove outdated or duplicative language that is now addressed in Rule R380-600. The changes also address the requirements from HB153 from the 2024 General Session. Other changes reflect new statutory references to reflect the new statute governing DLBC enforcement and penalties in accordance with SB229 from the 2024 General Session. The Child Care Licensing Committee has reviewed and approved the changes made in this amendment filing.

4. Summary of the new rule or change:

Section R430-8-7 was added to reflect the new statute governing DLBC enforcement and penalties in accordance with SB229 from the 2024 General Session. This amendment additionally removes content that is now addressed and enforced under Rule R380-600 and addresses the new requirements from HB153 from the 2024 General Session, which makes exempted certification optional, identifies the number of children under age three that can be served without certification, and requires background checks for exempt child care providers operating without a license or certificate.

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

The amendment removes content that is now represented in Rule R380-600. There will be no changes to how the state conducts background checks.

This filing may have a fiscal impact on the Department of Health and Human services, as the Office of Background Processing may have a fiscal cost due to the new background check requirements for unlicensed providers. There is no estimate of ongoing fiscal costs because there is no way of knowing the number of unlicensed providers who will submit background checks. Other changes are not anticipated to have a fiscal impact as they update citations and remove outdated and redundant language.

B) Local governments:

This filing is not anticipated to impact local governments, because it removes content that is now addressed and enforced under Rule R380-600. The DLBC Office of Licensing (OL) regulates these providers, not local government, and OL actions and penalties have no impact on local government.

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

This filing is not anticipated to have a fiscal impact on small businesses. Exempt providers are not considered small businesses, as they serve eight or fewer children in the home of the provider, this rule does not apply to small businesses. These providers are considered "affected persons" in this rule analysis.

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

This filing is not anticipated to have a fiscal impact on non-small businesses because OL does not exempt businesses employing over 50 persons from child care licensure or certification.

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 requirements introduced by HB153 from the 2024 General Session will require unlicensed child care providers to submit background checks and pay the costs associated with this process. This will require each individual subject to the background checks to pay \$53.25 for the check and an average of \$15 for fingerprinting, as the department cannot absorb these costs. OL has no way of determining how many unlicensed providers there are and how many will come forward to seek a background check as a result of this amendment and cannot, therefore, estimate the cost to persons other than small businesses, non-small businesses, state or local government entities.

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

Affected persons are unlicensed child care providers as outlined in HB153 from the 2024 General Session. This will require each individual subject to the background checks to pay \$53.25 for the check and an average of \$15 for fingerprinting, as the department cannot absorb these costs. OL has no way of determining how many unlicensed providers there are and how many will come forward to seek a background check as a result of this amendment and cannot, therefore, estimate the cost to persons other than small businesses, non-small businesses, state or local government entities.

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	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
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Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2025	FY2026	FY2027
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-2-402		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	10/30/2024
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R430. Health and Human Services, Residential Child Care Licensing.

R430-8. Exemptions From Child Care Licensing.

~~**R430-8-1. Legal Authority and Purpose.**~~

- ~~(1) Section 26B-2-402 authorizes this rule.~~
- ~~(2) This rule defines what constitutes child care that is excluded from any of the regulatory requirements of the Utah Department of Health and Human Services, Child Care Licensing Program.~~

~~**R430-8-2. Definitions.**~~

- ~~(1) "Background Finding" means information in a background check that Child Care Licensing uses to determine if a covered individual is or is not eligible to be involved with child care.~~
- ~~(2) "Calendar Week" means from Sunday through Saturday.~~

- ~~(3) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:~~
- ~~(a) count in the caregiver to child ratio;~~
 - ~~(b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or~~
 - ~~(c) supervise children.~~
- ~~(4) "CCL" means the Child Care Licensing Program in the Department of Health and Human Services that is delegated with the responsibility to enforce rules under Titles R381 and R430.~~
- ~~(5) "Child Care" means continuous care and supervision of one or more qualifying children that is:~~
- ~~(a) in place of care ordinarily provided by a parent in the parent's home;~~
 - ~~(b) for less than 24 hours a day; and~~
 - ~~(c) for direct or indirect compensation.~~
- ~~(6) "Child Care Program" means a person or business that offers child care.~~
- ~~(7) "Covered Individual" means any of the following individuals involved with a child care program:~~
- ~~(a) an owner;~~
 - ~~(b) a director;~~
 - ~~(c) a member of the governing body;~~
 - ~~(d) an employee;~~
 - ~~(e) a caregiver;~~
 - ~~(f) a volunteer, except a parent of a child enrolled in the child care program;~~
 - ~~(g) an individual age 12 years old or older who resides in the facility; and~~
 - ~~(h) anyone who has unsupervised contact with a child in care.~~
- ~~(8) "Department" means the Utah Department of Health and Human Services.~~
- ~~(9) "Eligible" means that there were no findings in a covered individual's background check that could prohibit that covered individual from being involved with child care.~~
- ~~(10) "Facility" means a child care program or the premises used for child care.~~
- ~~(11) "Involved with Child Care" means to do any of the following at or for a child care program:~~
- ~~(a) care for or supervise children;~~
 - ~~(b) volunteer;~~
 - ~~(c) own, operate, direct;~~
 - ~~(d) reside;~~
 - ~~(e) count in the caregiver to child ratio; or~~
 - ~~(f) have unsupervised contact with a child in care.~~
- ~~(12) "LIS Supported Finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.~~
- ~~(13) "Parochial Education Institution" means an institution that meets the following criteria:~~
- ~~(a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;~~
 - ~~(b) has a governing board that actively supervises and directs the educational curriculum used by the institution and exercises oversight over the health and safety of the children in the program;~~
 - ~~(c) is owned and operated by a religious institution that is registered with the federal government as an 501(c)(3) religious organization;~~
 - ~~(d) is not directly funded at public expense;~~
 - ~~(e) does not receive:~~
 - ~~(i) child care grant or subsidy funds, directly or indirectly, from the Department of Workforce Services; or~~
 - ~~(ii) child care food program funds, directly or indirectly, from the State Office of Education; and~~
 - ~~(f) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.~~
- ~~(14) "Private Education Institution" means an institution that meets the following criteria:~~
- ~~(a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;~~
 - ~~(b) has a governing board that actively supervises and directs the educational curriculum used by the institution, and exercises oversight over the health and safety of the children in the program;~~
 - ~~(c) is not directly funded at public expense;~~
 - ~~(d) does not receive:~~
 - ~~(i) child care grant or subsidy funds, directly or indirectly, from the Department of Workforce Services; or~~
 - ~~(ii) child care food program funds, directly or indirectly, from the State Office of Education; and~~
 - ~~(e) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.~~
- ~~(15) "Public School" means a school, including a charter school, that is directly funded at public expense and is regulated by a board of education governed by Title 53A, Chapter 3, Local School Boards.~~
- ~~(16) "Qualifying Child" means:~~
- ~~(a) a child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;~~

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- ~~_____ (b) a child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver;~~
- ~~or~~
- ~~_____ (c) a child who is younger than four years old and is the child of the provider or a caregiver.~~
- ~~_____ (17) "Related Child" means a child for whom a provider is the parent, legal guardian, step parent, grandparent, step grandparent, great grandparent, sibling, step sibling, aunt, step aunt, great aunt, uncle, step uncle, or great uncle.~~
- ~~_____ (18) "Relative Care" means care provided to a qualifying child by or in the home of the parent, legal guardian, step parent, grandparent, step grandparent, great grandparent, sibling, step sibling, aunt, uncle, step aunt, step uncle, great aunt, or great uncle.~~

R430-8-3. License or Certificate, Exemption, and Background Check Not Required.

- ~~_____ (1) The following types of care do not require a child care license, certificate, exemption, or the submission of background check documents to the department:~~
- ~~_____ (a) care provided on no more than two days during any calendar week;~~
- ~~_____ (b) care provided in the home of the provider for less than four hours a day, or for fewer than seven unrelated children in the home at one time;~~
- ~~_____ (c) care provided in the home of the provider on a sporadic basis only;~~
- ~~_____ (d) care provided by a facility or program owned or operated by an agency of the United States government;~~
- ~~_____ (e) a group counseling provided by a mental health therapist who is licensed to practice in this state;~~
- ~~_____ (f) a health care facility licensed pursuant to Title 26B, Chapter 2, Part 4 Child Care Licensing; or~~
- ~~_____ (g) care provided at a residential support program that is licensed by the department.~~

R430-8-4. Exempt Application and Public Notice Required.

- ~~_____ (1) The following types of care do not require a child care license or certificate from the department, but do require the provider to meet the application and public notice requirements outlined in this rule:~~
- ~~_____ (a) care provided to a qualifying child as part of a course of study at or a program administered by an educational institution that is regulated by the boards of education of this state, a private education institution that provides education in lieu of that provided by the public education system, or by a parochial education institution;~~
- ~~_____ (b) care provided to a qualifying child by a public or private institution of higher education, if the care is provided in connection with a course of study or program, relating to the education or study of children, that is provided to students of the institution of higher education;~~
- ~~_____ (c) care provided to a qualifying child at a public school by an organization other than the public school, if:~~
 - ~~_____ (i) the care is provided under contract with the public school or on school property; or~~
 - ~~_____ (ii) the public school accepts responsibility and oversight for the care provided by the organization;~~
- ~~_____ (d) care provided to a qualifying child as part of a summer camp that operates on federal land pursuant to a federal permit;~~
- ~~_____ (e) care provided by an organization that:~~
 - ~~_____ (i) qualifies for tax exempt status under Section 501(c)(3), Internal Revenue Code;~~
 - ~~_____ (ii) provides care pursuant to a written agreement with:~~
 - ~~_____ (A) a municipality that provides oversight for the program; or~~
 - ~~_____ (B) a county that provides oversight for the program; and~~
 - ~~_____ (iii) provides care to a child who is over the age of four and under the age of 13;~~
- ~~_____ (f) care provided to a qualifying child at a facility where:~~
 - ~~_____ (i) the parent or guardian of the qualifying child is physically present in the building where the care is provided while the child is in care and the parent or guardian is near enough to reach the child within five minutes if needed;~~
 - ~~_____ (ii) the duration of the care is less than four hours for an individual qualifying child in any one day;~~
 - ~~_____ (iii) the care is provided on a sporadic basis;~~
 - ~~_____ (iv) the care does not include diapering a qualifying child; and~~
 - ~~_____ (v) the care does not include preparing or serving meals to a qualifying child.~~
- ~~_____ (2) Providers listed in this subsection shall submit to the department, each year the program is open for business, an application for verification of license exempt status on the form provided by the department.~~
- ~~_____ (3) Providers listed in this subsection shall post, in a conspicuous location near the entrance of the provider's facility, a notice prepared by the department that:~~
 - ~~_____ (a) states that the facility is exempt from licensure and certification; and~~
 - ~~_____ (b) provides the department's contact information for submitting a complaint.~~
- ~~_____ (4) Substantiated complaint allegations against providers listed in this subsection will be available to the public and posted by the department on the Child Care Licensing website.~~

R430-8-5. Background Check Requirements and Agency Action Reviews.

- ~~_____ (1) An exempt provider who cares for a qualifying child as part of a program administered by an educational institution that is regulated by the State Board of Education is not subject to the background check requirements listed under this section, unless required by the United States Code, Title 42, Sections 9857-9858r, Child Care and Development Block Grant.~~
- ~~_____ (2) Except as outlined in Subsection R430-8-5(1), the requirements of this subsection apply to each facility listed in Section R430-8-4.~~
- ~~_____ (3) The provider shall submit to the department background checks and fees for each covered individual as defined in Subsection R430-8-2(7).~~

- ~~(4) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and either:~~
- ~~(a) associate that individual with their facility; or~~
 - ~~(b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.~~
- ~~(5) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:~~
- ~~(a) have the individual submit an online background check form and fingerprints for individuals age 18 years old and older;~~
 - ~~(b) authorize the individual's background check through the CCL provider's portal;~~
 - ~~(c) pay any required fees; and~~
 - ~~(d) receive written notice from CCL that the individual is eligible.~~
- ~~(6) To keep their background check eligibility current, the provider shall also ensure that a new background check form and fingerprints are submitted and authorized and fees are paid for any covered individual who has:~~
- ~~(a) resided outside of Utah since their last background check was completed;~~
 - ~~(b) not been associated with an active, CCL approved child care facility within the past 180 days; or~~
 - ~~(c) has turned 18 years old and has not previously submitted fingerprints for a CCL background check. If the 18 year old has previously submitted fingerprints for a CCL background check, only a new background check form will be required.~~
- ~~(7) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.~~
- ~~(8) If fingerprints are submitted electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.~~
- ~~(9) The department may consider a covered individual not eligible for any of the following reasons:~~
- ~~(a) LIS supported findings;~~
 - ~~(b) the covered individual's name appears on the Utah or national sex offender registry;~~
 - ~~(c) the covered individual refuses to consent to the criminal background check;~~
 - ~~(d) the covered individual knowingly makes a false statement in connection with their background check;~~
 - ~~(e) any felony convictions; or~~
 - ~~(f) for any of the reasons listed under Subsection R430-8-5(10).~~
- ~~(10) The department may also consider a covered individual not eligible for any of the following convictions regardless of severity:~~
- ~~(a) child pornography;~~
 - ~~(b) sexual enticing of a minor;~~
 - ~~(c) voyeurism;~~
 - ~~(d) a sexual exploitation act;~~
 - ~~(e) pornographic material or performance;~~
 - ~~(f) any crime against an individual;~~
 - ~~(g) providing dangerous weapons or fire arms to a minor; or~~
 - ~~(h) driving under the influence while a child is present in the vehicle.~~
- ~~(11) The department shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check was conducted.~~
- ~~(12) If the provider is deemed not eligible by CCL, the department may suspend or deny their license until the reason for the background check finding is resolved.~~
- ~~(13) If a covered individual is deemed not eligible by CCL, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.~~
- ~~(14) If a covered individual is denied a license or employment based upon the criminal background check and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information to the Department of Public Safety.~~
- ~~(15) The provider and the covered individual shall notify the department within 48 hours of becoming aware of the covered individual's arrest warrant, felony, or misdemeanor arrest, charge, conviction, or supported LIS finding. Failure to notify the department within 48 hours may result in disciplinary action, including revocation of the license.~~
- ~~(16) The Executive Director or designee of the department may overturn a CCL background check decision if they determine that the nature of the background finding or mitigating circumstances do not pose a risk to children.~~
- ~~(17) An applicant or exempt provider may request an agency review for any department decision within ten working days of being informed in writing of the decision.~~

R430-8-6. Voluntary Licensure.

~~A child care provider who is not required to be licensed or certified under this rule may voluntarily receive a license and agree to be subject to each of the terms and conditions of the license, except for the following:~~

- ~~(1) relative care only; or~~
- ~~(2) care provided in the home of the provider on a sporadic basis only.]~~

R430-8-1. Authority and Purpose.

- ~~(1) Section 26B-2-402 authorizes this rule.~~

NOTICES OF PROPOSED RULES

(2) This rule defines what constitutes child care that is excluded from any of the regulatory requirements of the Utah Department of Health and Human Services, Child Care Licensing Program.

R430-8-2. Definitions.

- (1) Terms used in this rule are defined in Rule R380-600. Additionally:
- (2) "Background finding" means information in a background check that OBP uses to determine if a covered individual is or is not eligible to be involved with child care.
- (3) "Calendar week" means from Sunday through Saturday.
- (4) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:
- (a) count in the caregiver-to-child ratio;
 - (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or
 - (c) supervise children.
- (5) "CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.
- (6) "Child care" means continuous care and supervision of at least one qualifying child that:
- (a) is in place of care ordinarily provided by a parent in the parent's home;
 - (b) occurs for less than 24 hours a day; and
 - (c) is provided for direct or indirect compensation.
- (7) "Child care program" means a person or business that offers child care.
- (8) "Covered individual" means the same as defined in Rule R380-600.
- (9) "Department" means the Utah Department of Health and Human Services.
- (10) "Eligible" means the same as defined in Rule R380-600.
- (11) "Facility" means a program or premises approved by OL to be used for child care.
- (12) "Involved with child care" means to do any of the following at or for a child care program:
- (a) care for or supervise children;
 - (b) count in the caregiver-to-child ratio;
 - (c) have unsupervised contact with a child in care;
 - (d) own, operate, direct;
 - (e) reside; or
 - (f) volunteer.
- (13) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (14) "OBP" means the same as defined in Rule R380-600.
- (15) "OL" means the same as defined in Rule R380-600.
- (16) "Parochial education institution" means an institution that meets the following criteria:
- (a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;
 - (b) has a governing board that actively supervises and directs the educational curriculum used by the institution and exercises oversight over the health and safety of the children in the program;
 - (c) is owned and operated by a religious institution that is registered with the federal government as an 501(c)(3) religious organization;
 - (d) is not directly funded at public expense;
 - (e) does not receive:
 - (i) child care grant or subsidy funds, directly or indirectly, from the Department of Workforce Services; or
 - (ii) child care food program funds, directly or indirectly, from the State Office of Education; and
 - (f) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.
- (17) "Private education institution" means an institution that meets the following criteria:
- (a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;
 - (b) has a governing board that actively supervises and directs the educational curriculum used by the institution, and exercises oversight over the health and safety of the children in the program;
 - (c) is not directly funded at public expense;
 - (d) does not receive:
 - (i) child care grant or subsidy funds, directly or indirectly, from the Department of Workforce Services; or
 - (ii) child care food program funds, directly or indirectly, from the State Office of Education; and
 - (e) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.
- (18) "Public school" means a school, including a charter school, that is directly funded at public expense and is regulated by a board of education governed by Title 53A, Chapter 3, Local School Boards.
- (19) "Qualifying child" means a child:

- (a) child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
- (b) child who is younger than four years old and is the child of the provider or a caregiver; or
- (c) child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver.
- (20) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (21) "Relative care" means care provided to a qualifying child by or in the home of the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, uncle, step-aunt, step-uncle, great-aunt, or great-uncle.

R430-8-3. License, Certificate, or Exemption Not Required.

- (1) A provider of any of the following types of care is not subject to a child care license, certificate, exemption, or the submission of background checks to OL:
 - (a) a facility or program owned or operated by an agency of the United States government;
 - (b) a health care facility that is licensed by OL;
 - (c) a residential support program that is licensed by OL; or
 - (d) group counseling provided by a mental health therapist who is licensed to practice in this state.
- (2) A residential child care provider caring for eight or less qualifying children who is not subject to a child care license, certificate, or exemption, shall submit background checks in accordance with Sections R430-50-3 and 26B-2-405.

R430-8-4. Exempt Application and Public Notice Required.

- (1) The following types of care do not require a child care license or certificate from OL, but do require the provider to meet the application and public notice requirements outlined in this rule:
 - (a) care provided to a qualifying child as part of a course of study at or a program administered by an educational institution that is regulated by:
 - (i) the boards of education of this state;
 - (ii) a private education institution that provides education in lieu of that provided by the public education system, or
 - (iii) a parochial education institution;
 - (b) care provided to a qualifying child by a public or private institution of higher education, if the care is provided related to a course of study or program, relating to the education or study of children, that is provided to students of the institution of higher education;
 - (c) care provided to a qualifying child at a public school by an organization other than the public school, if:
 - (i) the care is provided under contract with the public school or on school property; or
 - (ii) the public school accepts responsibility and oversight for the care provided by the organization;
 - (d) care provided to a qualifying child as part of a summer camp that operates on federal land pursuant to a federal permit;
 - (e) care provided by an organization that:
 - (i) qualifies for tax exempt status under Section 501(c)(3), Internal Revenue Code;
 - (ii) provides care pursuant to a written agreement with:
 - (A) a municipality that provides oversight for the program; or
 - (B) a county that provides oversight for the program; and
 - (iii) provides care to a child who is over the age of four and under the age of 13;
 - (f) care provided to a qualifying child at a facility where:
 - (i) the parent or guardian of the qualifying child is physically present in the building where the care is provided while the child is in care and the parent or guardian is near enough to reach the child within five minutes if needed;
 - (ii) the duration of the care is less than four hours for an individual qualifying child in any one day;
 - (iii) the care is provided on a sporadic basis;
 - (iv) the care does not include diapering a qualifying child; and
 - (v) the care does not include preparing or serving meals to a qualifying child;
- (2) A provider listed in this subsection shall submit to OL, each year the program is open for business, an application for verification of license exempt status on the form provided by OL.
- (3) A provider listed in this subsection shall post, in a conspicuous location near the entrance of the provider's facility, a notice prepared by OL that:
 - (a) states that the facility is exempt from licensure and certification; and
 - (b) provides OL's contact information for submitting a complaint.
- (4) Substantiated complaint allegations against providers listed in this subsection will be available to the public and posted by OL on the Division of Licensing and Background Checks website.

R430-8-5. Background Check Requirements and Agency Action Reviews.

- (1) An exempt provider who cares for a qualifying child as part of a program administered by an educational institution that is regulated by the State Board of Education is not subject to the background check requirements listed under this section, unless required by the Child Care and Development Block Grant, 42 U.S.C. Sec. 9857-9858r.
- (2) Except as outlined in Subsection R430-8-5(1), the requirements of this section apply to:
 - (a) each facility listed in Section R430-8-4; and
 - (b) any unlicensed residential child care provider, except for sporadic care, who provides care:
 - (i) for eight or less qualifying children at one time or for up to ten qualifying children including their own;

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- (ii) for more than two days a week; and
- (iii) in the provider's home for four or more hours a day.
- (3) In addition to the requirements of this subsection, each provider as described in Subsection R430-8-5(2)(b) shall:
 - (a) register with OL to facilitate the OBP background check process in accordance with this section; and
 - (b) care for no more than two children under the age of three.
- (4) The provider shall submit to OBP background checks and fees for each covered individual as defined in Subsection R430-8-2(7).
- (5) Before a new covered individual becomes involved with child care, the provider must use the licensing provider portal search to verify that the individual is eligible and either:
 - (a) associate that individual with their facility; or
 - (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.
- (6) Before a new covered individual who does not appear in the licensing provider portal search becomes involved with child care in the program, the provider must:
 - (a) have the individual submit an online background check form and fingerprints for individuals age 16 years old and older, except for individuals 12-17 years old who are listed as household members;
 - (b) authorize the individual's background check through the licensing provider portal;
 - (c) pay any required fees; and
 - (d) only allow the individual to be involved with child care if they have an eligible OBP background check determination.
- (7) To keep their background check eligibility current, the provider shall also ensure that a new background check form and fingerprints are submitted and authorized and fees are paid for any covered individual who has:
 - (a) not been associated with an active, OBP-approved child care facility within the past 180 days;
 - (b) resided outside of Utah since their last background check was completed; or
 - (c) turned 18 years old and has not previously submitted fingerprints for an OBP background check. If the 18-year-old has previously submitted fingerprints for an OBP background check, only a new background check application will be required.
- (8) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.
- (9) If fingerprints are submitted electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the OBP's guidelines.
- (10) OBP may consider a covered individual not eligible for any of the following reasons:
 - (a) any felony conviction;
 - (b) any of the reasons listed under Subsection R430-8-5(10);
 - (c) LIS supported findings that occurred no more than 15 years from the date the application was submitted;
 - (d) the covered individual knowingly makes a false statement related to their background check;
 - (e) the covered individual's name appears on the Utah or national sex offender registry; or
 - (f) the covered individual refuses to consent to the criminal background check;
- (11) OBP may also consider a covered individual not eligible for any of the following convictions regardless of severity:
 - (a) a sexual exploitation act;
 - (b) any crime against an individual;
 - (c) child pornography;
 - (d) driving under the influence while a child is present in the vehicle;
 - (e) pornographic material or performance;
 - (f) providing dangerous weapons or firearms to a minor;
 - (g) sexual enticing of a minor; or
 - (h) voyeurism.
- (12) OBP shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the OBP background check was conducted.
- (13) If the provider is deemed not eligible by OBP, OL may suspend or deny their license until the reason for the background check finding is resolved.
- (14) If a covered individual is deemed not eligible by OBP, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.
- (15) If OBP denies a covered individual a license or employment based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety, they may appeal the information to the Department of Public Safety.
- (16) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of the covered individual's arrest warrant, felony, or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including revocation of the license.
- (17) The Executive Director or designee of the department may overturn an OBP background check decision if they determine that the nature of the background finding or mitigating circumstances do not pose a risk to children.
- (18) An applicant or exempt provider may request an agency review for any OBP decision within ten working days of being informed in writing of the decision.

R430-8-6. Voluntary Licensure.

A child care provider who is not required to be licensed or certified under this rule may voluntarily receive a license and agree to be subject to each of the terms and conditions of the license, except for the following:

- (1) care provided in the home of the child on a sporadic basis only;
- (2) care provided in the home of the provider on a sporadic basis only; or
- (3) relative care only.

R430-8-7. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: child care facilities, exemptions from Child Care Licensing

Date of Last Change: 2024[December 12, 2023]

Notice of Continuation: April 15, 2024

Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal and Reenact

Rule or Section Number: R430-50 **Filing ID:** 56908

Agency Information

1. Title catchline:	Health and Human Services, Residential Child Care Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
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:
R430-50. Residential Certificate Child Care
3. Purpose of the new rule or reason for the change:
The reason for this proposed repeal and reenact is to consolidate extensive nonsubstantive edits made to comply with the Rulewriting Manual for Utah. Substantive changes remove redundant or outdated content that is now addressed in Rule R380-600 and reflect the new statute governing Division of Licensing and Background Checks (DLBC) enforcement and penalties in accordance with SB229 from the 2024 General Session. The Child Care Licensing Committee has reviewed and approved the changes made in this repeal and reenact filing.
4. Summary of the new rule or change:
This repeal and reenact removes content that is now addressed and enforced under Rule R380-600 and adds Section R430-50-25 to comply with SB229 from the 2024 General Session. This repeal and reenact additionally changes "Department" references to "OL" to accurately reflect the enforcement entity responsible for licensing compliance. The repeal and reenact additionally addresses the requirements from HB153 from the 2024 General Session, which makes residential child care certification optional if serving eight or fewer children in residential child care and a residential certificate is only required for serving nine unrelated children. This repeal and reenact additionally identifies two children under age three can be served without certification and requires anyone providing the services while opting out of certification to submit to a background check with the Office of Background Processing (OBP).

Fiscal Information

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

A) State budget:

This repeal and reenact removes content that is now represented in Rule R380-600. There will be no changes to how the state conducts background checks.

Other changes make residential certificate child care optional and may reduce the number of residential providers receiving annual inspections and investigations. OL cannot estimate the savings at this time due to the uncertainty of how many residential certificate child care providers will opt in or out of the certification process. Regardless of whether they opt in or out of the certificate, all will be required to complete a background check.

While there will be no changes to how OBP conducts background checks, this filing may have a fiscal impact on the Department of Health and Human services, as the Office of Background Processing may have a fiscal cost due to the new background check requirements for unlicensed providers. There is no estimate of ongoing fiscal costs because there is no way of knowing the number of unlicensed providers who will submit background checks.

B) Local governments:

This repeal and reenact will not have a fiscal impact on local government, because it removes content that is now addressed and enforced under Rule R380-600. The DLBC Office of Licensing (OL) regulates these providers, not local government and OL actions and penalties have no impact on local government.

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

This filing is not anticipated to impact small businesses because residential care providers are not considered small business, as they serve eight or fewer children in the home of the provider. These providers are considered "affected persons" in this rule analysis.

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

This repeal and reenact will not have an impact on non-small businesses because residential care is not considered a non-small business. It is the provision of childcare in a residential setting for eight or fewer children.

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

There are no persons other than small business, non-small business, state or local governments aside from the affected persons who are the individuals who run unlicensed child care mentioned in box (F) below.

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

The requirements introduced by HB153 from the 2024 General Session no longer requires, but makes optional, a residential child care certificate. The bill still requires a provider of residential child care, whether certified or not, to submit background checks and pay the costs associated with this process. This will require each individual subject to the background checks to pay \$53.25 for the check and an average of \$15 for fingerprinting, as the department cannot absorb these costs. There is no estimate of ongoing fiscal costs because there is no way of knowing the number of unlicensed providers who will submit background checks.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-2-402

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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024
 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:	10/30/2024
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R430. Health and Human Services, Residential Child Care Licensing.

R430-50. Residential Certificate Child Care.

~~**[R430-50-1. Legal Authority and Purpose.**~~

- ~~(1) This rule is enacted and enforced in accordance with Section 26B-2-402.~~
- ~~(2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to get and maintain a residential certificate to provide child care.~~

~~**R430-50-2. Definitions.**~~

- ~~(1) "Applicant" means a person or business who has applied for a new or a renewal of a residential certificate from the department.~~
- ~~(2) "Background Finding" means information in a background check that the department uses to determine if a covered individual is or is not eligible for involvement with child care.~~
- ~~(3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.~~
- ~~(4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.~~
- ~~(5) "Business Days and Hours" means the days of the week and times the facility is open for business.~~
- ~~(6) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:~~
 - ~~a) count in the caregiver to child ratio;~~
 - ~~b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or~~
 - ~~c) supervise children.~~
- ~~(7) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.~~
- ~~(8) "Caregiver to Child Ratio" means the number of caregivers responsible for a specific number of children.~~

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- _____ (9) "CCL" means the Child Care Licensing Program under the Office of Licensing that is delegated with the responsibility to enforce the rules under Titles R381 and R430.
- _____ (10) "Child Care" means continuous care and supervision of one or more qualifying children that is:
 - _____ (a) in place of care ordinarily provided by a parent in the parent's home;
 - _____ (b) for less than 24 hours a day; and
 - _____ (c) for direct or indirect compensation.
- _____ (11) "Child Care Program" means a person or business that offers child care.
- _____ (12) "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1 1/4 inches and a length of less than 2 1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.
- _____ (13) "Conditional Status" means that the provider is at risk of losing their child care residential certificate because compliance with any laws or administrative rules has not been maintained.
- _____ (14) "Covered Individual" means any of the following individuals involved with a child care program:
 - _____ (a) an owner;
 - _____ (b) an employee;
 - _____ (c) a caregiver;
 - _____ (d) a volunteer, except a parent of a child enrolled in the child care program;
 - _____ (e) an individual age 12 years old or older who resides in the facility; and
 - _____ (f) anyone who has unsupervised contact with a child in care.
- _____ (15) "Crib" means an infant's bed with sides to protect them from falling, including a bassinet, porta crib, or play pen.
- _____ (16) "Cushioning" means a shock absorbing surface under and around play equipment that reduces the severity of injuries from falls.
- _____ (17) "Department" means the Utah Department of Health and Human Services.
- _____ (18) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.
- _____ (19) "Eligible" means that there were no findings in a covered individual's background check that could prohibit that covered individual from being involved with child care.
- _____ (20) "Emotional Abuse" is defined in Subsection R512-80-2(12) and also means behavior that could harm a child's emotional development, including threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.
- _____ (21) "Entrapment Hazard" means an opening greater than 3 1/2 by 6 1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.
- _____ (22) "Facility" means the premises approved by the department for child care.
- _____ (23) "Group" means the children who are assigned to and supervised by one or more caregivers.
- _____ (24) "Group Size" means the total number of children in a group.
- _____ (25) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.
- _____ (26) "Health Care Provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.
- _____ (27) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.
- _____ (28) "Inaccessible" means out of reach of children by being:
 - _____ (a) locked, including in a locked room, cupboard, or drawer;
 - _____ (b) secured with a child safety device, including a child safety cupboard lock or doorknob device;
 - _____ (c) behind a properly secured child safety gate;
 - _____ (d) located at least 36 inches above the floor; or
 - _____ (e) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb.
- _____ (29) "Infant" means a child who is younger than 12 months old.
- _____ (30) "Infectious Disease" means an illness that is capable of being spread from one individual to another.
- _____ (31) "Involved with Child Care" means to do any of the following at or for a child care program:
 - _____ (a) care for or supervise children;
 - _____ (b) volunteer;
 - _____ (c) own, operate, direct;
 - _____ (d) reside;
 - _____ (e) count in the caregiver to child ratio; or
 - _____ (f) have unsupervised contact with a child in care.
- _____ (32) "LIS Supported Finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- _____ (33) "Over the Counter Medication" means medication that can be bought without a written prescription including herbal remedies, vitamins, and mineral supplements.
- _____ (34) "Parent" means the parent or legal guardian of a child in care.
- _____ (35) "Physical Abuse" is defined in Subsection R512-80-2(25) and also means causing nonaccidental physical harm to a child.
- _____ (36) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand and move freely on.
- _____ (37) "Preschooler" means a child age two through four years old.

- ~~(38) "Provider" means the legally responsible person or business that holds a valid residential certificate from the department.~~
- ~~(39) "Qualifying Child" means:~~
 - ~~(a) a child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;~~
 - ~~(b) a child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver;~~
- ~~or~~
- ~~(c) a child who is younger than four years old and is the child of the provider or a caregiver.~~
- ~~(40) "Related Child" means a child for whom a provider is the parent, legal guardian, step parent, grandparent, step grandparent, great grandparent, sibling, step sibling, aunt, step aunt, great aunt, uncle, step uncle, or great uncle.~~
- ~~(41) "Residential Child Care" means care that takes place in a child care provider's home.~~
- ~~(42) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.~~
- ~~(43) "School Age Child" means a child age five through 12 years old.~~
- ~~(44) "Sexual Abuse" is defined in Subsection R512-80-2(30) and also means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.~~
- ~~(45) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.~~
- ~~(46) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.~~
- ~~(47) "Stationary Play Equipment" means equipment including a climber, slide, swing, merry go round, or spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:~~
 - ~~(a) a sandbox;~~
 - ~~(b) a stationary circular tricycle;~~
 - ~~(c) a sensory table; or~~
 - ~~(d) a playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber.~~
- ~~(48) "Strangulation Hazard" means an item where a child's clothes or drawstrings could become caught or entangled including:~~
 - ~~(a) a protruding bolt end that extends more than two threads beyond the face of the nut;~~
 - ~~(b) hardware that forms a hook or leaves a gap or space between components including a protruding open S hook; or~~
 - ~~(c) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck.~~
- ~~(49) "Toddler" means a child age 12 through 23 months old.~~
- ~~(50) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by CCL.~~
- ~~(51) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and where a child falling from or exiting the equipment could be expected to land.~~
- ~~(52) "Working Days" means the days of the week the department is open for business.~~

R430-50-3. Residential Certificate Required.

- ~~(1) An individual shall become certified as a residential child care provider if they provide care:~~
 - ~~(a) in the provider's home;~~
 - ~~(b) in the absence of the child's parent;~~
 - ~~(c) for seven or eight unrelated children;~~
 - ~~(d) for four or more hours a day;~~
 - ~~(e) for each individual child for less than 24 hours a day;~~
 - ~~(f) on a regularly scheduled, ongoing basis; and~~
 - ~~(g) for direct or indirect compensation.~~
- ~~(2) An individual shall become certified by the department as a child care provider if they provide child care in the person's home for more than ten children in total under the age of 13, or under the age of 18 if a child has a disability, regardless of whether a child is related to the person providing child care.~~
- ~~(3) A person who is not required to become certified may voluntarily become certified, except for care that is for related children only or on a sporadic basis.~~

R430-50-4. Residential Certificate Application, Renewal, Changes, and Variances.

- ~~(1) Each applicant for a new residential certificate shall:~~
 - ~~(a) submit a CCL online application;~~
 - ~~(b) submit a copy of a current local fire clearance or a written statement from the local fire authority that a fire inspection is not required;~~
 - ~~(c) submit a copy of a current local health department kitchen clearance for a facility providing food service or a written statement from the local health department that a kitchen inspection is not required;~~
 - ~~(d) submit a copy of a current local business license or a written statement from the city that a business license is not required;~~
 - ~~(e) complete CCL background checks for covered individuals as required in Section R430-50-8;~~
 - ~~(f) complete CCL new provider training no more than six months before becoming certified; and~~
 - ~~(g) pay any required fees, that are nonrefundable.~~
- ~~(2) Each applicant shall pass a department's inspection of the facility before a new residential certificate or a renewal is issued.~~
- ~~(3) If the local fire authority states in writing that an applicant for a new residential certificate or a renewal does not require a fire inspection, the department shall verify the applicant's compliance with the following:~~
 - ~~(a) address numbers and letters are readable from the street;~~

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- ~~_____ (b) exit doors operate properly and are well maintained;~~
- ~~_____ (c) there are no obstructions in exits, aisles, corridors, and stairways;~~
- ~~_____ (d) there is at least one unobstructed fire extinguisher that is currently charged, serviced, and mounted not more than five feet above the floor;~~
- ~~_____ (e) there are working smoke detectors that are properly installed on each level of the building; and~~
- ~~_____ (f) boiler, mechanical, and electrical panel rooms are not used for storage.~~
- ~~_____ (4) If an applicant for a new residential certificate serves food and the local health department states in writing that a kitchen inspection is not required, the department shall verify the applicant's compliance with the following:~~
 - ~~_____ (a) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;~~
 - ~~_____ (b) there is a working thermometer in the refrigerator;~~
 - ~~_____ (c) there is a working stem thermometer available to check cooking and hot hold temperatures;~~
 - ~~_____ (d) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;~~
 - ~~_____ (e) chemicals are stored away from food and food service items;~~
 - ~~_____ (f) food is properly stored, maintained at the proper temperature, and in good condition; and~~
 - ~~_____ (g) there is a working handwashing sink in the kitchen.~~
- ~~_____ (5) Each applicant shall have six months from the time any portion of the application is submitted to finish the residential certificate process. If unsuccessful, the applicant shall reapply. Any resubmission shall include the required documentation, payment of certification fees, and a new inspection of the facility to become certified.~~
- ~~_____ (6) The department may deny an application for a residential certificate if, within the five years preceding the application date, the applicant held a license or a residential certificate that was:~~
 - ~~_____ (a) closed under an immediate closure;~~
 - ~~_____ (b) revoked;~~
 - ~~_____ (c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;~~
 - ~~_____ (d) voluntarily closed after an inspection of the facility found a rule violation that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or~~
 - ~~_____ (e) voluntarily closed having unpaid fees or civil money penalties issued by the department.~~
- ~~_____ (7) Each child care residential certificate expires at midnight on the last day of the month shown on the residential certificate, unless the residential certificate was previously revoked by the department, or voluntarily closed by the provider.~~
- ~~_____ (8) Within 30 to 90 days before a current residential certificate expires, each provider shall submit for renewal:~~
 - ~~_____ (a) an online renewal request;~~
 - ~~_____ (b) applicable renewal fees;~~
 - ~~_____ (c) any previous unpaid fees; and~~
 - ~~_____ (d) a copy of a current fire inspection report.~~
- ~~_____ (9) The department may grant a provider who fails to renew their residential certificate by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.~~
- ~~_____ (10) The department may deny renewal of a residential certificate for a provider who is no longer caring for children.~~
- ~~_____ (11) Each provider shall submit a complete application for a new residential certificate at least 30 days before a change of the child care facility's location.~~
- ~~_____ (12) A provider shall submit a complete online changes request to amend an existing residential certificate at least 30 days before any of the following changes:~~
 - ~~_____ (a) an increase or decrease of residential certificate capacity, including any change to the amount of usable indoor space where child care is provided;~~
 - ~~_____ (b) a change in the name of the program;~~
 - ~~_____ (c) a change in the regulation type of the program;~~
 - ~~_____ (d) a change in the name of the provider; or~~
 - ~~_____ (e) a transfer of business ownership.~~
- ~~_____ (13) The department may amend a residential certificate after verifying that the applicant is in compliance with all applicable rules and required fees have been paid. The expiration date of the amended residential certificate remains the same as the previous residential certificate.~~
- ~~_____ (14) Only the department may assign, transfer, or amend a residential certificate.~~
- ~~_____ (15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, the applicant or provider may apply for a variance to that rule by submitting a request to the department.~~
- ~~_____ (16) Until the department approves a variance each provider shall comply with the existing rules.~~
- ~~_____ (17) If the department approves a variance, the provider shall keep a copy of the written approval on site for review by parents and the department.~~
- ~~_____ (18) The department may grant variances for up to 12 months.~~
- ~~_____ (19) The department may revoke a variance if:~~
 - ~~_____ (a) the provider is not meeting the intent of the rule as stated in their approved variance;~~
 - ~~_____ (b) the provider fails to comply with the conditions of the variance; or~~
 - ~~_____ (c) a change in statute, rule, or case law affects the basis for the variance.~~

R430-50-5. Rule Noncompliance, Penalties, and Agency Action Reviews.

- ~~(1) The department may place a program's child care residential certificate on a conditional status for the following causes:~~
 - ~~(a) chronic, ongoing noncompliance with rules;~~
 - ~~(b) unpaid fees; or~~
 - ~~(c) a serious rule violation that places children's health or safety in immediate jeopardy.~~
- ~~(2) The department shall establish the length of the conditional status and set the conditions that the child care provider shall satisfy to remove the conditional status.~~
- ~~(3) The department may increase monitoring of the program that is on conditional status to verify compliance with rules.~~
- ~~(4) The department may deny or revoke a residential certificate if the child care provider:~~
 - ~~(a) fails to meet the conditions of a residential certificate on conditional status;~~
 - ~~(b) violates the any part of Title 26B, Chapter 2, Part 4, Child Care Licensing;~~
 - ~~(c) provides false or misleading information to the department;~~
 - ~~(d) misrepresents information by intentionally altering a residential certificate or any other document issued by the department;~~
 - ~~(e) fails to allow authorized representatives of the department access to the facility to ensure compliance with this rule;~~
 - ~~(f) fails to submit or make available to the department any written documentation required to verify compliance with this rule;~~
 - ~~(g) commits a serious rule violation that results in death or serious harm to a child, or that places a child at risk of death or serious harm; or~~
 - ~~(h) has committed an illegal act that would exclude an individual from having a residential certificate.~~
- ~~(5) Within ten working days of receipt of a revocation notice, the provider shall submit to the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the revocation.~~
- ~~(6) The department may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect the children's health or safety.~~
- ~~(7) Upon receipt of an immediate closure notice, the provider shall give the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the immediate closure.~~
- ~~(8) If there is a severe injury or the death of a child in care, the department may order a child care provider to suspend services and prohibit new enrollments, pending a review by the Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.~~
- ~~(9) An unlicensed person providing care that requires a license or certificate may be charged with a civil money penalty and a class A misdemeanor unless they:~~
 - ~~(a) stop providing child care that requires a license or certificate; or~~
 - ~~(b) apply for the appropriate license or certificate within 30 calendar days of notification by the department.~~
- ~~(10) If a person providing care without the appropriate license agrees to apply for a license but does not submit an application and the required application documents within 30 days, the department may issue a cease and desist order.~~
- ~~(11) A violation of any rule is punishable by an administrative civil money penalty of up to \$5,000 a day as provided in Section 26B-2-409.~~
- ~~(12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a residential certificate.~~
- ~~(13) The department may deny an application or revoke a residential certificate for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background checks, civil money penalties, and other fees assessed by the department.~~
- ~~(14) An applicant or provider may request an agency review for any department decision within ten working days of being informed in writing of the decision.~~

R430-50-6. Administration and Children's Records.

- ~~(1) The provider shall:~~
 - ~~(a) be at least 18 years old;~~
 - ~~(b) be considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~(c) complete the new provider training offered by the department; and~~
 - ~~(d) complete at least 10 hours of child care training each year, based on the facility's residential certificate date.~~
- ~~(2) The provider shall protect children from conduct that endangers children in care, or is contrary to the health, welfare, and safety of the public.~~
- ~~(3) The provider shall know and comply with each applicable federal, state, and local law, ordinance, and rule, and maintain responsibility for the operation and management of a child care program.~~
- ~~(4) The provider shall comply with licensing rules any time a child in care is present.~~
- ~~(5) The provider shall post their unaltered child care residential certificate on the facility premises in a place readily visible and accessible to the public during business hours.~~
- ~~(6) The provider shall post a current copy of the department's Parent Guide at the facility for parent review during business hours or give a current copy to each parent.~~
- ~~(7) The provider shall inform parents and the department of any changes to the program's telephone number and other contact information within 48 hours of the change.~~
- ~~(8) The provider shall:~~
 - ~~(a) have liability insurance; or~~

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- ~~_____ (b) inform parents in writing that the provider does not have liability insurance.~~
- ~~_____ (9) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.~~
- ~~_____ (10) The provider shall ensure that each child's admission and health assessment form includes the following information:~~
 - ~~_____ (a) child's name;~~
 - ~~_____ (b) child's date of birth;~~
 - ~~_____ (c) parent's name, address, and phone number, including a daytime phone number;~~
 - ~~_____ (d) names of individuals authorized by the parent to sign the child out from the facility;~~
 - ~~_____ (e) contact name, address, and phone number if an emergency happens and the provider cannot contact the parent;~~
 - ~~_____ (f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;~~
 - ~~_____ (g) parent's permission for emergency transportation and emergency medical treatment;~~
 - ~~_____ (h) any known allergies of the child;~~
 - ~~_____ (i) any known food sensitivities of the child;~~
 - ~~_____ (j) any chronic medical conditions that the child may have;~~
 - ~~_____ (k) instructions for special or nonroutine daily health care of the child;~~
 - ~~_____ (l) current ongoing medications that the child may be taking; and~~
 - ~~_____ (m) any other special health instructions for the caregiver.~~
- ~~_____ (11) The provider shall ensure that the admission and health assessment form is:~~
 - ~~_____ (a) reviewed, updated, and signed or initialed by the parent at least annually; and~~
 - ~~_____ (b) on-site for review by the department.~~
- ~~_____ (12) Before admitting any child younger than five years old into the child care program, including the provider's and employees' own children, the provider shall get the following documentation from the child's parent:~~
 - ~~_____ (a) current immunizations;~~
 - ~~_____ (b) a medical schedule to receive required immunizations;~~
 - ~~_____ (c) a legal exemption; or~~
 - ~~_____ (d) a 90-day exemption for foster children and children who are homeless.~~
- ~~_____ (13) For each child younger than five years old, including the provider's and employees' own children, the provider shall keep their current immunization records on-site for review by the department.~~
- ~~_____ (14) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health and Human Services by the date specified by the department.~~
- ~~_____ (15) The provider shall ensure that each child's information is confidential and not released without written parental permission except to the department.~~

R430-50-7. Personnel and Training Requirements.

- ~~_____ (1) The provider shall remain present at the home at least 50% of the time each week the program is open for business.~~
- ~~_____ (2) If the provider is not present, the provider shall ensure that there is at least one covered individual who is 18 years old or older present at the facility when there is a child in care.~~
- ~~_____ (3) The provider shall ensure that any covered individual caring for the children is supervised, qualified, and trained to:~~
 - ~~_____ (a) meet the needs of the children as required by this rule; and~~
 - ~~_____ (b) be in compliance with licensing requirements under Rule R430-50.~~
- ~~_____ (4) The provider shall ensure that caregivers:~~
 - ~~_____ (a) are at least 16 years old;~~
 - ~~_____ (b) are considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~_____ (c) complete the 2 1/2 hour preservice training offered by the department before caring for children;~~
 - ~~_____ (d) know and follow any applicable laws and requirements under Rule R430-50; and~~
 - ~~_____ (e) complete at least ten hours of child care training each year, based on the facility's residential certificate date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year.~~
- ~~_____ (5) The provider shall ensure that any other staff including drivers, cooks, and clerks:~~
 - ~~_____ (a) are considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~_____ (b) complete the 2 1/2 hour preservice training offered by the department before beginning job duties;~~
 - ~~_____ (c) know and follow any applicable laws and requirements under Rule R430-50;~~
 - ~~_____ (d) are introduced to other staff and to the caregiver's assigned group; and~~
 - ~~_____ (e) review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs.~~
- ~~_____ (6) The provider shall ensure that volunteers are considered eligible by a CCL background check before becoming involved with child care.~~
- ~~_____ (7) The provider shall submit a background check as required in Section R430-50-8 for each guest who is 12 years old and older and stays in the home for more than two weeks.~~
- ~~_____ (8) The provider shall ensure that household members who are:~~
 - ~~_____ (a) 12 to 17 years old are considered eligible by a CCL background check; and~~
 - ~~_____ (b) 18 years old or older are considered eligible by a CCL background check that includes fingerprints.~~

- ~~(9) The provider shall ensure that individuals who provide Individualized Educational Plan or Individualized Family Service plan (IFSP) services including physical, occupational, or speech therapists:~~
- ~~(a) provide proper identification before having access to the facility or to a child at the facility; and~~
 - ~~(b) have received the child's parent's permission for services to take place at the facility.~~
- ~~(10) The provider shall ensure that individuals from law enforcement, Child Protective Services, the department, and any similar entities provide proper identification before having access to the facility or to a child at the facility.~~
- ~~(11) The provider shall ensure that each covered individual required to complete preservice training receives the 2 1/2 hour preservice training offered by the department that includes at least the following topics:~~
- ~~(a) applicable laws and requirements under Rule R430-50;~~
 - ~~(b) children whose special needs may include disabilities;~~
 - ~~(c) recognizing the signs of homelessness and available assistance;~~
 - ~~(d) building and physical premises safety;~~
 - ~~(e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;~~
 - ~~(f) pediatric first aid and CPR;~~
 - ~~(g) emergency preparedness, response, and recovery plan;~~
 - ~~(h) prevention of and response to emergencies due to food and allergy reactions;~~
 - ~~(i) safe handling and disposal of hazardous materials and bio-contaminants;~~
 - ~~(j) prevention and control of infectious diseases including immunizations;~~
 - ~~(k) administration of medication;~~
 - ~~(l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;~~
 - ~~(m) precautions in transporting children;~~
 - ~~(n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and~~
 - ~~(o) prevention of sudden infant death syndrome and the use of safe sleeping practices.~~
- ~~(12) The provider shall ensure that annual child care training includes at least the following topics:~~
- ~~(a) current department rule Sections R430-50-7 through R430-50-24; and~~
 - ~~(b) each topic listed in Subsections R430-50-7(1)(a) through (e).~~
- ~~(13) The provider shall ensure that at least half of the required annual training is interactive.~~
- ~~(14) The provider shall ensure that at least one covered individual with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when children are in care:~~
- ~~(a) at the facility;~~
 - ~~(b) in each vehicle transporting children; and~~
 - ~~(c) at each offsite activity.~~
- ~~(15) The provider shall ensure that CPR certification includes hands on testing.~~
- ~~(16) The provider shall ensure that current pediatric first aid and CPR certification records for each covered individual required by this rule to have them are on-site for review by the department.~~

R430-50-8. Background Checks.

- ~~(1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:~~
- ~~(a) associate that individual with their facility; or~~
 - ~~(b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.~~
- ~~(2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:~~
- ~~(a) have the individual submit an online background check form and fingerprints for individuals age 18 years old and older;~~
 - ~~(b) authorize the individual's background check through the CCL provider's portal;~~
 - ~~(c) pay any required fees; and~~
 - ~~(d) receive written notice from CCL that the individual is eligible.~~
- ~~(3) To keep their background check eligibility current, the provider shall also ensure that a new background check form and fingerprints are submitted and authorized and fees are paid for any covered individual who has:~~
- ~~(a) resided outside of Utah since their last background check was completed;~~
 - ~~(b) not been associated with an active, CCL approved child care facility within the past 180 days; or~~
 - ~~(c) turned 18 years old and has not previously submitted fingerprints for a CCL background check, except when the 18-year-old has previously submitted fingerprints for a CCL background check, then only a new background check form will be required.~~
- ~~(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:~~
- ~~(a) ensure that an online background check form is submitted;~~
 - ~~(b) authorize the child's background check through the CCL provider's portal; and~~
 - ~~(c) pay any required fees.~~
- ~~(5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.~~
- ~~(6) If the provider submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.~~

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- ~~_____ (7) The department may consider a covered individual not eligible for any of the following reasons:~~
 - ~~_____ (a) LIS supported findings;~~
 - ~~_____ (b) the covered individual's name appears on the Utah or national sex offender registry;~~
 - ~~_____ (c) the covered individual refuses to consent to the criminal background check;~~
 - ~~_____ (d) the covered individual knowingly makes a false statement in connection with their background check;~~
 - ~~_____ (e) any felony convictions; or~~
 - ~~_____ (f) for any of the reasons listed under Subsection R430-50-8(8).~~
- ~~_____ (8) The department may also consider a covered individual not eligible for any of the following convictions regardless of severity:~~
 - ~~_____ (a) child pornography;~~
 - ~~_____ (b) sexual enticing of a minor;~~
 - ~~_____ (c) voyeurism;~~
 - ~~_____ (d) a sexual exploitation act;~~
 - ~~_____ (e) pornographic material or performance;~~
 - ~~_____ (f) any crime against an individual;~~
 - ~~_____ (g) providing dangerous weapons or fire arms to a minor; or~~
 - ~~_____ (h) driving under the influence while a child is present in the vehicle.~~
- ~~_____ (9) The department shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check was conducted.~~
- ~~_____ (10) If CCL finds the provider is not eligible, the department may suspend or deny their license until the reason for the background check finding is resolved.~~
- ~~_____ (11) If CCL finds a covered individual is not eligible by CCL, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.~~
- ~~_____ (12) If CCL denies a covered individual a license or employment based upon the criminal background check and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information to the Department of Public Safety.~~
- ~~_____ (13) The provider and the covered individual shall notify the department within 48 hours of becoming aware of the covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding. Failure to notify the department within 48 hours may result in disciplinary action, including revocation of the certificate.~~
- ~~_____ (14) The Executive Director of the department or their designee may overturn a CCL background check decision if they determine that the nature of the background finding or mitigating circumstances do not pose a risk to children.~~

R430-50-9. Facility.

- ~~_____ (1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.~~
- ~~_____ (2) The department may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:~~
 - ~~_____ (a) by children;~~
 - ~~_____ (b) for the care of children; or~~
 - ~~_____ (c) to store materials for children.~~
- ~~_____ (3) The department may not include the following areas when measuring indoor space for children's use:~~
 - ~~_____ (a) bathrooms;~~
 - ~~_____ (b) closets;~~
 - ~~_____ (c) hallways;~~
 - ~~_____ (d) lobbies; and~~
 - ~~_____ (e) entryways.~~
- ~~_____ (4) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the residential certificate, except when providing after school child care for up to two additional school age children.~~
- ~~_____ (5) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead based paint is found, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.~~
- ~~_____ (6) The provider shall ensure that each room and indoor area that is used by children is ventilated by mechanical ventilation, or by windows that open and have screens.~~
- ~~_____ (7) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity being conducted.~~
- ~~_____ (8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.~~
- ~~_____ (9) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.~~
- ~~_____ (10) The provider shall ensure that there is at least one working toilet and at least one working handwashing sink accessible to each nondiapered child in care.~~
- ~~_____ (11) The provider shall ensure that there is at least one bathroom that provides privacy available for use by school age children.~~

- ~~(12) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:~~
- ~~(a) meet applicable state and local laws and ordinances related to the operation of a swimming pool;~~
 - ~~(b) maintain the pool in a safe manner; and~~
 - ~~(c) when not in use, cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four foot high fence or solid barrier that is locked and that separates the pool from any other areas on the premises.~~
- ~~(13) If there is a hot tub with water in it on the premises, the provider shall make the hot tub inaccessible to children by:~~
- ~~(a) keeping the hot tub locked with a properly working cover; or~~
 - ~~(b) enclosing the hot tub within at least a four foot high fence or solid barrier that is locked and that separates the hot tub from any other areas on the premises.~~
- ~~(14) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:~~
- ~~(a) ceilings, walls, and floor coverings;~~
 - ~~(b) lighting, bathroom, and other fixtures;~~
 - ~~(c) draperies, blinds, and other window coverings;~~
 - ~~(d) indoor and outdoor play equipment;~~
 - ~~(e) furniture, toys, and materials accessible to the children; and~~
 - ~~(f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.~~
- ~~(15) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.~~
- ~~(16) If the house is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when the following conditions are met:~~
- ~~(a) there is a signed rental or lease agreement for the rented area;~~
 - ~~(b) there is a separate mailing address for the rented area;~~
 - ~~(c) there is a separate entrance for the child care program;~~
 - ~~(d) there are no connecting interior doorways that can be used by unauthorized individuals; and~~
 - ~~(e) there is no shared access to the outdoor area, unless a qualified caregiver is with the children each time children in care are using the outdoor area.~~
- ~~(17) If there is an outdoor area used by children in care, the provider shall comply with Subsections R430-50-9(19) through R430-50-9(24).~~
- ~~(18) The provider shall ensure that the outdoor area is safely accessible to children.~~
- ~~(19) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.~~
- ~~(20) The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high if the facility is on a street or within a half mile of a street that:~~
- ~~(a) has a speed of 25 miles per hour or higher; or~~
 - ~~(b) has more than two lanes of traffic.~~
- ~~(21) The provider shall ensure that the following hazards are separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least four feet high:~~
- ~~(a) barbed wire that is within 30 feet of the children's play area;~~
 - ~~(b) livestock on or within 50 yards of the property line;~~
 - ~~(c) dangerous machinery, including farm equipment, on or within 50 yards of the property line;~~
 - ~~(d) a drop off of more than five feet on or within 50 yards of the property line; and~~
 - ~~(e) a water hazard, including a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.~~
- ~~(22) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.~~
- ~~(23) The provider shall ensure that there is shade available to protect the children from excessive sun and heat when children are in the outdoor area.~~

~~R430-50-10. Ratios and Group Size.~~

- ~~(1) The provider shall maintain at least one caregiver for up to eight children in care.~~
- ~~(2) When caring for children younger than two years old, the provider shall ensure that:~~
 - ~~(a) there is at least one caregiver for every three children younger than two years old;~~
 - ~~(b) each caregiver cares for no more than two children younger than 18 months old; and~~
 - ~~(c) there are at least two caregivers if more than three children younger than two years old are present and there are more than six children in care.~~
- ~~(3) The provider shall include the provider's and employees' children age four years old or older in care:~~
 - ~~(a) in the group size when the parent of the child is working at the facility; and~~
 - ~~(b) in the group size and the caregiver to child ratio when the parent of the child is not working at the facility.~~

~~R430-50-11. Child Supervision and Security.~~

- ~~(1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:~~
 - ~~(a) a caregiver is inside the home when a child in care is inside the home;~~

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- ~~_____ (b) a caregiver is in the outdoor area when a child younger than five years old is in the outdoor area;~~
- ~~_____ (c) caregivers know the number of children in their care at any time; and~~
- ~~_____ (d) caregivers' attention is focused on the children and not on caregivers' personal interests.~~
- ~~_____ (2) The provider shall ensure that staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:~~
 - ~~_____ (a) the provider or an eligible adult is physically present and available as needed; and~~
 - ~~_____ (b) they are not volunteers.~~
- ~~_____ (3) The provider shall ensure that staff, volunteers, and household members who are younger than 16 years old are not assigned to care for or supervise any child in care.~~
- ~~_____ (4) The provider shall ensure that guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.~~
- ~~_____ (5) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.~~
- ~~_____ (6) The provider may allow school age children to go outdoors while caregivers are indoors if:~~
 - ~~_____ (a) a caregiver can hear the children when children are outdoors; and~~
 - ~~_____ (b) the children are in an area completely enclosed within a fence, wall, or solid natural barrier that is at least four feet high.~~
- ~~_____ (7) The provider shall ensure that a caregiver monitors each sleeping infant by:~~
 - ~~_____ (a) placing each infant to sleep within the sight and hearing of a caregiver; or~~
 - ~~_____ (b) personally observing each sleeping infant at least once every 15 minutes.~~
- ~~_____ (8) The provider may allow a child to participate in supervised offsite activities without a caregiver if:~~
 - ~~_____ (a) the provider has prior written permission from the child's parent for the child's participation; and~~
 - ~~_____ (b) the provider has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts that responsibility throughout the period of the offsite activity.~~
- ~~_____ (9) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.~~
- ~~_____ (10) To maintain security and supervision of children, the provider shall ensure that:~~
 - ~~_____ (a) each child is signed in and out;~~
 - ~~_____ (b) only parents or individuals with written authorization from the parent may sign out a child;~~
 - ~~_____ (c) photo identification is required if the individual signing the child out is unknown to the provider;~~
 - ~~_____ (d) individuals signing children in and out use identifiers, including a signature, initials, or electronic code;~~
 - ~~_____ (e) the sign in and sign out records include the date and time each child arrives and leaves; and~~
 - ~~_____ (f) there is written permission from the child's parent if school age children sign themselves in or out.~~
- ~~_____ (11) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:~~
 - ~~_____ (a) the individual giving verbal authorization; and~~
 - ~~_____ (b) the individual picking up the child.~~

R430-50-12. Child Guidance and Interaction.

- ~~_____ (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.~~
- ~~_____ (2) The provider shall inform parents, children, and those who interact with the children of the facility's behavioral expectations and how any misbehavior will be handled.~~
- ~~_____ (3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.~~
- ~~_____ (4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.~~
- ~~_____ (5) The provider shall ensure that interactions with the children do not include:~~
 - ~~_____ (a) any form of corporal punishment or any action that produces physical pain or discomfort including hitting, spanking, shaking, biting, or pinching;~~
 - ~~_____ (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;~~
 - ~~_____ (c) shouting at children;~~
 - ~~_____ (d) any form of emotional abuse;~~
 - ~~_____ (e) forcing or withholding food, rest, or toileting; or~~
 - ~~_____ (f) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage.~~
- ~~_____ (6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Section 80-2-602.~~

R430-50-13. Child Safety and Injury Prevention.

- ~~_____ (1) The provider shall ensure that the building, outdoor area, toys, and equipment are used in a safe manner and as intended by the manufacturer to prevent injury to children.~~
- ~~_____ (2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.~~
- ~~_____ (3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.~~
- ~~_____ (4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.~~

- ~~_____ (5) The provider shall ensure that strangulation hazards including ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.~~
- ~~_____ (6) The provider shall ensure that tripping hazards including unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.~~
- ~~_____ (7) The provider shall ensure that empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons are inaccessible to children younger than five years old.~~
- ~~_____ (8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.~~
- ~~_____ (9) The provider shall ensure that toxic or hazardous chemicals including cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:~~
- ~~_____ (a) inaccessible to children;~~
- ~~_____ (b) used according to manufacturer instructions;~~
- ~~_____ (c) stored in containers labeled with the contents of the container; and~~
- ~~_____ (d) disposed of properly.~~
- ~~_____ (10) The provider shall ensure that the following items are inaccessible to children:~~
- ~~_____ (a) matches or cigarette lighters;~~
- ~~_____ (b) open flames;~~
- ~~_____ (c) hot wax or other hot substances; and~~
- ~~_____ (d) when in use, portable space heaters, wood burning stoves, and fireplaces.~~
- ~~_____ (11) The provider shall ensure that the following items are inaccessible to children:~~
- ~~_____ (a) live electrical wires; and~~
- ~~_____ (b) for children younger than five years old, electrical outlets and surge protectors without protective caps or safety devices when not in use.~~
- ~~_____ (12) Unless used and stored as allowed by law, the provider shall ensure that firearms including guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:~~
- ~~_____ (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and~~
- ~~_____ (b) stored unloaded and separate from ammunition.~~
- ~~_____ (13) The provider shall ensure that weapons including paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.~~
- ~~_____ (14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in facility vehicles any time a child is in care.~~
- ~~_____ (15) The provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.~~
- ~~_____ (16) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, including furniture, unsecured televisions, and standing ladders.~~
- ~~_____ (17) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.~~
- ~~_____ (18) The provider shall ensure that highchairs that are used by children have T shaped safety straps or safety devices that are used when a child is in the chair.~~
- ~~_____ (19) The provider shall ensure that infant walkers with wheels are inaccessible to children.~~
- ~~_____ (20) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with the Utah Indoor Clean Air Act, not used:~~
- ~~_____ (a) in the facility or any other building when a child is in care;~~
- ~~_____ (b) in any vehicle that is being used to transport a child in care;~~
- ~~_____ (c) within 25 feet of any entrance to the facility or other building occupied by a child in care; or~~
- ~~_____ (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.~~

~~R430-50-14. Emergency Preparedness, Response, and Recovery.~~

- ~~_____ (1) The provider shall have an emergency preparedness, response, and recovery plan that:~~
- ~~_____ (a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;~~
- ~~_____ (b) includes procedures for accommodations for infants and toddlers, children with disabilities, and children with chronic medical conditions;~~
- ~~_____ (c) includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health; and~~
- ~~_____ (d) is followed if an emergency happens, unless otherwise instructed by emergency personnel.~~
- ~~_____ (2) The provider shall post the home's street address and emergency numbers, including at least fire, police, and poison control, near the telephone or in an area clearly visible to anyone needing the information.~~
- ~~_____ (3) The provider shall keep first aid supplies in the facility, including at least antiseptic, bandages, and tweezers.~~
- ~~_____ (4) The provider shall conduct fire evacuation drills every six months and make sure drills include a complete exit of each child, staff, and volunteers from the building.~~
- ~~_____ (5) The provider shall conduct drills for disasters other than fires at least once every 12 months.~~
- ~~_____ (6) The provider shall vary the days and times when fire and other disaster drills are held.~~

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- ~~(7) The provider shall:
 - ~~(a) give parents a written report on the day of occurrence of each incident, accident, or injury involving their child;~~
 - ~~(b) ensure the report has the signatures of the caregivers involved, the provider, and the individual picking up the child; and~~
 - ~~(c) if school age children sign themselves out of the facility, send a copy of the report to the parent on the day following the occurrence.~~~~
- ~~(8) If a child is injured and the injury appears serious but not life-threatening, the provider shall contact the child's parent immediately.~~
- ~~(9) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:
 - ~~(a) call emergency personnel immediately;~~
 - ~~(b) contact the parent after emergency personnel are called; and~~
 - ~~(c) if the parent cannot be reached, try to contact the child's emergency contact individual.~~~~
- ~~(10) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:
 - ~~(a) submit a completed accident report form to the department within the next business day of the incident; or~~
 - ~~(b) contact the department within the next business day and submit a completed accident report form within five business days of the incident.~~~~
- ~~(11) If the provider must leave the children due to an emergency and a background checked covered individual who is at least 18 years old or older is not available to stay with the children, the provider may leave the children in the care of an emergency substitute who:
 - ~~(a) is at least 18 years old;~~
 - ~~(b) substitutes the caregiver for the minimum time possible and for less than one business day; and~~
 - ~~(c) signs a written background statement before being left alone with the children.~~~~
- ~~(12) Before leaving for the emergency, the provider shall obtain a signed, written background statement from the emergency substitute stating that the emergency substitute:
 - ~~(a) has not been convicted of a felony;~~
 - ~~(b) has not been convicted of a crime against a person;~~
 - ~~(c) is not listed on the state or national sex-offender registry; and~~
 - ~~(d) is not being investigated for abuse or neglect by any federal, state, or local government agency.~~~~
- ~~(13) Within five working days after the occurrence, the provider shall submit emergency substitute's written background statements to the department for review.~~

R430-50-15. Health and Infection Control.

- ~~(1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:
 - ~~(a) walls and flooring clean and free of spills, dirt, and grime;~~
 - ~~(b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;~~
 - ~~(c) surfaces free of rotting food or a build-up of food;~~
 - ~~(d) the building and grounds free of a build-up of litter, trash, and garbage;~~
 - ~~(e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and~~
 - ~~(f) the facility free of animal feces.~~~~
- ~~(2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.~~
- ~~(3) The provider shall clean and sanitize any toys and materials used by children:
 - ~~(a) at least once a week or more often if needed;~~
 - ~~(b) after being put in a child's mouth and before another child plays with the toy; and~~
 - ~~(c) after being contaminated by a body fluid.~~~~
- ~~(4) The provider shall ensure that fabric toys and items including stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.~~
- ~~(5) The provider shall clean and sanitize highchair trays before each use.~~
- ~~(6) The provider shall clean and sanitize water play tables or tubs daily if used by the children.~~
- ~~(7) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.~~
- ~~(8) The provider shall clean and sanitize potty chairs after each use.~~
- ~~(9) The provider shall keep toilet paper in a dispenser that is accessible to children.~~
- ~~(10) The provider shall ensure that staff and volunteers wash their hands thoroughly with soap and running water:
 - ~~(a) upon arrival;~~
 - ~~(b) before handling or preparing food or bottles;~~
 - ~~(c) before and after eating meals and snacks or feeding a child;~~
 - ~~(d) after using the toilet or helping a child use the toilet;~~
 - ~~(e) after contact with a body fluid;~~
 - ~~(f) when coming in from outdoors; and~~
 - ~~(g) after cleaning up or taking out garbage.~~~~
- ~~(11) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.~~
- ~~(12) The provider shall ensure that children wash their hands thoroughly with soap and running water:
 - ~~(a) upon arrival;~~~~

- ~~_____ (b) before and after eating meals and snacks;~~
- ~~_____ (c) after using the toilet;~~
- ~~_____ (d) after contact with a body fluid;~~
- ~~_____ (e) before using a water play table or tub; and~~
- ~~_____ (f) when coming in from outdoors.~~
- ~~_____ (13) The provider shall ensure that only single-use towels, an electric hand dryer, or individually labeled cloth towels are used to dry hands.~~
- ~~_____ (14) The provider shall ensure that if cloth towels are used, cloth towels are:~~
 - ~~_____ (a) not shared; and~~
 - ~~_____ (b) washed daily.~~
- ~~_____ (15) The provider shall store personal hygiene items, including toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.~~
- ~~_____ (16) The provider shall ensure that pacifiers, bottles, and nondisposable drinking cups are:~~
 - ~~_____ (a) labeled with each child's name or individually identified; and~~
 - ~~_____ (b) not shared, or washed and sanitized before being used by another child.~~
- ~~_____ (17) The provider shall ensure that a child's clothing is promptly changed if the child has a toileting accident.~~
- ~~_____ (18) The provider shall ensure that children's clothing that is wet or soiled from a body fluid is:~~
 - ~~_____ (a) washed and dried; or~~
 - ~~_____ (b) placed in a leakproof container that is labeled with the child's name and returned to the parent.~~
- ~~_____ (19) The provider shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids:~~
 - ~~_____ (a) wear waterproof gloves;~~
 - ~~_____ (b) clean the surface using a detergent solution;~~
 - ~~_____ (c) rinse the surface with clean water;~~
 - ~~_____ (d) sanitize the surface;~~
 - ~~_____ (e) throw away in a leakproof plastic bag the disposable materials, including paper towels, that were used to clean up the body fluid;~~
 - ~~_____ (f) wash and sanitize any nondisposable materials used to clean up the body fluid, including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and~~
 - ~~_____ (g) wash their hands after cleaning up the body fluid.~~
- ~~_____ (20) If a child becomes ill while in care, the provider shall:~~
 - ~~_____ (a) as soon as the illness is observed or suspected, contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact; and~~
 - ~~_____ (b) if the child is ill with an infectious disease, make the child comfortable in a safe, supervised area that is separated from the other children until the parent arrives.~~
- ~~_____ (21) The provider shall notify the parents of each child in care if any child, employee, or person in the home has an infectious disease or parasite, on the day the illness is discovered.~~
- ~~_____ (22) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the illness is discovered.~~
- ~~_____ (23) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that individuals with an infectious disease or showing symptoms including diarrhea, fever, coughing, or vomiting do not prepare or serve foods.~~

R430-50-16. Food and Nutrition.

- ~~_____ (1) The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.~~
- ~~_____ (2) If the provider supplies the food for children's meals or snacks, the provider shall ensure that:~~
 - ~~_____ (a) the meal service meets local health department food service rules;~~
 - ~~_____ (b) the foods that are served meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;~~
 - ~~_____ (c) the provider uses the CACFP meal pattern requirements, the standard department approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;~~
 - ~~_____ (d) the current week's menu is posted for review by parents and the department; and~~
 - ~~_____ (e) if not participating or in good standing with the CACFP, keep a six-week record of foods served at each meal and snack.~~
- ~~_____ (3) The provider shall ensure that the individual who serves food to children:~~
 - ~~_____ (a) is aware of the children in their assigned group who have food allergies or sensitivities; and~~
 - ~~_____ (b) ensures that the children are not served the food or drink they are allergic or sensitive to.~~
- ~~_____ (4) The provider may not place children's food on a bare table, and shall serve children's food on dishes, napkins, or sanitary highchair trays, except an individual finger food including a cracker, that may be placed directly in a child's hand.~~
- ~~_____ (5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:~~
 - ~~_____ (a) labeled with the child's name;~~
 - ~~_____ (b) refrigerated if needed; and~~
 - ~~_____ (c) consumed only by that child.~~

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R430-50-17. Medications.

- ~~_____ (1) The provider shall make medications inaccessible to children in care.~~
- ~~_____ (2) The provider shall lock refrigerated medications or store them at least 36 inches above the floor and, if liquid, store them in a separate leakproof container.~~
- ~~_____ (3) If parents supply any over the counter or prescription medications, the provider shall ensure those medications are:~~
 - ~~_____ (a) labeled with the child's full name;~~
 - ~~_____ (b) in the original or pharmacy container;~~
 - ~~_____ (c) have the original label; and~~
 - ~~_____ (d) have child safety caps.~~
- ~~_____ (4) The provider shall have a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.~~
- ~~_____ (5) The provider shall ensure that the medication permission form includes at least:~~
 - ~~_____ (a) the name of the child;~~
 - ~~_____ (b) the name of the medication;~~
 - ~~_____ (c) written instructions for administration; and~~
 - ~~_____ (d) the parent signature and the date signed.~~
- ~~_____ (6) The provider shall ensure that instructions for administering the medication include at least:~~
 - ~~_____ (a) the dosage;~~
 - ~~_____ (b) how the medication will be given;~~
 - ~~_____ (c) the times and dates to administer the medication; and~~
 - ~~_____ (d) the disease or condition being treated.~~
- ~~_____ (7) If the provider supplies an over the counter medication for children's use, the provider shall ensure that the medication is not administered to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:~~
 - ~~_____ (a) written; or~~
 - ~~_____ (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.~~
- ~~_____ (8) The provider shall ensure that the staff administering the medication:~~
 - ~~_____ (a) washes their hands;~~
 - ~~_____ (b) check the medication label to confirm the child's name if the parent supplied the medication;~~
 - ~~_____ (c) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer; and~~
 - ~~_____ (d) administers the medication.~~
- ~~_____ (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:~~
 - ~~_____ (a) the date, time, and dosage of the medication given;~~
 - ~~_____ (b) any error in administering the medication or adverse reactions; and~~
 - ~~_____ (c) their signature or initials.~~
- ~~_____ (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life threatening.~~
- ~~_____ (11) The provider shall notify the parent before the time a child requires medication, if the provider chooses not to administer medication as instructed by the parent.~~
- ~~_____ (12) The provider shall keep a six week record of medication permission and administration forms on site for review by the department.~~

R430-50-18. Activities.

- ~~_____ (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.~~
- ~~_____ (2) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.~~
- ~~_____ (3) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.~~
- ~~_____ (4) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media including television, cell phones, tablets, and computers is:~~
 - ~~_____ (a) not allowed for children zero to 17 months old;~~
 - ~~_____ (b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and~~
 - ~~_____ (c) planned to address the needs of children five to 12 years old.~~
- ~~_____ (5) If swimming activities are offered or if wading pools are used, the provider shall ensure that:~~
 - ~~_____ (a) the parent gives permission before their child in care uses the pool;~~
 - ~~_____ (b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;~~
 - ~~_____ (c) diapered children wear swim diapers when they are in the pool;~~
 - ~~_____ (d) wading pools are emptied and sanitized after use by each group of children;~~

- ~~_____ (e) if the pool is over four feet deep, there is a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and~~
- ~~_____ (f) lifeguards and pool personnel do not count toward the caregiver to child ratio.~~
- ~~_____ (6) If the provider offers offsite activities, the provider shall ensure that:~~
 - ~~_____ (a) the parent gives written consent before each activity;~~
 - ~~_____ (b) the required caregiver to child ratio and supervision are maintained during the entire activity;~~
 - ~~_____ (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;~~
 - ~~_____ (d) children's names are not used on nametags, t shirts, or in other visible ways; and~~
 - ~~_____ (e) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.~~
- ~~_____ (7) The provider shall ensure that a caregiver with the children takes the emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:~~
 - ~~_____ (a) the child's name;~~
 - ~~_____ (b) the parent's name and phone number;~~
 - ~~_____ (c) the name and phone number of an individual to notify if an emergency happens and the parent cannot be contacted;~~
 - ~~_____ (d) the names of people authorized by the parents to pick up the child; and~~
 - ~~_____ (e) current emergency medical treatment and emergency medical transportation releases.~~

R430-50-19. Play Equipment.

- ~~_____ (1) The provider shall ensure that children using play equipment use it safely and as intended by the manufacturer.~~
- ~~_____ (2) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, or the bare floor.~~
- ~~_____ (3) Except for trampolines, the provider shall ensure that stationary play equipment with a designated play surface that is 18 inches high or higher:~~
 - ~~_____ (a) has a surrounding three-foot use zone, free of hard objects or surfaces, that extends from the outermost edge of the equipment;~~
 - ~~_____ (b) has cushioning that covers the entire required use zone; and~~
 - ~~_____ (c) is stable or securely anchored.~~
- ~~_____ (4) The department may consider a trampoline on the premises is inaccessible to children in care if the trampoline:~~
 - ~~_____ (a) is enclosed behind a locked fence or safety net that is at least three feet high;~~
 - ~~_____ (b) has no jumping mat; or~~
 - ~~_____ (c) is placed upside down.~~
- ~~_____ (5) The provider shall ensure that each accessible trampoline without a safety net enclosure has at least a six-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.~~
- ~~_____ (6) The provider shall ensure that each accessible trampoline with a properly installed, used as specified by the manufacturer, and in good repair safety net enclosure has at least a three-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.~~
- ~~_____ (7) The provider shall ensure that each accessible trampoline with or without a safety net enclosure is placed over:~~
 - ~~_____ (a) grass;~~
 - ~~_____ (b) a six-inch deep cushioning; or~~
 - ~~_____ (c) other commercial cushioning.~~
- ~~_____ (8) The provider shall ensure that cushioning for each accessible trampoline covers the entire required use zone.~~
- ~~_____ (9) The provider shall ensure that each accessible trampoline has:~~
 - ~~_____ (a) no ladders or other objects within the use zone a child could use to climb on the trampoline; and~~
 - ~~_____ (b) shock absorbing pads that completely cover the trampoline springs, hooks, and frame.~~
- ~~_____ (10) The provider shall receive written permission from a child's parent or legal guardian before that child uses the trampoline.~~
- ~~_____ (11) The provider shall ensure that if a child uses an accessible trampoline:~~
 - ~~_____ (a) a caregiver is at the trampoline supervising;~~
 - ~~_____ (b) only one person at a time uses the trampoline;~~
 - ~~_____ (c) no child in care is allowed to do somersaults or flips on the trampoline;~~
 - ~~_____ (d) no one is permitted under the trampoline while the trampoline is in use; and~~
 - ~~_____ (e) only school age children in care are allowed to use a trampoline.~~
- ~~_____ (12) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.~~
- ~~_____ (13) The provider shall ensure that there are no strangulation hazards on or within the use zone of any piece of stationary play equipment.~~
- ~~_____ (14) The provider shall ensure that there are no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.~~
- ~~_____ (15) The provider shall ensure that there are no tripping hazards including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.~~

R430-50-20. Transportation:

- ~~_____ (1) For each child being transported by the provider, the provider shall have a transportation permission form:
 - ~~_____ (a) signed by the parent; and~~
 - ~~_____ (b) on site for review by the department.~~~~
- ~~_____ (2) The provider shall ensure that each vehicle used for transporting children:
 - ~~_____ (a) is enclosed with a roof or top;~~
 - ~~_____ (b) is equipped with safety restraints;~~
 - ~~_____ (c) has a current vehicle registration;~~
 - ~~_____ (d) is maintained in a safe and clean condition; and~~
 - ~~_____ (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.~~~~
- ~~_____ (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:
 - ~~_____ (a) appropriate for the age and size of each child who is transported, as required by Utah law;~~
 - ~~_____ (b) properly installed; and~~
 - ~~_____ (c) in safe condition and working order.~~~~
- ~~_____ (4) The provider shall ensure that the driver of each vehicle who is transporting children:
 - ~~_____ (a) is at least 18 years old;~~
 - ~~_____ (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;~~
 - ~~_____ (c) has with them the emergency contact information for each child being transported;~~
 - ~~_____ (d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;~~
 - ~~_____ (e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;~~
 - ~~_____ (f) never leaves a child in the vehicle unattended by an adult;~~
 - ~~_____ (g) ensures that children stay seated while the vehicle is moving;~~
 - ~~_____ (h) never leaves the keys in the ignition when not in the driver's seat; and~~
 - ~~_____ (i) ensures that the vehicle is locked during transport.~~~~
- ~~_____ (5) If the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:
 - ~~_____ (a) each child being transported has a completed transportation permission form signed by their parent;~~
 - ~~_____ (b) a caregiver goes with the children and actively supervises the children;~~
 - ~~_____ (c) the caregiver to child ratio is maintained; and~~
 - ~~_____ (d) a caregiver with the children has written emergency contact information and releases for the children being transported.~~~~
- ~~_____ (6) The provider shall:
 - ~~_____ (a) have transport liability insurance; or~~
 - ~~_____ (b) inform parents in writing that the provider does not have transport liability insurance.~~~~

R430-50-21. Animals:

- ~~_____ (1) The provider shall inform parents of the kinds of animals allowed at the facility.~~
- ~~_____ (2) The provider shall ensure that there is no animal on the premises that:
 - ~~_____ (a) is naturally aggressive;~~
 - ~~_____ (b) has a history of dangerous, attacking, or aggressive behavior; or~~
 - ~~_____ (c) has a history of biting even one individual.~~~~
- ~~_____ (3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.~~
- ~~_____ (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.~~
- ~~_____ (5) The provider shall ensure that children younger than five years old do not assist with the cleaning of animals or animal cages, pens, or equipment.~~
- ~~_____ (6) If school age children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.~~
- ~~_____ (7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.~~
- ~~_____ (8) The provider shall ensure that dogs, cats, and ferrets that are housed at the facility have current rabies vaccinations.~~
- ~~_____ (9) The provider shall keep current animal vaccination records on site for review by the department.~~

R430-50-22. Rest and Sleep:

- ~~_____ (1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.~~
- ~~_____ (2) The provider shall ensure that each crib:
 - ~~_____ (a) has a tight fitting mattress;~~
 - ~~_____ (b) has slats spaced no more than 2 3/8 inches apart;~~
 - ~~_____ (c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;~~
 - ~~_____ (d) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and~~
 - ~~_____ (e) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date.~~~~

- ~~_____ (3) The provider shall ensure that sleeping equipment does not block exits.~~
- ~~_____ (4) The provider shall ensure that sleeping equipment and bedding items are:~~
 - ~~_____ (a) clearly assigned to one child; and~~
 - ~~_____ (b) laundered as needed, but at least once a week, and before use by another child.~~
- ~~_____ (5) Before each use the provider shall clean and sanitize sleeping equipment that is not clearly assigned to and used by an individual.~~

R430-50-23. Diapering.

- ~~_____ (1) If the provider accepts children who wear diapers, the provider shall ensure that each child's diaper is:~~
 - ~~_____ (a) checked at least once every two hours;~~
 - ~~_____ (b) promptly changed if wet or soiled; and~~
 - ~~_____ (c) checked as soon as a sleeping child awakens.~~
- ~~_____ (2) The provider shall ensure that caregivers do not change children's diapers directly on the floor, in a food preparation or eating area, or on any surface used for another purpose.~~
- ~~_____ (3) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.~~
- ~~_____ (4) The provider shall ensure that caregivers clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.~~
- ~~_____ (5) The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.~~
- ~~_____ (6) The provider shall ensure that caregivers place wet and soiled disposable diapers:~~
 - ~~_____ (a) in a container that has a disposable plastic lining and a tight fitting lid;~~
 - ~~_____ (b) directly in an outdoor garbage container that has a tight fitting lid; or~~
 - ~~_____ (c) in a container that is inaccessible to children.~~
- ~~_____ (7) Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.~~
- ~~_____ (8) If cloth diapers are used, the provider shall:~~
 - ~~_____ (a) not rinse cloth diapers at the facility; and~~
 - ~~_____ (b) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or place the cloth diapers in a leakproof diapering service container.~~

R430-50-24. Infant and Toddler Care.

- ~~_____ (1) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 20 minutes.~~
- ~~_____ (2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults, including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.~~
- ~~_____ (3) The provider shall ensure that caregivers respond promptly to infants and toddlers who are in emotional distress due to conditions including hunger, fatigue, a wet or soiled diaper, fear, teething, or illness.~~
- ~~_____ (4) For their healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.~~
- ~~_____ (5) The provider shall ensure that mobile infants and toddlers have freedom of movement in a safe area.~~
- ~~_____ (6) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.~~
- ~~_____ (7) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.~~
- ~~_____ (8) The provider shall make objects made of styrofoam inaccessible to infants and toddlers.~~
- ~~_____ (9) The provider shall allow each infant and toddler to eat and sleep on their own schedule.~~
- ~~_____ (10) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual infant and toddlers use is:~~
 - ~~_____ (a) labeled with the child's name;~~
 - ~~_____ (b) labeled with the date and time of preparation or opening of the container, including a jar of baby food;~~
 - ~~_____ (c) refrigerated if needed; and~~
 - ~~_____ (d) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.~~
- ~~_____ (11) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each infant during bottle feeding and that bottles are not propped.~~
- ~~_____ (12) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to children.~~
- ~~_____ (13) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.~~
- ~~_____ (14) The provider shall ensure that caregivers cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.~~
- ~~_____ (15) The provider shall ensure that infants sleep in equipment designed for sleep including a crib, bassinet, porta crib or playpen, and that infants are not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.~~
- ~~_____ (16) The provider shall place infants on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.~~
- ~~_____ (17) The provider may not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.]~~

R430-50-1. Authority and Purpose.

- ~~_____ (1) Section 26B-2-402 authorizes this rule.~~

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(2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to get and maintain a residential certificate to provide child care.

R430-50-2. Definitions.

- (1) Terms used in this rule are defined in Rule R380-600. Additionally:
- (2) "Background finding" means information in a background check that OBP uses to determine if a covered individual is or is not eligible to be involved with child care.
- (3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.
- (4) "Body fluid" means blood, urine, feces, vomit, mucus, or saliva.
- (5) "Business day" means a day of the week the facility is open for business.
- (6) "Business hours" means the hours the facility is open for business.
- (7) "CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.
- (8) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.
- (9) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:
- (a) count in the caregiver-to-child ratio;
 - (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or
 - (c) supervise children.
- (10) "Caregiver-to-child ratio" means the number of caregivers responsible for a specific number of children.
- (11) "Child care" means continuous care and supervision of at least one qualifying child that:
- (a) is in place of care ordinarily provided by a parent in the parent's home;
 - (b) occurs for less than 24 hours a day; and
 - (c) is provided for direct or indirect compensation.
- (12) "Child care program" means a person or business that offers child care.
- (13) "Choking hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking the airway and making it difficult or impossible to breathe.
- (14) "Covered individual" means the same as defined in Rule R380-600.
- (15) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta-crib, or play pen.
- (16) "Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.
- (17) "Department" means the Utah Department of Health and Human Services.
- (18) "Designated play surface" means any:
- (a) accessible elevated surface for standing, walking, crawling, sitting or climbing; or
 - (b) accessible flat surface that is at least two by two inches in size and has an angle less than 30 degrees from horizontal.
- (19) "Eligible" means the same as defined in Rule R380-600.
- (20) "Entrapment hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing entrapment and strangulation.
- (21) "Facility" means a program or premises approved by OL to be used for child care.
- (22) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.
- (23) "Group size" means the total number of children in a group per room or area.
- (24) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.
- (25) "Health care provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.
- (26) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.
- (27) "Inaccessible" means out of reach for children by being:
- (a) behind a properly secured child safety gate;
 - (b) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb;
 - (c) located at least 36 inches above the floor;
 - (d) locked, including in a locked room, cupboard, or drawer; or
 - (e) secured with a child safety device, including a child safety cupboard lock or doorknob device.
- (28) "Infant" means a child who is younger than 12 months old.
- (29) "Infectious disease" means an illness that is capable of being spread from one individual to another.
- (30) "Involved with child care" means to do any of the following at or for a child care program:
- (a) care for or supervise children;
 - (b) count in the caregiver-to-child ratio;
 - (c) have unsupervised contact with a child in care;
 - (d) own, operate, direct;
 - (e) reside; or
 - (f) volunteer.

- (31) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (32) "OBP" means the same as defined in Rule R380-600.
- (33) "OL" means the same as defined in Rule R380-600.
- (34) "Over-the-counter medication" means medication that an individual can purchase without a written prescription, including any herbal remedy, vitamin, and mineral supplement.
- (35) "Parent" means the parent or legal guardian of a child in care.
- (36) "Play equipment platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on and upon which a child can move freely.
- (37) "Preschooler" means a child age two through four years old.
- (38) "Qualifying child" means a child:
- (a) child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
 - (b) child who is younger than four years old and is the child of the provider or a caregiver; or
 - (c) child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver.
- (39) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (40) "Residential child care" means care that takes place in a child care provider's home.
- (41) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.
- (42) "School-age child" means a child age five through 12 years old.
- (43) "Sexually explicit material" means any depiction of actual or simulated sexual conduct.
- (44) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.
- (45) "Stationary play equipment" means equipment, including a climber, slide, swing, merry-go-round, or spring rocker, that is meant to stay in one location when a child uses it. Stationary play equipment does not include a:
- (a) playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber;
 - (b) sandbox;
 - (c) sensory table; or
 - (d) stationary circular tricycle.
- (46) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught or something in which a child could become entangled, including:
- (a) a protruding bolt end that extends more than two threads beyond the face of the nut;
 - (b) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck; or
 - (c) hardware that forms a hook or leaves a gap or space between components including a protruding open S-hook.
- (47) "Toddler" means a child age 12 through 23 months old.
- (48) "Unsupervised contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by OBP.
- (49) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment and onto which a child falling from or exiting the equipment could be expected to land.
- (50) "Working day" means any day of the week the department is open for business.

R430-50-3. Residential Certificate.

- (1) In accordance with Section 26B-2-404, an individual may become certified as a residential child care provider if they provide care:
- (a) for direct or indirect compensation;
 - (b) for each child for less than 24 hours a day;
 - (c) for eight or fewer qualifying children or up to ten children including the provider's own children in accordance with Subsection 26B-2-405(1)(b)(i);
 - (d) for four or more hours a day;
 - (e) in the absence of the child's parent;
 - (f) in the provider's home; and
 - (g) on a regularly scheduled, ongoing basis.
- (2) An individual shall become licensed by OL as a child care provider in accordance with Rule R430-90 when the number of unrelated children in care is nine or more.
- (3)(a) A person who is not required to become certified may voluntarily become certified, except for care that is for related children only or on a sporadic basis.
- (b) A person who is not required to become certified as a residential child care provider, but provides child care services listed in Subsection R430-50-3(1) shall:
- (i) care for no more than two children under the age of three; and
 - (ii) register with OL to facilitate a background check in accordance with Sections R430-50-8 and 26B-2-405.

R430-50-4. Fire and Other Health Inspections.

- (1) If the local fire authority states in writing that an applicant for a new residential certificate or a renewal does not require a fire inspection, OL shall verify the applicant's compliance with the following:

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- (a) address numbers and letters are readable from the street;
 - (b) boiler, mechanical, and electrical panel rooms are not used for storage;
 - (c) exit doors operate properly and are well maintained;
 - (d) there are no obstructions in exits, aisles, corridors, and stairways;
 - (e) there are working smoke detectors that are properly installed on each level of the building; and
 - (f) there is at least one unobstructed fire extinguisher that is currently charged, serviced, and mounted not more than five feet above the floor.
- (2) If an applicant for a new residential certificate serves food and the local health department states in writing that a kitchen inspection is not required, OL shall verify the applicant's compliance by ensuring:
- (a) any chemical is stored away from food and food service items;
 - (b) any reusable food holder, utensil, and food preparation surface is washed, rinsed, and sanitized before each use;
 - (c) food is properly stored, kept to the proper temperature, and in good condition;
 - (d) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
 - (e) there is a working handwashing sink in the kitchen;
 - (f) there is a working stem thermometer available to check cooking and hot hold temperatures; and
 - (g) there is a working thermometer in the refrigerator.

R430-50-5. Immediate Closure.

- (1) In accordance with Rule R380-600, OL may order the immediate closure of a facility if conditions at the facility create a clear and present danger to any child in care and may require immediate action to protect the children's health or safety.
- (2) Upon receipt of an immediate closure notice, the provider shall give OL the names and mailing addresses of each enrolled child's parent so OL may notify the parents of the immediate closure.
- (3) If there is a severe injury or death of a child in care, OL may order a child care provider to suspend services and prohibit new enrollments, pending a review by the Utah Child Fatality Review Committee or a determination of the probable cause of the injury or death by a medical professional.

R430-50-6. Administration and Children's Records.

- (1) The provider shall:
- (a) be at least 18 years old;
 - (b) be considered eligible by an OBP background check before becoming involved with child care;
 - (d) complete at least 10 hours of child care training each year, based on the facility's residential certificate date; and
 - (c) complete the new provider training offered by OL.
- (2) The provider shall protect children from conduct that endangers any child in care or is contrary to the health, welfare, and safety of the public.
- (3) The provider shall know and comply with applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.
- (4) The provider shall comply with licensing rules any time a child in care is present.
- (5) The provider shall post their unaltered child care residential certificate on the facility premises in a place readily visible and accessible to the public during business hours.
- (6) The provider shall post a current copy of OL's Parent Guide at the facility for parent review during business hours or give a current copy to each parent.
- (7) The provider shall inform each parent and OL of any changes to the program's telephone number and other contact information within 48 hours of the change.
- (8) The provider shall:
- (a) have liability insurance; or
 - (b) inform parents in writing that the provider does not have liability insurance.
- (9) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.
- (10) The provider shall ensure that each child's admission and health assessment form includes:
- (a) the child's name;
 - (b) the child's date of birth;
 - (c) each parent's name, address, and phone number, including a daytime phone number;
 - (d) the names of individuals authorized by the parent to sign the child out from the facility;
 - (e) the name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;
 - (f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;
 - (g) the parent's permission for emergency transportation and emergency medical treatment;
 - (h) any known allergy of the child;
 - (i) any known food sensitivity of the child;
 - (j) any chronic medical condition that the child may have;
 - (k) any instructions for special or nonroutine daily health care of the child;
 - (l) any current ongoing medication that the child may be taking; and

- (m) any other special health instructions for the caregiver.
- (11) The provider shall ensure that the admission and health assessment form is:
 - (a) reviewed, updated, and signed or initialed by the parent at least annually; and
 - (b) kept on-site for review by OL.
- (12) Before admitting any child younger than five years old into the program, including the provider's or employee's own child, the provider shall obtain the following documentation from the child's parent:
 - (a) current immunizations;
 - (b) a medical schedule to receive required immunizations;
 - (c) a legal exemption; or
 - (d) a 90-day exemption for any foster child or child who is homeless.
- (13) For each child younger than five years old, including the provider's or employee's own child, the provider shall keep the child's current immunization records on-site for review by OL.
- (14) The provider shall submit the annual immunization report to the Utah Statewide Immunization Information System by the date specified by the department.
- (15) The provider shall ensure that each child's information is confidential and not released without written parental permission except to OL.

R430-50-7. Personnel and Training Requirements.

- (1) The provider shall remain present at the home at least 50% of the time each week the program is open for business.
- (2) If the provider is not present, the provider shall ensure that there is at least one covered individual who is 18 years old or older present at the facility when there is a child in care.
- (3) The provider shall ensure that any covered individual caring for the children is supervised, qualified, and trained to:
 - (a) meet the needs of each child; and
 - (b) comply with this rule.
- (4) The provider shall ensure that each caregiver working with a child:
 - (a) completes at least ten hours of child care training each year, based on the facility's residential certificate date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year;
 - (b) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (c) is at least 16 years old;
 - (d) is considered eligible by an OBP background check before becoming involved with child care; and
 - (e) knows and follows any applicable law and this rule.
- (5) The provider shall ensure that any other staff, including any driver, cook, and clerk:
 - (a) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
 - (b) is considered eligible by an OBP background check before becoming involved with child care;
 - (c) is introduced to other staff and to the caregiver's assigned group;
 - (d) knows and follows any applicable law and this rule; and
 - (e) reviews the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs.
- (6) The provider shall ensure that each volunteer is considered eligible by an OBP background check before becoming involved with child care.
- (7) The provider shall submit a background check as required in Section R430-50-8 for each guest who is 12 years old and older and stays in the home for more than two weeks.
- (8) The provider shall ensure that each household member who is:
 - (a) 12 to 17 years old is considered eligible by an OBP background check; and
 - (b) 18 years old or older is considered eligible by an OBP background check that includes fingerprints.
- (9) The provider shall ensure that an individual who provides an Individualized Educational Plan or Individualized Family Service plan services including any physical, occupational, or speech therapist:
 - (a) provides identification before having access to the facility or to a child at the facility; and
 - (b) has received the child's parent's permission for services to take place at the facility.
- (10) The provider shall ensure that any individual from law enforcement, Child Protective Services, the department, and any similar entity provides identification before having access to the facility or to a child at the facility.
- (11) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by OL that includes at least the following topics:
 - (a) administration of medication;
 - (b) applicable laws and requirements under Rule R430-50;
 - (c) building and physical premises safety;
 - (d) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
 - (e) children whose special needs may include a disability;
 - (f) emergency preparedness, response, and recovery plan;
 - (g) pediatric first aid and CPR;
 - (h) precautions in transporting children;
 - (i) prevention and control of infectious diseases including immunizations;

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- (j) prevention of and response to emergencies due to food and allergy reactions;
 - (k) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;
 - (l) prevention of sudden infant death syndrome and the use of safe sleeping practices;
 - (m) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 - (n) recognizing the signs of an individual experiencing homelessness and available assistance; and
 - (o) safe handling and disposal of hazardous materials and bio contaminants.
- (12) The provider shall ensure that annual child care training includes at least each topic listed in:
- (a) Sections R430-50-7 through R430-50-24; and
 - (b) Subsections R430-50-7(11)(a) through (o).
- (13) The provider shall ensure that at least half of the required annual training is interactive.
- (14) The provider shall ensure that at least one covered individual with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when a child is in care:
- (a) at each offsite activity;
 - (b) at the facility; and
 - (c) in each vehicle transporting a child.
- (15) The provider shall ensure that CPR certification includes hands-on testing.
- (16) The provider shall ensure that current pediatric first aid and CPR certification records for each covered individual required by this rule to have them are on-site for review by OL.

R430-50-8. Background Checks.

- (1) Before a new covered individual becomes involved with child care, the provider shall use the licensing provider portal search to verify that the individual is eligible and:
- (a) associate that individual with the provider's facility; or
 - (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.
- (2) Before a new covered individual who does not appear in the licensing provider portal search becomes involved with child care in the program, the provider must require the individual to submit an online background check form and fingerprints for any individual age 16 years old and older, except for any individual 12-17 years old who is only listed as a household member; and
- (a) authorize the individual's background check through the licensing provider portal;
 - (b) pay any required fee; and
 - (c) only allow the individual to be involved with child care if they have an eligible OBP background check determination.
- (3) To keep a covered individual's background check eligibility current, the provider shall require the covered individual to submit a new background check application, fingerprints, and any fee if the covered individual has:
- (a) not been associated with an active, CCL approved child care facility within the past 180 days;
 - (b) resided outside of Utah since their last background check was completed; or
 - (c) turned 18 years old and has not previously submitted fingerprints for an OBP background check, except when the 18-year-old has previously submitted fingerprints for an OBP background check, then only a new background check application is required.
- (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall ensure that an online background check application is submitted, and:
- (a) authorize the child's background check through the licensing portal; and
 - (b) pay any required fee.
- (5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.
- (6) If a covered individual submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows OBP's fingerprinting requirements.
- (7) OBP may consider a covered individual not eligible for any of the following reasons:
- (a) any felony conviction;
 - (b) any of the reasons listed under Subsection R381-100-8(8);
 - (c) LIS supported findings that occurred no more than 15 years from the date the application was submitted;
 - (d) the covered individual knowingly making a false statement related to their background check;
 - (e) the covered individual refusing to consent to the criminal background check; or
 - (f) the covered individual's name appearing on the Utah or national sex offender registry.
- (8) OBP may also consider a covered individual not eligible for any of the following criminal findings regardless of severity:
- (a) child pornography;
 - (b) driving under the influence while a child is present in the vehicle;
 - (c) pornographic material or performance;
 - (d) providing dangerous weapons or firearms to a minor;
 - (e) sexual enticing of a minor;
 - (f) sexual exploitation;
 - (g) voyeurism; or
 - (h) any crime against an individual.

(9) OBP shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before OBP conducted the background check.

(10) If the provider is not eligible by OBP, OL may suspend or deny their license until the reason for the background check finding is resolved.

(11) If a covered individual is considered not eligible by OBP, including if the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.

(12) If OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), the covered individual may appeal the information to DPS.

(13) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including license revocation.

(14) The executive director or designee of the department may overturn an OBP background check decision if the executive director or designee determines that the nature of the background finding or mitigating circumstances do not pose a risk to a child.

R430-50-9. Facility.

(1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's or employee's own child.

(2) The provider may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:

(a) by children;

(b) for the care of children; or

(c) to store materials for children.

(3) When measuring indoor space for children's use, the provider may not include any:

(a) bathroom;

(b) closet;

(c) entryway;

(d) hallway; and

(e) lobby.

(4) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the residential certificate, except when providing after school child care for up to two additional school-age children.

(5)(a) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint undergoes a test for lead.

(b) If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.

(6) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation or by windows that open and have screens.

(7) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity the provider is conducting.

(8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(9) The provider shall ensure that there is a working telephone:

(a) at the facility;

(b) during any offsite activity; and

(c) in each vehicle while transporting a child.

(10) The provider shall ensure that there is at least one working toilet and one working handwashing sink accessible to each nondiapered child in care.

(11) The provider shall ensure that there is a bathroom that provides privacy available for use by any school-age child.

(12) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:

(a) maintain the pool in a safe manner;

(b) meet applicable state and local laws and ordinances related to the operation of a swimming pool; and

(c) when not in use:

(i) cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions or

(ii) enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.

(13) If there is a hot tub with water in it on the premises, the provider shall make the hot tub inaccessible to children by:

(a) keeping the hot tub locked with a properly working cover; or

(b) enclosing the hot tub within at least a four-foot-high fence or solid barrier that is locked and that separates the hot tub from any other areas on the premises.

(14) The provider shall maintain any building and outdoor area in good repair and safe condition, including any:

(a) ceiling, wall, and floor covering;

(b) drape, blind, and other window covering;

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- (c) entrance, exit, step, and walkway, including keeping them free of ice, snow, and other hazards;
- (d) furniture, toy, and material accessible to a child;
- (e) indoor and outdoor equipment; and
- (f) lighting, bathroom, and other fixture.
- (15) The provider shall ensure that a protective barrier of at least three feet or higher exists for:
 - (a) any accessible raised deck or balcony that is five feet or higher; and
 - (b) any open stairwell that is five feet or deeper.
- (16) If the house is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, OL may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:
 - (a) there are no connecting interior doorways that can be used by an unauthorized individual;
 - (b) there is a separate entrance for the child care program;
 - (c) there is a separate mailing address for the rented area;
 - (d) there is a signed rental or lease agreement for the rented area; and
 - (e) there is no shared access to the outdoor area, unless a qualified caregiver is with the children each time children in care are using the outdoor area.
- (17) If there is an outdoor area used by children in care, the provider shall comply with Subsections R430-50-9(18) through R430-50-9(23).
- (18) The provider shall ensure that the outdoor area is safely accessible to any child.
- (19) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.
- (20) The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high if the facility is on a street or within a half mile of a street that:
 - (a) has a speed of 25 miles per hour or higher; or
 - (b) has more than two lanes of traffic.
- (21) The provider shall ensure that the following hazards are separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least four feet high:
 - (a) a drop-off of more than five feet on or within 50 yards of the property line;
 - (b) a water hazard, including:
 - (i) a creek;
 - (ii) a ditch;
 - (iii) a lake;
 - (iv) a pond;
 - (v) a pool;
 - (vi) a reservoir;
 - (vii) a river;
 - (viii) a swimming pool; or
 - (ix) an animal watering trough, on or within 100 yards of the property line;
 - (c) any barbed wire that is within 30 feet of the children's play area;
 - (d) any dangerous machinery, including farm equipment, on or within 50 yards of the property line; and
 - (e) any livestock on or within 50 yards of the property line.
- (22) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.
- (23) The provider shall ensure that there is shade available to protect any child from excessive sun and heat when in the outdoor area.

R430-50-10. Ratios and Group Size.

- (1) The provider shall maintain at least one caregiver for up to eight children in care.
- (2) When caring for children younger than two years old, the provider shall ensure that:
 - (a) there is at least one caregiver for every three children younger than two years old;
 - (b) each caregiver cares for no more than two children younger than 18 months old; and
 - (c) there are at least two caregivers if more than three children younger than two years old are present and there are more than six children in care.
- (3) The provider shall include the provider's and employee's own child age four years old or older in care:
 - (a) in the group size when the parent of the child is working at the facility; and
 - (b) in the group size and the caregiver-to-child ratio when the parent of the child is not working at the facility.

R430-50-11. Child Supervision and Security.

- (1) The provider shall ensure that each caregiver provides and maintains active supervision of each child, including:
 - (a) focusing attention on the children and not on caregivers' personal interests;
 - (b) interacting in-person with the children at least every 15 minutes;
 - (c) knowing the number of children in their care at any time;
 - (d) remaining in the outdoor area when a child younger than five years old is in the outdoor area; and
 - (e) remaining inside the home when a child in care is inside the home.
- (2) The provider shall ensure a 16 or 17 year old staff or household member may only have unsupervised contact with a child in care, including during offsite activities and transportation, if:

- (a) the director or the director designee is physically present and available as needed; and
- (b) the staff or household member is not a volunteer.
- (3) The provider may not assign a staff member, volunteer, or household member who is younger than 16 years old to care for or supervise any child in care.
- (4) The provider shall ensure that any guest does not have unsupervised contact with any child in care, including during any offsite activity and transportation.
- (5) The provider shall ensure that any parent of a child in care does not have unsupervised contact with any child in care, except with their own child.
- (6) The provider may allow school-age children to go outdoors while caregivers are indoors if:
 - (a) a caregiver can hear the children when children are outdoors; and
 - (b) the children are in an area completely enclosed within a fence, wall, or solid natural barrier that is at least four feet high.
- (7) The provider shall ensure that a caregiver monitors each sleeping infant by:
 - (a) personally observing each sleeping infant at least once every 15 minutes; or
 - (b) placing each infant to sleep within the sight and hearing of a caregiver.
- (8) The provider may allow a child to participate in supervised offsite activities without a caregiver if:
 - (a) the provider has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts that responsibility throughout the period of the offsite activity; and
 - (b) the provider has prior written permission from the child's parent for the child's participation.
- (9) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.
- (10) To maintain security and supervision of children, the provider shall ensure that:
 - (a) any individual signing a child in and out uses an identifier, including a signature, initials, or electronic code;
 - (b) each child is signed in and out in accordance with this section;
 - (c) only a child's parent or an individual with written authorization from the parent may sign-out a child;
 - (d) photo identification is required if the individual signing the child out is unknown to the provider;
 - (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
 - (f) there is written permission from the child's parent if children sign themselves in or out.
- (11) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
 - (a) the person giving verbal authorization; and
 - (b) the person picking up the child.

R430-50-12. Child Guidance and Interaction.

- (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.
- (2) The provider shall inform each child, each parent, and anyone who interacts with any child in care of the facility's behavioral expectations and how any misbehavior will be handled.
- (3) The provider shall ensure that any individual who interacts with a child guides the child's behavior by using positive reinforcement, redirection, and by setting clear limits that promote the child's ability to become self-disciplined.
- (4) The provider shall ensure that each caregiver uses gentle, passive restraint with a child only when it is needed to protect a child from injuring themselves or others, or to stop a child from destroying property.
- (5) The provider shall ensure that each interaction with a child does not include:
 - (a) any action that produces physical pain or discomfort, including hitting, spanking, shaking, biting, or pinching;
 - (b) any form of corporal punishment;
 - (c) any form of emotional mistreatment;
 - (d) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage;
 - (e) forcing or withholding food, rest, or toileting;
 - (f) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint; or
 - (g) shouting at children.
- (6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Section 80-2-602.

R430-50-13. Child Safety and Injury Prevention.

- (1) The provider shall ensure that any child and staff use each building, outdoor area, toy, and any equipment safely and as intended by the manufacturer to prevent injury to children.
- (2) The provider shall ensure that any poisonous or harmful plant is inaccessible to children.
- (3) The provider shall ensure that any sharp object, edge, corner, or point that could cut or puncture skin is inaccessible to children.
- (4) The provider shall ensure that any choking hazard is inaccessible to any child younger than three years old.
- (5) The provider shall ensure that any strangulation hazard, including any rope, cord, chain, and wire attached to a structure and long enough to encircle a child's neck is inaccessible to children.
- (6) The provider shall ensure that any tripping hazard including unsecured flooring, any rug with a curled edge, or cord in a walkway is inaccessible to children.

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- (7) The provider shall ensure that any empty plastic bag large enough for a child's head to fit inside, any latex glove, or balloon is inaccessible to any child younger than five years old.
- (8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.
- (9) The provider shall ensure that any toxic or hazardous chemical, including any cleaner, insecticide, lawn product, and flammable, corrosive, and reactive material is:
- (a) disposed of properly;
 - (b) inaccessible to any child;
 - (c) stored in a container labeled with the contents of the container; and
 - (d) used according to manufacturer instructions.
- (10) The provider shall ensure that the following items are inaccessible to children:
- (a) cigarette lighters;
 - (b) hot wax or other hot substances;
 - (c) matches;
 - (d) open flames; and
 - (e) when in use, portable space heaters, wood burning stoves, and fireplaces.
- (11) The provider shall ensure that the following items are inaccessible to a child:
- (a) any live electrical wire; and
 - (b) for a child younger than five years old, any electrical outlet and surge protector without a protective cap or safety device when not in use.
- (12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that any firearm, including a gun, muzzleloader, rifle, shotgun, handgun, pistol, and automatic gun, is:
- (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and
 - (b) stored unloaded and separate from ammunition.
- (13) The provider shall ensure that any weapon, including a paintball gun, BB gun, airsoft gun, sling shot, arrow, and mace, is inaccessible to children.
- (14) The provider shall ensure that any alcohol, illegal substance, or sexually explicit material is inaccessible and not used on the premises, during any offsite activity, or in any facility vehicle any time a child is in care.
- (15) The provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees Fahrenheit or higher.
- (16) The provider shall ensure that each area accessible to a child is free of any heavy or unstable object that a child could pull down on themselves, including any furniture, unsecured television, and standing ladder.
- (17) The provider shall ensure that hot water accessible to a child does not exceed 120 degrees Fahrenheit.
- (18) The provider shall ensure that highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.
- (19) The provider shall ensure that infant walkers with wheels are inaccessible to children.
- (20) The provider shall ensure that any tobacco, e-cigarette, e-juice, e-liquid, or similar product is inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, is not used:
- (a) in a facility or any other building when a child is in care;
 - (b) in any vehicle that is being used to transport a child in care;
 - (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care;
 - (c) within 25 feet of any entrance to a facility or other building occupied by a child in care.

R430-50-14. Emergency Preparedness, Response, and Recovery.

- (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:
- (a) includes a procedure for:
 - (i) accommodating a child with a disability;
 - (ii) accommodating a child with a chronic medical condition;
 - (iii) accommodating any infant and toddler;
 - (iv) communication with and reunification of families;
 - (v) continuity of operations;
 - (vi) evacuation;
 - (vii) lockdown;
 - (viii) relocation; and
 - (ix) shelter in place.
 - (b) includes instructions to follow if there is an allergy, serious reaction to food, or any other trigger that may affect a child's health; and
 - (c) is followed if an emergency happens, unless otherwise instructed by emergency personnel.
- (2) The provider shall post the home's street address and any emergency numbers, including at least fire, police, and poison control, near each telephone or in an area clearly visible to anyone needing the information.
- (3) The provider shall keep first aid supplies in the facility, including at least antiseptic, bandages, and tweezers.

- (4) The provider shall conduct a fire evacuation drill every six months and make sure each drill includes a complete exit of each child, staff member, and volunteer from the building.
- (5) The provider shall conduct a drill for disasters, other than fires, at least once every 12 months.
- (6) The provider shall vary the days and times when fire and other disaster drills are held.
- (7) The provider shall:
- (a) give each parent a written report on the day of occurrence of each incident, accident, or injury involving their child;
 - (b) ensure the report has the signatures of the caregivers involved, the provider, and the individual picking up the child; and
 - (c) if a school-age child signs themselves out of the facility, send a copy of the report to the parent on the day following the occurrence.
- (8) If a child is injured and the injury appears serious but not life-threatening, the provider shall contact the child's parent immediately.
- (9) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:
- (a) call emergency personnel immediately; and
 - (b)(i) contact the parent after emergency personnel are called; or
 - (ii) if the parent cannot be reached, try to contact the child's emergency contact individual.
- (10) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall submit a critical incident report to OL within the next business day of the incident.
- (11) If the provider must leave the children due to an emergency and a background checked covered individual who is at least 18 years old or older is not available to stay with the children, the provider may leave the children in the care of an emergency substitute who:
- (a) is at least 18 years old;
 - (b) substitutes the caregiver for the minimum time possible and for less than one business day; and
 - (c) signs a written background statement before being left alone with the children.
- (12) Before leaving for the emergency, the provider must obtain a signed, written background statement from the emergency substitute stating that the emergency substitute:
- (a) has not been convicted of a felony;
 - (b) has not been convicted of a crime against a person;
 - (c) is not listed on the state or national sex offender registry; and
 - (d) is not being investigated for abuse or neglect by any federal, state, or local government agency.
- (13) Within five working days after the occurrence, the provider shall submit emergency substitute's written background statements to OBP for review.
- (14) The provider shall ensure compliance with incident reporting in accordance with Subsection R380-600-7(16).

R430-50-15. Health and Infection Control.

- (1) The provider shall maintain the building, furnishings, equipment, and outdoor area including keeping:
 - (a) any frequently touched surface, including each doorknob and light switch, clean and sanitized;
 - (b) each area and any equipment used for the storage, preparation, and service of food clean and sanitized;
 - (c) each surface free of rotting food or a build-up of food;
 - (d) each wall and floor clean and free of spills, dirt, and grime;
 - (e) the building and grounds free of a build-up of litter and garbage; and
 - (f) the building and grounds free of animal feces.
- (2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.
- (3) The provider shall clean and sanitize any toy and material used by a child:
 - (a) at least once a week or more often if needed;
 - (b) after being put in a child's mouth and before another child plays with the toy; and
 - (c) after being contaminated by a body fluid.
- (4) The provider shall ensure that any fabric toy and item including any stuffed animal, cloth doll, pillow cover, and dress-up clothing is machine washable and if used, washed at least each week or as needed.
- (5) The provider shall clean and sanitize each highchair tray before each use.
- (6) The provider shall clean and sanitize each water play table or tub daily, if used by a child.
- (7) The provider shall clean and sanitize each bathroom surface including each toilet, sink, faucet, toilet and sink handle, and counter each business day.
- (8) The provider shall clean and sanitize each potty chair after each use.
- (9) The provider shall ensure that toilet paper is accessible and kept in a dispenser that is accessible to each child.
- (10) The provider shall ensure that each staff member and volunteer washes their hands thoroughly with liquid soap and running water:
 - (a) after cleaning up or taking out garbage;
 - (b) after contact with a body fluid;
 - (c) after using the toilet or helping a child use the toilet;
 - (d) before and after eating meals and snacks or feeding a child;
 - (e) before handling or preparing food or bottles;
 - (f) upon arrival; and
 - (g) when coming in from outdoors.

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- (11) The provider shall ensure that each caregiver teaches each child how to wash the child's hands thoroughly and that the caregiver oversees handwashing when possible.
- (12) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water:
- (a) after contact with a body fluid;
 - (b) after using the toilet;
 - (c) before and after eating meals and snacks;
 - (d) before using a water play table or tub;
 - (e) upon arrival; and
 - (f) when coming in from outdoors.
- (13) The provider shall ensure that only single-use towels, an electric hand dryer, or individually labeled cloth towels are used to dry hands.
- (14) The provider shall ensure that if cloth towels are used, cloth towels are:
- (a) not shared; and
 - (b) washed daily.
- (15) The provider shall ensure that any personal hygiene items, including a toothbrush, comb, and hair accessory, are not shared and are stored so they do not touch each other or they are sanitized between each use.
- (16) The provider shall ensure that any pacifier, bottle, and nondisposable drinking cup is:
- (a) labeled with each child's name or individually identified; and
 - (b) not shared, or washed and sanitized before being used by another child.
- (17) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.
- (18) The provider shall ensure that a child's clothing that is wet or soiled from a body fluid is:
- (a) not rinsed or washed at the center;
 - (b) placed in a leakproof container that is labeled with the child's name; and
 - (c) returned to the parent.
- (19) The provider shall ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids shall:
- (a) clean the surface using a detergent solution;
 - (b) rinse the surface with clean water;
 - (c) sanitize the surface;
 - (d) throw away, in a leakproof plastic bag, any disposable material, including paper towels, that were used to clean up the body fluid;
 - (e) wash and sanitize any non-disposable material used to clean up the body fluid, including any cleaning cloth, mop, or reusable rubber glove, before reusing it;
 - (f) wear waterproof gloves; and
 - (g) wash their hands after cleaning up the body fluid.
- (20) If a child becomes ill while in care, the provider shall:
- (a) as soon as the illness is observed or suspected, contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact; and
 - (b) if the child is ill with an infectious disease, make the child comfortable in a safe, supervised area that is separated from any other child until the parent arrives.
- (21) The provider shall notify the parents of each child in care if any child, employee, or person in the home has an infectious disease or parasite on the day the illness is discovered.
- (22) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the illness is discovered.
- (23) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that an individual with an infectious disease, or showing symptoms including diarrhea, fever, coughing, or vomiting, does not prepare or serve foods.

R430-50-16. Food and Nutrition.

- (1) The provider shall ensure that each child two years old and older is offered a meal or snack at least once every three hours.
- (2) If the provider supplies food for children's meals or snacks, the provider shall ensure that:
- (a) the meal service meets local health department food service rules;
 - (b) the foods that are served meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;
 - (c) the provider uses the CACFP meal pattern requirements, the standard OL-approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;
 - (d) the current week's menu is posted for review by parents and OL; and
 - (e) if not participating or in good standing with the CACFP, keep a six-week record of foods served at each meal and snack.
- (3) The provider shall ensure that the individual who serves food to a child:
- (a) is aware of each child in their assigned group who has any food allergy or sensitivity; and
 - (b) ensures that a child is not served the food that the child is allergic or sensitive to.
- (4) The provider may not place a child's food on a bare table, and shall serve a child's food on a dish, napkin, or sanitary highchair tray, except an individual finger food, including a cracker, that may be placed directly in a child's hand.
- (5) If a parent brings food and drink for their child's use, the provider shall ensure that the food and drink is:

- (a) consumed only by that child;
- (b) labeled with the child's name; and
- (c) refrigerated if needed.

R430-50-17. Medications.

- (1) The provider shall make medications inaccessible to children in care.
- (2) The provider shall lock any refrigerated medication or store it at least 36 inches above the floor and, if liquid, store it in a separate leakproof container.
- (3) If a parent supplies any over-the-counter or prescription medication, the provider shall ensure that medication:
 - (a) is labeled with the child's full name;
 - (b) is stored in the original or pharmacy container; and
 - (c) has the original label.
- (4) The provider shall obtain a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.
- (5) The provider shall ensure that the medication permission form includes at least:
 - (a) a parent signature and the date signed;
 - (b) any written instructions for administration;
 - (c) the name of the child; and
 - (d) the name of the medication.
- (6) The provider shall ensure that instructions for administering the medication include at least:
 - (a) how the medication will be given;
 - (b) the disease or condition being treated;
 - (c) the dosage; and
 - (d) the times and dates to administer the medication.
- (7) If the provider supplies an over-the-counter medication for a child's use, the provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:
 - (a) written; or
 - (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.
- (8) The provider shall ensure that the staff administering the medication:
 - (a) administers the medication;
 - (b) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer;
 - (c) checks the medication label to confirm the child's name if the parent supplied the medication; and
 - (d) washes their hands.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records:
 - (a) any error in administering the medication or adverse reactions;
 - (b) the date, time, and dosage of the medication given; and
 - (c) their signature or initials.
- (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.
- (11) The provider shall notify the parent before the scheduled medication dosage to a child if the provider chooses not to administer medication as instructed by the parent.
- (12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by OL.

R430-50-18. Activities.

- (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- (2) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours that children spend in the program.
- (3) The provider shall ensure that any toy, material, and equipment needed to support a child's healthy development is available to each child.
- (4) Except for occasional special events, the provider shall ensure that each child's primary screen time activity on media, including any television, cell phone, tablet, and computer, is:
 - (a) not allowed for a child zero to 17 months old;
 - (b) limited for a child 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and
 - (c) planned to address the needs of a child five to 12 years old.
- (5) If the provider offers swimming activities, or if a wading pool is used, the provider shall ensure that:
 - (a) a caregiver stays at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;
 - (b) any diapered child wears a swim diaper when the child is in the pool;
 - (c) each lifeguard and pool personnel does not count toward the caregiver-to-child ratio;

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- (d) each wading pool is emptied and sanitized after use by each group of children;
- (e) if the pool is deeper than four feet, there is a lifeguard on duty who is certified by the Red Cross or another approved certification program any time a child has access to the pool; and
- (f) the parent gives permission before their child uses the pool.
- (6) If the provider offers offsite activities, the provider shall ensure that:
 - (a) a child's name is not used on a nametag, t-shirt, or in any other visible way;
 - (b) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (c) the child's parent gives written consent before each activity;
 - (d) the required caregiver-to-child ratio and supervision are maintained during the entire activity; and
 - (e) there is a way for each child and caregiver to wash their hands with soap and water, or, if there is no source of running water, with a wet wipe or hand sanitizer.
- (7) The provider shall ensure that a caregiver with the children takes the emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:
 - (a) the child's name;
 - (b) the parent's name and phone number;
 - (c) the name and phone number of a person to notify if there is an emergency and the parent cannot be contacted;
 - (d) the name of any person authorized by the parent to pick up the child; and
 - (e) current emergency medical treatment and emergency medical transportation releases.

R430-50-19. Play Equipment.

- (1) The provider shall ensure that children using play equipment use it safely and as intended by the manufacturer.
- (2) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, or the bare floor.
- (3) Except for trampolines, the provider shall ensure that stationary play equipment with a designated play surface that is 18 inches high or higher:
 - (a) has a surrounding three-foot use zone, free of hard objects or surfaces, that extends from the outermost edge of the equipment;
 - (b) has cushioning that covers the entire required use zone; and
 - (c) is stable or securely anchored.
- (4) OL may consider a trampoline on the premises is inaccessible to children in care if the trampoline:
 - (a) is enclosed behind a locked fence or safety net that is at least three feet high;
 - (b) has no jumping mat; or
 - (c) is placed upside down.
- (5) The provider shall ensure that each accessible trampoline without a safety net enclosure has at least a six-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.
- (6) The provider shall ensure that each accessible trampoline with a properly installed, used as specified by the manufacturer, and in good repair safety net enclosure has at least a three-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.
- (7) The provider shall ensure that each accessible trampoline with or without a safety net enclosure is placed over:
 - (a) grass;
 - (b) a six-inch deep cushioning; or
 - (c) other commercial cushioning.
- (8) The provider shall ensure that cushioning for each accessible trampoline covers the entire required use zone.
- (9) The provider shall ensure that each accessible trampoline has:
 - (a) no ladders or other objects within the use zone a child could use to climb on the trampoline; and
 - (b) shock-absorbing pads that completely cover the trampoline springs, hooks, and frame.
- (10) The provider must obtain written permission from a child's parent or legal guardian before that child uses the trampoline.
- (11) The provider shall ensure that if a child uses an accessible trampoline:
 - (a) a caregiver is at the trampoline supervising;
 - (b) only one person at a time uses the trampoline;
 - (c) no child in care is allowed to do somersaults or flips on the trampoline;
 - (d) no one is permitted under the trampoline while the trampoline is in use; and
 - (e) only school-age children in care are allowed to use a trampoline.
- (12) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.
- (13) The provider shall ensure that there is no strangulation hazard on or within the use zone of any piece of stationary play equipment.
- (14) The provider shall ensure that there is no crush, shearing, or sharp edge hazard on or within the use zone of any piece of stationary play equipment.
- (15) The provider shall ensure that there is no tripping hazard including any concrete footing, tree stump, tree root, or rock within the use zone of any piece of stationary play equipment.

R430-50-20. Transportation.

- (1) For each child that the provider transports, the provider shall obtain a transportation permission form that is:
- (a) signed by a parent; and
 - (b) on-site for review by OL.
- (2) The provider shall ensure that each vehicle used for transporting children:
- (a) is enclosed with a roof or top;
 - (b) is equipped with safety restraints;
 - (c) has a current vehicle registration;
 - (d) is maintained in a safe and clean condition; and
 - (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.
- (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:
- (a) appropriate for the age and size of each child who is transported, as required by law;
 - (b) properly installed; and
 - (c) in safe condition and working order.
- (4) The provider shall ensure that the driver of each vehicle who is transporting children:
- (a) is at least 18 years old;
 - (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;
 - (c) has with them the emergency contact information outlined in Subsection R381-50-18(7) for each child being transported;
 - (d) ensures that each child being transported is in an individual safety restraint as required by law;
 - (e) ensures that the inside vehicle temperature is between 60 and 85 degrees Fahrenheit;
 - (f) ensures that each child stay seated while the vehicle is moving;
 - (g) ensures that the vehicle is locked during transport;
 - (h) never leaves a child in the vehicle unattended by an adult; and
 - (i) never leaves the keys in the ignition when not in the driver's seat.
- (5) If the provider walks or uses public transportation to transport a child to or from a facility, the provider shall ensure that:
- (a) each child being transported has a completed transportation permission form signed by their parent;
 - (b) a caregiver goes with and actively supervises each child;
 - (c) a caregiver transporting a child has emergency contact information outlined in Subsection R381-50-18(7) and a release for each child being transported; and
 - (d) the caregiver-to-child ratio is maintained.
- (6) The provider shall:
- (a) have transport liability insurance; or
 - (b) inform parents in writing that the provider does not have transport liability insurance.

R430-50-21. Animals.

- (1) The provider shall inform each parent of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is no animal on the premises that:
- (a) has a history of biting even one individual;
 - (b) has a history of dangerous, attacking, or aggressive behavior; or
 - (c) is naturally aggressive.
- (3) The provider shall ensure that any animal at the facility is clean and free of any obvious disease or health problem that could adversely affect a child.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) The provider shall ensure that no child younger than five years old assists with the cleaning of any animal or animal cage, pen, or equipment.
- (6) If a school-age child helps in the cleaning of animals or animal equipment, the provider shall ensure that the child washes their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that each child and staff wash their hands immediately after playing with or touching any reptile or amphibian.
- (8) The provider shall ensure that any dog, cat, or ferret that the facility houses have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by OL.

R430-50-22. Rest and Sleep.

- (1) The provider shall offer a child in care a daily opportunity for rest or sleep in an environment with:
- (a) a low noise level;
 - (b) freedom from distractions; and
 - (c) subdued lighting.
- (2) The provider shall ensure that each crib:
- (a) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child;
 - (b) has a tight-fitting mattress;
 - (c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;

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- (d) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date; and
- (e) has slats spaced no more than 2-3/8 inches apart.
- (3) The provider shall ensure that sleeping equipment does not block any exit
- (4) The provider shall ensure that sleeping equipment and bedding items are:
 - (a) clearly assigned to one child; and
 - (b) laundered as needed, but at least once a week, and before use by another child.
- (5) The provider shall clean and sanitize sleeping equipment, that is not clearly assigned to and used by an individual child, before each use.

R430-50-23. Diapering.

- (1) If the provider accepts children who wear diapers, the provider shall ensure that each child's diaper is:
 - (a) checked as soon as a sleeping child awakens;
 - (b) checked at least once every two hours; and
 - (c) promptly changed when wet or soiled.
- (2) The provider shall ensure that caregivers do not change children's diapers directly on the floor, in a food preparation or eating area, or on any surface used for another purpose.
- (3) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (4) The provider shall ensure that a caregiver cleans and sanitizes the diapering surface after each diaper change or uses a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (5) The provider shall ensure that a caregiver washes their hands after each diaper change.
- (6) The provider shall ensure that a caregiver places any wet and soiled disposable diaper:
 - (a) in a container that has a disposable plastic lining and a tight-fitting lid;
 - (b) directly in an outdoor garbage container that has a tight-fitting lid; or
 - (c) in a container that is inaccessible to children.
- (7) The provider shall ensure that each indoor container where any wet and soiled diaper is placed is cleaned and sanitized each day.
- (8) If cloth diapers are used, the provider shall:
 - (a) not rinse cloth diapers at the facility; and
 - (b)(i) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or
 - (ii) place the cloth diapers in a leakproof diapering service container.

R430-50-24. Infant and Toddler Care.

- (1) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 15 minutes.
- (2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults, including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.
- (3) The provider shall ensure that a caregiver responds promptly to an infant and toddler who is in emotional distress due to any conditions including:
 - (a) a wet or soiled diaper;
 - (b) fatigue;
 - (c) fear;
 - (d) hunger;
 - (e) illness; or
 - (f) teething.
- (4) To stimulate healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.
- (5) The provider shall ensure that any mobile infant and toddler has freedom of movement in a safe area.
- (6) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.
- (7) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.
- (8) The provider shall make any object made of styrofoam inaccessible to any infant and toddler.
- (9) The provider shall allow each infant and toddler to eat and sleep on their own schedule.
- (10) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual infant and toddlers use is:
 - (a) labeled with the child's name;
 - (b) labeled with the date and time of preparation or opening of the container, including a jar of baby food;
 - (c) kept refrigerated if needed; and
 - (d) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.
- (11) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each infant during bottle feeding and that a bottle is not propped.
- (12) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to a child.

- (13) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.
- (14) The provider shall ensure that a caregiver cuts solid food for:
 - (a) an infant into pieces no larger than 1/4 inch in diameter; and
 - (b) a toddler into pieces no larger than 1/2 inch in diameter.
- (15) The provider shall ensure that each infant sleeps in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that an infant is not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.
- (16) The provider shall place an infant on their back for sleeping unless there is documentation from a health care provider requiring a different sleep position.
- (17) The provider may not place any soft toy, loose blanket, or other object in sleep equipment while in use by a sleeping infant.

R430-50-25. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: child care facilities, residential certification
Date of Last Change: [~~November 9, 2023~~2024]
Notice of Continuation: May 4, 2023
Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	R430-90	Filing ID: 56906

Agency Information

1. Title catchline:	Health and Human Services, Residential Child Care Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Mariah Noble	385-214-1150	mariahnoble@utah.gov
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:
R430-90. Licensed Family Child Care
3. Purpose of the new rule or reason for the change:
The reason for this proposed repeal and reenact is to consolidate the extensive nonsubstantive edits made for rulewriting manual compliance. Substantive changes remove outdated or duplicative content that is now addressed in the Division of Licensing and Background Checks (DLBC)-wide enforcement rule, R380-600 and reflect the new statute governing DLBC enforcement and penalties in accordance with SB229 from the 2024 General Session. The Child Care Licensing Committee has reviewed and approved the changes made in this repeal and reenact filing.
4. Summary of the new rule or change:
This repeal and reenact removes content that is now addressed and enforced under Rule R380-600 and adds Section R430-90-25 to comply with SB229 from the 2024 General Session. The repeal and reenact additionally changes "Department" references to "OL" to accurately reflect the enforcement entity responsible for licensing compliance. Section 430-90-11 adds clarification for supervision requirements to reduce ambiguity regarding supervision in licensed family care.

Fiscal Information

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

A) State budget:

The repeal and reenact removes content that is now represented in Rule R380-600. There will be no changes to how the state conducts inspections.
 This filing is not anticipated to impact the state budget.
 This filing is not anticipated to have a fiscal impact on the Department of Health and Human Services. This filing removes repetitive content. There will be no changes to how the state conducts inspections.

B) Local governments:

This repeal and reenact will not have a fiscal impact on local government, because it removes content that is now addressed and enforced under Rule R380-600. The DLBC Office of Licensing (OL) regulates these providers, not local government and OL actions and penalties have no impact on local government.
 This filing is not anticipated to impact local government.
 This filing is not anticipated to have a fiscal impact on local government, as they are not regulated by DLBC

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

This filing is not anticipated to have a fiscal impact on small businesses. Family care providers are not considered small business, as they serve eight or fewer children in the home of the provider. These providers are considered "affected persons" in this rule analysis.

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

This repeal and reenact is not anticipated to have a fiscal impact on non-small businesses because licensed family care is not considered a non-small business. It is the provision of childcare in a residential setting for eight or fewer children.

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 repeal and reenact will not have an impact on other persons because it removes duplicative content already in effect in Rule R380-600. Other individuals will not be affected by these new requirements.
 This filing is not anticipated to have a fiscal impact on the Persons other than small businesses, non-small business, state or local government. This filing removes repetitive content. There will be no changes to requirements.

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

The clarification that supervision requires 15-minute physical checks clarifies and strengthens what is meant by providing "supervision". Supervision of children has always been a requirement of rule. Supervision is now clearly identified and provides a threshold for providers to know how to effectively supervise children. Providers will not need to hire any new staff to fulfill the supervision requirement and can meet the rule requirement with no financial impact or gain. This filing is not anticipated to have a fiscal impact to 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-2-402		
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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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	10/30/2024
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R430. Health and Human Services, Residential Child Care Licensing.

R430-90. Licensed Family Child Care.

~~**[R430-90-1. Legal Authority and Purpose:**~~

- ~~(1) This rule is enacted and enforced in accordance with Section 26B-2-402.~~
- ~~(2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to get and maintain a license to provide child care.~~

~~**R430-90-2. Definitions:**~~

- ~~(1) "Applicant" means a person or business who has applied for a new or a renewal of a license from Child Care Licensing.~~
- ~~(2) "Background Finding" means information in a background check that Child Care Licensing uses to determine if a covered individual is or is not eligible to be involved with child care.~~
- ~~(3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.~~
- ~~(4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.~~
- ~~(5) "Business Days and Hours" means the days of the week and times the facility is open for business.~~
- ~~(6) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:~~
 - ~~(a) count in the caregiver to child ratio;~~
 - ~~(b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or~~
 - ~~(c) supervise children.~~
- ~~(7) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.~~
- ~~(8) "Caregiver to Child Ratio" means the number of caregivers responsible for a specific number of children.~~
- ~~(9) "CCL" means the Child Care Licensing Program that is delegated with the responsibility to enforce rules under Titles R381 and R430.~~
- ~~(10) "Child Care" means continuous care and supervision of one or more qualifying children that is:~~
 - ~~(a) in place of care ordinarily provided by a parent in the parent's home;~~
 - ~~(b) for less than 24 hours a day; and~~
 - ~~(c) for direct or indirect compensation.~~
- ~~(11) "Child Care Program" means a person or business that offers child care.~~

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- ~~_____ (12) "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1 1/4 inches and a length of less than 2 1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.~~
- ~~_____ (13) "Conditional Status" means that the provider is at risk of losing their child care license because compliance with licensing rules has not been maintained.~~
- ~~_____ (14) "Covered Individual" means any of the following individuals involved with a child care program:
 - ~~_____ (a) an owner;~~
 - ~~_____ (b) an employee;~~
 - ~~_____ (c) a caregiver;~~
 - ~~_____ (d) a volunteer, except a parent of a child enrolled in the child care program;~~
 - ~~_____ (e) an individual age 12 years old or older who resides in the facility; and~~
 - ~~_____ (f) anyone who has unsupervised contact with a child in care.~~~~
- ~~_____ (15) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta crib, or play pen.~~
- ~~_____ (16) "Cushioning" means a shock absorbing surface under and around play equipment that reduces the severity of injuries from falls.~~
- ~~_____ (17) "Department" means the Utah Department of Health and Human Services.~~
- ~~_____ (18) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.~~
- ~~_____ (19) "Eligible" means that there were no findings in a covered individual's background check that could prohibit that covered individual from being involved with child care.~~
- ~~_____ (20) "Emotional Abuse" means behavior that could harm a child's emotional development, including threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.~~
- ~~_____ (21) "Entrapment Hazard" means an opening greater than 3 1/2 by 6 1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.~~
- ~~_____ (22) "Facility" means a child care program or the premises approved by the department to be used for child care.~~
- ~~_____ (23) "Group" means the children who are assigned to and supervised by one or more caregivers.~~
- ~~_____ (24) "Group Size" means the total number of children in a group.~~
- ~~_____ (25) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.~~
- ~~_____ (26) "Health Care Provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.~~
- ~~_____ (27) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.~~
- ~~_____ (28) "Inaccessible" means out of reach of children by being:
 - ~~_____ (a) locked, including in a locked room, cupboard, or drawer;~~
 - ~~_____ (b) secured with a child safety device, including a child safety cupboard lock or doorknob device;~~
 - ~~_____ (c) behind a properly secured child safety gate;~~
 - ~~_____ (d) located at least 36 inches above the floor; or~~
 - ~~_____ (e) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb.~~~~
- ~~_____ (29) "Infant" means a child who is younger than 12 months old.~~
- ~~_____ (30) "Infectious Disease" means an illness that is capable of being spread from one individual to another.~~
- ~~_____ (31) "Involved with Child Care" means to do any of the following at or for a child care program:
 - ~~_____ (a) care for or supervise children;~~
 - ~~_____ (b) volunteer;~~
 - ~~_____ (c) own, operate, direct;~~
 - ~~_____ (d) reside;~~
 - ~~_____ (e) count in the caregiver to child ratio; or~~
 - ~~_____ (f) have unsupervised contact with a child in care.~~~~
- ~~_____ (32) "License" means a license issued by the department to provide child care services.~~
- ~~_____ (33) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.~~
- ~~_____ (34) "LIS Supported Finding" means background check information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.~~
- ~~_____ (35) "Older Toddler" means a child age 18 through 23 months old.~~
- ~~_____ (36) "Over the Counter Medication" means medication that can be bought without a written prescription including herbal remedies, vitamins, and mineral supplements.~~
- ~~_____ (37) "Parent" means the parent or legal guardian of a child in care.~~
- ~~_____ (38) "Physical Abuse" means causing nonaccidental physical harm to a child.~~
- ~~_____ (39) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on, and upon which the children can move freely.~~
- ~~_____ (40) "Preschooler" means a child age two through four years old.~~
- ~~_____ (41) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.~~
- ~~_____ (42) "Provider Designee" means the adult delegated by the provider to take the provider's responsibility in the provider's absence.~~
- ~~_____ (43) "Qualifying Child" means:
 - ~~_____ (a) a child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;~~
 - ~~_____ (b) a child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver;~~~~

- or
- ~~(e) a child who is younger than four years old and is the child of the provider or a caregiver.~~
 - ~~(44) "Related Child" means a child for whom a provider is the parent, legal guardian, step parent, grandparent, step grandparent, great grandparent, sibling, step sibling, aunt, step aunt, great aunt, uncle, step uncle, or great uncle.~~
 - ~~(45) "Residential Child Care" means care that takes place in a child care provider's home.~~
 - ~~(46) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.~~
 - ~~(47) "School Age Child" means a child age five through 12 years old.~~
 - ~~(48) "Sexual Abuse" means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.~~
 - ~~(49) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.~~
 - ~~(50) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.~~
 - ~~(51) "Stationary Play Equipment" means equipment including a climber, slide, swing, merry go-round, or spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

 - ~~(a) a sandbox;~~
 - ~~(b) a stationary circular tricycle;~~
 - ~~(c) a sensory table; or~~
 - ~~(d) a playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber.~~~~
 - ~~(52) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled including:

 - ~~(a) a protruding bolt end that extends more than two threads beyond the face of the nut;~~
 - ~~(b) hardware that forms a hook or leaves a gap or space between components including a protruding open S-hook; or~~
 - ~~(c) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck.~~~~
 - ~~(53) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by CCL.~~
 - ~~(54) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.~~
 - ~~(55) "Working Days" means the days of the week the department is open for business.~~
 - ~~(56) "Younger Toddler" means a child age 12 through 17 months old.~~

R430-90-3. License Required.

- ~~(1) An individual shall obtain a family child care provider license from the department if they provide care:

 - ~~(a) in the provider's home;~~
 - ~~(b) in the absence of the child's parent;~~
 - ~~(c) for nine or more unrelated children;~~
 - ~~(d) for four or more hours a day;~~
 - ~~(e) for each individual child for less than 24 hours a day;~~
 - ~~(f) on a regularly scheduled, ongoing basis; and~~
 - ~~(g) for direct or indirect compensation.~~~~
- ~~(2) A person who does not meet licensing requirements may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.~~
- ~~(3) A provider may be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program if the part of the building requesting a CCL license is physically separated from the other building services.~~
- ~~(4) A residential child care provider may not be licensed for more than two facilities at the same time.~~
- ~~(5) An individual shall be licensed by the department as a child care provider if they provide child care in the person's home for more than ten children in total under the age of 13, or under the age of 18 if a child has a disability, regardless of whether a child is related to the person providing child care.~~

R430-90-4. License Application, Renewal, Changes, and Variances.

- ~~(1) Each applicant for a new child care license shall:

 - ~~(a) submit a CCL online application;~~
 - ~~(b) submit a copy of a current local fire clearance or a written statement from the local fire authority that a fire inspection is not required;~~
 - ~~(c) submit a copy of a current local health department kitchen clearance for a facility providing food service or a written statement from the local health department that a kitchen inspection is not required;~~
 - ~~(d) submit a copy of a current local business license or a written statement from the city that a business license is not required;~~
 - ~~(e) complete CCL background checks for covered individuals as required in Section R430-90-8;~~
 - ~~(f) complete CCL new provider training no more than six months before becoming licensed; and~~
 - ~~(g) pay any required fees, which are nonrefundable.~~~~
- ~~(2) Each applicant shall pass a department's inspection of the facility before a new license or a renewal is issued.~~
- ~~(3) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, the department shall verify the applicant's compliance with the following:~~

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- ~~_____ (a) address numbers and letters are readable from the street;~~
- ~~_____ (b) exit doors operate properly and are well maintained;~~
- ~~_____ (c) there are no obstructions in exits, aisles, corridors, and stairways;~~
- ~~_____ (d) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor;~~
- ~~_____ (e) there are working smoke detectors that are properly installed on each level of the building; and~~
- ~~_____ (f) boiler, mechanical, and electrical panel rooms are not used for storage.~~
- ~~_____ (4) If an applicant for a new license serves food and the local health department states in writing that a kitchen inspection is not required, the department shall verify the applicant's compliance with the following:~~
- ~~_____ (a) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;~~
- ~~_____ (b) there is a working thermometer in the refrigerator;~~
- ~~_____ (c) there is a working stem thermometer available to check cooking and hot hold temperatures;~~
- ~~_____ (d) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;~~
- ~~_____ (e) chemicals are stored away from food and food service items;~~
- ~~_____ (f) food is properly stored, maintained at the proper temperature, and in good condition; and~~
- ~~_____ (g) there is a working handwashing sink in the kitchen.~~
- ~~_____ (5)(a) Each applicant for a new license shall complete the licensing process within six months from the time any portion of the application is submitted to the department.~~
- ~~_____ (b) If successful licensure is not achieved by the applicant within six months, the applicant shall reapply.~~
- ~~_____ (c) Any resubmission shall include the required documentation and payment of licensing fees.~~
- ~~_____ (d) The department shall conduct a new inspection of the facility before issuing a license.~~
- ~~_____ (6) The department may deny an application for a license if, within the five years preceding the application date, the applicant held a license or a certificate that was:~~
- ~~_____ (a) closed under an immediate closure;~~
- ~~_____ (b) revoked;~~
- ~~_____ (c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;~~
- ~~_____ (d) voluntarily closed after an inspection of the facility found a rule noncompliance that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or~~
- ~~_____ (e) voluntarily closed having unpaid fees or civil money penalties issued by the department.~~
- ~~_____ (7) Each child care license expires at midnight on the last day of the month shown on the license, unless the license was previously revoked by the department, or voluntarily closed by the provider.~~
- ~~_____ (8) Within 30 to 90 days before a current license expires, each provider shall submit for renewal:~~
- ~~_____ (a) an online renewal request;~~
- ~~_____ (b) applicable renewal fees;~~
- ~~_____ (c) any previous unpaid fees; and~~
- ~~_____ (d) a copy of a current fire inspection report.~~
- ~~_____ (9) The department may grant a provider who fails to renew their license by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.~~
- ~~_____ (10) The department may deny renewal of a license for a provider who is no longer caring for children.~~
- ~~_____ (11) Each provider shall submit a complete application for a new license at least 30 days before a change of the child care facility's location.~~
- ~~_____ (12) A provider shall submit a complete online changes request to amend an existing license at least 30 days before any of the following changes:~~
- ~~_____ (a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where child care is provided;~~
- ~~_____ (b) a change in the name of the program;~~
- ~~_____ (c) a change in the regulation type of the program;~~
- ~~_____ (d) a change in the name of the provider; or~~
- ~~_____ (e) a transfer of business ownership.~~
- ~~_____ (13) The department may amend a license after verifying that the applicant is in compliance with all applicable rules and required fees have been paid. The expiration date of the amended license remains the same as the previous license.~~
- ~~_____ (14) Only the department may assign, transfer, or amend a license.~~
- ~~_____ (15)(a) If an applicant or provider cannot comply with a rule under Rule R381-90 but can meet the intent of the rule in another way, the applicant or provider may apply for a variance to that rule by submitting a request to the department.~~
- ~~_____ (b) The department may:~~
- ~~_____ (i) require additional information before acting on a variance request; and~~
- ~~_____ (ii) impose health and safety requirements as a condition of granting a variance.~~
- ~~_____ (c) Each provider shall comply with the existing Rule R381-90 unless the department approves a variance.~~
- ~~_____ (d) If a variance is approved, the provider shall keep a copy of the written approval on site for review by parents and the department.~~
- ~~_____ (e) The department may grant variances for up to 12 months.~~
- ~~_____ (f) The department may revoke a variance if:~~

- ~~_____ (i) the provider is not meeting the intent of the rule as stated in their approved variance;~~
- ~~_____ (ii) the provider fails to comply with the conditions of the variance; or~~
- ~~_____ (iii) a change in statute, rule, or case law affects the basis for the variance.~~

~~R430-90-5. Rule Noncompliance, Penalties, and Agency Action Reviews.~~

- ~~_____ (1) The department may place a program's child care license on a conditional status for the following causes:~~
 - ~~_____ (a) chronic, ongoing noncompliance with rules;~~
 - ~~_____ (b) unpaid fees; or~~
 - ~~_____ (c) a serious rule noncompliance that places children's health or safety in immediate jeopardy.~~
- ~~_____ (2) The department shall establish the length of the conditional status and set the conditions that the child care provider shall satisfy to remove the conditional status.~~
- ~~_____ (3) The department may increase monitoring of the program that is on conditional status to verify compliance with rules.~~
- ~~_____ (4) The department may deny or revoke a license if the child care provider:~~
 - ~~_____ (a) fails to meet the conditions of a license on conditional status;~~
 - ~~_____ (b) violates the Child Care Licensing Act;~~
 - ~~_____ (c) provides false or misleading information to the department;~~
 - ~~_____ (d) misrepresents information by intentionally altering a license or any other document issued by the department;~~
 - ~~_____ (e) fails to allow authorized representatives of the department access to the facility to ensure compliance with this rule;~~
 - ~~_____ (f) fails to submit or make available to the department any written documentation required to verify compliance with this rule;~~
 - ~~_____ (g) commits a serious rule noncompliance that results in death or serious harm to a child, or that places a child at risk of death or serious harm; or~~
 - ~~_____ (h) has committed an illegal act that would exclude an individual from having a license.~~
- ~~_____ (5) Within ten working days of receipt of a revocation notice, the provider shall submit to the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the revocation.~~
- ~~_____ (6) The department may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect the children's health or safety.~~
- ~~_____ (7) Upon receipt of an immediate closure notice, the provider shall give the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the immediate closure.~~
- ~~_____ (8) If there is a severe injury or the death of a child in care, the department may order a child care provider to suspend services and prohibit new enrollments, pending a review by the DHHS Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.~~
- ~~_____ (9) An unlicensed person providing care that requires a license or certificate may be charged with a civil money penalty and a class A misdemeanor unless they:~~
 - ~~_____ (a) stop providing child care that requires a license or certificate; or~~
 - ~~_____ (b) apply for the appropriate license or certificate within 30 calendar days of notification by the department.~~
- ~~_____ (10) If a person providing care without the appropriate license agrees to apply for a license but does not submit an application and the required application documents within 30 days, the department may issue a cease and desist order.~~
- ~~_____ (11) A noncompliance of any rule is punishable by an administrative civil money penalty of up to \$5,000 a day as provided in Section 26B-2-409.~~
- ~~_____ (12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.~~
- ~~_____ (13) The department may deny an application or revoke a license for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background checks, civil money penalties, and other fees assessed by the department.~~
- ~~_____ (14) An applicant or provider may request an agency review for any department decision within ten working days of being informed in writing of the decision.~~

~~R430-90-6. Administration and Children's Records.~~

- ~~_____ (1) The provider shall:~~
 - ~~_____ (a) be at least 18 years old;~~
 - ~~_____ (b) be considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~_____ (c) complete the new provider training offered by the department; and~~
 - ~~_____ (d) complete at least 20 hours of child care training each year, based on the facility's license date.~~
- ~~_____ (2) The provider shall protect children from conduct that endangers children in care, or is contrary to the health, morals, welfare, and safety of the public.~~
- ~~_____ (3) The provider shall know and comply with each applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.~~
- ~~_____ (4) The provider shall comply with licensing rules any time a child in care is present.~~
- ~~_____ (5) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public during business hours.~~
- ~~_____ (6) The provider shall post a current copy of the department's Parent Guide at the facility for parent review during business hours or give a current copy to each parent.~~

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- ~~_____ (7) The provider shall inform parents and the department of any changes to the program's telephone number and other contact information within 48 hours of the change.~~
- ~~_____ (8) The provider shall:~~
 - ~~_____ (a) have liability insurance; or~~
 - ~~_____ (b) inform parents in writing that the provider does not have liability insurance.~~
- ~~_____ (9) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.~~
- ~~_____ (10) The provider shall ensure that each child's admission and health assessment form includes the following information:~~
 - ~~_____ (a) child's name;~~
 - ~~_____ (b) child's date of birth;~~
 - ~~_____ (c) parent's name, address, and phone number, including a daytime phone number;~~
 - ~~_____ (d) names of individuals authorized by the parent to sign the child out from the facility;~~
 - ~~_____ (e) name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;~~
 - ~~_____ (f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;~~
 - ~~_____ (g) parent's permission for emergency transportation and emergency medical treatment;~~
 - ~~_____ (h) any known allergies of the child;~~
 - ~~_____ (i) any known food sensitivities of the child;~~
 - ~~_____ (j) any chronic medical conditions that the child may have;~~
 - ~~_____ (k) instructions for special or nonroutine daily health care of the child;~~
 - ~~_____ (l) current ongoing medications that the child may be taking; and~~
 - ~~_____ (m) any other special health instructions for the caregiver.~~
- ~~_____ (11) The provider shall ensure that the admission and health assessment form is:~~
 - ~~_____ (a) reviewed, updated, and signed or initialed by the parent at least annually; and~~
 - ~~_____ (b) on-site for review by the department.~~
- ~~_____ (12) Before admitting any child younger than five years old into the child care program, including the provider's and employees' own children, the provider shall get the following documentation from the child's parent:~~
 - ~~_____ (a) current immunizations;~~
 - ~~_____ (b) a medical schedule to receive required immunizations;~~
 - ~~_____ (c) a legal exemption; or~~
 - ~~_____ (d) a 90-day exemption for foster children and children who are homeless.~~
- ~~_____ (13) For each child younger than five years old, including the provider's and employees' own children, the provider shall keep their current immunization records on-site for review by the department.~~
- ~~_____ (14) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health and Human Services by the date specified by the department.~~
- ~~_____ (15) The provider shall ensure that each child's information is confidential and not released without written parental permission except to the department.~~

R430-90-7. Personnel and Training Requirements.

- ~~_____ (1) The provider or the provider designee shall be present at the home when a child is in care.~~
- ~~_____ (2) The provider shall ensure that, before being left alone with the children, the provider designee:~~
 - ~~_____ (a) completes the department's new provider training; and~~
 - ~~_____ (b) has current first aid and pediatric CPR certifications.~~
- ~~_____ (3) The provider shall ensure that any covered individual caring for the children is supervised, qualified, and trained to:~~
 - ~~_____ (a) meet the needs of the children as required by this rule; and~~
 - ~~_____ (b) be in compliance with licensing requirements under Rule R430-90.~~
- ~~_____ (4) The provider shall ensure that caregivers:~~
 - ~~_____ (a) are at least 16 years old;~~
 - ~~_____ (b) are considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~_____ (c) complete the 2 1/2-hour preservice training offered by the department before caring for children;~~
 - ~~_____ (d) know and follow any applicable laws and requirements under Rule R430-90;~~
 - ~~_____ (e) are introduced to other staff and to the caregiver's assigned group of children;~~
 - ~~_____ (f) review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs; and~~
 - ~~_____ (g) complete at least 20 hours of child care training each year, based on the facility's license date, or at least 1 1/2 hours of child care training each month they work if hired partway through the facility's licensing year.~~
- ~~_____ (5) The provider shall ensure that any other staff including drivers, cooks, and clerks:~~
 - ~~_____ (a) are considered eligible by a CCL background check before becoming involved with child care;~~
 - ~~_____ (b) complete the 2 1/2-hour preservice training offered by the department before beginning job duties; and~~
 - ~~_____ (c) know and follow any applicable laws and requirements under Rule R430-90.~~
- ~~_____ (6) The provider shall ensure that volunteers are considered eligible by a CCL background check before becoming involved with child care.~~

- ~~(7) The provider shall submit a background check as required in Section R430-90-8 for each guest who is 12 years old and older and stays in the home for more than two weeks.~~
- ~~(8) The provider shall ensure that household members who are:~~
- ~~(a) 12 to 17 years old are considered eligible by a CCL background check; and~~
 - ~~(b) 18 years old or older are considered eligible by a CCL background check that includes fingerprints.~~
- ~~(9) The provider shall ensure that individuals who provide Individualized Educational Plan or Individualized Family Service plan (IFSP) services including physical, occupational, or speech therapists:~~
- ~~(a) provide proper identification before having access to the facility or to a child at the facility; and~~
 - ~~(b) have received the child's parent's permission for services to take place at the facility.~~
- ~~(10) The provider shall ensure that individuals from law enforcement, Child Protective Services, the department, and any similar entities provide proper identification before having access to the facility or to a child at the facility.~~
- ~~(11) The provider shall ensure that each covered individual required to complete preservice training receives the 2 1/2-hour preservice training offered by the department which includes at least the following topics:~~
- ~~(a) applicable laws and requirements under Rule R430-90;~~
 - ~~(b) children with special needs;~~
 - ~~(c) recognizing the signs of homelessness and available assistance;~~
 - ~~(d) building and physical premises safety;~~
 - ~~(e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;~~
 - ~~(f) pediatric first aid and CPR;~~
 - ~~(g) emergency preparedness, response, and recovery plan;~~
 - ~~(h) prevention of and response to emergencies due to food and allergy reactions;~~
 - ~~(i) safe handling and disposal of hazardous materials and biocontaminants;~~
 - ~~(j) prevention and control of infectious diseases including immunizations;~~
 - ~~(k) administration of medication;~~
 - ~~(l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;~~
 - ~~(m) precautions in transporting children;~~
 - ~~(n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and~~
 - ~~(o) prevention of sudden infant death syndrome and the use of safe sleeping practices.~~
- ~~(12) The provider shall ensure that annual child care training includes at least the following topics:~~
- ~~(a) current department rule Sections R430-90-7 through R430-90-24;~~
 - ~~(b) children with special needs;~~
 - ~~(c) recognizing the signs of homelessness and available assistance;~~
 - ~~(d) building and physical premises safety;~~
 - ~~(e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;~~
 - ~~(f) pediatric first aid and CPR;~~
 - ~~(g) emergency preparedness, response, and recovery plan;~~
 - ~~(h) prevention of and response to emergencies due to food and allergy reactions;~~
 - ~~(i) safe handling and disposal of hazardous materials and biocontaminants;~~
 - ~~(j) prevention and control of infectious diseases including immunizations;~~
 - ~~(k) administration of medication;~~
 - ~~(l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;~~
 - ~~(m) precautions in transporting children;~~
 - ~~(n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and~~
 - ~~(o) prevention of sudden infant death syndrome and the use of safe sleeping practices.~~
- ~~(13) The provider shall ensure that at least half of the required annual training is interactive.~~
- ~~(14) The provider shall ensure that documentation of each individual's annual child care training is on site for review by the department and includes the following:~~
- ~~(a) training topic;~~
 - ~~(b) date of the training;~~
 - ~~(c) name of the individual or organization that presented the training;~~
 - ~~(d) whether the training was interactive or not; and~~
 - ~~(e) total hours or minutes of training.~~
- ~~(15) The provider shall ensure that at least one covered individual with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when children are in care:~~
- ~~(a) at the facility;~~
 - ~~(b) in each vehicle transporting children; and~~
 - ~~(c) at each offsite activity.~~
- ~~(16) The provider shall ensure that CPR certification includes hands-on testing.~~
- ~~(17) The provider shall ensure that the following records for each caregiver and volunteer are on site for review by the department:~~
- ~~(a) the date of initial employment or association with the program;~~
 - ~~(b) a current pediatric first aid and CPR certification, if required in this rule; and~~
 - ~~(c) a six-week record of the times worked each day.~~

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~~R430-90-8. Background Checks.~~

~~(1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:~~

- ~~(a) associate that individual with their facility; or~~
- ~~(b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.~~

~~(2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:~~

- ~~(a) require the individual to submit an online background check form and fingerprints for individuals age 18 years old and older;~~
- ~~(b) authorize the individual's background check through the CCL provider's portal;~~
- ~~(c) pay any required fees; and~~
- ~~(d) receive written notice from CCL that the individual is eligible.~~

~~(3) To keep their background check eligibility current, the provider shall also ensure that a new background check form and fingerprints are submitted and authorized and fees are paid for any covered individual who has:~~

- ~~(a) resided outside of Utah since their last background check was completed;~~
- ~~(b) not been associated with an active, CCL approved child care facility within the past 180 days; or~~
- ~~(c) turned 18 years old and has not previously submitted fingerprints for a CCL background check, except when the 18-year old has previously submitted fingerprints for a CCL background check, then only a new background check form will be required.~~

~~(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:~~

- ~~(a) ensure that an online background check form is submitted;~~
- ~~(b) authorize the child's background check through the CCL provider's portal; and~~
- ~~(c) pay any required fees.~~

~~(5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.~~

~~(6) If fingerprints are submitted electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.~~

~~(7) The department may consider a covered individual not eligible for any of the following reasons:~~

- ~~(a) LIS supported findings;~~
- ~~(b) the covered individual's name appears on the Utah or national sex offender registry;~~
- ~~(c) the covered individual refuses to consent to the criminal background check;~~
- ~~(d) the covered individual knowingly makes a false statement in connection with their background check;~~
- ~~(e) any felony convictions; or~~
- ~~(f) for any of the reasons listed under Subsection R430-90-8(8).~~

~~(8) The department may also consider a covered individual not eligible for any of the following convictions regardless of severity:~~

- ~~(a) child pornography;~~
- ~~(b) sexual enticing of a minor;~~
- ~~(c) voyeurism;~~
- ~~(d) a sexual exploitation act;~~
- ~~(e) pornographic material or performance;~~
- ~~(f) any crime against an individual;~~
- ~~(g) providing dangerous weapons or fire arms to a minor; or~~
- ~~(h) driving under the influence while a child is present in the vehicle.~~

~~(9) The department shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check was conducted.~~

~~(10) If the provider is considered not eligible by CCL, the department may suspend or deny their license until the reason for the background check finding is resolved.~~

~~(11) If a covered individual is considered not eligible by CCL, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.~~

~~(12) If a covered individual is denied a license or employment based upon the criminal background check and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information to the Department of Public Safety.~~

~~(13) The provider and the covered individual shall notify the department within 48 hours of becoming aware of the covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding. Failure to notify the department within 48 hours may result in disciplinary action, including revocation of the license.~~

~~(14) The Executive Director of the department may overturn a CCL background check decision if the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.~~

~~R430-90-9. Facility.~~

~~(1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.~~

- ~~_____ (2) The department may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:~~
- ~~_____ (a) by children;~~
 - ~~_____ (b) for the care of children; or~~
 - ~~_____ (c) to store materials for children.~~
- ~~_____ (3) The department may not include the following areas when measuring indoor space for children's use:~~
- ~~_____ (a) bathrooms;~~
 - ~~_____ (b) closets;~~
 - ~~_____ (c) hallways;~~
 - ~~_____ (d) lobbies; and~~
 - ~~_____ (e) entryways.~~
- ~~_____ (4) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license, except when providing after school child care for up to three additional school-age children.~~
- ~~_____ (5) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.~~
- ~~_____ (6) The provider shall ensure that each room and indoor area that is used by children is ventilated by mechanical ventilation, or by windows that open and have screens.~~
- ~~_____ (7) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity being conducted.~~
- ~~_____ (8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.~~
- ~~_____ (9) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.~~
- ~~_____ (10) The provider shall ensure that there is at least one working toilet and at least one working handwashing sink accessible to each nondiapered child in care.~~
- ~~_____ (11) The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.~~
- ~~_____ (12) The provider shall ensure that there is an outdoor area that is safely accessible to children.~~
- ~~_____ (13) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.~~
- ~~_____ (14) The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high if the facility is on a street or within a half mile of a street that:~~
- ~~_____ (a) has a speed of 25 miles per hour or higher; or~~
 - ~~_____ (b) has more than two lanes of traffic.~~
- ~~_____ (15) The provider shall ensure that the following hazards are separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least four feet high:~~
- ~~_____ (a) barbed wire that is within 30 feet of the children's play area;~~
 - ~~_____ (b) livestock on or within 50 yards of the property line;~~
 - ~~_____ (c) dangerous machinery, including farm equipment, on or within 50 yards of the property line;~~
 - ~~_____ (d) a drop-off of more than five feet on or within 50 yards of the property line; and~~
 - ~~_____ (e) a water hazard, including a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.~~
- ~~_____ (16) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.~~
- ~~_____ (17) The provider shall ensure that there is shade available to protect the children from excessive sun and heat when children are in the outdoor area.~~
- ~~_____ (18) If there is a swimming pool on the premises that is not emptied after each use, the provider shall:~~
- ~~_____ (a) meet applicable state and local laws and ordinances related to the operation of a swimming pool;~~
 - ~~_____ (b) maintain the pool in a safe manner; and~~
 - ~~_____ (c) when not in use, cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot high fence or solid barrier that is locked and that separates the pool from any other areas on the premises.~~
- ~~_____ (19) If there is a hot tub with water in it on the premises, the provider shall make the hot tub inaccessible to children by:~~
- ~~_____ (a) keeping the hot tub locked with a properly working cover; or~~
 - ~~_____ (b) enclosing the hot tub within at least a four-foot high fence or solid barrier that is locked and that separates the hot tub from any other areas on the premises.~~
- ~~_____ (20) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:~~
- ~~_____ (a) ceilings, walls, and floor coverings;~~
 - ~~_____ (b) lighting, bathroom, and other fixtures;~~
 - ~~_____ (c) draperies, blinds, and other window coverings;~~
 - ~~_____ (d) indoor and outdoor play equipment;~~
 - ~~_____ (e) furniture, toys, and materials accessible to the children; and~~
 - ~~_____ (f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.~~
- ~~_____ (21) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.~~

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(22) If the house is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:

- (a) there is a signed rental or lease agreement for the rented area;
- (b) there is a separate mailing address for the rented area;
- (c) there is a separate entrance for the child care program;
- (d) there are no connecting interior doorways that can be used by unauthorized individuals; and
- (e) there is no shared access to the outdoor area, unless a qualified caregiver is with the children each time children in care are using the outdoor area.

R430-90-10. Ratios and Group Size.

- (1) The provider shall maintain at least:
 - (a) one caregiver for up to eight children in care; and
 - (b) two caregivers for nine to 16 children in care.
- (2) The provider shall include the provider's and employees' children age four years old or older in care:
 - (a) in the group size when the parent of the child is working at the facility; and
 - (b) in the group size and the caregiver to child ratio when the parent of the child is not working at the facility.
- (3) When caring for children younger than two years old, the provider shall ensure that:
 - (a) there is at least one caregiver for every three children younger than two years old;
 - (b) each caregiver cares for no more than two children younger than 18 months old; and
 - (c) there are at least two caregivers if more than three children younger than two years old are present and there are more than six children in care.
- (4) The provider may not exceed the group sizes found in Table 1 and Table 2.

Number of provider's and caregiver's own children ages 4-12 years present during child care hours	Maximum allowed number of children in care, including the provider's and caregivers' own children younger than 4 years old	Total number of children present in the home during child care hours
0-4 Children	8 Children	12 Children
5 Children	7 Children	12 Children
6 Children	6 Children	12 Children
7 Children	5 Children	12 Children
8 Children	4 Children	12 Children
9 Children	3 Children	12 Children
10 Children	2 Children	12 Children
11 Children	1 Child	12 Children

Number of provider's and caregiver's own children ages 4-12 years present during child care hours	Maximum allowed number of children in care, including the provider's and caregivers' own children younger than 4 years old	Total number of children present in the home during child care hours
0-8 Children	16 Children	24 Children
9 Children	15 Children	24 Children
10 Children	14 Children	24 Children
11 Children	13 Children	24 Children
12 Children	12 Children	24 Children
13 Children	11 Children	24 Children
14 Children	10 Children	24 Children

15 Children	9 Children	24 Children
16 Children	8 Children	24 Children
17 Children	7 Children	24 Children
18 Children	6 Children	24 Children
19 Children	5 Children	24 Children
20 Children	4 Children	24 Children
21 Children	3 Children	24 Children
22 Children	2 Children	24 Children
23 Children	1 Child	24 Children

- _____ (5) The provider may include caregivers and volunteers who are 16 or 17 years old in the caregiver to child ratio.
 _____ (6) The provider shall ensure that guests do not count in caregiver to child ratio.

R430-90-11. Child Supervision and Security.

- _____ (1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:
 _____ (a) a caregiver is inside the home when a child in care is inside the home;
 _____ (b) a caregiver is in the outdoor area when a child younger than five years old is in the outdoor area;
 _____ (c) caregivers know the number of children in their care at any time; and
 _____ (d) caregivers' attention is focused on the children and not on caregivers' personal interests.
 _____ (2) The provider shall ensure that staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:
 _____ (a) the provider or an eligible adult is physically present and available as needed; and
 _____ (b) they are not volunteers.
 _____ (3) The provider shall ensure that staff, volunteers, and household members who are younger than 16 years old are not assigned to care for or supervise any child in care.
 _____ (4) The provider shall ensure that guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.
 _____ (5) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.
 _____ (6) The provider may allow school age children to be outdoors while caregivers are indoors if:
 _____ (a) a caregiver can hear the children when children are outdoors; and
 _____ (b) the children are in an area completely enclosed within a fence, wall, or solid natural barrier that is at least four feet high.
 _____ (7) The provider shall ensure that a caregiver monitors each sleeping infant by:
 _____ (a) placing each infant to sleep within the sight and hearing of a caregiver; or
 _____ (b) personally observing each sleeping infant at least once every 15 minutes.
 _____ (8) The provider may allow a child to participate in supervised offsite activities without a caregiver if:
 _____ (a) the provider has prior written permission from the child's parent for the child's participation; and
 _____ (b) the provider has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts that responsibility throughout the period of the offsite activity.
 _____ (9) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.
 _____ (10) To maintain security and supervision of children, the provider shall ensure that:
 _____ (a) each child is signed in and out in accordance with this section;
 _____ (b) only parents or individuals with written authorization from the parent may sign out a child;
 _____ (c) photo identification is required if the individual signing the child out is unknown to the provider;
 _____ (d) individuals signing children in and out use identifiers, including a signature, initials, or electronic code;
 _____ (e) the sign in and sign out records include the date and time each child arrives and leaves; and
 _____ (f) there is written permission from the child's parent if school age children sign themselves in or out.
 _____ (11) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
 _____ (a) the individual giving verbal authorization; and
 _____ (b) the individual picking up the child.
 _____ (12) The provider shall ensure that a six week record of each child's daily attendance, including sign in and sign out records, is on-site for review by the department.

R430-90-12. Child Guidance and Interaction.

- _____ (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.
 _____ (2) The provider shall inform parents, children, and those who interact with the children of the program's behavioral expectations and how any misbehavior will be handled.
 _____ (3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.
 _____ (4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children

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from injuring themselves or others, or to stop them from destroying property.

- _____ (5) The provider shall ensure that interactions with the children do not include:
 - _____ (a) any form of corporal punishment or any action that produces physical pain or discomfort including hitting, spanking, shaking, biting, or pinching;
 - _____ (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;
 - _____ (c) shouting at children;
 - _____ (d) any form of emotional abuse;
 - _____ (e) forcing or withholding food, rest, or toileting; or
 - _____ (f) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage.
- _____ (6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in state law.

R430-90-13. Child Safety and Injury Prevention.

- _____ (1) The provider shall ensure that the building, outdoor area, toys, and equipment are used in a safe manner and as intended by the manufacturer to prevent injury to children.
- _____ (2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.
- _____ (3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.
- _____ (4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.
- _____ (5) The provider shall ensure that strangulation hazards including ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.
- _____ (6) The provider shall ensure that tripping hazards including unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.
- _____ (7) The provider shall ensure that empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons are inaccessible to children younger than five years old.
- _____ (8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.
- _____ (9) The provider shall ensure that toxic or hazardous chemicals including cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:
 - _____ (a) inaccessible to children;
 - _____ (b) used according to manufacturer instructions;
 - _____ (c) stored in containers labeled with the contents of the container; and
 - _____ (d) disposed of properly.
- _____ (10) The provider shall ensure that the following items are inaccessible to children:
 - _____ (a) matches or cigarette lighters;
 - _____ (b) open flames;
 - _____ (c) hot wax or other hot substances; and
 - _____ (d) when in use, portable space heaters, wood burning stoves, and fireplaces.
- _____ (11) The provider shall ensure that the following items are inaccessible to children:
 - _____ (a) live electrical wires; and
 - _____ (b) for children younger than five years old, electrical outlets and surge protectors without protective caps or safety devices when not in use.
- _____ (12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that firearms including guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:
 - _____ (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and
 - _____ (b) stored unloaded and separate from ammunition.
- _____ (13) The provider shall ensure that weapons including paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.
- _____ (14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in facility vehicles any time a child is in care.
- _____ (15) The provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.
- _____ (16) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, including furniture, unsecured televisions, and standing ladders.
- _____ (17) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.
- _____ (18) The provider shall ensure that highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.
- _____ (19) The provider shall ensure that infant walkers with wheels are inaccessible to children.
- _____ (20) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with the Utah Indoor Clean Air Act, not used:
 - _____ (a) in the facility or any other building when a child is in care;
 - _____ (b) in any vehicle that is being used to transport a child in care;
 - _____ (c) within 25 feet of any entrance to the facility or other building occupied by a child in care; or

~~_____ (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.~~

~~R430-90-14. Emergency Preparedness, Response, and Recovery.~~

- ~~_____ (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:~~
- ~~_____ (a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;~~
 - ~~_____ (b) includes procedures for accommodations for infants and toddlers, children with disabilities, and children with chronic medical conditions;~~
 - ~~_____ (c) includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health;~~
 - ~~_____ (d) is available for review by parents, staff, and the department during business hours; and~~
 - ~~_____ (e) is followed if an emergency happens, unless otherwise instructed by emergency personnel.~~
- ~~_____ (2) The provider shall post the facility's street address and emergency numbers, including at least fire, police, and poison control, near the telephone in the home or in an area clearly visible to anyone needing the information.~~
- ~~_____ (3) The provider shall keep first aid supplies in the facility, including at least antiseptic, bandages, and tweezers.~~
- ~~_____ (4) The provider shall conduct fire evacuation drills quarterly and make sure drills include a complete exit of each child, staff, and volunteers from the building.~~
- ~~_____ (5) The provider shall document each fire drill, including:~~
- ~~_____ (a) the date and time of the drill;~~
 - ~~_____ (b) the number of children participating;~~
 - ~~_____ (c) the name of the individual supervising the drill;~~
 - ~~_____ (d) the total time to complete the evacuation; and~~
 - ~~_____ (e) any problems encountered and remediation.~~
- ~~_____ (6) The provider shall conduct drills for disasters other than fires at least once every 12 months.~~
- ~~_____ (7) The provider shall document each disaster drill, including:~~
- ~~_____ (a) the type of disaster, including earthquake, flood, prolonged power or water outage, or tornado;~~
 - ~~_____ (b) the date and time of the drill;~~
 - ~~_____ (c) the number of children participating;~~
 - ~~_____ (d) the name of the individual supervising the drill; and~~
 - ~~_____ (e) any problems encountered and remediation.~~
- ~~_____ (8) The provider shall vary the days and times on which fire and other disaster drills are held.~~
- ~~_____ (9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on site for review by the department.~~
- ~~_____ (10) The provider shall:~~
- ~~_____ (a) give parents a written report on the day of occurrence of each incident, accident, or injury involving their child;~~
 - ~~_____ (b) ensure the report has the signatures of the caregivers involved, the provider, and the individual picking up the child; and~~
 - ~~_____ (c) if school age children sign themselves out of the facility, send a copy of the report to the parent on the day following the occurrence.~~
- ~~_____ (11) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the child's parent immediately.~~
- ~~_____ (12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:~~
- ~~_____ (a) call emergency personnel immediately;~~
 - ~~_____ (b) contact the parent after emergency personnel are called; and~~
 - ~~_____ (c) if the parent cannot be reached, try to contact the child's emergency contact individual.~~
- ~~_____ (13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:~~
- ~~_____ (a) submit a completed accident report form to the department within the next business day of the incident; or~~
 - ~~_____ (b) contact the department within the next business day and submit a completed accident report form within five business days of the incident.~~
- ~~_____ (14) The provider shall keep a six-week record of each incident, accident, and injury report on site for review by the department.~~
- ~~_____ (15) If the provider must leave the children due to an emergency and a background checked covered individual who is at least 18 years old or older is not available to stay with the children, the provider may leave the children in the care of an emergency substitute who:~~
- ~~_____ (a) is at least 18 years old;~~
 - ~~_____ (b) substitutes the caregiver for the minimum time possible and for less than one business day; and~~
 - ~~_____ (c) signs a written background statement before being left alone with the children.~~
- ~~_____ (16) Before leaving for the emergency, the provider shall obtain a signed, written background statement from the emergency substitute stating that the emergency substitute:~~
- ~~_____ (a) has not been convicted of a felony;~~
 - ~~_____ (b) has not been convicted of a crime against a person;~~
 - ~~_____ (c) is not listed on the state or national sex offender registry; and~~
 - ~~_____ (d) is not being investigated for abuse or neglect by any federal, state, or local government agency.~~
- ~~_____ (17) Within five working days after the occurrence, the provider shall submit emergency substitute's written background statements to the department for review.~~

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R430-90-15. Health and Infection Control:

- ~~_____ (1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:~~
 - ~~_____ (a) walls and flooring clean and free of spills, dirt, and grime;~~
 - ~~_____ (b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;~~
 - ~~_____ (c) surfaces free of rotting food or a build up of food;~~
 - ~~_____ (d) the building and grounds free of a build up of litter, trash, and garbage;~~
 - ~~_____ (e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and~~
 - ~~_____ (f) the facility free of animal feces.~~
- ~~_____ (2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.~~
- ~~_____ (3) The provider shall clean and sanitize any toys and materials used by children:~~
 - ~~_____ (a) at least once a week or more often if needed;~~
 - ~~_____ (b) after being put in a child's mouth and before another child plays with the toy; and~~
 - ~~_____ (c) after being contaminated by a body fluid.~~
- ~~_____ (4) The provider shall ensure that fabric toys and items including stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.~~
- ~~_____ (5) The provider shall clean and sanitize highchair trays before each use.~~
- ~~_____ (6) The provider shall clean and sanitize water play tables or tubs daily if used by the children.~~
- ~~_____ (7) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.~~
- ~~_____ (8) The provider shall clean and sanitize potty chairs after each use.~~
- ~~_____ (9) The provider shall keep toilet paper in a dispenser that is accessible to children.~~
- ~~_____ (10) The provider shall ensure that staff and volunteers wash their hands thoroughly with soap and running water:~~
 - ~~_____ (a) upon arrival;~~
 - ~~_____ (b) before handling or preparing food or bottles;~~
 - ~~_____ (c) before and after eating meals and snacks or feeding a child;~~
 - ~~_____ (d) after using the toilet or helping a child use the toilet;~~
 - ~~_____ (e) after contact with a body fluid;~~
 - ~~_____ (f) when coming in from outdoors; and~~
 - ~~_____ (g) after cleaning up or taking out garbage.~~
- ~~_____ (11) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.~~
- ~~_____ (12) The provider shall ensure that children wash their hands thoroughly with soap and running water:~~
 - ~~_____ (a) upon arrival;~~
 - ~~_____ (b) before and after eating meals and snacks;~~
 - ~~_____ (c) after using the toilet;~~
 - ~~_____ (d) after contact with a body fluid;~~
 - ~~_____ (e) before using a water play table or tub; and~~
 - ~~_____ (f) when coming in from outdoors.~~
- ~~_____ (13) The provider shall ensure that only single use towels, an electric hand dryer, or individually labeled cloth towels are used to dry hands.~~
- ~~_____ (14) The provider shall ensure that if cloth towels are used, cloth towels are:~~
 - ~~_____ (a) not shared; and~~
 - ~~_____ (b) washed daily.~~
- ~~_____ (15) The provider shall store personal hygiene items, including toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.~~
- ~~_____ (16) The provider shall ensure that pacifiers, bottles, and nondisposable drinking cups are:~~
 - ~~_____ (a) labeled with each child's name or individually identified; and~~
 - ~~_____ (b) not shared, or washed and sanitized before being used by another child.~~
- ~~_____ (17) The provider shall ensure that a child's clothing is promptly changed if the child has a toileting accident.~~
- ~~_____ (18) The provider shall ensure that children's clothing that is wet or soiled from a body fluid is:~~
 - ~~_____ (a) washed and dried; or~~
 - ~~_____ (b) placed in a leakproof container that is labeled with the child's name and returned to the parent.~~
- ~~_____ (19) The provider shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids:~~
 - ~~_____ (a) wear waterproof gloves;~~
 - ~~_____ (b) clean the surface using a detergent solution;~~
 - ~~_____ (c) rinse the surface with clean water;~~
 - ~~_____ (d) sanitize the surface;~~
 - ~~_____ (e) throw away in a leakproof plastic bag the disposable materials, including paper towels, that were used to clean up the body fluid;~~
 - ~~_____ (f) wash and sanitize any nondisposable materials used to clean up the body fluid, including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and~~
 - ~~_____ (g) wash their hands after cleaning up the body fluid.~~

- ~~_____ (20) If a child becomes ill while in care, the provider shall:~~
 - ~~_____ (a) as soon as the illness is observed or suspected, contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact; and~~
 - ~~_____ (b) if the child is ill with an infectious disease, make the child comfortable in a safe, supervised area that is separated from the other children until the parent arrives.~~
- ~~_____ (21) The provider shall notify the parents of each child in care if any child, employee, or person in the home has an infectious disease or parasite, on the day the illness is discovered.~~
- ~~_____ (22) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the illness is discovered.~~
- ~~_____ (23) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that individuals with an infectious disease or showing symptoms including diarrhea, fever, coughing, or vomiting do not prepare or serve foods.~~

~~R430-90-16. Food and Nutrition.~~

- ~~_____ (1) The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.~~
- ~~_____ (2) If food for children's meals or snacks is supplied by the provider, the provider shall ensure that:~~
 - ~~_____ (a) the meal service meets local health department food service rules;~~
 - ~~_____ (b) the foods that are served meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;~~
 - ~~_____ (c) the provider uses the CACFP meal pattern requirements, the standard department approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;~~
 - ~~_____ (d) the current week's menu is posted for review by parents and the department; and~~
 - ~~_____ (e) if not participating or in good standing with the CACFP, keep a six-week record of foods served at each meal and snack.~~
- ~~_____ (3) The provider shall ensure that the individual who serves food to children:~~
 - ~~_____ (a) is aware of the children in their assigned group who have food allergies or sensitivities; and~~
 - ~~_____ (b) ensures that the children are not served the food or drink they are allergic or sensitive to.~~
- ~~_____ (4) The provider may not place children's food on a bare table, and shall serve children's food on dishes, napkins, or sanitary highchair trays, except an individual finger food including a cracker, which may be placed directly in a child's hand.~~
- ~~_____ (5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:~~
 - ~~_____ (a) labeled with the child's name;~~
 - ~~_____ (b) refrigerated if needed; and~~
 - ~~_____ (c) consumed only by that child.~~

~~R430-90-17. Medications.~~

- ~~_____ (1) The provider shall make medications inaccessible to children in care.~~
- ~~_____ (2) The provider shall lock refrigerated medications or store them at least 36 inches above the floor and, if liquid, store them in a separate leakproof container.~~
- ~~_____ (3) If parents supply any over-the-counter or prescription medications, the provider shall ensure those medications:~~
 - ~~_____ (a) are labeled with the child's full name;~~
 - ~~_____ (b) are stored in the original or pharmacy container;~~
 - ~~_____ (c) have the original label; and~~
 - ~~_____ (d) have child safety caps.~~
- ~~_____ (4) The provider shall have a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.~~
- ~~_____ (5) The provider shall ensure that the medication permission form includes at least:~~
 - ~~_____ (a) the name of the child;~~
 - ~~_____ (b) the name of the medication;~~
 - ~~_____ (c) written instructions for administration; and~~
 - ~~_____ (d) the parent signature and the date signed.~~
- ~~_____ (6) The provider shall ensure that instructions for administering the medication include at least:~~
 - ~~_____ (a) the dosage;~~
 - ~~_____ (b) how the medication will be given;~~
 - ~~_____ (c) the times and dates to administer the medication; and~~
 - ~~_____ (d) the disease or condition being treated.~~
- ~~_____ (7) If the provider supplies an over-the-counter medication for children's use, the provider shall ensure that the medication is not administered to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:~~
 - ~~_____ (a) written; or~~
 - ~~_____ (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.~~
- ~~_____ (8) The provider shall ensure that the staff administering the medication:~~
 - ~~_____ (a) washes their hands;~~
 - ~~_____ (b) check the medication label to confirm the child's name if the parent supplied the medication;~~
 - ~~_____ (c) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer; and~~

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- ~~_____ (d) administers the medication;~~
- ~~_____ (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:~~
 - ~~_____ (a) the date, time, and dosage of the medication given;~~
 - ~~_____ (b) any error in administering the medication or adverse reactions; and~~
 - ~~_____ (c) their signature or initials.~~
- ~~_____ (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life threatening.~~
- ~~_____ (11) The provider shall notify the parent before the time a medication needs to be given to a child if the provider chooses not to administer medication as instructed by the parent.~~
- ~~_____ (12) The provider shall keep a six week record of medication permission and administration forms on site for review by the department.~~

~~R430-90-18. Activities.~~

- ~~_____ (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.~~
- ~~_____ (2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.~~
- ~~_____ (3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.~~
- ~~_____ (4) For each child two years old and older, the provider shall post a daily schedule that includes:~~
 - ~~_____ (a) activities that support children's healthy development; and~~
 - ~~_____ (b) the times activities occur including at least meal, snack, nap or rest, and outdoor play times.~~
- ~~_____ (5) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.~~
- ~~_____ (6) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media including television, cell phones, tablets, and computers is:~~
 - ~~_____ (a) not allowed for children zero to 17 months old;~~
 - ~~_____ (b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and~~
 - ~~_____ (c) planned to address the needs of children five to 12 years old.~~
- ~~_____ (7) If swimming activities are offered or if wading pools are used, the provider shall ensure that:~~
 - ~~_____ (a) the parent gives permission before their child in care uses the pool;~~
 - ~~_____ (b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;~~
 - ~~_____ (c) diapered children wear swim diapers when they are in the pool;~~
 - ~~_____ (d) wading pools are emptied and sanitized after use by each group of children;~~
 - ~~_____ (e) if the pool is over four feet deep, there is a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and~~
 - ~~_____ (f) lifeguards and pool personnel do not count toward the caregiver to child ratio.~~
- ~~_____ (8) If offsite activities are offered, the provider shall ensure that:~~
 - ~~_____ (a) the parent gives written consent before each activity;~~
 - ~~_____ (b) the required caregiver to child ratio and supervision are maintained during the entire activity;~~
 - ~~_____ (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;~~
 - ~~_____ (d) children's names are not used on nametags, t-shirts, or in other visible ways; and~~
 - ~~_____ (e) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.~~
- ~~_____ (9) The provider shall ensure that a caregiver with the children takes the emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:~~
 - ~~_____ (a) the child's name;~~
 - ~~_____ (b) the parent's name and phone number;~~
 - ~~_____ (c) the name and phone number of an individual to notify if an emergency happens and the parent cannot be contacted;~~
 - ~~_____ (d) the names of people authorized by the parents to pick up the child; and~~
 - ~~_____ (e) current emergency medical treatment and emergency medical transportation releases.~~

~~R430-90-19. Play Equipment.~~

- ~~_____ (1) The provider shall ensure that children using play equipment use it safely and as intended by the manufacturer.~~
- ~~_____ (2) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, or the bare floor.~~
- ~~_____ (3) Except for trampolines, the provider shall ensure that stationary play equipment with a designated play surface that is 18 inches high or higher:~~
 - ~~_____ (a) has a surrounding three foot use zone, free of hard objects or surfaces, that extends from the outermost edge of the equipment;~~
 - ~~_____ (b) has cushioning that covers the entire required use zone; and~~

- ~~(c) is stable or securely anchored.~~
- ~~(4) The department may consider a trampoline on the premises to be inaccessible to children in care if the trampoline:~~
 - ~~(a) is enclosed behind a locked fence or safety net that is at least three feet high;~~
 - ~~(b) has no jumping mat; or~~
 - ~~(c) is placed upside down.~~
- ~~(5) The provider shall ensure that each accessible trampoline without a safety net enclosure has at least a six-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.~~
- ~~(6) The provider shall ensure that each accessible trampoline with a properly installed, used as specified by the manufacturer, and in good repair safety net enclosure has at least a three-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.~~
- ~~(7) The provider shall ensure that each accessible trampoline with or without a safety net enclosure is placed over:~~
 - ~~(a) grass;~~
 - ~~(b) a six-inch deep cushioning; or~~
 - ~~(c) other commercial cushioning.~~
- ~~(8) The provider shall ensure that cushioning for each accessible trampoline covers the entire required use zone.~~
- ~~(9) The provider shall ensure that each accessible trampoline has:~~
 - ~~(a) no ladders or other objects within the use zone a child could use to climb on the trampoline; and~~
 - ~~(b) shock absorbing pads that completely cover the trampoline springs, hooks, and frame.~~
- ~~(10) The provider shall receive written permission from a child's parent or legal guardian before that child uses the trampoline.~~
- ~~(11) The provider shall ensure that if a child uses an accessible trampoline:~~
 - ~~(a) a caregiver is at the trampoline supervising;~~
 - ~~(b) only one person at a time uses the trampoline;~~
 - ~~(c) no child in care is allowed to do somersaults or flips on the trampoline;~~
 - ~~(d) no one is allowed to be under the trampoline while the trampoline is in use; and~~
 - ~~(e) only school-age children in care are allowed to use a trampoline.~~
- ~~(12) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.~~
- ~~(13) The provider shall ensure that there are no strangulation hazards on or within the use zone of any piece of stationary play equipment.~~
- ~~(14) The provider shall ensure that there are no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.~~
- ~~(15) The provider shall ensure that there are no tripping hazards including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.~~

R430-90-20. Transportation.

- ~~(1) For each child that the licensee transports, the provider shall obtain a transportation permission form:~~
 - ~~(a) signed by the parent; and~~
 - ~~(b) on site for review by the department.~~
- ~~(2) The provider shall ensure that each vehicle used for transporting children:~~
 - ~~(a) is enclosed with a roof or top;~~
 - ~~(b) is equipped with safety restraints;~~
 - ~~(c) has a current vehicle registration;~~
 - ~~(d) is maintained in a safe and clean condition; and~~
 - ~~(e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.~~
- ~~(3) The provider shall ensure that the safety restraints in each vehicle that transports children are:~~
 - ~~(a) appropriate for the age and size of each child who is transported, as required by Utah law;~~
 - ~~(b) properly installed; and~~
 - ~~(c) in safe condition and working order.~~
- ~~(4) The provider shall ensure that the driver of each vehicle who is transporting children:~~
 - ~~(a) is at least 18 years old;~~
 - ~~(b) has and carries with them a current, valid driver's license for the type of vehicle being driven;~~
 - ~~(c) has with them the emergency contact information for each child being transported;~~
 - ~~(d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;~~
 - ~~(e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;~~
 - ~~(f) never leaves a child in the vehicle unattended by an adult;~~
 - ~~(g) ensures that children stay seated while the vehicle is moving;~~
 - ~~(h) never leaves the keys in the ignition when not in the driver's seat; and~~
 - ~~(i) ensures that the vehicle is locked during transport.~~
- ~~(5) If the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:~~
 - ~~(a) each child being transported has a completed transportation permission form signed by their parent;~~
 - ~~(b) a caregiver goes with the children and actively supervises the children;~~

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- ~~_____ (c) the caregiver to child ratio is maintained; and~~
- ~~_____ (d) a caregiver with the children has emergency contact information and releases for the children being transported.~~
- ~~_____ (6) The provider shall:~~
 - ~~_____ (a) have transport liability insurance; or~~
 - ~~_____ (b) inform parents in writing that the provider does not have transport liability insurance.~~

R430-90-21. Animals.

- ~~_____ (1) The provider shall inform parents of the kinds of animals allowed at the facility.~~
- ~~_____ (2) The provider shall ensure that there is no animal on the premises that:~~
 - ~~_____ (a) is naturally aggressive;~~
 - ~~_____ (b) has a history of dangerous, attacking, or aggressive behavior; or~~
 - ~~_____ (c) has a history of biting even one individual.~~
- ~~_____ (3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.~~
- ~~_____ (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.~~
- ~~_____ (5) The provider shall ensure that children younger than five years old do not assist with the cleaning of animals or animal cages, pens, or equipment.~~
- ~~_____ (6) If school age children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.~~
- ~~_____ (7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.~~
- ~~_____ (8) The provider shall ensure that dogs, cats, and ferrets that are housed at the facility have current rabies vaccinations.~~
- ~~_____ (9) The provider shall keep current animal vaccination records on site for review by the department.~~

R430-90-22. Rest and Sleep.

- ~~_____ (1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.~~
- ~~_____ (2) The provider may not schedule nap or rest times for more than two hours a day.~~
- ~~_____ (3) The provider shall ensure that each crib:~~
 - ~~_____ (a) has a tight fitting mattress;~~
 - ~~_____ (b) has slats spaced no more than 2 3/8 inches apart;~~
 - ~~_____ (c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;~~
 - ~~_____ (d) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and~~
 - ~~_____ (e) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date.~~
- ~~_____ (4) The provider shall ensure that sleeping equipment does not block exits.~~
- ~~_____ (5) The provider shall ensure that sleeping equipment and bedding items are:~~
 - ~~_____ (a) clearly assigned to one child; and~~
 - ~~_____ (b) laundered as needed, but at least once a week, and before use by another child.~~
- ~~_____ (6) The provider shall clean and sanitize sleeping equipment that is not clearly assigned to and used by an individual child before each use.~~

R430-90-23. Diapering.

- ~~_____ (1) This section applies only to a provider that accepts children who wear diapers.~~
- ~~_____ (2) The provider shall ensure that each child's diaper is:~~
 - ~~_____ (a) checked at least once every two hours;~~
 - ~~_____ (b) promptly changed if wet or soiled; and~~
 - ~~_____ (c) checked as soon as a sleeping child awakens.~~
- ~~_____ (3) The provider shall ensure that caregivers do not change children's diapers directly on the floor, in a food preparation or eating area, or on any surface used for another purpose.~~
- ~~_____ (4) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.~~
- ~~_____ (5) The provider shall ensure that caregivers clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.~~
- ~~_____ (6) The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.~~
- ~~_____ (7) The provider shall ensure that caregivers place wet and soiled disposable diapers:~~
 - ~~_____ (a) in a container that has a disposable plastic lining and a tight fitting lid;~~
 - ~~_____ (b) directly in an outdoor garbage container that has a tight fitting lid; or~~
 - ~~_____ (c) in a container that is inaccessible to children.~~
- ~~_____ (8) Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.~~
- ~~_____ (9) If cloth diapers are used, the provider shall:~~
 - ~~_____ (a) not rinse cloth diapers at the facility; and~~

~~_____ (b) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or place the cloth diapers in a leakproof diapering service container.~~

R430-90-24. Infant and Toddler Care.

~~_____ (1) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 20 minutes.~~

~~_____ (2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults, including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.~~

~~_____ (3) The provider shall ensure that caregivers respond promptly to infants and toddlers who are in emotional distress due to conditions including hunger, fatigue, a wet or soiled diaper, fear, teething, or illness.~~

~~_____ (4) For their healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.~~

~~_____ (5) The provider shall ensure that mobile infants and toddlers have freedom of movement in a safe area.~~

~~_____ (6) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.~~

~~_____ (7) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.~~

~~_____ (8) The provider shall make objects made of styrofoam inaccessible to infants and toddlers.~~

~~_____ (9) The provider shall allow each infant and toddler to eat and sleep on their own schedule.~~

~~_____ (10) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual infants and toddlers use is:~~

~~_____ (a) labeled with the child's name;~~

~~_____ (b) labeled with the date and time of preparation or opening of the container, including a jar of baby food;~~

~~_____ (c) refrigerated if needed; and~~

~~_____ (d) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.~~

~~_____ (11) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each infant during bottle feeding and that bottles are not propped.~~

~~_____ (12) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to children.~~

~~_____ (13) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.~~

~~_____ (14) The provider shall ensure that caregivers cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.~~

~~_____ (15) The provider shall ensure that infants sleep in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that infants are not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.~~

~~_____ (16) The provider shall place infants on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.~~

~~_____ (17) The provider may not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.]~~

R430-90-1. Authority and Purpose.

~~_____ (1) Section 26B-2-402 authorizes this rule.~~

~~_____ (2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to get and maintain a license to provide child care.~~

R430-90-2. Definitions.

~~_____ (1) Terms used in this rule are defined in Rule R380-600. Additionally:~~

~~_____ (2) "Background finding" means information in a background check that the OBP uses to determine if a covered individual is or is not eligible to be involved with child care.~~

~~_____ (3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.~~

~~_____ (4) "Body fluid" means blood, urine, feces, vomit, mucus, or saliva.~~

~~_____ (5) "Business day" means a day of the week the facility is open for business.~~

~~_____ (6) "Business hours" means the hours the facility is open for business.~~

~~_____ (7) "CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.~~

~~_____ (8) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.~~

~~_____ (9) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:~~

~~_____ (a) count in the caregiver-to-child ratio;~~

~~_____ (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or~~

~~_____ (c) supervise children.~~

~~_____ (10) "Caregiver-to-child ratio" means the number of caregivers responsible for a specific number of children.~~

~~_____ (11) "Child care" means continuous care and supervision of at least one qualifying child that:~~

~~_____ (a) is in place of care ordinarily provided by a parent in the parent's home;~~

~~_____ (b) occurs for less than 24 hours a day; and~~

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- (c) is provided for direct or indirect compensation.
- (12) "Child care program" means a person or business that offers child care.
- (13) "Choking hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking the airway and making it difficult or impossible to breathe.
- (14) "Covered individual" means the same as defined in Rule R380-600.
- (15) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta-crib, or play pen.
- (16) "Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.
- (17) "Department" means the Utah Department of Health and Human Services.
- (18) "Designated play surface" means any:
 - (a) accessible elevated surface for standing, walking, crawling, sitting or climbing; or
 - (b) accessible flat surface that is at least two by two inches in size and has an angle less than 30 degrees from horizontal.
- (19) "Director" means an individual who meets the director qualifications in this rule, and who assumes the child care program's day-to-day responsibilities for compliance with CCL rules.
- (20) "Eligible" means the same as defined in Rule R380-600.
- (21) "Entrapment hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing entrapment and strangulation.
- (22) "Facility" means a program or premises approved by OL to be used for child care.
- (23) "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.
- (24) "Group size" means the total number of children in a group per room or area.
- (25) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.
- (26) "Health care provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.
- (27) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.
- (28) "Inaccessible" means out of reach for children by being:
 - (a) behind a properly secured child safety gate;
 - (b) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb;
 - (c) located at least 36 inches above the floor;
 - (d) locked, including in a locked room, cupboard, or drawer; or
 - (e) secured with a child safety device, including a child safety cupboard lock or doorknob device.
- (29) "Infant" means a child who is younger than 12 months old.
- (30) "Infectious disease" means an illness that is capable of being spread from one individual to another.
- (31) "Involved with child care" means to do any of the following at or for a child care program:
 - (a) care for or supervise children;
 - (b) count in the caregiver-to-child ratio;
 - (c) have unsupervised contact with a child in care;
 - (d) own, operate, direct;
 - (e) reside; or
 - (f) volunteer.
- (32) "License" means a license issued by OL to provide child care services.
- (33) "Licensee" means the legally responsible person or business that holds a valid license from OL.
- (34) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (35) "OBP" means the same as defined in Rule R380-600.
- (36) "OL" means the same as defined in Rule R380-600.
- (37) "Older toddler" means a child age 18 through 23 months old.
- (38) "Over-the-counter medication" means medication that an individual can purchase without a written prescription, including any herbal remedy, vitamin, and mineral supplement.
- (39) "Parent" means the parent or legal guardian of a child in care.
- (40) "Play equipment platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on and upon which a child can move freely.
- (41) "Preschooler" means a child age two through four years old.
- (42) "Provider Designee" means the adult delegated by the provider to take the provider's responsibility in the provider's absence.
- (43) "Qualifying child" means a child:
 - (a) child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
 - (c) child who is younger than four years old and is the child of the provider or a caregiver; or
 - (b) child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver.
- (44) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (45) "Residential child care" means care that takes place in a child care provider's home.
- (46) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.
- (47) "School-age child" means a child age five through 12 years old.

(48) "Sexually explicit material" means any depiction of actual or simulated sexual conduct.

(49) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

(50) "Stationary play equipment" means equipment, including a climber, slide, swing, merry-go-round, or spring rocker, that is meant to stay in one location when a child uses it. Stationary play equipment does not include a:

(a) playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber;

(b) sandbox;

(c) sensory table; or

(d) stationary circular tricycle.

(51) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught or something in which a child could become entangled, including:

(a) a protruding bolt end that extends more than two threads beyond the face of the nut;

(b) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck; or

(c) hardware that forms a hook or leaves a gap or space between components including a protruding open S-hook.

(52) "Unsupervised contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by CCL.

(53) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment and onto which a child falling from or exiting the equipment could be expected to land.

(54) "Working day" means any day of the week the department is open for business.

(55) "Younger toddler" means a child age 12 through 17 months old.

R430-90-3. License Required.

(1) A person shall obtain a license for a child care center from OL if the person provides care:

(a) for direct or indirect compensation;

(b) for each individual child for less than 24 hours a day;

(c) for four or more hours a day;

(d) for nine or more unrelated children;

(e) in the absence of the child's parent;

(f) in the provider's home; and

(g) on a regularly scheduled, ongoing basis.

(2) OL will not issue a license if care is only for related children or on a sporadic basis.

(3) OL may license a provider to provide child care in a facility that is also licensed by OL if the part of the facility requesting a CCL license is physically separate from the other facility services.

(4) A residential child care provider may not be licensed for more than two facilities at the same time.

(5) An individual shall be licensed by OL as a child care provider if they provide child care in the person's home for more than ten children in total under the age of 13, or under the age of 18 if a child has a disability, regardless of whether a child is related to the person providing child care.

(6) A child care center licensee shall comply with Rule R380-600.

R430-90-4. Fire and Other Health Inspections.

(1) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, OL shall verify the applicant's compliance by ensuring:

(a) address numbers and letters are readable from the street;

(b) boiler, mechanical, and electrical panel rooms are not used for storage;

(c) exit doors operate properly and are well maintained;

(d) there are no obstructions in exits, aisles, corridors, and stairways;

(e) there are working smoke detectors that are properly installed on each level of the building; and

(f) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor.

(2) If an applicant for a new license or a renewal serves food and the local health department states in writing that a kitchen inspection is not required, OL shall verify the applicant's compliance by ensuring:

(a) any chemical is stored away from food and food service items;

(b) food is properly stored, kept to the proper temperature, and in good condition;

(c) any reusable food holder, utensil, and food preparation surface is washed, rinsed, and sanitized before each use;

(d) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;

(e) there is a working handwashing sink in the kitchen;

(f) there is a working stem thermometer available to check cooking and hot-hold temperatures; and

(g) there is a working thermometer in the refrigerator.

R430-90-5. Immediate Closure.

(1) In accordance with Rule R380-600, OL may order the immediate closure of a facility if conditions at the facility create a clear and present danger to any child in care.

(2) Upon receipt of an immediate closure notice, the provider shall give OL the names and mailing addresses of each enrolled child's

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parent so OL may notify the parents of the immediate closure.

(3) If there is a severe injury or death of a child in care, OL may order a child care provider to suspend services and prohibit new enrollments, pending a review by the Utah Child Fatality Review Committee or a determination of the probable cause of the injury or death by a medical professional.

R430-90-6. Administration and Children's Records.

(1) The provider shall:

(a) be at least 18 years old;

(b) be considered eligible by an OBP background check before becoming involved with child care;

(c) complete the new provider training offered by OL; and

(d) complete at least 20 hours of child care training each year, based on the facility's license date.

(2) The provider shall protect children from conduct that endangers any child in care, or is contrary to the health, welfare, and safety of the public.

(3) The provider shall know and comply with applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.

(4) The provider shall comply with licensing rules any time a child in care is present.

(5) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public.

(6) The provider shall post a current copy of OL's Parent Guide at the facility for parent review during business hours or give a current copy to each parent.

(7) The provider shall inform each parent and OL of any changes to the program's telephone number and other contact information within 48 hours of the change.

(8) The provider shall:

(a) have liability insurance; or

(b) inform parents in writing that the provider does not have liability insurance.

(9) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.

(10) The provider shall ensure that each child's admission and health assessment form includes:

(a) the child's name;

(b) the child's date of birth;

(c) each parent's name, address, and phone number, including a daytime phone number;

(d) the names of individuals authorized by the parent to sign the child out from the facility;

(e) the name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;

(f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;

(g) the parent's permission for emergency transportation and emergency medical treatment;

(h) any known allergy of the child;

(i) any known food sensitivity of the child;

(j) any chronic medical condition that the child may have;

(k) any instructions for special or nonroutine daily health care of the child;

(l) any current ongoing medication that the child may be taking; and

(m) any other special health instructions for the caregiver.

(11) The provider shall ensure that the admission and health assessment form is:

(a) reviewed, updated, and signed or initialed by the parent at least annually; and

(b) kept on-site for review by OL.

(12) Before admitting any child younger than five years old into the program, including the provider's or employees' own child, the provider shall obtain the following documentation from the child's parent:

(a) current immunizations;

(b) a medical schedule to receive required immunizations;

(c) a legal exemption; or

(d) a 90-day exemption for any foster child and child who is homeless.

(13) For each child younger than five years old, including the provider's or employees' own child, the provider shall keep the child's current immunization records on-site for review by OL.

(14) The provider shall submit the annual immunization report to the Utah Statewide Immunization Information System by the date specified by the department.

(15) The provider shall ensure that each child's information is confidential and not released without written parental permission except to OL.

R430-90-7. Personnel and Training Requirements.

(1) The provider or the provider designee shall be present at the home when a child is in care.

(2) The provider must ensure that, before being left alone with a child, the provider designee:

(a) completes OL's new provider training; and

- (b) has current first aid and pediatric CPR certifications.
- (3) The provider shall ensure that any covered individual caring for a child is supervised, qualified, and trained to:
- (a) comply with licensing requirements under this rule; and
- (b) meet the needs of any child as required by this rule.
- (4) The provider shall ensure that a caregiver:
- (a) completes at least 20 hours of child care training each year, based on the facility's license date, or at least 1-1/2 hours of child care training each month they work if hired partway through the facility's licensing year;
- (b) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
- (c) is at least 16 years old;
- (d) is considered eligible by an OBP background check before becoming involved with child care;
- (e) is introduced to other staff and to the caregiver's assigned group of children;
- (f) knows and follows any applicable laws and requirements under this rule; and
- (g) reviews the information in each child's health assessment in the caregiver's assigned group, including any allergy, food sensitivity, and other individual needs.
- (5) The provider shall ensure that any other staff, including any driver, cook, and clerk:
- (a) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;
- (b) knows and follows any applicable law and this rule; and
- (c) is considered eligible by an OBP background check before becoming involved with child care.
- (6) The provider shall ensure that each volunteer is considered eligible by an OBP background check before becoming involved with child care.
- (7) The provider shall submit a background check as required in Section R430-90-8 for each guest who is 12 years old and older and stays in the home for more than two weeks.
- (8) The provider shall ensure that each household member who is:
- (a) 12 to 17 years old is considered eligible by an OBP background check; and
- (b) 18 years old or older is considered eligible by an OBP background check that includes fingerprints.
- (9) The provider shall ensure that an individual who provides an Individualized Educational Plan or Individualized Family Service plan services including any physical, occupational, or speech therapist:
- (a) provides identification before having access to the facility or to a child at the facility; and
- (b) has received the child's parent's permission for services to take place at the facility.
- (10) The provider shall ensure that any individual from law enforcement, Child Protective Services, the department, and any similar entity provides identification before having access to the facility or to a child at the facility.
- (11) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by OL that includes at least the following topics:
- (a) administration of medication;
- (b) applicable laws and requirements under Rule R381-70;
- (c) building and physical premises safety;
- (d) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
- (e) children whose special needs may include a disability;
- (f) emergency preparedness, response, and recovery plan;
- (g) pediatric first aid and CPR;
- (h) precautions in transporting children;
- (i) prevention and control of infectious diseases including immunizations;
- (j) prevention of and response to emergencies due to food and allergy reactions;
- (k) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;
- (l) prevention of sudden infant death syndrome and the use of safe sleeping practices;
- (m) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
- (n) recognizing the signs of an individual experiencing homelessness and available assistance; and
- (o) safe handling and disposal of hazardous materials and bio contaminants.
- (12) The provider shall ensure that annual child care training includes at least each topic listed in:
- (a) administration of medication;
- (b) building and physical premises safety;
- (c) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
- (d) children with special needs;
- (e) emergency preparedness, response, and recovery plan;
- (f) pediatric first aid and CPR;
- (g) prevention and control of infectious diseases including immunizations;
- (h) precautions in transporting children;
- (i) prevention of and response to emergencies due to food and allergy reactions;
- (j) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;
- (k) prevention of sudden infant death syndrome and the use of safe sleeping practices;
- (l) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
- (m) recognizing the signs of an individual experiencing homelessness and available assistance;

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- (n) safe handling and disposal of hazardous materials and bio contaminants; and
- (o) Sections R430-90-7 through R430-90-24.
- (13) The provider shall ensure that at least half of the required annual training is interactive.
- (14) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by OL and includes the:
 - (a) date of the training;
 - (b) name of the individual or organization that presented the training;
 - (c) total hours or minutes of the training;
 - (d) training topic; and
 - (e) whether the training was interactive or not.
- (15) The provider shall ensure that at least one covered individual with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when a child is in care:
 - (a) at each offsite activity;
 - (b) at the facility; and
 - (c) in each vehicle transporting a child.
- (16) The provider shall ensure that CPR certification includes hands-on testing.
- (17) The provider shall ensure that the following records for each caregiver and volunteer are on-site for review by OL:
 - (a) the date of initial employment or association with the program;
 - (b) a current pediatric first aid and CPR certification, if required in this rule; and
 - (c) a six-week record of the times worked each day.

R430-90-8. Background Checks.

- (1) Before a new covered individual becomes involved with child care, the provider shall use the licensing provider portal search to verify that the individual is eligible and:
 - (a) associate that individual with the provider's facility; or
 - (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.
- (2) Before a new covered individual who does not appear in the licensing provider portal search becomes involved with child care in the program, the provider must require the individual to submit an online background check application and fingerprints for any individual age 16 years old and older, except for any individual 12-17 years old who is only listed as a household member and:
 - (a) authorize the individual's background check through the licensing provider portal;
 - (b) pay any required fee; and
 - (c) only allow the individual to be involved with child care if they have an eligible OBP background check determination.
- (3) To keep a covered individual's background check eligibility current, the provider shall require the covered individual to submit a new background check application, fingerprints, and any fee if the covered individual has:
 - (a) not been associated with an active, CCL approved child care facility within the past 180 days;
 - (b) resided outside of Utah since their last background check was completed; or
 - (c) turned 18 years old and has not previously submitted fingerprints for an OBP background check, except when the 18-year-old has previously submitted fingerprints for an OBP background check, then only a new background check application is required.
- (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall ensure that an online background check application is submitted, and:
 - (a) authorize the child's background check through the licensing portal; and
 - (b) pay any required fee.
- (5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.
- (6) If a covered individual submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows OBP's fingerprinting requirements.
- (7) OBP may consider a covered individual not eligible for any of the following reasons:
 - (a) any felony conviction;
 - (b) any of the reasons listed under Subsection R381-100-8(8);
 - (c) LIS supported findings that occurred no more than 15 years from the date the application was submitted;
 - (d) the covered individual knowingly making a false statement related to their background check;
 - (e) the covered individual refusing to consent to the criminal background check; or
 - (f) the covered individual's name appearing on the Utah or national sex offender registry.
- (8) OBP may also consider a covered individual not eligible for any of the following criminal findings regardless of severity:
 - (a) child pornography;
 - (b) driving under the influence while a child is present in the vehicle;
 - (c) pornographic material or performance;
 - (d) providing dangerous weapons or firearms to a minor;
 - (e) sexual enticing of a minor;
 - (f) sexual exploitation;
 - (g) voyeurism; or

(h) any crime against an individual.

(9) OBP shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before OBP conducted the background check.

(10) If the provider is not eligible by OBP, OL may suspend or deny their license until the reason for the background check finding is resolved.

(11) If a covered individual is considered not eligible by OBP, including if the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.

(12) If OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), the covered individual may appeal the information to DPS.

(13) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including license revocation.

(14) The executive director or designee of the department may overturn an OBP background check decision if the executive director or designee determines that the nature of the background finding or mitigating circumstances do not pose a risk to a child.

R430-90-9. Facility.

(1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's or employee's own child.

(2) The provider may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:

(a) by children;

(b) for the care of children; or

(c) to store materials for children.

(3) When measuring indoor space for children's use, the provider may not include any:

(a) bathroom;

(b) closet;

(c) entryway;

(d) hallway; and

(e) lobby.

(4) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license, except when providing after school child care for up to three additional school-age children.

(5)(a) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint undergoes a test for lead.

(b) If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.

(6) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation or by windows that open and have screens.

(7) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity the provider is conducting.

(8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(9) The provider shall ensure that there is a working telephone:

(a) at the facility;

(b) during any offsite activity; and

(c) in each vehicle while transporting a child.

(10) The provider shall ensure that there is at least one working toilet and one working handwashing sink accessible to each nondiapered child in care.

(11) The provider shall ensure that there is a bathroom that provides privacy available for use by any school-age child.

(12) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:

(a) maintain the pool in a safe manner;

(b) meet applicable state and local laws and ordinances related to the operation of a swimming pool; and

(c) when not in use:

(i) cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions or

(ii) enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.

(13) If there is a hot tub with water in it on the premises, the provider shall make the hot tub inaccessible to children by:

(a) keeping the hot tub locked with a properly working cover; or

(b) enclosing the hot tub within at least a four-foot-high fence or solid barrier that is locked and that separates the hot tub from any other areas on the premises.

(14) The provider shall maintain any building and outdoor area in good repair and safe condition, including any:

(a) ceiling, wall, and floor covering;

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- (b) drape, blind, and other window covering;
- (c) entrance, exit, step, and walkway, including keeping them free of ice, snow, and other hazards;
- (d) furniture, toy, and material accessible to a child;
- (e) indoor and outdoor equipment; and
- (f) lighting, bathroom, and other fixture.
- (15) The provider shall ensure that a protective barrier of at least three feet or higher exists for:
 - (a) any accessible raised deck or balcony that is five feet or higher; and
 - (b) any open stairwell that is five feet or deeper.
- (16) If the house is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, OL may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:
 - (a) there are no connecting interior doorways that can be used by an unauthorized individual;
 - (b) there is a separate entrance for the child care program;
 - (c) there is a separate mailing address for the rented area;
 - (d) there is a signed rental or lease agreement for the rented area; and
 - (e) there is no shared access to the outdoor area, unless a qualified caregiver is with the children each time children in care are using the outdoor area.
- (17) The provider shall ensure that there is an outdoor area that is safely accessible to any child.
- (18) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.
- (19) The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high if the facility is on a street or within a half mile of a street that:
 - (a) has a speed of 25 miles per hour or higher; or
 - (b) has more than two lanes of traffic.
- (20) The provider shall ensure that the following hazards are separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least four feet high:
 - (a) a drop-off of more than five feet on or within 50 yards of the property line;
 - (b) a water hazard, including:
 - (i) a creek;
 - (ii) a ditch;
 - (iii) a lake;
 - (iv) a pond;
 - (v) a pool;
 - (vi) a reservoir;
 - (vii) a river;
 - (viii) a swimming pool; or
 - (ix) an animal watering trough, on or within 100 yards of the property line;
 - (c) any barbed wire that is within 30 feet of the children's play area;
 - (d) any dangerous machinery, including farm equipment, on or within 50 yards of the property line; and
 - (e) any livestock on or within 50 yards of the property line.
- (21) The provider shall ensure that there is no gap five by five inches or greater in or under the outdoor area fence or barrier.
- (22) The provider shall ensure that there is shade available to protect any child from excessive sun and heat when in the outdoor area.

R430-90-10. Ratios and Group Size.

- (1) The provider shall maintain at least:
 - (a) one caregiver for up to eight children in care; and
 - (b) two caregivers for nine to 16 children in care.
- (2) The provider shall include the provider's and employee's own child age four years old or older in care:
 - (a) in the group size when the parent of the child is working at the facility; and
 - (b) in the group size and the caregiver-to-child ratio when the parent of the child is not working at the facility.
- (3) When caring for children younger than two years old, the provider shall ensure that:
 - (a) there is at least one caregiver for every three children younger than two years old;
 - (b) each caregiver cares for no more than two children younger than 18 months old; and
 - (c) there are at least two caregivers if more than three children younger than two years old are present and there are more than six children in care.
- (4) The provider may not exceed the group sizes found in Table 1 and Table 2.

<u>TABLE 1</u>		
<u>Maximum Group Size With One Caregiver</u>		
<u>Number of provider's and caregiver's own children ages 4-12 years present during child care hours</u>	<u>Maximum allowed number of children in care, including the provider's and caregivers' own children younger than 4 years old</u>	<u>Total number of children present in the home during child care hours</u>
<u>0-4 children</u>	<u>8 children</u>	<u>12 children</u>

<u>5 children</u>	<u>7 children</u>	<u>12 children</u>
<u>6 children</u>	<u>6 children</u>	<u>12 children</u>
<u>7 children</u>	<u>5 children</u>	<u>12 children</u>
<u>8 children</u>	<u>4 children</u>	<u>12 children</u>
<u>9 children</u>	<u>3 children</u>	<u>12 children</u>
<u>10 children</u>	<u>2 children</u>	<u>12 children</u>
<u>11 children</u>	<u>1 child</u>	<u>12 children</u>

TABLE 2		
Maximum Group Size With Two Caregivers		
<u>Number of provider's and caregiver's own children ages 4-12 years present during child care hours</u>	<u>Maximum allowed number of children in care, including the provider's and caregivers' own children younger than 4 years old</u>	<u>Total number of children present in the home during child care hours</u>
<u>0-8 children</u>	<u>16 children</u>	<u>24 children</u>
<u>9 children</u>	<u>15 children</u>	<u>24 children</u>
<u>10 children</u>	<u>14 children</u>	<u>24 children</u>
<u>11 children</u>	<u>13 children</u>	<u>24 children</u>
<u>12 children</u>	<u>12 children</u>	<u>24 children</u>
<u>13 children</u>	<u>11 children</u>	<u>24 children</u>
<u>14 children</u>	<u>10 children</u>	<u>24 children</u>
<u>15 children</u>	<u>9 children</u>	<u>24 children</u>
<u>16 children</u>	<u>8 children</u>	<u>24 children</u>
<u>17 children</u>	<u>7 children</u>	<u>24 children</u>
<u>18 children</u>	<u>6 children</u>	<u>24 children</u>
<u>19 children</u>	<u>5 children</u>	<u>24 children</u>
<u>20 children</u>	<u>4 children</u>	<u>24 children</u>
<u>21 children</u>	<u>3 children</u>	<u>24 children</u>
<u>22 children</u>	<u>2 children</u>	<u>24 children</u>
<u>23 children</u>	<u>1 child</u>	<u>24 children</u>

- (5) The provider may include caregivers and volunteers who are 16 or 17 years old in the caregiver-to-child ratio.
- (6) The provider shall ensure that guests do not count in caregiver-to-child ratio.

R430-90-11. Child Supervision and Security.

- (1) The provider shall ensure that each caregiver provides and maintains active supervision of each child, including:
 - (a) being in the outdoor area when a child younger than five years old is in the outdoor area;
 - (b) being inside the home when a child in care is inside the home;
 - (c) each child receives in-person interaction with a caregiver at least every 15 minutes;
 - (d) focusing attention on the children and not on caregivers' personal interests; and
 - (e) knowing the number of children in their care at any time.
- (2) The provider shall ensure a 16 or 17 year old staff or household member may only have unsupervised contact with a child in care, including during offsite activities and transportation, if:
 - (a) the director or the director designee is physically present and available as needed; and
 - (b) the staff or household member is not a volunteer.
- (3) The provider may not assign a staff member, volunteer, or household member who is younger than 16 years old to care for or supervise any child in care.
- (4) The provider shall ensure that any guest does not have unsupervised contact with any child in care, including during any offsite activity and transportation.
- (5) The provider shall ensure that any parent of a child in care does not have unsupervised contact with any child in care, except with their own child.
- (6) The provider may allow school-age children to go outdoors while caregivers are indoors if:
 - (a) a caregiver can hear the children when children are outdoors; and
 - (b) the children are in an area completely enclosed within a fence, wall, or solid natural barrier that is at least four feet high.
- (7) The provider shall ensure that a caregiver monitors each sleeping infant by:
 - (a) personally observing each sleeping infant at least once every 15 minutes; or
 - (b) placing each infant to sleep within the sight and hearing of a caregiver.
- (8) The provider may allow a child to participate in supervised offsite activities without a caregiver if:
 - (a) the provider has prior written permission from the child's parent for the child's participation; and

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(b) the provider has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts that responsibility throughout the period of the offsite activity.

(9) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.

(10) To maintain security and supervision of children, the provider shall ensure that:

(a) any individual signing a child in and out uses an identifier, including a signature, initials, or electronic code;

(b) each child is signed in and out in accordance with this section;

(c) only a child's parent or an individual with written authorization from the parent may sign-out a child;

(d) photo identification is required if the individual signing the child out is unknown to the provider;

(e) the sign-in and sign-out records include the date and time each child arrives and leaves; and

(f) there is written permission from the child's parent if children sign themselves in or out.

(11) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:

(a) the person giving verbal authorization; and

(b) the person picking up the child.

(12) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is on-site for review by OL.

R430-90-12. Child Guidance and Interaction.

(1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.

(2) The provider shall inform each child, each parent, and anyone who interacts with any child in care of the facility's behavioral expectations and how any misbehavior will be handled.

(3) The provider shall ensure that any individual who interacts with a child guides the child's behavior by using positive reinforcement, redirection, and by setting clear limits that promote the child's ability to become self-disciplined.

(4) The provider shall ensure that each caregiver uses gentle, passive restraint with a child only when it is needed to protect a child from injuring themselves or others, or to stop a child from destroying property.

(5) The provider shall ensure that each interaction with a child does not include:

(a) any action that produces physical pain or discomfort, including hitting, spanking, shaking, biting, or pinching;

(b) any form of corporal punishment;

(c) any form of emotional mistreatment;

(d) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage;

(e) forcing or withholding food, rest, or toileting;

(f) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint; or

(g) shouting at children.

(6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in state law.

R430-90-13. Child Safety and Injury Prevention.

(1) The provider shall ensure that any child and staff use each building, outdoor area, toy, and any equipment safely and as intended by the manufacturer to prevent injury to children.

(2) The provider shall ensure that any poisonous or harmful plant is inaccessible to children.

(3) The provider shall ensure that any sharp object, edge, corner, or point that could cut or puncture skin is inaccessible to children.

(4) The provider shall ensure that any choking hazard is inaccessible to any child younger than three years old.

(5) The provider shall ensure that any strangulation hazard, including any rope, cord, chain, and wire attached to a structure and long enough to encircle a child's neck is inaccessible to children.

(6) The provider shall ensure that any tripping hazard including unsecured flooring, any rug with a curled edge, or cord in a walkway is inaccessible to children.

(7) The provider shall ensure that any empty plastic bag large enough for a child's head to fit inside, any latex glove, or balloon is inaccessible to any child younger than five years old.

(8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.

(9) The provider shall ensure that any toxic or hazardous chemical, including any cleaner, insecticide, lawn product, and flammable, corrosive, and reactive material is:

(a) disposed of properly;

(b) inaccessible to any child;

(c) stored in a container labeled with the contents of the container; and

(d) used according to manufacturer instructions.

(10) The provider shall ensure that the following items are inaccessible to children:

(a) cigarette lighters;

(b) hot wax or other hot substances;

(c) matches;

(d) open flames; and

(e) when in use, portable space heaters, wood burning stoves, and fireplaces.

(11) The provider shall ensure that the following items are inaccessible to a child:

(a) any live electrical wire; and

(b) for a child younger than five years old, any electrical outlet and surge protector without a protective cap or safety device when not in use.

(12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that any firearm, including a gun, muzzleloader, rifle, shotgun, handgun, pistol, and automatic gun, is:

(a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and

(b) stored unloaded and separate from ammunition.

(13) The provider shall ensure that any weapon, including a paintball gun, BB gun, airsoft gun, sling shot, arrow, and mace, is inaccessible to children.

(14) The provider shall ensure that any alcohol, illegal substance, or sexually explicit material is inaccessible and not used on the premises, during any offsite activity, or in any facility vehicle any time a child is in care.

(15) The provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees Fahrenheit or higher.

(16) The provider shall ensure that each area accessible to a child is free of any heavy or unstable object that a child could pull down on themselves, including any furniture, unsecured television, and standing ladder.

(17) The provider shall ensure that hot water accessible to a child does not exceed 120 degrees Fahrenheit.

(18) The provider shall ensure that highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.

(19) The provider shall ensure that infant walkers with wheels are inaccessible to children.

(20) The provider shall ensure that any tobacco, e-cigarette, e-juice, e-liquid, or similar product is inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, is not used:

(a) in a facility or any other building when a child is in care;

(b) in any vehicle that is being used to transport a child in care;

(d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care;

(e) within 25 feet of any entrance to a facility or other building occupied by a child in care.

R430-90-14. Emergency Preparedness, Response, and Recovery.

(1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:

(a) includes a procedure for:

(i) accommodating a child with a disability;

(ii) accommodating a child with a chronic medical condition;

(iii) accommodating any infant and toddler;

(iv) communication with and reunification of families;

(v) continuity of operations;

(vi) evacuation;

(vii) lockdown;

(viii) relocation; and

(ix) shelter in place.

(b) includes instructions to follow if there is an allergy, serious reaction to food, or any other trigger that may affect a child's health; and

(c) is followed if an emergency happens, unless otherwise instructed by emergency personnel.

(2) The provider shall post the facility's street address and any emergency numbers, including at least fire, police, and poison control, near each telephone or in an area clearly visible to anyone needing the information.

(3) The provider shall keep first aid supplies in the facility, including at least antiseptic, bandages, and tweezers.

(4) The provider shall conduct a fire evacuation drill at least quarterly and ensure each drill includes a complete exit of each child, staff member, and volunteer from the building.

(5) The provider shall document each fire drill, including:

(a) any problems encountered and remediation;

(b) the date and time of the drill;

(c) the name of the individual supervising the drill;

(d) the number of children participating; and

(e) the total time to complete the evacuation.

(6) The provider shall conduct a drill for disasters, other than fires, at least once every six months.

(7) The provider shall document each disaster drill, including:

(a) any problems encountered and remediation;

(b) the date and time of the drill;

(c) the name of the individual supervising the drill;

(d) the number of children participating; and

(e) the type of disaster, including earthquake, flood, prolonged power or water outage, or tornado;

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- (8) The provider shall vary the days and times when fire and other disaster drills are held.
- (9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by OL.
- (10) The provider shall:
 - (a) give each parent a written report on the day of occurrence of each incident, accident, or injury involving their child;
 - (b) ensure the report has the signatures of the caregivers involved, the provider, and the individual picking up the child; and
 - (c) if a school-age child signs themselves out of the facility, send a copy of the report to the parent on the day following the occurrence.
- (11) If a child is injured and the injury appears serious but not life-threatening, the provider shall contact the child's parent immediately.
- (12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:
 - (a) call emergency personnel immediately;
 - (b) contact the parent after emergency personnel are called; and
 - (c) if the parent cannot be reached, try to contact the child's emergency contact individual.
- (13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:
 - (a) submit a completed accident report form to OL within the next business day of the incident; or
 - (b) contact OL within the next business day and submit a completed accident report form within five business days of the incident.
- (14) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by OL.
- (15) If the provider must leave the children due to an emergency and a background checked covered individual who is at least 18 years old or older is not available to stay with the children, the provider may leave the children in the care of an emergency substitute who:
 - (a) is at least 18 years old;
 - (b) substitutes the caregiver for the minimum time possible and for less than one business day; and
 - (c) signs a written background statement before being left alone with the children.
- (16) Before leaving for the emergency, the provider must obtain a signed, written background statement from the emergency substitute stating that the emergency substitute:
 - (a) has not been convicted of a felony;
 - (b) has not been convicted of a crime against a person;
 - (c) is not listed on the state or national sex offender registry; and
 - (d) is not being investigated for abuse or neglect by any federal, state, or local government agency.
- (17) Within five working days after the occurrence, the provider shall submit emergency substitute's written background statements to OBP for review.
- (18) The provider shall ensure compliance with incident reporting in accordance with Subsection R380-600-7(16).

R430-90-15. Health and Infection Control.

- (1) The provider shall maintain the building, furnishings, equipment, and outdoor area including keeping:
 - (a) any frequently touched surface, including each doorknob and light switch, clean and sanitized;
 - (b) each area and any equipment used for the storage, preparation, and service of food clean and sanitized;
 - (c) each surface free of rotting food or a build-up of food;
 - (d) each wall and floor clean and free of spills, dirt, and grime;
 - (e) the building and grounds free of a build-up of litter and garbage; and
 - (f) the building and grounds free of animal feces.
- (2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.
- (3) The provider shall clean and sanitize any toy and material used by a child:
 - (a) at least once a week or more often if needed;
 - (b) after being put in a child's mouth and before another child plays with the toy; and
 - (c) after being contaminated by a body fluid.
- (4) The provider shall ensure that any fabric toy and item including any stuffed animal, cloth doll, pillow cover, and dress-up clothing is machine washable and if used, washed at least each week or as needed.
- (5) The provider shall clean and sanitize each highchair tray before each use.
- (6) The provider shall clean and sanitize each water play table or tub daily, if used by a child.
- (7) The provider shall clean and sanitize each bathroom surface including each toilet, sink, faucet, toilet and sink handle, and counter each business day.
- (8) The provider shall clean and sanitize each potty chair after each use.
- (9) The provider shall ensure that toilet paper is accessible and kept in a dispenser.
- (10) The provider shall ensure that each staff member and volunteer washes their hands thoroughly with liquid soap and running water:
 - (a) after cleaning up or taking out garbage;
 - (b) after contact with a body fluid;
 - (c) after using the toilet or helping a child use the toilet;
 - (d) before and after eating meals and snacks or feeding a child;
 - (e) before handling or preparing food or bottles;
 - (f) upon arrival; and
 - (g) when coming in from outdoors.

- (11) The provider shall ensure that each caregiver teaches each child how to wash the child's hands thoroughly and that the caregiver oversees handwashing when possible.
- (12) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water:
- (a) after contact with a body fluid;
 - (b) after using the toilet;
 - (c) before and after eating meals and snacks;
 - (d) before using a water play table or tub;
 - (e) upon arrival; and
 - (f) when coming in from outdoors.
- (13) The provider shall ensure that only single-use towels, an electric hand dryer, or individually labeled cloth towels are used to dry hands.
- (14) The provider shall ensure that if cloth towels are used, cloth towels are:
- (a) not shared; and
 - (b) washed daily.
- (15) The provider shall ensure that any personal hygiene items, including a toothbrush, comb, and hair accessory, are not shared and are stored so they do not touch each other or they are sanitized between each use.
- (16) The provider shall ensure that any pacifier, bottle, and nondisposable drinking cup is:
- (a) labeled with each child's name or individually identified; and
 - (b) not shared, or washed and sanitized before being used by another child.
- (17) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.
- (18) The provider shall ensure that a child's clothing that is wet or soiled from a body fluid is:
- (a) not rinsed or washed at the center;
 - (b) placed in a leakproof container that is labeled with the child's name; and
 - (c) returned to the parent or thrown away with parental consent.
- (19) The provider shall ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids shall:
- (a) clean the surface using a detergent solution;
 - (b) rinse the surface with clean water;
 - (c) sanitize the surface;
 - (d) throw away, in a leakproof plastic bag, any disposable material, including paper towels, that were used to clean up the body fluid;
 - (e) wash and sanitize any non-disposable material used to clean up the body fluid, including any cleaning cloth, mop, or reusable rubber glove, before reusing it;
 - (f) wear waterproof gloves; and
 - (g) wash their hands after cleaning up the body fluid.
- (20) If a child becomes ill while in care, the provider shall:
- (a) as soon as the illness is observed or suspected, contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact; and
 - (b) if the child is ill with an infectious disease, make the child comfortable in a safe, supervised area that is separated from any other child until the parent arrives.
- (21) The provider shall notify the parents of each child in care if any child, employee, or person in the home has an infectious disease or parasite on the day the illness is discovered.
- (22) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the illness is discovered.
- (23) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that an individual with an infectious disease, or showing symptoms including diarrhea, fever, coughing, or vomiting, does not prepare or serve foods.

R430-90-16. Food and Nutrition.

- (1) The provider shall ensure that each child two years old and older is offered a meal or snack at least once every three hours.
- (2) If the provider supplies food for children's meals or snacks, the provider shall ensure that:
- (a) the meal service meets local health department food service rules;
 - (b) the foods that are served meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;
 - (c) the provider uses the CACFP meal pattern requirements, the standard OL-approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;
 - (d) the current week's menu is posted for review by parents and OL; and
 - (e) if not participating or in good standing with the CACFP, keep a six-week record of foods served at each meal and snack.
- (3) The provider shall ensure that the individual who serves food to a child:
- (a) is aware of each child in their assigned group who has any food allergy or sensitivity; and
 - (b) ensures that a child is not served the food that the child is allergic or sensitive to.
- (4) The provider may not place a child's food on a bare table, and shall serve a child's food on a dish, napkin, or sanitary highchair tray, except an individual finger food, including a cracker, that may be placed directly in a child's hand.
- (5) If a parent brings food and drink for their child's use, the provider shall ensure that the food and drink is:

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- _____ (a) consumed only by that child;
- _____ (b) labeled with the child's name; and
- _____ (c) refrigerated if needed.

R430-90-17. Medications.

- _____ (1) The provider shall make medications inaccessible to children in care.
- _____ (2) The provider shall lock any refrigerated medication or store it at least 36 inches above the floor and, if liquid, store it in a separate leakproof container.
- _____ (3) If a parent supplies any over-the-counter or prescription medication, the provider shall ensure that medication:
 - _____ (a) is labeled with the child's full name;
 - _____ (b) is stored in the original or pharmacy container; and
 - _____ (c) has the original label.
- _____ (4) The provider shall obtain a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.
- _____ (5) The provider shall ensure that the medication permission form includes at least:
 - _____ (a) a parent signature and the date signed;
 - _____ (b) any written instructions for administration;
 - _____ (c) the name of the child; and
 - _____ (d) the name of the medication.
- _____ (6) The provider shall ensure that instructions for administering the medication include at least:
 - _____ (a) how the medication will be given;
 - _____ (b) the disease or condition being treated; and
 - _____ (c) the dosage; and
 - _____ (d) the times and dates to administer the medication.
- _____ (7) If the provider supplies an over-the-counter medication for a child's use, the provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:
 - _____ (a) written; or
 - _____ (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.
- _____ (8) The provider shall ensure that the staff administering the medication:
 - _____ (a) checks the medication label to confirm the child's name if the parent supplied the medication;
 - _____ (b) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer;
 - _____ (c) washes their hands; and
 - _____ (d) administers the medication.
- _____ (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records:
 - _____ (a) any error in administering the medication or adverse reactions;
 - _____ (b) the date, time, and dosage of the medication given; and
 - _____ (c) their signature or initials.
- _____ (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.
- _____ (11) The provider shall notify the parent before the scheduled medication dosage to a child if the provider chooses not to administer medication as instructed by the parent.
- _____ (12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by OL.

R430-90-18. Activities.

- _____ (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- _____ (2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.
- _____ (3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours that children spend in the program.
- _____ (4) For each child two years old and older, the provider shall post a daily schedule that includes:
 - _____ (a) activities that support children's healthy development; and
 - _____ (b) the times activities occur including at least meal, snack, nap or rest, and outdoor play times.
- _____ (5) The provider shall ensure that any toy, material, and equipment needed to support a child's healthy development is available to each child.
- _____ (6) Except for occasional special events, the provider shall ensure that each child's primary screen time activity on media, including any television, cell phone, tablet, and computer, is:
 - _____ (a) not allowed for a child zero to 17 months old;
 - _____ (b) limited for a child 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and
 - _____ (c) planned to address the needs of a child five to 12 years old.
- _____ (7) If the provider offers swimming activities, or if a wading pool is used, the provider shall ensure that:

- (a) a caregiver stays at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;
- (b) any diapered child wears a swim diaper when the child is in the pool;
- (c) each lifeguard and pool personnel does not count toward the caregiver-to-child ratio;
- (d) each wading pool is emptied and sanitized after use by each group of children;
- (e) if the pool is deeper than four feet, there is a lifeguard on duty who is certified by the Red Cross or another approved certification program any time a child has access to the pool; and
- (f) the parent gives permission before their child uses the pool.
- (8) If the provider offers offsite activities, the provider shall ensure that:
 - (a) a child's name is not used on a nametag, t-shirt, or in any other visible way;
 - (b) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (c) the child's parent gives written consent before each activity;
 - (d) the required caregiver-to-child ratio and supervision are maintained during the entire activity; and
 - (e) there is a way for each child and caregiver to wash their hands with soap and water, or, if there is no source of running water, with a wet wipe or hand sanitizer.
- (9) The provider shall ensure that a caregiver with the children takes the emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:
 - (a) the child's name;
 - (b) the parent's name and phone number;
 - (c) the name and phone number of a person to notify if there is an emergency and the parent cannot be contacted;
 - (d) the name of any person authorized by the parent to pick up the child; and
 - (e) current emergency medical treatment and emergency medical transportation releases.

R430-90-19. Play Equipment.

- (1) The provider shall ensure that children using play equipment use it safely and as intended by the manufacturer.
- (2) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, or the bare floor.
- (3) Except for trampolines, the provider shall ensure that stationary play equipment with a designated play surface that is 18 inches high or higher:
 - (a) has a surrounding three-foot use zone, free of hard objects or surfaces, that extends from the outermost edge of the equipment;
 - (b) has cushioning that covers the entire required use zone; and
 - (c) is stable or securely anchored.
- (4) OL may consider a trampoline on the premises is inaccessible to children in care if the trampoline:
 - (a) is enclosed behind a locked fence or safety net that is at least three feet high;
 - (b) has no jumping mat; or
 - (c) is placed upside down.
- (5) The provider shall ensure that each accessible trampoline without a safety net enclosure has at least a six-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.
- (6) The provider shall ensure that each accessible trampoline with a properly installed, used as specified by the manufacturer, and in good repair safety net enclosure has at least a three-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.
- (7) The provider shall ensure that each accessible trampoline with or without a safety net enclosure is placed over:
 - (a) grass;
 - (b) a six-inch deep cushioning; or
 - (c) other commercial cushioning.
- (8) The provider shall ensure that cushioning for each accessible trampoline covers the entire required use zone.
- (9) The provider shall ensure that each accessible trampoline has:
 - (a) no ladders or other objects within the use zone a child could use to climb on the trampoline; and
 - (b) shock absorbing pads that completely cover the trampoline springs, hooks, and frame.
- (10) The provider must obtain written permission from a child's parent or legal guardian before that child uses the trampoline.
- (11) The provider shall ensure that if a child uses an accessible trampoline:
 - (a) a caregiver is at the trampoline supervising;
 - (b) only one person at a time uses the trampoline;
 - (c) no child in care is allowed to do somersaults or flips on the trampoline;
 - (d) no one is permitted under the trampoline while the trampoline is in use; and
 - (e) only school-age children in care are allowed to use a trampoline.
- (12) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.
- (13) The provider shall ensure that there is no strangulation hazard on or within the use zone of any piece of stationary play equipment.
- (14) The provider shall ensure that there is no crush, shearing, or sharp edge hazard on or within the use zone of any piece of stationary play equipment.

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(15) The provider shall ensure that there is no tripping hazard including any concrete footing, tree stump, tree root, or rock within the use zone of any piece of stationary play equipment.

R430-90-20. Transportation.

- (1) For each child that the provider transports, the provider shall obtain a transportation permission form that is:
- (a) signed by a parent; and
 - (b) on-site for review by OL.
- (2) The provider shall ensure that each vehicle used for transporting children:
- (a) is enclosed with a roof or top;
 - (b) is equipped with safety restraints;
 - (c) has a current vehicle registration;
 - (d) is maintained in a safe and clean condition; and
 - (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.
- (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:
- (a) appropriate for the age and size of each child who is transported, as required by law;
 - (b) properly installed; and
 - (c) in safe condition and working order.
- (4) The provider shall ensure that the driver of each vehicle who is transporting children:
- (a) is at least 18 years old;
 - (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;
 - (d) ensures that each child being transported is in an individual safety restraint as required by law;
 - (e) ensures that the inside vehicle temperature is between 60 and 85 degrees Fahrenheit;
 - (f) ensures that each child stay seated while the vehicle is moving;
 - (g) ensures that the vehicle is locked during transport;
 - (h) never leaves a child in the vehicle unattended by an adult; and
 - (i) never leaves the keys in the ignition when not in the driver's seat.
- (5) If the provider walks or uses public transportation to transport a child to or from a facility, the provider shall ensure that:
- (a) each child being transported has a completed transportation permission form signed by their parent;
 - (b) a caregiver goes with and actively supervises each child;
 - (c) a caregiver transporting a child has emergency contact information outlined in Subsection R430-90-18(9) and a release for each child being transported; and
 - (d) the caregiver-to-child ratio is maintained.
- (6) The provider shall:
- (a) have transport liability insurance; or
 - (b) inform parents in writing that the provider does not have transport liability insurance.

R430-90-21. Animals.

- (1) The provider shall inform each parent of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is no animal on the premises that:
- (a) has a history of biting even one individual;
 - (b) has a history of dangerous, attacking, or aggressive behavior; or
 - (c) is naturally aggressive.
- (3) The provider shall ensure that any animal at the facility is clean and free of any obvious disease or health problem that could adversely affect a child.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) The provider shall ensure that no child younger than five years old assists with the cleaning of any animal or animal cage, pen, or equipment.
- (6) If a school-age child helps in the cleaning of animals or animal equipment, the provider shall ensure that the child washes their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that each child and staff wash their hands immediately after playing with or touching any reptile or amphibian.
- (8) The provider shall ensure that any dog, cat, or ferret that the facility houses have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by OL.

R430-90-22. Rest and Sleep.

- (1) The provider shall offer a child in care a daily opportunity for rest or sleep in an environment with:
- (a) a low noise level;
 - (b) freedom from distractions; and
 - (c) subdued lighting.
- (2) The provider shall ensure that each crib:
- (a) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child;
 - (b) has a tight-fitting mattress;

- (c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;
- (d) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date; and
- (e) has slats spaced no more than 2-3/8 inches apart.
- (3) The provider shall ensure that sleeping equipment does not block any exit
- (4) The provider shall ensure that sleeping equipment and bedding items are:
 - (a) clearly assigned to one child; and
 - (b) laundered as needed, but at least once a week, and before use by another child.
- (5) The provider shall clean and sanitize sleeping equipment, that is not clearly assigned to and used by an individual child, before each use.

R430-90-23. Diapering.

- (1) If the provider accepts children who wear diapers, the provider shall ensure that each child's diaper is:
 - (a) checked as soon as a sleeping child awakens;
 - (b) checked at least once every two hours; and
 - (c) promptly changed when wet or soiled.
- (2) The provider shall ensure that caregivers do not change children's diapers directly on the floor, in a food preparation or eating area, or on any surface used for another purpose.
- (3) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (4) The provider shall ensure that a caregiver cleans and sanitizes the diapering surface after each diaper change or uses a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (5) The provider shall ensure that a caregiver washes their hands after each diaper change.
- (6) The provider shall ensure that a caregiver places any wet and soiled disposable diaper:
 - (a) in a container that has a disposable plastic lining and a tight-fitting lid;
 - (b) directly in an outdoor garbage container that has a tight-fitting lid; or
 - (c) in a container that is inaccessible to children.
- (7) The provider shall ensure that each indoor container where any wet and soiled diaper is placed is cleaned and sanitized each day.
- (8) If cloth diapers are used, the provider shall:
 - (a) not rinse cloth diapers at the facility; and
 - (b)(i) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or
 - (ii) place the cloth diapers in a leakproof diapering service container.

R430-90-24. Infant and Toddler Care.

- (1) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 15 minutes.
- (2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults, including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.
- (3) The provider shall ensure that a caregiver responds promptly to an infant and toddler who is in emotional distress due to any conditions including:
 - (a) a wet or soiled diaper;
 - (b) fatigue;
 - (c) fear;
 - (d) hunger;
 - (e) illness; or
 - (f) teething.
- (4) To stimulate healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.
- (5) The provider shall ensure that any mobile infant and toddler has freedom of movement in a safe area.
- (6) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.
- (7) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.
- (8) The provider shall make objects made of styrofoam inaccessible to any infant and toddler.
- (9) The provider shall allow each infant and toddler to eat and sleep on their own schedule.
- (10) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual infant and toddlers use is:
 - (a) labeled with the child's name;
 - (b) labeled with the date and time of preparation or opening of the container, including a jar of baby food;
 - (c) kept refrigerated if needed; and
 - (d) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.

NOTICES OF PROPOSED RULES

- (11) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each infant during bottle feeding and that a bottle is not propped.
- (12) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to a child.
- (13) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.
- (14) The provider shall ensure that a caregiver cuts solid food for:
 - (a) an infant into pieces no larger than 1/4 inch in diameter; and
 - (b) a toddler into pieces no larger than 1/2 inch in diameter.
- (15) The provider shall ensure that each infant sleeps in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that an infant is not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.
- (16) The provider shall place an infant on their back for sleeping unless there is documentation from a health care provider requiring a different sleep position.
- (17) The provider may not place any soft toy, loose blanket, or other object in sleep equipment while in use by a sleeping infant.

R430-90-25. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: child care facilities, licensed family child care
Date of Last Change: 2024[November 9, 2023]
Notice of Continuation: May 4, 2023
Authorizing, and Implemented or Interpreted Law: 26B-2-402

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	R432-4	Filing ID: 56863

Agency Information

1. Title catchline:	Health and Human Services, Health Care Facility Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
Mailing 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:
R432-4. General Construction
3. Purpose of the new rule or reason for the change:
The purpose of this repeal and reenact is to ensure requirements are current and easily accessible for each type of facility construction. This filing updates citations and titles to comply with SB38 of the 2023 General Session. Additionally, it adds penalty language to comply with SB229 and updates construction and building codes to comply with HB518, both from the 2024 General Session.
4. Summary of the new rule or change:
This filing removes unnecessary incorporations of best practices standards as well as redundant compliance items that are the responsibility of local businesses and fire authorities to monitor. Additionally, this filing reflects the construction and building codes adopted by the Utah Legislature under HB518 from the 2024 General Session. This filing updates existing requirements to reflect

current standards and does not introduce any new requirements. Finally, this filing updates language and makes style and formatting changes in accordance with the Rulewriting Manual for Utah. The Health Facility Committee engaged in multiple discussions and unanimously recommended approval of this rule filing.

Fiscal Information

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

A) State budget:

This proposed change is anticipated to significantly streamline the plans review process and allow for more timely reviews and licensure for licensors and providers. The Office of Licensing (OL) expects these changes to produce some savings because the process is being simplified. The current cost range for OL to conduct plan reviews is between \$560 and \$11,393.50 per review. OL cannot estimate a potential savings as a result of this filing at this time due to both the wide range of costs for conducting reviews as well as the inability to measure the impact this simplification will have on the process. A cost analysis can be completed in a year after this change is in effect to calculate savings, if any.

B) Local governments:

Local governments, including cities and counties, have oversight for local business licensing, including fire clearances and code compliance, and OL has determined that the business license process covers requirements for building and zoning for health care facilities. OL will no longer redundantly review the same requirements, and local governments will continue their existing oversight processes. OL does not anticipate this proposed change to introduce a fiscal impact, as it does not introduce, remove, or modify any processes that local governments currently conduct for issuing business licenses.

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

This proposed change updates citations and outdated language and does not introduce any new processes or requirements for small businesses. OL expects that small businesses may see a savings in construction costs to meet industry best practices as a result of OL's more streamlined review process. Savings are inestimable since there is no way to calculate how an expedited review process by OL will affect each individual facility because there is no way to predict what each small business will submit in a construction plan review and how much involvement OL's staff will have in the approval of the construction plans for each applicant.

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

This proposed change updates citations and outdated language and does not introduce any new processes or requirements for non-small businesses. OL expects that non-small businesses may see a savings in construction costs to meet industry best practices as a result of OL's more streamlined review process. Savings are inestimable since there is no way to calculate how an expedited review process by OL will affect each individual facility because there is no way to predict what each non-small business will submit in a construction plan review and how much involvement OL's staff will have in the approval of the construction plans for each applicant.

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

This proposed change is not anticipated to result in a fiscal impact, as this filing does not apply to other persons. It does not add, modify, or remove any requirements or restrictions for other persons.

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 anticipated compliance costs as a result of this filing, as this proposed change does not introduce any new processes or changes that incur a compliance 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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	Subsection 63G-3-403(3)	
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Incorporations by Reference Information

7. Incorporations by Reference:

A) This rule adds or updates the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	2010 ADA Standards for Accessible Design (ADASAD)
Publisher	United States Department of Justice
Issue Date	September 15, 2010
Issue or Version	2010 Edition

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:	12/16/2024
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9. This rule change MAY become effective on: 12/23/2024

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:	10/21/2024
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R432. Health and Human Services, Health Care Facility Licensing[~~Family Health and Preparedness, Licensing~~].**R432-4. General Construction.****~~R432-4-1. Legal Authority.~~**

~~This rule is adopted pursuant to Title 26 Chapter 21 for General Hospitals; Specialty Hospitals; Ambulatory Surgical Facilities; Nursing Care Facilities; Inpatient Hospices; Birthing Centers; Abortion Clinics; End Stage Renal Disease Facilities; and Small Health Care Facilities.~~

~~R432-4-2. Purpose.~~

~~The purpose of this rule is to promote the health and welfare of individuals receiving services by establishing construction standards.~~

~~R432-4-3. General Design.~~

~~(1) The licensee is responsible for assuring compliance with this section.~~

~~(2) When testing and certification compliance can only be verified through written documentation, the licensee must maintain documentation in the facility for Department review.~~

~~(3) Additional requirements for individual health care facility categories are included in the individual category construction rules sections of the Health Facility Licensure Rules, R432. If conflicts exist between R432-4 and individual category rules, the individual category rules govern.~~

~~(4) If conflicts exist between applicable codes, the most restrictive code applies.~~

~~(5) When other authorities having jurisdiction adopt more restrictive requirements than contained in these rules, the more restrictive requirements apply.~~

~~(6) The licensee shall ensure the building complies with the functional requirements for the applicable licensure classification and shall ensure provisions are made for all facilities and equipment necessary to meet the care and safety needs of all clients served, when construction is completed.~~

~~(7) When the terms "room" or "office" are used in this rule it describes a specific, separate, enclosed space for a service. When the term "area" is used, multiple services may be accommodated in one enclosed space.~~

~~R432-4-4. Site Location.~~

~~(1) The site of the licensed health care facility shall be accessible to both community and service vehicles, including fire protection apparatus.~~

~~(2) Facilities shall ensure that public utilities are available.~~

~~R432-4-5. Site Design.~~

~~(1) Paved roads shall be provided within the property for access to all entrances, service docks and for fire equipment access to all exterior walls.~~

~~(2) Paved walkways shall be provided for pedestrian traffic.~~

~~(3) Paved walkways shall be provided from every required exit to a dedicated public way.~~

~~(4) Hospitals with an organized emergency service shall have well marked emergency access to facilitate entry from public roads or streets serving the site. Vehicular or pedestrian traffic shall not conflict with access to the emergency service area. The emergency entrance shall be covered to ensure protection for patients during transfer from automobile or ambulance.~~

~~R432-4-6. Parking.~~

~~(1) Parking shall be provided in accordance with local zoning ordinances.~~

~~(2) The requirements of the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines, (ADA/ABA-AG) for handicapped parking access shall apply and parking spaces for the disabled shall be directly accessible to the facility without the need to go behind parked cars or cross vehicle traffic lanes.~~

~~R432-4-7. Environmental Pollution Control.~~

~~Public Law 91-190, National Environment Policy Act, requires the site and project be developed to minimize any adverse environmental effects on the neighborhood and community. Environmental clearances and permits shall be obtained from local jurisdictions and the Utah Department of Environmental Quality.~~

~~R432-4-8. Standards Compliance.~~

~~(1) The following standards are adopted by reference:~~

~~(a) Illuminating Engineering Society of North America, IESNA, publication RP-29-06, Lighting for Hospitals and Health Care Facilities, 2006 edition;~~

~~(b) The following chapters of the National Fire Protection Association Life Safety Code, NFPA 101, as adopted by the Legislature in Title 15A-5-207, The State Construction and Fire Codes Act:~~

~~(i) Chapter 18, New Health Care Occupancies;~~

~~(ii) Chapter 20, New Ambulatory Health Care Occupancies.~~

~~(c) Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines (ADA/ABA-AG).~~

NOTICES OF PROPOSED RULES

~~_____ (2) The following codes and standards apply to health care facilities. The licensee shall obtain clearance from the authority having jurisdiction and submit documentation to the Department verifying compliance with these codes and standards as they apply to the category of health care facility being constructed:~~

- ~~_____ (a) Local zoning ordinances;~~
- ~~_____ (b) International Building Code, as adopted by the Legislature in Title 15A-2-103, The State Construction and Fire Codes Act;~~
- ~~_____ (c) International Mechanical Code, as adopted by the Legislature in Title 15A-2-103, The State Construction and Fire Codes Act;~~
- ~~_____ (d) International Plumbing Code, as adopted by the Legislature in Title 15A-2-103, The State Construction and Fire Codes Act;~~
- ~~_____ (e) International Fire Code, as adopted by the Legislature in Title 15A-2-103, The State Construction and Fire Codes Act;~~
- ~~_____ (f) R313. Environmental Quality, Radiation Control;~~
- ~~_____ (g) R309. Environmental Quality, Drinking Water and Sanitation;~~
- ~~_____ (h) R315. Environmental Quality, Solid and Hazardous Waste;~~
- ~~_____ (i) NFPA 70, National Electric Code, as adopted by the Legislature in Title 15A-2-103, The State Construction and Fire Codes Act;~~
- ~~_____ (j) NFPA 99, Standards for Health Care Facilities, 2005 edition;~~
- ~~_____ (k) NFPA 110, Emergency and Standby Power Systems, 2010 edition;~~
- ~~_____ (l) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals, 2009 edition.~~

~~_____ (3) The licensee shall obtain a Certificate of Occupancy from the local building official having jurisdiction.~~

~~_____ (4) The licensee shall obtain a Certificate of Fire Clearance from the Fire Marshal having jurisdiction.~~

~~_____ (5) The licensee must obtain clearance from the Department prior to utilization of newly constructed facilities and additions or remodels of existing facilities.~~

R432-4-9. New Construction, Additions and Remodeling.

~~_____ (1) New construction, additions and remodels to existing structures, shall comply with Department rules in effect on the date the schematic drawings are submitted to the Department.~~

~~_____ (2) If the remodeled area or addition in any building, wing, floor or service area of a building exceeds 50 percent of the total square foot area of the building, wing, floor or service area, then the entire building, wing, floor or service area shall be brought into compliance with adopted codes and rules governing new construction which are in effect on the date the schematic drawings are submitted to the Department.~~

~~_____ (3) During remodeling and new construction, the licensee must maintain the safety level which existed prior to the start of work.~~

R432-4-10. Existing Building Licensure.

~~_____ (1) Existing buildings, currently licensed, shall conform to Department construction rules in effect at the time of original facility licensure.~~

~~_____ (2) Existing buildings which are currently licensed, or which were previously licensed, but are changing classification; or for which the licensed has lapsed, shall comply with requirements for new construction.~~

R432-4-11. Building Refurbishing.

~~_____ (1) Paint, carpet, wall coverings, and other new materials installed as part of a refurbishing project shall comply with R432-4-8.~~

~~_____ (2) The licensee shall maintain documentation of compliance with codes, rules, and standards.~~

R432-4-12. Mixed Occupancies.

~~_____ (1) Health care occupancies must be separated from non health care occupancies in accordance with requirements of the local jurisdiction and NFPA 101.~~

~~_____ (2) If separation of occupancies is not practical, the most restrictive occupancy requirements apply to the building.~~

R432-4-13. Campus and Contract Facilities.

~~_____ All housing, treatment, and diagnostic areas and facilities utilized by a patient admitted to a licensed health care facility shall be constructed in accordance with the requirements of R432-4 if:~~

~~_____ (1) the area will be used by one or more patients who are physically or mentally incapable of taking independent life saving action in an emergency;~~

~~_____ (2) the prescribed or administered treatment renders the patient incapable of taking independent life saving action in an emergency;~~

~~or~~

~~_____ (3) the patient is incapable of taking independent life saving action in an emergency due to physical or chemical restraints.~~

R432-4-14. Plan Review.

~~_____ (1) Prior to submitting documents for plans review, the facility licensee or designee shall schedule a conference with Department representatives, the licensee's architect, and the licensee or his designee to outline the required plans review process.~~

~~_____ (2) The licensee shall submit the following for Department review:~~

~~_____ (a) a functional program;~~

~~_____ (b) schematic drawings;~~

~~_____ (c) design development drawings;~~

~~_____ (d) working drawings;~~

~~_____ (e) specifications.~~

- ~~_____ (3) The Department may initiate review when all required documents and fees are received.~~
- ~~_____ (4) Working drawings and specifications for new construction, additions, or remodeling must have the seal of a Utah licensed architect affixed, in compliance with Section 58-3a-602.~~
- ~~_____ (5) The licensee shall pay a plans review and construction inspection fee assessed by the Department in accordance with the fee schedule approved by the Legislature.~~
- ~~_____ (6) Plans approval by the Department shall not relieve the licensee of responsibility for full compliance with R432-4.~~
- ~~_____ (7) Plan approval expires 12 months after the date of the Department's approval letter, or the latest plan review response letter, if construction has not commenced.~~
- ~~_____ (8) After a 12 month lapse, the licensee must resubmit plans and a new plan review fee to the Department and obtain a new letter of approval before work proceeds.~~
- ~~_____ (9) The Department may issue a license or modify a license only after the Department has determined the facility complies with adopted construction rules and has obtained all clearances and certifications.~~

R432-4-15. Functional Program.

- ~~_____ The functional program required in R432-4-14(2)(a) must include the following:~~
- ~~_____ (1) the purpose and proposed license category of the facility;~~
 - ~~_____ (2) services offered, including a detailed description of each service;~~
 - ~~_____ (3) ancillary services required to support each function or program;~~
 - ~~_____ (4) departmental relationships;~~
 - ~~_____ (5) services offered under contract by outside providers and the required in-house facilities to support these services;~~
 - ~~_____ (6) services shared with other licensure categories or functions;~~
 - ~~_____ (7) a description of anticipated in-patient workloads;~~
 - ~~_____ (8) a description of anticipated out-patient workloads;~~
 - ~~_____ (9) physical and mental condition of intended patients;~~
 - ~~_____ (10) patient age range;~~
 - ~~_____ (11) ambulatory condition of intended patients, such as non-ambulatory, mobile, or ambulatory;~~
 - ~~_____ (12) type and use of general or local anesthetics;~~
 - ~~_____ (13) use of physical or chemical restraints;~~
 - ~~_____ (14) special requirements which could affect the building;~~
 - ~~_____ (15) area requirements for each service offered, stated in net square feet;~~
 - ~~_____ (16) seclusion treatment rooms, if provided, including staff monitoring procedures;~~
 - ~~_____ (17) exhaust systems, medical gases, laboratory hoods, filters on air conditioning systems, and other special mechanical requirements;~~
 - ~~_____ (18) special electrical requirements;~~
 - ~~_____ (19) x-ray facilities, nurse call systems, communication systems, and other special systems;~~
 - ~~_____ (20) a list of specialized equipment which could require special dedicated services or special structures.~~
 - ~~_____ (21) a description of how essential core services will accommodate increased demand, if a building is designed for expansion;~~
 - ~~_____ (22) inpatient services, treatment areas, or diagnostic facilities planned or anticipated to be housed in other buildings, the construction type of the other buildings, and provisions for protecting the patient during transport between buildings.~~
 - ~~_____ (23) infection control risk assessment to determine the need for the number and types of isolation rooms over and above the minimum numbers required by the Guidelines.~~

R432-4-16. Drawings.

- ~~_____ Drawings must show all equipment necessary for the operation of the facility.~~
- ~~_____ (1) Schematic drawings may be single line and shall contain the following information:~~
 - ~~_____ (a) list of applicable building codes;~~
 - ~~_____ (b) location of the building on the site and access to the building for public, emergency, and service vehicles;~~
 - ~~_____ (c) site drainage;~~
 - ~~_____ (d) any unusual site conditions, including easements which might affect the building or its appurtenances;~~
 - ~~_____ (e) relationships of departments to each other, to support facilities, and to common facilities;~~
 - ~~_____ (f) relationships of rooms and areas within departments;~~
 - ~~_____ (g) number of inpatient beds;~~
 - ~~_____ (h) total building area or area of additions or remodeled portions.~~
 - ~~_____ (2) Design development drawings, drawn to scale, shall contain the following information:~~
 - ~~_____ (a) room sizes;~~
 - ~~_____ (b) type of construction, using International Building Code classifications;~~
 - ~~_____ (c) site plan, showing relationship to streets and vehicle access;~~
 - ~~_____ (d) outline specification;~~
 - ~~_____ (e) location of fire walls, corridor protection, fire hydrants, and other fire protection equipment;~~
 - ~~_____ (f) location and size of all public utilities;~~
 - ~~_____ (g) types of mechanical, electrical and auxiliary systems; and~~
 - ~~_____ (h) provisions for the installation of equipment which requires dedicated building services, special structure or which require a major function of space.~~

NOTICES OF PROPOSED RULES

- ~~_____ (3) Working drawings shall include all previous submitted drawings and specifications.~~
- ~~_____ (a) The licensee shall provide one copy of completed working drawings and specifications to the Department.~~
- ~~_____ (b) Within 30 days after receipt of the required documentation and plan review fee, the Department will provide to the licensee and the project architect a written report of modifications required to comply with construction standards.~~
- ~~_____ (c) The licensee shall submit the revised plans for review and final Department approval.~~

R432-4-17. Construction Inspections:

- ~~_____ (1) The Department may conduct interim inspections during construction.~~
- ~~_____ (2) The licensee shall schedule with the Department a final construction inspection when the project is complete and all furnishings and equipment are in place, but prior to utilization.~~

R432-4-18. Construction Without Plans Approval:

- ~~_____ (1) If construction is commenced without prior Department plans approval, the Department may issue a license and approve occupancy only after as-built drawings have been approved by the Department and the Department has conducted a construction inspection.~~
- ~~_____ (2) The licensee must correct all noncompliant items and pay the full plans review fee and inspection fee in accordance with the established fee schedule prior to licensure and patient occupancy.~~

R432-4-19. Existing Buildings Without Plans:

- ~~_____ (1) If plans are not available for existing buildings, or for facilities requesting an initial license or license category change, the licensee may submit to the Department the following information:
 - ~~_____ (a) a functional program described in R432-4-15;~~
 - ~~_____ (b) a report identifying modifications to the building required to bring it into compliance with construction rules for the requested licensure category.~~~~
- ~~_____ (2) The Department shall review the material submitted and within 30 days after receipt of the required material, furnish to the licensee a letter of approval or rejection. The Department may provide, at its option, a report of modifications required to comply with construction standards.~~
- ~~_____ (3) The licensee shall request and schedule a Department follow up inspection upon completion of the modifications.~~
- ~~_____ (4) Prior to a final Department inspection, the licensee must pay an inspection fee in accordance with the fee schedule approved by the Legislature.~~
- ~~_____ (5) The Department may issue a license when the building is in compliance with all licensing rules.~~

R432-4-20. Construction Phasing:

~~_____ Projects involving remodeling or additions to existing buildings shall be scheduled and phased to minimize disruption to the occupants of facilities and to protect the occupants against construction traffic, dust, and dirt from the construction site.~~

R432-4-21. Outpatient Unit Features:

- ~~_____ (1) If a building entrance is used to reach outpatient services, the entrance must be at grade level, clearly marked, and located to minimize the need for outpatients to traverse other program areas. The outpatient surgery discharge location must provide protection from the weather by canopies that extend from the building to permit sheltered transfer to an automobile.~~
- ~~_____ (2) Lobbies of multi-occupancy buildings may be shared if the design prohibits unrelated traffic within or through units or suites of the licensed health care facility.~~

R432-4-22. Standards for Accessibility:

- ~~_____ (1) At least one drinking fountain, toilet, and handwashing facility shall be available on each floor for persons with disabilities.~~
- ~~_____ (2) Each room required to be accessible to persons utilizing wheelchairs shall comply with ADA/ABA-AG.~~

R432-4-23. General Construction:

- ~~_____ (1) Guidelines for Design and Construction of Health Care Facilities 2010 edition, Part 1 and Part 6, are adopted and incorporated by reference except as modified in this section. Other sections of the Guidelines apply to specific facility types as identified elsewhere in this rule or in construction rules specific to individual license categories.~~
- ~~_____ (2) If a modification is cited for the Guidelines, the modification supersedes conflicting requirements of the Guidelines.~~
- ~~_____ (3) Yard equipment and supply storage areas shall be located so that equipment may be moved directly to the exterior without passing through building rooms or corridors.~~
- ~~_____ (4) Waste Processing Systems. Facilities shall provide sanitary storage and treatment areas for the disposal of all categories of waste, including hazardous and infectious wastes using techniques acceptable to the Utah Department of Environmental Quality, and the local health department having jurisdiction.~~
- ~~_____ (5) Windows, in rooms intended for 24-hour occupancy, shall open to the building exterior or to a court which is open to the sky.
 - ~~_____ (a) Windows shall be equipped with insect screens.~~
 - ~~_____ (b) Operation of windows shall be restricted to a maximum opening of six inches to prevent escape or suicide.~~
 - ~~_____ (c) Window opening shall be restricted regardless of the method of operation or the use of tools or keys.~~~~
- ~~_____ (6) Trash chutes, laundry chutes, dumb waiters, elevator shafts, and other similar systems shall not pump contaminated air into clean areas.~~

- ~~(7) All public and patient toilet and bath areas must have grab bars. Grab bar sizes and configurations shall comply with ADA/ABA-AG.~~
- ~~(8) Each patient handwashing fixture shall have a mirror. Patient toilet and bath rooms that are required to be accessible to persons utilizing wheel chairs shall have mirrors installed in accordance with ADA/ABA-AG.~~
- ~~(9) If showers or tubs contain soap dishes or shelves, they shall be recessed.~~
- ~~(10) Cubicle curtains and draperies shall be affixed to permanently mounted tracks or rods. Portable curtains or visual barriers are not permitted.~~
- ~~(11) Floors and bases of kitchens, toilet rooms, bath rooms, janitor's closets and soiled workrooms shall be homogenous and shall be coved. Other areas subject to frequent wet cleaning shall have coved bases that are tight fitting to the floor.~~
- ~~(12) Acoustical treatment for sound control shall be provided in areas where sound control is needed, including corridors in patient areas, nurse stations, dayrooms, recreation rooms, dining areas, and waiting areas.~~
- ~~(13) Carpet.~~
- ~~Carpet in institutional occupancy patient areas, except public lobbies and offices, shall be treated to meet the following microbial resistance ratings as tested in accordance with test methods of the American Association of Textiles, Chemists, and Colorists (AATCC):~~
- ~~(a) Rating: minimum 90% bacterial reduction, test method: AATCC 100.~~
- ~~(b) Rating: maximum 20% fungal growth, test method: AATCC 174-99.~~
- ~~(c) Rating: Exhibits no zone of inhibition, test method: AATCC 174-99.~~
- ~~(d) Closed cell resilient backed carpet may be used in lieu of anti-microbial carpet.~~
- ~~(e) Carpet and padding shall be stretched taut and be free of loose edges to prevent tripping.~~
- ~~(14) Signs shall be provided as follows:~~
- ~~(a) General and circulation direction signs in corridors;~~
- ~~(b) Identification on or by the side of each door; and~~
- ~~(c) Emergency evacuation directional signs.~~
- ~~(15) Elevators.~~
- ~~Elevators intended for patient transport shall accommodate a gurney with attendant and have minimum inside cab dimensions of 5'8" wide by 8'5" deep and a minimum clear door width of 3'8".~~
- ~~(16) All rooms and occupied areas in the facility shall have provisions for ventilation. Natural window ventilation may be used for ventilation of nonsensitive areas and patient rooms when weather conditions permit, but mechanical ventilation shall be provided during periods of temperature extremes:~~
- ~~(a) Bottoms of ventilation openings shall be located at least three inches, above the floor.~~
- ~~(b) Supply and return systems shall be in ducts. Common returns using corridors or attic spaces as plenums are prohibited.~~
- ~~(i) Plenum returns for HVAC systems serving only nonpatient care areas shall be permitted.~~
- ~~(c) Evaporative cooling where the airstream is exposed to a wet coil, a mat, or an open reservoir, are prohibited except for laundry processing areas and kitchen hoods that provide 100% exhaust air.~~
- ~~(17) In facilities other than general hospitals, specialty hospitals, and nursing care facilities, hot water recirculation is not required if the linear distance along the supply pipe from the water heater to the fixture does not exceed 50 feet.~~
- ~~(18) Bed pan washing devices may be deleted from inpatient toilet rooms where a soiled utility room is within the unit which includes bed pan washing capability.~~
- ~~(19) Building sewers shall discharge into a community sewer system. If a system is not available, the facility shall treat its sewage in accordance with local requirements and Utah Department of Environmental Quality requirements.~~
- ~~(20) Dishwashers and other kitchen food storage and cooking appliances shall be National Sanitation Foundation, NSF, approved and shall have the NSF seal affixed.~~
- ~~(21) Electrical materials shall be listed as complying with standards of Underwriters Laboratories, Inc. or other equivalent nationally recognized standards:~~
- ~~(a) Approaches to buildings and all spaces within the buildings occupied by people, machinery, or equipment shall have fixtures for lighting in accordance with requirements shown in Tables 3A and 3B of Recommended Practice 29-06, Lighting for Hospitals and Health Care Facilities, by the Illuminating Engineering Society of North America.~~
- ~~(b) Parking lots shall have fixtures for lighting to provide light levels as recommended in IESNA Lighting for Parking Facilities (RP-20-1998).~~
- ~~(c) Receptacles and receptacle cover plates on the electrical emergency system shall be red.~~
- ~~(d) The activating device for nurse call stations shall be of a contrasting color to the adjacent floor and wall surfaces to make it easily visible in an emergency.~~
- ~~(e) Fuel storage capacity of the emergency generator shall permit continuous operation of the facility for 48 hours.~~
- ~~(f) Building electrical services connected to the emergency electrical source must comply with the specific rules for each licensure category.~~

432-4-24. General Construction, Patient Service Facilities.

The Guidelines for Design and Construction of Health Care Facilities 2010 edition, (Guidelines), are incorporated and adopted by reference and shall be met except as modified in this section. Where a modification is cited, the modification supersedes conflicting requirements of the Guidelines.

- ~~(1) General Hospitals shall comply with Guidelines sections 2.1 and 2.2.~~
- ~~(a) The following paragraphs of the appendix of the Guidelines are also adopted by reference as requirements:~~

NOTICES OF PROPOSED RULES

- ~~(i) A2.2 2.2.6.1 Nurse station locations shall permit visual observation of traffic into the unit.~~
- ~~(ii) A2.2 3.1.3.6(4) Emergency Department pediatric rooms must provide soundproofing with a STC rating for walls and ceiling assemblies of not less than 50.~~
- ~~(iii) A2.2 3.1.3.6(9) Exterior portable decontamination units in accordance with this paragraph shall be acceptable to meet the requirement for emergency department decontamination and may be provided in lieu of decontamination rooms within the building. Portable units shall have the capability for heating shower water and for heating ventilation air.~~
- ~~(iv) A2.2 3.1.8 A patient hygiene shower with direct access to a sink and toilet shall be provided in the emergency department.~~
- ~~(v) A2.2 3.1.8.1 A bereavement room in the emergency department shall be provided.~~
- ~~(vi) A2.2 3.3.3.3 Separate pediatric and adult post anesthesia care rooms shall be provided.~~
- ~~(vii) A2.2 3.12 Hyperbaric Suites shall meet the requirements of this section.~~
- ~~(2) Critical Access Hospitals shall comply with Guidelines sections 2.1 and 2.3.~~
- ~~(3) Freestanding satellites and in-house outpatient programs shall comply with Guidelines sections 3.1, 3.2, 3.3, 3.7 and 3.9.~~
- ~~(4) Abortion Clinics shall comply with Guidelines sections 3.1 and 3.2.~~
- ~~(5) Acute care hospital beds that swing to nursing home care and payment shall also comply with R432-5.~~
- ~~(6) Hospitals must have at least one nursing unit of at least six beds containing patient rooms, patient care spaces, and service areas.~~
 - ~~(a) When more than one nursing unit shares spaces and service areas, as permitted in this rule, the service areas shall be contiguous to each nursing unit served.~~
 - ~~(b) Identifiable spaces shall be provided for each of the required services.~~
 - ~~(c) Facility services shall be accessible from common areas without compromising patient privacy.~~
 - ~~(7) Patient room area is identified in each individual construction rule for the licensure category rule.~~
 - ~~(a) The closets in each patient room shall be a minimum of 22 inches deep by at least 22 inches wide and high enough to hang full length garments and to accommodate two storage shelves.~~
 - ~~(b) Pediatric units must have at least one tub room with a bathtub, toilet and sink convenient to the unit. The tub room may be omitted if all patient rooms contain a tub in the toilet room.~~
 - ~~(8) The facility must provide linen services as follows:~~
 - ~~(a) Processing laundry may be done within the facility, in a separate building on or off site, or in a commercial or shared laundry.~~
 - ~~(b) If laundry is processed by an outside commercial laundry, the following shall be provided:~~
 - ~~(i) a separate room for receiving and holding soiled linen until ready for transport;~~
 - ~~(ii) a central, clean linen storage and issuing room(s) to accommodate linen storage for four days operation or two normal deliveries, whichever is greater; and~~
 - ~~(iii) handwashing facilities in each area where unbagged, soiled linen is handled.~~
 - ~~(c) If the facility processes its own laundry, within the facility or in a separate building, the following shall be provided:~~
 - ~~(i) a receiving, holding, and sorting room for control and distribution of soiled linen;~~
 - ~~(ii) a washing room with handwashing facilities and commercial equipment that can process a seven day accumulation of laundry within a regularly scheduled work week;~~
 - ~~(iii) a drying room with dryers adequate for the quantity and type of laundry being processed; and~~
 - ~~(iv) a clean linen storage room with space and shelving adequate to store one half of all linens and personal clothing being processed.~~
 - ~~(d) Soiled linen chutes shall discharge directly into the receiving room or in a room separated from the washing room, drying room and clean linen storage.~~
 - ~~(e) Prewash facilities may be provided in the receiving, holding and sorting rooms.~~
 - ~~(f) If laundry is processed by the facility, either a two or three room configuration may be used as follows:~~
 - ~~(i) A two room configuration shall consist of the following:~~
 - ~~(A) a room housing soiled linen receiving, sorting, holding, and prewash facilities; washers; and handwashing facilities; and~~
 - ~~(B) a room housing dryers; clean linen folding, sorting, and storage facilities; and handwashing facilities.~~
 - ~~(ii) A three room configuration shall consist of:~~
 - ~~(A) a soiled linen receiving, sorting, holding room with prewash and handwashing facilities;~~
 - ~~(B) a combination washer and dryer room arranged so linen flows from the soiled receiving area to the washers, to the dryers, and then to clean storage; and~~
 - ~~(C) a clean storage room with folding, sorting, storage and handwashing facilities.~~
 - ~~(iii) Physical separation shall be maintained between rooms by means of self closing doors.~~
 - ~~(iv) Air movements shall be from the clean area to the soiled area. Air from the soiled area shall be exhausted directly to the outside.~~
 - ~~(g) Handwashing sinks shall be provided and located within the laundry areas to maintain the functional separation of the clean and soiled processes.~~
 - ~~(h) Rooms shall be arranged to prevent the transport of soiled laundry through clean areas and the transport of clean laundry through soiled areas.~~
 - ~~(i) Convenient access to employee lockers and lounges shall be provided.~~
 - ~~(j) Storage for laundry supplies shall be provided.~~
 - ~~(k) A cart storage area for separate parking of clean and soiled linen carts shall be provided out of normal traffic paths.~~

R432-4-25. Excluded Sections and Paragraphs of the Guidelines.

- ~~The following sections and paragraphs of the Guidelines do not apply:~~
 - ~~(1) Section 2.2 5.2 Linen Services.~~

- ~~(2) Section 1.2.5 Patient Handling and Movement Assessment.~~
- ~~(3) Section 1.2.6.2 Sustainable Design.~~
- ~~(4) Paragraph 2.2.16.2.5(2) special structural requirements for sinks in bariatric rooms.~~
- ~~(5) Paragraph 3.1.6.1.1 Vehicular Drop Off and Pedestrian Entrance.~~
- ~~(6) Paragraph 3.1.7.2.2.3(1)(b) The requirement for 3' 8" wide doors shall apply only to doors along gurney travel routes, not to wheelchair accessible routes.~~
- ~~(7) Paragraph 3.1.8.2.6.1 (2) requiring on-site boiler fuel supply at outpatient facilities for emergency use.~~

R432-4-26. Penalties.

~~The Department may assess a civil money penalty of up to \$10,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to \$10,000 if the licensee fails to follow Department approved architectural plans. The Department may assess a civil money penalty of up to \$1,000 per day for each day a new or renovated area is occupied prior to licensing agency approval.]~~

R432-4-1. Authority and Purpose.

- ~~(1) This rule is authorized by Section 26B-2-202.~~
- ~~(2) The purpose of this rule is to promote the health and welfare of individuals receiving services by establishing design and construction requirements for the following types of health care facilities:~~
 - ~~(a) abortion clinics;~~
 - ~~(b) birthing centers;~~
 - ~~(c) critical access hospitals;~~
 - ~~(d) end stage renal disease facilities;~~
 - ~~(e) freestanding ambulatory surgical centers;~~
 - ~~(f) general hospitals;~~
 - ~~(g) inpatient hospitals;~~
 - ~~(h) nursing care facilities;~~
 - ~~(i) rural emergency hospitals.~~
 - ~~(j) small health care facilities; and~~
 - ~~(k) specialty hospitals.~~

R432-4-2. Definitions.

- ~~(1) Terms used in this rule are defined in Rules R432-1 and R380-600. Additionally:~~
- ~~(2) "Construction documents" means written, graphic, and pictorial documents prepared or assembled for describing the design, location, and physical characteristics of the elements of a project necessary for obtaining a building permit and license for operation.~~
- ~~(3) "OL" means the Office of Licensing in the Division of Licensing and Background Checks under the Department of Health and Human Services.~~

R432-4-3. General Site Design.

- ~~(1) The applicant or licensee shall ensure the facility meets the requirements of:~~
 - ~~(a) the functional program as outlined in Section R432-4-9; and~~
 - ~~(b) the 2010 ADA Standards for Accessible Design (ADASAD), 2010 Edition, incorporated by reference within this rule.~~
- ~~(2) The applicant or licensee shall ensure:~~
 - ~~(a) the site of the licensed facility is accessible to both community and service vehicles;~~
 - ~~(b) utilities, including culinary water, power, sanitary sewage, and, if required, natural gas, are available to the site;~~
 - ~~(c) fire apparatus access roads are provided and maintained as approved by the local building authority;~~
 - ~~(d) a paved walkway is provided for pedestrian traffic and wheeled mobility equipment from every required exit to a dedicated public way; and~~
 - ~~(e) a paved road is provided within the property for access to each entrance and service area.~~
- ~~(3)(a) The applicant or licensee that provides an emergency department shall provide well-marked emergency access to facilitate entry from any public road.~~
 - ~~(b) The applicant or licensee shall ensure vehicular or pedestrian traffic does not conflict with access to the emergency service area.~~
 - ~~(c) The applicant or licensee shall ensure the emergency entrance is covered to protect patients from the weather during transfer from automobile or ambulance.~~
- ~~(4) The applicant or licensee shall provide parking in accordance with local zoning ordinances.~~
- ~~(5) The applicant or licensee shall provide parking spaces that are ADASAD-compliant for disabled individuals and directly accessible to the facility without the need to go behind parked cars or cross vehicle traffic lanes.~~

R432-4-4. Construction Codes Compliance.

- ~~(1)(a) The applicant or licensee shall obtain and submit to OL a business license, certificate of occupancy, and certificate of fire clearance from the local building official having jurisdiction before patient utilization of any newly constructed facility or addition, refurbishment, or remodel of an existing facility.~~
- ~~(b) For an existing facility, the applicant or licensee shall ensure compliance with each applicable section under Title 15A, State Construction and Fire Code Act, and each applicable construction rule under Title R432 that is in effect on the date of initial facility licensure.~~

NOTICES OF PROPOSED RULES

(c) For new construction, the applicant or licensee shall ensure compliance with each applicable section under Title 15A, State Construction and Fire Code Act, and each applicable construction rule under Title R432 in effect on the date the first construction documents are received by OL.

(d) The applicant or licensee shall comply with new construction requirements for:

(i) an existing, currently licensed facility changing classification;

(ii) an existing, currently licensed facility adding a new license classification;

(iii) relicensing an existing facility for which a license has lapsed or been terminated; or

(iv) a facility as required by Section R432-4-6.

(2)(a) Before using the facility, the applicant or licensee must comply with each applicable construction rule under Title R432 and ensure any necessary equipment is provided to meet the care and safety needs of each patient.

(b) Except as outlined in Sections R432-4-15 and R432-4-16, if a conflict exists between Rule R432-4 and any other requirement of Title R432, the individual rule category requirement shall govern.

(c) If an authority with jurisdiction adopts a more restrictive requirement than those of Rule R432-4, the more restrictive requirement shall govern.

(5)(a) In addition to OL requirements, the applicant or licensee shall comply with any applicable law, ordinance, and code before occupying any space to provide healthcare to a patient.

(b) The applicant or licensee shall provide compliance documentation, including testing reports and certification, to OL upon request.

(c) The applicant or licensee shall ensure any test method is done by an approved agency in compliance with recognized test specifications.

R432-4-5. Additions, Alterations, Refurbishing, Remodeling, Renovation, and Repairs.

(1) If the remodeled or refurbished area or addition of any building, wing, floor, room, or service area exceeds 50% of the total square foot area of the building, wing, room, floor, or service area, the applicant or licensee shall:

(a) ensure the entire building, wing, floor, room, or service area is brought into compliance with requirements found in local building codes to obtain:

(i) an updated business license;

(ii) a certificate of occupancy; and

(iii) a certificate of fire clearance; and

(b) comply with each applicable construction rule under Title R432 governing new construction in effect on the date the construction documents are submitted to OL.

(2) During each new construction, addition, and remodel, the applicant or licensee shall maintain the safety level that existed before the start of work.

(3) The applicant or licensee shall ensure that projects involving remodeling, refurbishing, or additions to existing buildings are scheduled and phased to minimize disruption to the occupants of facilities and to protect the occupants against construction traffic, dust, and dirt from the construction site.

(4) The applicant or licensee shall maintain documentation of compliance with codes and specifications regarding paint, carpet, wall coverings, and other new materials installed as part of a refurbishing project.

(5) The applicant or licensee shall ensure that any installation and new materials comply with applicable code and construction rule under Title R432 in effect on the date the construction documents are submitted to OL.

R432-4-6. Campus and Contracted Facilities.

The applicant or licensee shall ensure any housing areas, treatment areas, diagnostic areas, and facilities utilized by a patient admitted to a licensed health care facility are constructed in accordance with the requirements of Rule R432-4 if:

(1) the area will be used by a patient who is physically or mentally incapable of taking independent life-saving action in an emergency;

or

(2) the prescribed or administered treatment makes the patient incapable of taking independent life-saving action:

(a) in an emergency; or

(b) due to physical or chemical restraints.

R432-4-7. Construction Plan Review.

(1) Before submitting documents for a construction plan review and inspection, the applicant or licensee may schedule a conference with OL representatives, the applicant or licensee's architect, and the applicant or licensee to explain the required plans review process.

(2) The applicant or licensee shall submit the following for OL review:

(a) a notice of intent;

(b) documentation of a functional program as outlined in Section R432-4-9;

(c) construction documents; and

(d) any other document that verifies compliance with each applicable code or construction rule under Title R432.

(3) The applicant or licensee shall ensure that the seal of a Utah-licensed architect is affixed to any working drawings and specifications for new construction, additions, or remodeling in compliance with Section 58-3a-602.

(4) The applicant or licensee shall pay a construction plan review fee and construction inspection fee in accordance with the fee schedule approved by the Legislature.

(5) Construction plan approval by OL does not relieve the applicant or licensee of responsibility for compliance with this rule.

(6)(a) If construction has not commenced, construction plan approval expires 12 months after the date of OL's approval letter or the latest plan review correspondence between the applicant or licensee and OL.

(b) For OL to restore or reconsider approval, the applicant or licensee shall:

(i) resubmit construction documents;

(ii) submit a new plan review fee; and

(iii) obtain a new letter of approval from OL.

R432-4-8. Functional Program.

The applicant or licensee shall ensure the functional program documentation includes:

(1) the purpose and proposed license category of the facility;

(2) any services offered, including a detailed description of each service;

(3) any ancillary services required to support each function or program;

(4) the applicant or licensee's interdepartmental relationships;

(5) any services offered under contract by outside providers and the required in-house facilities to support those services;

(6) any services shared with other licensure categories or functions;

(7) a description of anticipated inpatient and outpatient workloads;

(8) the physical and mental condition of intended patients;

(9) the age range of the intended patients;

(10) the ambulatory or non-ambulatory condition of intended patients;

(11) the type and use of general or local anesthetics;

(12) any use of physical or chemical restraints;

(13) area requirements for each service offered, stated in net square feet;

(14) if provided, seclusion treatment rooms, including staff monitoring procedures;

(15) x-ray facilities, nurse call systems, communication systems, and other special systems;

(16) if a building is designed for expansion, a description of how essential core services will accommodate increased demand;

(17) inpatient services, treatment areas, or diagnostic facilities planned or anticipated to be housed in other buildings;

(18) the construction-type of any other building;

(19) a description of protections from the weather for patients during transport between buildings;

(20) an infection control risk assessment to determine the need for the number and types of isolation rooms; and

(21) any special requirement that could affect the building, including:

(a) any exhaust system;

(b) any filter on an air conditioning system;

(c) any laboratory hood;

(d) a list of specialized equipment that could require a special dedicated service or special structure;

(e) any medical gas;

(f) any special electrical requirement; and

(g) any other special mechanical requirement.

R432-4-9. Construction Documents.

(1) The applicant or licensee shall submit to OL one printed set of construction documents, including drawings and specifications representing any products and materials, and show any equipment necessary for the construction and operation of the proposed work.

(2) The applicant or licensee shall ensure drawings are drawn to scale and include the following information describing the work:

(a) a list of applicable building codes;

(b) the construction-type;

(c) the location of the building on the site and access to the building for public, emergency, and service vehicles;

(d) the site grading and drainage;

(e) any unusual site conditions, including easements that might affect the building;

(f) any means of egress;

(g) the subdivision of smoke compartments;

(h) the relationships of departments to each other;

(i) the relationships of departments to support and common facilities;

(j) the relationships of rooms and spaces within departments;

(k) the number of inpatient beds;

(l) total square footage area of each story of the building for new construction and each story impacted by new work in an existing building;

(m) the total square footage of any addition, alteration, repair, renovation, refurbishment or remodel of an existing facility;

(n) the square footage area and dimensions of rooms;

(o) the location and size or capacity of any public utilities;

(p) the engineered drawings and specifications for each mechanical, electrical, plumbing, and auxiliary system; and

(q) the designation for the installation of equipment that requires a dedicated building service, special structure, or major function of space.

(3) If, during a construction plan review or during construction, the work deviates from the original construction plan, the applicant or licensee shall submit any revised construction documents showing the extent and scope of the changes to OL for review.

R432-4-10. Construction Without Construction Plan Review.

(1) If construction is commenced before OL reviews the construction plan, OL may issue a license only after OL reviews as-built drawings and conducts a construction inspection.

(2) The applicant or licensee shall correct any noncompliant items found during the OL plans review and pay the plans review and inspection fees before patient utilization of the space.

R432-4-11. Existing Buildings Without Construction Documents.

(1) If construction documents are not available for existing buildings or for facilities requesting an initial license or license category change, the applicant or licensee may submit to OL the following information:

(a) a functional program described in Section R432-4-9; and

(b) a report identifying required modifications to bring the building into compliance with each applicable code or construction rule for the requested licensure category.

(2) The applicant or licensee shall request and schedule an OL follow-up inspection upon completion of modifications.

R432-4-12. Construction Inspections.

(1) The applicant or licensee shall allow OL to conduct interim inspections during construction.

(2) Before OL conducts a final construction inspection, the applicant or licensee shall pay the OL construction plan review fee and inspection fee in accordance with the fee schedule established by the Legislature.

(3) The applicant or licensee shall schedule a final construction inspection with OL before utilization when the project is complete and furnishings and equipment are in place.

(4) The applicant or licensee shall correct any noncompliant item before licensure and utilization.

R432-4-13. Outpatient Unit Features.

(1) If a building entrance is used to reach outpatient services, the applicant or licensee shall ensure the entrance is:

(a) at grade level;

(b) clearly marked; and

(c) located to minimize the need for outpatients to pass through other program areas.

(2) The applicant or licensee shall ensure the outpatient surgery discharge location provides protection from the weather by providing canopies that extend from the building to permit sheltered transfer to a vehicle.

(3) The applicant or licensee may utilize a shared lobby in a multi-occupancy building if the design prohibits unrelated traffic within or through units or suites of the licensed health care facility.

R432-4-14. General Construction.

(1) This section supersedes any conflicting design and construction requirements.

(2) The applicant or licensee shall locate yard equipment and supply storage areas so that equipment may be moved directly to the exterior without passing through building rooms or corridors.

(3) The applicant or licensee shall provide:

(a) sanitary storage and treatment areas for the disposal of each category of waste, including hazardous and infectious waste, using techniques acceptable to the Utah Department of Environmental Quality and the local health department;

(b) ADASAD-compliant grab bars in each patient bathtub and shower;

(c) ADASAD-compliant grab bars at the side of each public and patient toilet facility;

(d) a mirror for each patient handwashing fixture;

(e) ASASAD-compliant mirrors installed at appropriate heights for patient toilet and bathroom facilities required to be accessible to individuals using wheelchairs;

(f) if contained in showers or tubs, recessed soap dishes or shelves;

(g) cubicle curtains and draperies affixed to permanently mounted tracks or rods, except that portable curtains or visual barriers may not be used;

(h) homogenous and coved floors and bases for any kitchen, toilet room, bathroom, janitor's closet, and soiled workroom;

(i) coved bases that are tight fitting to the floor for any area subject to frequent wet cleaning;

(j) acoustical treatment for sound control where needed, including corridors in any patient area, nurse station, dayroom, recreation room, dining area, and waiting area;

(k) carpet and padding in each institutional occupancy patient area, except a public lobby and office, that is stretched taut and free of loose edges to prevent tripping; and

(l)(i) rooms intended for 24-hour occupancy with a window to the exterior or to a courtyard open to the sky.

(ii) If a window in a 24-hour occupancy room is operable, the applicant or licensee shall ensure:

(A) it is equipped with an insect screen;

(B) the operation is restricted to a maximum opening of six inches to prevent escape or suicide; and

(C) any opening is restricted regardless of the method of operation or the use of any tool or key.

- (4) Any trash chute, laundry chute, dumb waiter, elevator shaft, or other similar system may not pump contaminated air into any clean area.
- (5) The applicant or licensee shall provide signage for:
- (a) general and circulation directions in any corridor;
 - (b) identification on or by the side of each door; and
 - (c) directional emergency evacuation.
- (6) The applicant or licensee shall ensure any elevator intended for patient transport:
- (a) is able to accommodate a gurney with an attendant;
 - (b) has minimum inside cab dimensions of five feet, eight inches wide by eight feet, five inches deep; and
 - (c) has a minimum clear door width of three feet, eight inches.
- (7) The licensee shall ensure any room and occupied area in the facility provides for ventilation through:
- (a) natural window openings that may be used for ventilation of non-sensitive areas and patient rooms when weather conditions permit;
 - (b) mechanical ventilation provided during periods of temperature extremes;
 - (c) bottoms of ventilation openings that are located at least three inches above the floor; and
 - (d) ducted supply and return systems.
- (8) Common returns using corridors or attic spaces may not be used as plenums to recycle air.
- (9) Plenum returns for recycling heating, ventilation, and air conditioning systems shall serve only non-patient care areas.
- (10) Evaporative cooling where the airstream is exposed to a wet coil, a mat, or an open reservoir, may not be used, except for any laundry processing area and kitchen hood that provides 100% exhaust air.
- (11) Except in a general hospital, specialty hospital, and nursing care facility, the applicant or licensee may omit hot water recirculation if the linear distance along the supply pipe from the water heater to the fixture does not exceed 50 feet.
- (12) The applicant or licensee may omit bedpan washing devices from an inpatient toilet room when a separate and specific soiled utility room is located within the unit that includes bedpan washing capability.
- (13)(a) The applicant or licensee shall ensure building sewers discharge into a community sewer system.
- (b) If a community system is not available, the applicant or licensee shall treat its sewage in accordance with local requirements and Utah Department of Environmental Quality requirements.
- (14) The applicant or licensee shall ensure any dishwasher and other kitchen food storage and cooking appliance is National Sanitation Foundation (NSF) approved and has the NSF seal affixed.
- (15) The applicant or licensee shall ensure:
- (a) an approach to any building and space within a building occupied by people, machinery, or equipment has fixtures for lighting;
 - (b) any receptacle and receptacle cover plate on the electrical emergency system is red;
 - (c) the activating device for a nurse call station is of a contrasting color to the adjacent floor and wall surfaces to make it easily visible in an emergency;
 - (d) the fuel storage capacity of the emergency generator permits continuous operation of the facility for 48 hours;
 - (e) building electrical services connected to the emergency electrical source comply with the specific rules for each licensure category; and
 - (f) at least one wheelchair-accessible drinking fountain, toilet, and handwashing facility is available on each floor.

R432-4-15. General Construction, Patient Service Facilities.

- (1) This section supersedes any conflicting design and construction requirements.
- (2) The applicant or licensee shall ensure that:
- (a) nurse station locations permit visual observation of traffic into the unit;
 - (b) emergency department pediatric rooms provide soundproofing with a sound transmission insulation rating for walls and ceiling assemblies of not less than 50 STC;
 - (c) an emergency department uses exterior portable decontamination units or decontamination rooms within the building;
 - (d) a portable unit has the capability for heating shower water and for heating ventilation air;
 - (e) a patient hygiene shower with direct access to a sink and toilet is provided in the emergency department;
 - (f) a bereavement room is provided in the emergency department;
 - (g) separate pediatric and adult post-anesthesia care rooms are provided; and
 - (h) hyperbaric suites meet the requirements of this section.
- (3) The applicant or licensee whose acute care hospital beds swing to nursing home care shall additionally comply with Rule R432-5.
- (4) Except in a rural emergency hospital, a hospital applicant or licensee shall have at least one nursing unit of at least six beds containing patient rooms, patient care spaces, and service areas and shall ensure that:
- (a) when more than one nursing unit shares spaces and service areas, as permitted in this rule, the service areas are contiguous to each nursing unit served;
 - (b) there are identifiable spaces for each of the required services; and
 - (c) facility services are accessible from common areas without compromising patient privacy.
- (5) The applicant or licensee shall ensure that patient rooms are compliant with the individual construction rule for the license category and that:

NOTICES OF PROPOSED RULES

- (a) the closet in each patient room is a minimum of 22 inches deep by at least 22 inches wide, and high enough to hang full length garments and to accommodate two storage shelves; and
- (b) pediatric units shall have at least one tub room with a bathtub, toilet, and sink convenient to the unit unless each patient room contains a tub in the toilet room.
- (6) Laundry may be done within the facility, in a separate building on or offsite, or in a commercial or shared laundry.
- (7) If laundry is processed by an outside commercial laundry, the applicant or licensee shall provide:
 - (a) a separate room for receiving and holding soiled linen until ready for transport;
 - (b) a central, clean linen storage and issuing room to accommodate linen storage for four days' operation or two normal deliveries, whichever is greater; and
 - (c) handwashing facilities in each area where un-bagged, soiled linen is handled.
- (8) If the applicant or licensee processes their own laundry, either within the facility or in a separate building, the applicant or licensee shall provide:
 - (a) a receiving, holding, and sorting room for control and distribution of soiled linen;
 - (b) a washing room with handwashing facilities and commercial equipment that can process a seven-day accumulation of laundry within a regularly scheduled work week;
 - (c) a drying room with enough dryers for the quantity and type of laundry being processed; and
 - (d) a clean linen storage room with enough space and shelving to store one-half of any linens and personal clothing being processed.
- (9) Soiled linen chutes shall discharge directly into the receiving room or in a room separated from the washing room, drying room, and clean linen storage.
- (10) The applicant or licensee may provide prewash facilities in the receiving, holding, and sorting rooms.
- (11) If the applicant or licensee processes their own laundry, the applicant or licensee may use either a two- or three-room configuration.
 - (a) A two-room configuration shall consist of:
 - (i) a room housing washers, soiled linen receiving, sorting, holding, and prewash facilities, and handwashing facilities; and
 - (ii) a room housing dryers, clean linen folding, sorting, and storage facilities, and handwashing facilities.
 - (b) A three-room configuration shall consist of:
 - (i) a soiled linen receiving, sorting, and holding room with prewash and handwashing facilities;
 - (ii) a combination washer and dryer room arranged so linen flows from the soiled receiving area to the washers, then to the dryers, and then to clean storage; and
 - (iii) a clean storage room with folding, sorting, storage, and handwashing facilities.
 - (c) In either a two or three-room configuration, the following shall occur:
 - (i) self-closing doors maintain physical separation between rooms;
 - (ii) air moves from the clean area to the soiled area and air from the soiled area is exhausted directly to the outside;
 - (iii) handwashing sinks are located within each laundry area to maintain the functional separation of the clean and soiled processes;
 - (iv) rooms are arranged to prevent the transport of soiled laundry through clean areas and the transport of clean laundry through soiled areas;
 - (v) there is convenient access to employee lockers and lounges;
 - (vi) there is storage for laundry supplies; and
 - (vii) there is a cart storage area for separate parking of clean and soiled linen carts away from normal traffic paths.

R432-4-16. Penalties.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: health care facilities

Date of Last Change: ~~2024~~~~February 21, 2012~~

Notice of Continuation: January 23, 2023

Authorizing, and Implemented or Interpreted Law: ~~[26-21-5; 26-21-16]~~26B-2-202

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R432-31	Filing ID: 56868
Agency Information		
1. Title catchline:	Health and Human Services, Health Care Facility Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	

Mailing 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:
R432-31. Provider Order for Life Sustaining Treatment
3. Purpose of the new rule or reason for the change:
This amendment is necessary for the rule to comply with HB200, which removes the term "Provider" from the "Provider Order for Life-Sustaining Treatment," and SB229 that standardizes the enforcement authority for the Division of Licensing and Background Checks (DLBC) from the 2024 General Session.
4. Summary of the new rule or change:
This amendment changes the catchline of the rule and associated acronyms and forms from "Provider Order for Life Sustaining Treatment" to "Order for Life-Sustaining Treatment" as dictated by the changes introduced in HB 0200 in the 2024 General Session. It adds a reference to Rule R380-600 and adds clarifying language pertaining to compliance in accordance with SB46 from the 2024 General Session, and adds a compliance statement in Section R432-31-11. It removes Section R432-31-9 as it is a permission and not needed in rule, and it updates the original citation of 75-2a-106 to 75a-3-106, as applicable provisions have been renumbered. It also makes style and formatting changes in accordance with the Rulewriting Manual for Utah. The Health Care Facility Licensing committee unanimously recommended approval of this rule filing amendment.

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, as this amendment clarifies terms in accordance with statute, updates citations, and makes style and formatting changes in accordance with the Rulewriting Manual for Utah. It does not introduce any new requirements or changes to the rule or enforcement of the rule. The Office of Licensing (OL) has updated each form referenced in this rule. No further changes will be needed for OL to implement this amendment.
B) Local governments:
This rule does not apply to local governments and OL's enforcement of this rule, as local governments issue business licenses and fire clearances and have no interaction with OL licensees regarding license or statute compliance. Therefore, there is no anticipated fiscal impact on local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small business, as this amendment clarifies terms in accordance with statute, updates citations, and makes style and formatting changes in accordance with the Rulewriting Manual for Utah. It does not introduce any new requirements or changes.
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, as this amendment clarifies terms in accordance with statute, updates citations, and makes style and formatting changes in accordance with the Rulewriting Manual for Utah. It does not introduce any new requirements or changes.

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

There is no anticipated cost or savings to other persons, as this amendment clarifies terms in accordance with statute, updates citations, and makes style and formatting changes in accordance with the Rulewriting Manual for Utah. It does not introduce any new requirements or changes. Any existing "POLST" forms can still be honored until an updated form is completed.

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

There is no anticipated compliance cost for affected persons, as this amendment clarifies terms in accordance with statute, updates citations, and makes style and formatting changes in accordance with the Rulewriting Manual for Utah. Any existing "POLST" forms can still be honored until an updated form is completed.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-2-103		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	10/21/2024
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R432. Health and Human Services, Health Facility Licensing.**R432-31. ~~[Provider]~~Order for Life-Sustaining Treatment.****R432-31-1. Authority and Purpose.**

- (1) This rule is authorized by Sections 26B-2-202 and ~~[75-2a-106]~~75A-3-106.
- (2) This rule establishes the forms and systems for ~~[Provider]~~Order for Life-Sustaining Treatment (~~[P]~~OLST).

R432-31-2. Definitions.

- (1) The definitions found in Sections 26B-2-201 ~~and~~, ~~[75-2a-106]~~75A-3-101, and Rule R380-600 apply to this rule. Additionally:
- (2) "OL" means the Office of Licensing in the Division of Licensing and Background Checks under the Department of Health and Human Services (department).
- (3) "Qualified ~~[P]~~provider" is a provider as outlined in Subsection ~~[75-2a-106(2)]~~75A-3-106(2).

R432-31-3. ~~[POLST]~~Order for Life-Sustaining Treatment Forms.

- (1) ~~[Except as outlined in Section R432-2-10, an]~~An individual who desires to execute ~~[a POLST]~~an OLST shall use a form or electronic format approved by ~~[the department.]~~OL. The form may not be altered in layout or style, including font style and size, without the express written permission of ~~[the department]~~OL.
- (2) Any person, health care provider, or health care facility licensee~~;~~ may obtain a form from the ~~[department and, if made available by the department, from a]~~OL website ~~established for that purpose~~.
- (3) A health care provider, ~~[licensed health care facility]~~licensee, or Emergency Medical Services (EMS) provider shall act upon a copy of ~~[a POLST]~~an OLST as if it were the original.

R432-31-4. Facility Policies and Procedures.

- (1) A ~~[health care facility]~~licensee shall establish and implement policies and procedures that ~~[conform to]~~comply with Section ~~[75-2a-106]~~75A-3-106.
- (2) A ~~[health care facility]~~licensee shall ensure policies and procedures address the licensee's responsibility to:
 - ~~(a) determine upon admission whether each individual has [a POLST]an OLST;~~
 - ~~(b) [the outline that they are not required to offer each individual the opportunity to complete a POLST;~~
 - ~~(c) identify individuals who may be offered the opportunity to complete a POLST, that may include individuals who:~~
 - ~~(i) have a serious illness and are likely to face a life-threatening health crisis;~~
 - ~~(ii) have specific preferences for end of life treatments; or~~
 - ~~(iii) have declining cognitive abilities and lack a surrogate or guardian to make decisions for them;~~
 - ~~(d) identify circumstances under which an individual with a POLST is offered the opportunity to change the order;~~
 - ~~(e) maintain the POLST in the individual's medical record;~~
 - ~~(f) identify circumstances under which the facility would not follow a POLST;~~
 - ~~(g) only permit a qualified provider to assist with the completion of a POLST;~~
 - ~~(h) [ensure [a POLST]an OLST is done in accordance with Subsection 75A-3-106(3)[signed personally by the physician or APRN, or only by a physician assistant of the person to whom the POLST relates if done so in accordance with Subsection 75-2a-106(11); and];~~
 - ~~(c) identify circumstances when an individual with an OLST is offered the opportunity to change the order;~~
 - ~~(d) identify circumstances when the facility would not follow an OLST;~~
 - ~~(e) identify any individual who may be offered the opportunity to complete an OLST, including an individual who has:~~
 - ~~(i) a serious illness and is likely to face a life-threatening health crisis;~~
 - ~~(ii) declining cognitive abilities and lacks a surrogate or guardian to make decisions for them; or~~
 - ~~(iii) specific preferences for end-of-life treatments;~~
 - ~~(f) make a referral to the primary health care provider to create, replace, or change [a POLST]an OLST, if the licensee's services do not include the supervision of a physician, APRN, or physician assistant~~;~~ or advanced practice registered nurse~~;~~~~
 - ~~(g) maintain the OLST in the individual's medical record;~~
 - ~~(h) only permit a qualified provider to assist with the completion of an OLST; and~~
 - ~~(i) outline that they are not required to offer each individual the opportunity to complete an OLST.~~

R432-31-5. Training.

~~[Each]~~A licensee shall appropriately train relevant health care, quality improvement, and record keeping staff on the requirements of Section ~~[75-2a-106]~~75A-3-106, this rule, and the facility's policies and procedures established in accordance with this rule.

R432-31-6. Transferability of ~~[P]~~OLST.

- (1) ~~[A POLST]~~An OLST is fully transferable ~~[between]~~among any licensed health care facilit~~ies~~y.
- (2) ~~[The]~~Any health care provider~~s~~ assuming ~~[the]~~an individual's care at the receiving licensed health care facility shall read the ~~[POLST]~~individual's OLST.

NOTICES OF PROPOSED RULES

(3) The receiving health care provider shall have policies and procedures to address any circumstance[s] under which the health care provider will not follow the instructions contained in the [P]OLST.

(4)(a) A licensee that discharges a resident, shall provide a copy of the [~~individual's POLST~~]resident's OLST to the individual[-] upon discharge.

(b) If the individual lacks the capacity to make health care decisions, as defined in Section [~~75-2a-104~~]75A-3-201, the licensee shall also provide a copy to the individual's surrogate or guardian.

(5) A licensee that transfers an individual with [~~a POLST~~]an OLST to another licensed health care facility shall provide a copy of the [P]OLST to the receiving facility.

(6) A licensee shall allow an individual to complete, amend, or revoke [~~a POLST~~]an OLST at any time upon request.

R432-31-7. Presentation of [P]OLST to EMS Personnel.

(1) Except for home health[~~agencies~~], personal care[~~agencies~~], and home-based hospice agencies, a licensee in possession of [~~a POLST~~]an OLST shall present the individual's [P]OLST to EMS personnel upon arrival to treat or transport the individual.

(2) For an individual who resides at home, if the home health[~~agency~~], personal care[~~agency~~], or home-based hospice agency personnel are present when EMS personnel arrive at the home, the personnel shall present the individual's [P]OLST to the EMS personnel.

R432-31-8. Home Placement of [P]OLST.

(1) If an individual under the care of a home health[~~agency~~], personal care[~~agency~~], or [~~a~~]hospice agency possesses [~~a POLST~~]an OLST, the agency shall ensure that a copy of the [P]OLST is left at the individual's place of residence.

(2) For an individual adult or emancipated minor who resides at home[~~, including an emancipated minor,~~] the licensee shall ensure that a copy of the [P]OLST is posted on the front of the refrigerator or over the individual's bed.

(3) For a minor who resides at home, it is recommended that a copy of the [P]OLST be placed in a container and placed on the top shelf of the door inside the refrigerator.

R432-31-9. [~~POLST Bracelets~~]Prior Orders and [~~Necklaces~~]Out of State Orders.

~~(1) An individual with](a) POLST may obtain an approved POLST bracelet or necklace from a vendor approved by the department.~~

~~(2) An approved POLST bracelet or necklace identifies the individual to EMS or other health care providers as possessing a POLST.~~

~~**R432-31-10. Prior Orders and Out of State Orders.**~~

~~(1) EMS and other health care providers may recognize as valid any prior or out of state [P]OLST forms or medical orders for life-sustaining treatment, including the national [P]OLST form.~~

~~(b) This may also [~~includes bracelets and necklaces~~]include a bracelet or necklace, unless superseded by a subsequent [P]OLST.~~

~~(2) Physicians)(a) A physician shall complete and sign a new [P]OLST for [~~individuals~~]an individual with prior forms who no longer [~~have~~]has the capacity to complete a new order[s], and who does not have a surrogate or guardian to authorize the new order.~~

~~(b) The physician shall state on the new order that the individual's preferences from [~~the~~]a prior order [~~are~~]is still applicable.~~

~~(3) A form that an individual executed while in another state may be honored as if it were executed in compliance with this rule and Section [~~75-2a-106~~]75A-3-106 if it:~~

~~(a) is substantially similar to [~~a POLST~~]an OLST or a medical order for life-sustaining treatment; and~~

~~(b) was executed according to the laws of that state.~~

R432-31-~~11~~10. Signature Requirement.

(1) The patient or surrogate or guardian decision maker and a medical health care provider, including an MD, DO, PA, or APRN, shall sign the [P]OLST for it to be valid.

(2) For pediatric patients, two different medical health care providers shall sign the [P]OLST to make it [~~effective~~]valid.

(3) Electronic signatures are acceptable for [P]OLST forms.

(4) In the event the surrogate or guardian decision maker cannot sign in-person or electronically, a verbal signature may be noted if confirmed by two medical professionals caring for the patient.

(5) Photocopies and faxes of signed [P]OLST forms are legal and valid.

R432-31-11. Compliance.

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: POLST, do not resuscitate, DNR, Life with Dignity Order, order for life-sustaining treatment

Date of Last Change: [~~June 12, 2023~~]2024

Notice of Continuation: January 24, 2022

Authorizing, and Implemented or Interpreted Law: 26B-2-202; [~~75-2a-106~~]75a-3-106

NOTICE OF SUBSTANTIVE CHANGE**TYPE OF FILING:** Amendment**Rule or Section Number:****R432-35****Filing ID: 56891****Agency Information**

1. Title catchline:	Health and Human Services, Health Care Facility Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
Mailing 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	mariahmoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R432-35. Background Screening -- Health Facilities
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to align terminology and standardize statutory citations in the Division of Licensing and Background Checks (DLBC) rules pertaining to background checks for health care facilities. Section R 432-35-11 is updated to reflect the changes resulting from SB229 in the 2024 General Session that consolidates existing licensing penalties and enforcement authority into a singular section applying to all providers governed by DLBC. The Health Care Facility Licensing Rules Committee unanimously recommended approval of this rule filing.
4. Summary of the new rule or change:
Substantive changes include standardizing the catchline to background check from background screening; changes "department" references to "OL" (Office of Licensing) and "OBP" (Office of Background Processing) and defines both, adds definitions and references to the DLBC online direct access clearance system (DACs) and requires the retention of fingerprints for certification for direct patient access in the rapback system in accordance with HB495 of the 2024 General Session. The amendment further expands the definition of volunteer, aligns cruelty to animals statute across the office, and aligns protective order violations and wording for endangering a person in a human services program. Penalty and enforcement references DLBC's enforcement rule, Rule R380-600 and Section 26B-2-7 for penalties in accordance with SB229 of the 2024 General Session. Finally, this amendment updates terms and phrases in accordance with the Rulewriting Manual of Utah.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This amendment will streamline the background check process across all entities under the DLBC. The additional items that will be checked for health care facilities are already items that OBP checks for other licensing entities under the DLBC and they are available without additional effort or access to conduct the same checks for health facilities. There is no anticipated cost or savings to the state budget as a result of this amendment.
B) Local governments:
This there is no anticipated impact on local governments' revenues or expenditures because this amendment does not change local business licensing or any other item where local government is involved.

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

There is no anticipated impact to small health care facility licensees as a result of this amendment. OBP currently denies less than 2% of health care facility background checks conducted annually. This amendment is not anticipated to significantly increase the number of denied applicants for small health care facility licensees, as it strengthens what OBP may look at, but does not mandate a denial unless there are additional related findings. It is impossible to estimate how many applicants will present with the new items reflected on their record.

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

There is no anticipated impact to non-small health care facility licensees as a result of this amendment. OBP currently denies less than 2% of health care facility background checks conducted annually. This amendment is not anticipated to significantly increase the number of denied applicants for non-small health care facility licensees, as it strengthens what OBP may look at, but does not mandate a denial unless there are additional related findings. It is impossible to estimate how many applicants will present with the new items reflected on their record.

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

The proposed language does not change the background check process, as it only streamlines the requirements for eligibility. Persons other than small businesses, non-small businesses, state, or local government entities are not expected to be affected because the process for submission of background checks.

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

The proposed language does not change the background check process, as it only streamlines the requirements for eligibility. There are no expected costs for affected persons because the process for submission of background checks remains the same.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, DHHS Executive Director	Date:	10/28/2024
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R432. Health and Human Services, Health Care Facility Licensing.
R432-35. Background ~~[Screening]~~ [Check-Health [Facilities]Care Facility Licensing.
R432-35-1. Authority ~~[.]~~ and Purpose.

(1) Section 26B-2-202 authorizes this rule.

~~[~~
R432-35-2. Purpose.

~~_____~~ ~~The purpose of this~~ (2) This rule ~~[is to outline]~~ outlines the process required for individuals to obtain a certification for direct patient access while employed by a covered provider, covered contractor, or covered employer.

R432-35-~~[3]~~2. Definitions.

~~[Terms used in this rule are defined]~~ Definitions found in Section 26B-2-238 ~~[. In addition, this rule defines the following terms]~~ and Rule R380-600 apply to this rule. Additionally:

- (1) "Aged" means an individual who is 60 years of age or older.
- (2) "Certification for direct patient access" means ~~[a department]~~ an OBP-approved background ~~[screening]~~ clearance for an individual to have direct patient or resident access whose engaged employment has not lapsed for a period ~~[of]~~ longer than 180 days.
- (3) "Covered body" means a covered provider, covered contractor, or covered employer.
- (4) "Corporation" means an entity that has business interest or connection to covered providers that employs individuals who provide consultative services that may result in direct patient access.
- (5) "Covered contractor" means a person or corporation that provides covered individuals, by contract, to:
 - (a) a covered employer; or
 - (b) a covered provider for services within the scope of the health facility license.
- (6) "Covered employer" means an individual who:
 - (a) engages a covered individual to provide services in a private residence to:
 - (i) ~~[an aged]~~ a disabled individual, as defined by ~~[department]~~ this rule; or
 - (ii) ~~[a disabled]~~ an aged individual, as defined by ~~[department]~~ this rule;
 - (b) is not a covered provider; and
 - (c) is not a licensed health care facility within the state.
- (7) "Covered individual":
 - (a) means an individual that:
 - (i) a covered body engages; and
 - (ii) may have direct patient access;
 - (b) a covered individual includes:
 - (i) a nursing assistant;
 - (ii) a personal care aide;
 - ~~_____~~ (iii) a provider of medical, therapeutic, or social services, including a provider of laboratory and radiology services;
 - ~~_____~~ (iv) an executive;
 - ~~_____~~ (v) an individual licensed to engage in the practice of nursing under Title 58, Chapter 31b, Nurse Practice Act;
 - ~~_____~~ (vi) a provider of medical, therapeutic, or social services, including a provider of laboratory and radiology services;
 - ~~_____~~ (vii) an executive;
 - (vi) any administrative staff, including a manager or other administrator;
 - (vii) any dietary and food service staff;
 - (viii) any housekeeping staff;

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- (ix) ~~transportation staff;~~ any maintenance staff;
- (x) ~~maintenance~~ any transportation staff; and
- (xi) any volunteer as defined by ~~department~~ this rule[-];

(c) a covered individual does not include a student directly supervised by a member of the staff of the covered body or the student's instructor.

- (8) "Covered provider" means:
 - (a) ~~an end stage renal disease facility;~~ a home health agency;
 - (b) a hospice agency;
 - ~~(b)~~ (c) a long-term care hospital;
 - ~~(c)~~ (d) a nursing care facility;
 - ~~(d)~~ (e) a personal care agency;
 - ~~(e)~~ (f) a small health care facility;
 - ~~(f)~~ (g) an assisted living facility; or
 - ~~(g)~~ (h) ~~a hospice;~~ an end stage renal disease facility.

~~(g) a home health agency; or~~
~~(h) a personal care agency.]~~

(9) "DACs" means Direct Access Clearance System.

(10) "Direct patient access" means an individual in a position where the individual could, in relation to a patient or resident of the covered body:

- (a) cause physical or mental harm;
- (b) commit theft; or
- (c) view medical or financial records.

(11) "Disabled individual" means an individual who has limitations with two or more major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and employment.

(12) "Engage" means to obtain an individual's services:

- (a) ~~by employment;~~ as a volunteer;
- (b) by contract;
- (c) by employment; or

~~(e) as a volunteer; or]~~

(d) by other arrangement.

(13) "Long-term care hospital":

- (a) means a hospital that is certified to provide long-term care services under 42 U.S.C. Sec. 1395tt; and
- (b) does not include a critical access hospital, designated under 42 U.S.C. Sec[-] 1395i-4(c)(2).

(14) "Nursing Assistant" means an individual who performs duties under the supervision of a nurse, that may include a nurse aide, personal care aide, or certified nurse aide.

~~(15)~~ (15) "OBP" means the Office of Background Processing in the Division of Licensing and Background Checks (DLBC) under the Department of Health and Human Services.

~~(16)~~ (16) "OL" means the Office of Licensing in the DLBC under the Department of Health and Human Services.

(17) "Patient" means an individual who receives health care services from one of the following covered providers:

- (a) ~~an end stage renal disease facility;~~ a home health agency;
- (b) ~~a long term care hospital;~~ a hospice agency;
- (c) ~~a hospice;~~ a long-term care hospital;
- (d) ~~a home health agency; or~~ a personal care agency; or
- (e) ~~a personal care agency;~~ an end stage renal disease facility.

~~(16)~~ (18) "Rapback system" means the system that enables authorized entities to receive ongoing status notification of any criminal history reported on individuals who are registered in the system.

(19) "Resident" means an individual who receives health care services from one of the following covered providers:

(a) a hospice agency that provides living quarters as part of its services;

- ~~(a)~~ (b) a nursing care facility;
- ~~(b)~~ (c) a small health care facility;
- ~~(c)~~ (d) an assisted living facility; ~~or~~

~~(d) a hospice that provides living quarters as part of its services.]~~

~~(17)~~ (20) "Residential setting" means a place provided by a covered provider:

- (a) for residents to live as part of the services provided by the covered provider; and
- (b) where an individual who is not a resident also lives.

~~(18)~~ (21) "Volunteer" means an individual who may have unsupervised direct patient access who is not directly compensated for providing services.

R432-35-43. Covered Provider -- DACs Process.

(1) The covered provider shall enter required information into DACs to initiate a certification for direct patient access of each covered individual before issuance of a provisional license, license renewal, or engagement as a covered individual.

(2) The covered provider shall ensure the engaged covered individual:

- (a) signs a criminal background ~~[screening]~~check authorization form that is available for review by the ~~[department]~~OBP; and
- (b) submits fingerprints within 15 working days of engagement.
- (3) The covered provider shall ensure DACS reflects the current status of the covered individual within five working days of the engagement or termination.
- (4) The covered provider may provisionally engage a covered individual while certification for direct patient access is pending as permitted in Section 26B-2-239.
- (5) If the ~~[department]~~OBP determines an individual is not eligible for direct patient access, based on information obtained through DACS and the sources listed in Section R432-35-8, the ~~[department]~~OBP shall send a notice of agency action, as outlined in ~~[Rule R432-30]Section R497-100-5~~, to the covered provider and the individual~~[- explaining the action and the individual's right of appeal]~~.
- (6) The covered provider may not arrange for a covered individual who has been determined not eligible for direct patient access to engage in a position with direct patient access.
- (7) The ~~[department]~~OBP may allow a covered individual to have direct patient access with conditions, during an appeal process, if the covered individual demonstrates to the ~~[department]~~OBP the work arrangement does not pose a threat to the safety and health of patients or residents.
- (8) The covered provider that provides services in a residential setting shall enter required information into DACS to initiate and obtain certification for direct patient access for each individual 12 years of age and older, who is not a resident, and resides in the residential setting. If the individual is not eligible for direct patient access and continues to reside in the setting, the ~~[department]~~OL may revoke an existing license or deny licensure~~[- for healthcare services in the residential setting]~~.
- (9) The covered provider seeking to renew a license as a health care facility shall utilize DACS to run a verification report and verify each covered individual's information is correct, including:
 - ~~[(a) employment status;]~~
 - (b)a address;
 - (e)b email address;~~[-and]~~
 - ~~(c) employment status; and~~
 - (d) name.
- (10) An individual or covered individual seeking licensure as a covered provider shall submit required information to the ~~[department]~~OBP to initiate and obtain certification for direct patient access before the issuance of the provisional license. If the individual is not eligible for direct patient access, the ~~[department]~~OL may revoke an existing license or deny licensure as a health care facility.

R432-35-~~[5]~~4. Covered Contractor -- DACS Process.

- (1) The covered contractor may enter required information into DACS to initiate and obtain certification for direct patient access of each covered individual before providing the individual by contract with a covered provider.
- (2) The covered contractor shall ensure the covered individual, being provided by contract to a covered provider:
 - (a) signs a criminal background ~~[screening]~~check authorization form that is available for review by the ~~[department]~~OBP; and
 - (b) submits fingerprints within 15 working days of placement with a covered provider.
- (3) The covered contractor shall ensure DACS reflects the current status of the covered individual within five working days of placement or termination.
- (4) The covered contractor may provisionally provide a covered individual with a covered provider while certification for direct patient access is pending, as permitted in Section 26B-2-239.
- (5) If the ~~[department]~~OBP determines an individual is not eligible for direct patient access, based on information obtained through DACS and the sources listed in Section R432-35-8, the ~~[department]~~OBP shall send a notice of agency action, as outlined in ~~[Rule R432-30]Section R497-100-5~~, to the covered contractor and the individual~~[- explaining the action and the individual's right of appeal]~~.
- (6) ~~[A covered-]~~If an individual is determined not eligible to have direct patient access, a covered contractor may not provide a covered individual to a covered provider~~[-if the individual is determined not eligible to have direct patient access]~~.
- (7) The ~~[department]~~OBP may allow a covered individual direct patient access with conditions, during an appeal process, if the covered individual can demonstrate to the ~~[department]~~OBP that the work arrangement does not pose a threat to the safety and health of patients or residents.

R432-35-~~[6]~~5. Covered Employer -- DACS Process.

- (1) The covered employer may ensure the required information is entered into DACS to initiate and ~~[obtain certification]~~obtain certification for direct patient access for a covered individual.
- (2) If the ~~[department]~~OBP determines an individual is not eligible for direct patient access, based on information obtained through DACS or the sources in Section R432-35-8, the ~~[department]~~OBP shall send a notice of agency action, as outlined in ~~[Rule R432-30]Section R497-100-5~~, to the covered employer and the individual~~[- explaining the action and the individual's right of appeal]~~.

R432-35-~~[7]~~6. Volunteers.

The following individuals or groups of volunteers are not required to complete the certification for direct patient access process:

- (1) clergy members;
- (2) ~~[religious groups;]~~entertainment groups;
- (3) ~~[entertainment groups;]~~individuals volunteering services as long as they are directly supervised by a covered individual;
- (4) ~~[resident]~~patient family members;
- (5) ~~[patient family members; and]~~religious groups; and

- (6) ~~[individuals volunteering services for 20 hours per month or less.]resident family members.~~

R432-35-[8]7. Sources for Background Review.

(1) For a finding of certification for direct patient access, the OBP shall include a fingerprint-based criminal history background check in the databases described in Subsection 26B-2-241(4) and inclusion of the individual's fingerprints in the rapback system.

(2) As required in Section 26B-2-240, the ~~[department]~~OBP may review relevant information obtained from:~~[the following sources:]~~

- ~~_____ (a) child abuse or neglect findings described in Section 80-3-404;~~
- ~~_____ (b) federal criminal background databases available to the state;~~
- ~~_____ (c) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;~~
- ~~_____ (d) licensing and certification records of individuals licensed or certified by the Division of Professional Licensing under Title 58, Occupations and Professions;~~
- ~~_____ (e) registries of nurse aids described in 42 CFR 483.156;~~
- ~~_____ (f) the Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;~~
- ~~_____ (b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;~~
- ~~_____ (c) federal criminal background databases available to the state;~~
- ~~_____ (d) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;~~
- ~~_____ (e) child abuse or neglect findings described in Section 80-3-404;~~
- ~~_____ (f) the Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;~~
- ~~_____ (g) registries of nurse aids described in 42 CFR 483.156;~~
- ~~_____ (h) [licensing and certification records of individuals licensed or certified by]the Division of [Professional]Child and Family Services' Licensing [under Title 58, Occupations and Professions]Information System described in Section 80-2-1002; and~~
- ~~_____ (i) the List of Excluded Individuals and Entities (LEIE) database maintained by the United States Department of Health and Human Services' Office of Inspector General.~~

(2)3) If the ~~[department]~~OBP determines an individual is not eligible for direct patient access, based upon the criminal background ~~[screening]~~check, and the individual disagrees with the information provided by the Criminal Investigations and Technical Services Division or court record, the individual may challenge the information as provided by Section 53-10-108.

(3)4) If the ~~[department]~~OBP determines an individual is not eligible for direct patient access based upon the non-criminal background ~~[screening]~~check and the individual disagrees with the information provided, the individual may challenge the information through the appropriate agency.

R432-35-[9]8. Exclusion from Direct Patient Access.

(1) The ~~[department]~~OBP shall review convictions or pending charges as follows:
(a) pursuant to Section 26B-2-240, any individual or covered individual who has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement, within the past 10 years, for any offense listed in this section, may not have direct patient access:

- ~~_____ (i) any felony or class A misdemeanor under:[the following:]~~
- ~~_____ (A) Subsection 76-6-106(2)(b)(i)(A) Criminal Mischief - Human Life;~~
- ~~_____ (A) Section 26B-2-113;~~
- ~~_____ (B) Section 26B-6-205;~~
- ~~_____ (C) Sections 76-3-203.9 through 76-3-203.10;~~
- ~~_____ (D) Title 76, Chapter 4, Enticement of a Minor;~~
- ~~_____ (E) Title 76, Chapter 5, Offenses Against the Person;~~
- ~~_____ (F) Title 76, Chapter 5b, Sexual Exploitation Act;~~
- ~~_____ (E) Sections 76-3-203.9 through 203.10, Violent Offenses Committed in Presence of a Child;~~
- ~~_____ (F) Section 76-9-301.8, Bestiality;~~
- ~~_____ (G) Sections 76-9-702 through 702.1 Lewdness - Sexual Battery;~~
- ~~_____ (G) Subsection 76-6-106(2)(b)(i)(A) Criminal Mischief - Human Life;~~
- ~~_____ (H) Sections 76-9-[702.5 and 76-9-702.7 Lewdness Involving Child and Voyeurism offenses]301 through 76-9-301.8, and 306 through 307;~~
- ~~_____ (I) Sections 76-9-702 through 76-9-702.1;~~
- ~~_____ (J) Sections 76-9-702.5 and 76-9-702.7;~~
- ~~_____ (K) Sections 76-10-1201 through 76-10-1228[; Pornographic and Harmful Materials and Performances];~~
- ~~_____ (L) Sections 76-10-1301 through 76-10-1314[; Prostitution];~~
- ~~_____ (M) Section 77-36-2.4; or~~
- ~~_____ (N) Title 78B, Chapter 7, Protective Order and Civil Stalking Injunctions;[or]~~
- ~~_____ (L) Section 26B-6-205, Failure to Report Suspected Abuse, Neglect, or Exploitation of a Vulnerable Adult;~~

(b) except as listed in Subsection R432-35-9(1)(a), if an individual or covered individual has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement, for the following offenses, the ~~[department]~~OBP may consider granting certification for direct patient access:

- (i) any felony or class A misdemeanor;
- (ii) any felony, class A₁ or class B misdemeanor under Subsection 76-6-106(2)(b)(i)(A), Criminal Mischief - Human Life;

- (iii) any felony or class A, B, or C misdemeanor under: ~~[the following:]~~
- (A) ~~Section 26B-2-113;~~
- ~~(B) Section 26B-6-205;~~
- ~~(C) Sections 76-3-203.9 through 76-3-203.10;~~
- ~~(D) Title 76, Chapter 4, Enticement of a Minor;~~
- ~~(~~B~~E) Title 76 Chapter 5, Offenses Against the Person;~~
- ~~(~~C~~E) Title 76, Chapter 5b, Sexual Exploitation Act;~~
- ~~(D) Sections 76-3-203.9 through 203.10, Violent Offenses Committed in Presence of a Child;~~
- ~~(E) Section] (G) Sections 76-9-301 through 76-9-301.8, [~~Bestiality~~] and 76-9-306 through 76-9-307;~~
- ~~(~~F~~H) Sections 76-9-702 through 76-9-702.1 [~~Lewdness—Sexual Battery~~];~~
- ~~(~~G~~I) Sections 76-9-702.5 and 76-9-702.7 [~~Lewdness Involving Child—Voyeurism offenses~~];~~
- ~~(~~H~~J) Sections 76-10-1201 through 76-10-1228 [~~Pornographic and Harmful Materials and Performances~~];~~
- ~~(~~I~~K) Sections 76-10-1301 through 76-10-1314 [~~Prostitution~~];~~
- ~~(~~J~~L) Section 77-36-2.4; and~~
- ~~(M) Title 78B, Chapter 7, Protective Order and Civil Stalking Injunctions; [~~and~~]~~
- ~~(K) Section 26B-6-205, Failure to Report Suspected Abuse, Neglect, or Exploitation of a Vulnerable Adult;~~
-] (c) any individual or covered individual who has a warrant for arrest or an arrest for any of the identified offenses in Subsection R432-35-8(1)(a) or (b), may deny direct patient access based on:
- (i) the type of offense;
 - (ii) the severity of offense; and
 - (iii) potential risk to patients or residents.
- (2) The ~~[department]~~OBP shall review juvenile records as follows:
- (a) as required by Subsection 26B-2-240(4)(a)(ii)(E), juvenile court records shall be reviewed if an individual or covered individual is:
 - (i) under the age of 28; or
 - (ii) over the age of 28 and has convictions or pending charges identified in Subsection R432-35-8(1)(~~a~~)c) or (~~b~~)f);
 - (b) adjudication by a juvenile court shall exclude the individual from direct patient access if the adjudication refers to an act that, if committed by an adult, would be a felony or a misdemeanor as identified in Subsection R432-35-9(1)(a); and
 - (c) adjudication by a juvenile court may exclude the individual from direct patient access, if the adjudication refers to an act that if committed as an adult, would be a felony or misdemeanor as identified in Subsection R432-35-9(1)(b).
 - (3) The ~~[department]~~OBP may review non-criminal findings from the following sources to determine whether an individual or covered individual should be granted or ~~[retain]~~keep certification for direct patient access:
 - (a) Division of Child and Family Services Licensing Information System described in Section 80-2-1002;
 - (b) child abuse or neglect findings described in Section 80-3-404;
 - (c) Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;
 - (d) registries of nurse aids described in 42 CFR 483.156[?], (2024);
 - (e) licensing and certification records of individuals licensed or certified by the Division of Professional Licensing under Title 58, Occupations and Professions; and
 - (f) the [~~L~~EIE] database maintained by the United States Department of Health and Human Services' Office of Inspector General.
 - (4) The ~~[department]~~OBP may review relevant background information from sources listed in Section R432-35-8 to determine under what circumstance, if any, the covered individual may be granted or ~~[retain]~~keep certification for direct patient access and the following factors may be considered:
 - (a) types and number of offenses or findings;
 - (b) passage of time since the offense or finding;
 - (c) surrounding circumstances of the offense or finding;
 - (d) intervening circumstances regarding the offense or finding; and
 - (e) steps taken to correct or improve.
 - (5) The ~~[department]~~OBP shall rely on relevant information from sources identified in Section R432-35-8 as conclusive evidence and may deny direct patient access based on that information.
 - (6) A denied application may be re-submitted to the ~~[department]~~OBP no sooner than ~~[2]~~two years from the date of separation or upon substantial change to the covered individual's circumstances.

R432-35-~~10~~2. Covered Individuals with Arrests or Pending Criminal Charges.

- (1) If the ~~[department]~~OBP determines credible evidence exists that a covered individual has been arrested or charged with a felony or a misdemeanor that would be excluded under Subsection R432-35-8(~~1~~)2), the ~~[department]~~the OBP and OL may take action to protect the health and safety of patients or residents ~~[in]~~with covered providers.
- (2) The ~~[department]~~OBP may allow a covered individual direct patient access with conditions, until the arrest or criminal charges are resolved, if the covered individual can demonstrate the work arrangement does not pose a threat to the safety and health of patients or residents.
- (3) If the ~~[department]~~OBP denies or revokes a license, or denies direct patient access based upon arrest or criminal charges, the ~~[department]~~OBP shall send a notice of agency action, as outlined in [~~Rule R432-30~~]Section R497-100-5, to the covered provider and the covered individual ~~[notifying them of the right to appeal].~~

R432-35-10. Penalties.

Any person who violates [any provision of]this rule may be subject to the penalties [enumerated in Section 26B-2-208]in Rule R380-600 and [Rule R432-3]Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: health care facilities, background screening, background check

Date of Last Change: [~~August 22, 2023~~]2024

Notice of Continuation: January 23, 2023

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

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal and Reenact

Rule or Section Number:	R432-45	Filing ID: 56889
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Agency Information

1. Title catchline:	Health and Human Services, Health Care Facility Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Mailing 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:
R432-45. Nurse Aide Training and Competency Evaluation Program
3. Purpose of the new rule or reason for the change:
The purpose of this repeal and reenact is to update citations in response to SB229 and HB495 in the 2024 General Session. Section R432-45-9 now reflects enforcement authority that has not changed but been consolidated into one rule and one statute per SB229 for the Division of Licensing and Background Checks (DLBC) under the Department of Health and Human Services (DHHS). HB495 specifically prohibits certifying an inmate to be a Certified Nurse Assistant and this was added to Subsection R432-45-3(3)(d). This rule is necessary for DHHS to carry out the requirements of 42 USC 1396r Subsection (5) that specifies requirements for nursing facilities to ensure nurse aides are trained according to federal requirements. In addition, the Utah State Medicaid Plan requires that DHHS administers the Nurse Aide Training and Competency Education Program (NATCEP) and Utah Nurse Aide Registry (UNAR) to certify and regulate Certified Nursing Aides (CNAs) and approval of the required CNA training institutions. The Health Care Facility Licensing Rules Committee unanimously recommended approval of this rule filing.
4. Summary of the new rule or change:
This repeal and reenactment updates titles and citations due to the recodification of DHHS's statutes. Substantive changes reflect changes to clarify content, align with industry standards and implement current Centers for Medicare and Medicaid Services (CMS)-required oversight and enforcement that is just written more clearly and more easily understood. HB495 also excludes inmates from receiving training to become a CNA. Additionally, the revisions include changes to style and formatting consistent with the Rulewriting Manual for Utah. The health care facilities committee unanimously recommended approval of this rule filing amendment.

Fiscal Information

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

A) State budget:

This amendment is not anticipated to have a fiscal impact to the state budget. This rule reenactment will not impact the current process for licensure and re-licensure inspections, as it is intended to guide DHHS' contracted entity (Davis Technical College) in ensuring statewide compliance with CMS requirements for UNAR and NATCEP. No change to the state budget is expected because this amendment modifies and replaces outdated language with current Rulewriting Manual for Utah standards, clarifies existing requirements and updates the references for existing penalties to a centralized rule and statute for the DLBC.

B) Local governments:

This amendment is not anticipated to have a fiscal impact to local governments. This rule reenactment should not impact local government revenues or expenditures because this amendment modifies and replaces outdated language with current Rulewriting Manual for Utah standards. These facilities are regulated by DHHS and not local governments. There will be no change in local business licensing or any other item with which local government is involved.

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

This amendment is not anticipated to have a fiscal impact to small businesses because it updates citations and outdated language and clarifies existing content required by CMS. DHHS' contracted small business entity that is tasked with enforcing this rule in conjunction with DHHS is currently Davis Technical College. There is no change to processes and the contractor was included in the drafting of this rule to ensure federal requirements are accurately reflected and monitored. The consolidation of rule and statute to apply to all of DLBC does not introduce new requirements as the UNAR and NATCEP continue to be subject to federal requirements enforced by Davis Technical College and DLBC on behalf of DHHS.

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

This amendment is not anticipated to have a fiscal impact to non-small businesses because it updates citations and outdated language, clarifies existing content required by CMS, and does not introduce any new processes or requirements for non-small businesses.

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

Affected persons are inmates who are prohibited from receiving CNA training while incarcerated. There are no fiscal impacts to any other entity resulting from the rule reenactment because it updates citations and outdated language, clarifies existing content required by CMS and does not introduce any new processes or requirements.

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

This rule reenactment does not introduce any new processes or changes 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

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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 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:

Subsection 26B-2-103	42 U.S.C. Section 1396r(5)	42 CFR 431.10(b)(2)(ii) (2024)
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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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	10/28/2024
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R432. Health and Human Services, Health Care Facility Licensing.

R432-45. Nurse Aide Training and Competency Evaluation Program.

[R432-45-1. Introduction and Authority.

The Nurse Aide Training and Competency Evaluation Program is authorized by the Omnibus Budget Reconciliation Act of 1987 (OBRA), Pub. L. No. 100-203, 101 Stat. 1330, Sec. 4211.(b)(5)(A)(B)(C)(D)(E)(F)(G), (e)(1)(2), f(2)(A)(B), which the Department adopts and incorporates by reference. The purpose of this program is to allow a certified nurse aide (CNA) to provide quality nursing services to nursing facility residents.

R432-45-2. Definitions.

- (1) "Certified nurse aide" means any person who completes a nurse aide training and competency evaluation program (NATCEP) and passes the state certification examination.
- (2) "Competency evaluation" means a written or oral examination that addresses each requirement of OBRA for a nurse aide and a demonstration of the tasks the nurse aide is expected to perform as part of the aide's function.
- (3) "Nurse aide" means any individual who provides nursing or nursing-related services to residents in a nursing facility, but does not include an individual who is a licensed professional or who volunteers to provide these services without monetary consideration.
- (4) "Nurse Aide Training and Competency Evaluation Program" (NATCEP) means any program that the Utah Nursing Assistant Registry (UNAR) approves to offer training to an individual who is interested in becoming a certified nurse aide.
- (5) "Nursing facility" means any institution that is licensed and Medicare or Medicaid-certified to provide long-term care.
- (6) "Resident" means an individual who resides in and receives medical long-term nursing services in a Medicare or Medicaid-certified nursing facility.
- (7) "Renewal" means a two-year renewal for a CNA who has performed paid services for at least 200 hours of nursing or nursing-related services under the direction of a licensed nurse during the 24 months following the completion date of the NATCEP or certification renewal.
- (8) "Retraining" means training for a CNA who has not performed paid services for a total of 200 hours of nursing or nursing-related services under the direction of a licensed nurse during the 24 months following the completion date of the state approved nursing assistant training or certification renewal.
- (9) "State survey agency" means the Bureau of Health Facility Licensing, Certification and Resident Assessment, within the Department of Health, which is responsible for nursing facility certification and for conducting surveys to determine compliance with Medicare and Medicaid requirements.

~~(10) "Supervised practical training" means training in a nursing facility in which the trainee demonstrates knowledge while performing tasks on an individual under the direct supervision of a licensed nurse, who is a UNAR-approved instructor.~~

~~(11) "Train the Trainer program" means a UNAR-approved program that consists of formal instructions to potential instructors on how to train a CNA candidate who is at least 16 years old through demonstrations and lectures.~~

~~(12) "Waiver of CNA Training Program" means a waiver that allows a qualified nursing professional and qualified in-state expired CNA to challenge the state-written and skill examination.~~

~~(13) "Utah Nursing Assistant Registry" means the state agency that approves nurse aide training programs, monitors all UNAR test sites, maintains an abuse registry for all substantiated allegations of resident neglect, abuse or misappropriation of resident property by a CNA in a nursing, Medicare or Medicaid facility, certifies nurse aides who have completed a NATCEP, and renews certifications of qualified CNAs.~~

R432-45-3. Program Access Requirements.

~~(1) A nurse aide is required to complete a NATCEP and become certified within 120 days of the first date of employment.~~

~~(2) An individual who was certified as a nurse aide on or before July 1, 1989, meets the OBRA requirement upon completion of the approved in-service training on mental retardation and mental illness.~~

~~(3) If specific requirements are met in the following cases, the UNAR office may grant a waiver to:~~

~~(a) a nursing student who has completed the first semester of nursing school within the past two years with a passing grade. An official transcript of a nursing fundamentals class must accompany the Application for Certification Testing. If the candidate does not pass either the skills or written portion of the CNA examination after three attempts, the candidate must complete a NATCEP;~~

~~(b) a nurse with an expired license who can show proof of previous licensure in any state and who was in good standing with that state's professional board. UNAR shall grant the candidate 3 attempts to pass both the skills and written portion of the examination. If the candidate does not pass either portion, the candidate must complete a NATCEP;~~

~~(c) a CNA with an expired certificate from Utah who is in good standing with UNAR. UNAR shall grant the candidate 3 attempts to pass both the skills and written portion of the examination within two years of the certification expiration date. If the candidate does not pass either portion, the candidate must retrain; or~~

~~(d) any out-of-state CNA who is certified and in good standing with another state's survey agency. UNAR grants reciprocity upon the CNA providing proof of certification in that other state.~~

~~(4) An out-of-state CNA with an expired certificate must complete a NATCEP in the state of Utah.~~

R432-45-4. Competency Evaluation.

~~(1) An entity that proctors competency evaluations using both written or oral examinations and demonstrations of skills to nurse aides must be UNAR-approved.~~

~~(a) An individual shall perform the skills demonstration component in a facility or laboratory setting comparable to the setting in which the individual will function as a nurse aide, and a UNAR-approved representative must administer and evaluate the demonstration.~~

~~(b) The examiner must be a registered nurse (RN) with a current active license to practice nursing as an RN, who is in good standing with the Division of Occupational and Professional Licensing (DOPL) in the state of Utah, with at least one year of experience in providing care for the elderly or chronically ill of any age;~~

~~(c) If the individual fails to satisfactorily complete the skills or written examination after three attempts at either, the candidate must be advised of the areas in which the candidate is inadequate and must retrain at an approved NATCEP;~~

~~(d) UNAR shall advise an individual who takes the competency evaluation that a record of the outcome of the evaluation will be included in the nursing assistant registry. Further, UNAR shall require the individual to sign a Release of Information form that indicates the nurse aide's understanding of information that UNAR requires to be entered into the registry;~~

~~(e) UNAR shall periodically update and validate the competency evaluations;~~

~~(f) UNAR shall establish a written and oral examination that addresses each requirement as prescribed in OBRA. UNAR must develop this examination from a pool of test questions, only a portion of which to use in any one evaluation, under a system that maintains the integrity of both the pool of questions and individual evaluations;~~

~~(g) The competency evaluation must include a demonstration of the tasks the nurse aide is expected to perform as part of the nurse aide's function as a CNA;~~

~~(h) For the skills training component of the evaluation, UNAR shall establish a performance record for each NATCEP of major duties and skills that include:~~

~~(i) a list of the duties and skills that UNAR expects a CNA to learn in the program in accordance with this section;~~

~~(ii) a record that documents when the nurse aide performs this duty or skill;~~

~~(iii) documentation of satisfactory or unsatisfactory performance;~~

~~(iv) the date of the performance; and~~

~~(v) the instructor supervising the performance.~~

~~(2) At the completion of the NATCEP, the NATCEP shall give the nurse aide a copy of this record.~~

~~(3) The demonstration aspect of the skills training portion of the competency evaluation must have at least five performance tasks, all of which are included in the performance record. UNAR shall select five tasks for each nurse aide from a pool of evaluation items ranked according to degree of difficulty. UNAR shall make a random selection of tasks with at least one task from each degree of difficulty.~~

R432-45-5. Nurse Aide Training Requirements Under UNAR.

~~(1) UNAR shall administer a NATCEP through a contract with the Department of Health.~~

~~(2) An agency that conducts a NATCEP must be UNAR-approved.~~

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- ~~_____ (3) Applicants for approval of a NATCEP and all new NATCEP instructors must successfully complete a background clearance.~~
- ~~_____ (a) A NATCEP must submit required information to UNAR to initiate a background clearance for each applicant and instructor.~~
- ~~_____ (b) UNAR shall ensure:~~
 - ~~_____ (i) required information is entered into the Direct Access Clearance System to initiate a clearance for each applicant and instructor;~~
 - ~~_____ (ii) each applicant and instructor signs a criminal background screening authorization form which must be available for review by the department;~~
 - ~~_____ (iii) each applicant and instructor submits fingerprints; and~~
 - ~~_____ (iv) the Direct Access Clearance System reflects the current status of the applicant and instructor.~~
- ~~_____ (c) If the Department determines an applicant or instructor are not eligible, based on information obtained through the Direct Access Clearance System, the Department shall send a Notice of Agency Action to UNAR and the individual explaining the action and the individual's right of appeal as defined in R432-30.~~
- ~~_____ (4) In accordance with this section, UNAR shall review and render a determination of approval or disapproval of any NATCEP when a Medicare or Medicaid participating nursing facility requests the determination. UNAR at its option, may also agree to review and render approval or disapproval of any private NATCEP.~~
- ~~_____ (5) UNAR must, within 90 days of the date of an application, either advise the requestor of UNAR's determination, or must seek additional information from the requesting entity with respect to the program for which it is seeking approval.~~
- ~~_____ (6) UNAR shall approve a NATCEP that meets the criteria specified in OBRA, the Centers for Medicare and Medicaid Service's guidelines, guidelines designated by the Department of Health, and all UNAR requirements.~~
 - ~~_____ (a) UNAR shall admit a student who is at least 16 years old on or before the first day the student begins class; and~~
 - ~~_____ (b) shall include an orientation to the training program.~~
- ~~_____ (7) The nurse aide training program must meet certain content requirements to be UNAR approved.~~
 - ~~_____ (a) NATCEP must consist of at least 100 hours of supervised and documented training by a licensed nurse.~~
 - ~~_____ (b) The curriculum of the training program must include the following subjects:~~
 - ~~_____ (i) communication and interpersonal skills;~~
 - ~~_____ (ii) infection control;~~
 - ~~_____ (iii) safety and emergency procedures;~~
 - ~~_____ (iv) promoting resident independence;~~
 - ~~_____ (v) respecting resident rights; and~~
 - ~~_____ (vi) basic nursing skills.~~
 - ~~_____ (c) The trainee must complete at least 24 hours of supervised practical training in a long term care facility, and complete all skill curriculum and skill competencies before training in any facility. The skills training must ensure that each nurse aide demonstrates competencies in the following areas:~~
 - ~~_____ (i) Basic nursing skills:~~
 - ~~_____ (A) taking and recording vital signs;~~
 - ~~_____ (B) measuring and recording height;~~
 - ~~_____ (C) caring for residents' environment; and~~
 - ~~_____ (D) recognizing abnormal signs and symptoms of common diseases and conditions.~~
 - ~~_____ (ii) Personal care skills:~~
 - ~~_____ (A) bathing that includes mouth care;~~
 - ~~_____ (B) grooming;~~
 - ~~_____ (C) dressing;~~
 - ~~_____ (D) using the toilet;~~
 - ~~_____ (E) assisting with eating and hydration;~~
 - ~~_____ (F) proper feeding techniques; and~~
 - ~~_____ (G) skin care.~~
 - ~~_____ (iii) Basic restorative services:~~
 - ~~_____ (A) use of assistive devices in ambulation, eating, and dressing;~~
 - ~~_____ (B) maintenance of range of motion;~~
 - ~~_____ (C) proper turning and positioning in bed and chair;~~
 - ~~_____ (D) bowel and bladder training;~~
 - ~~_____ (E) care and use of prosthetic and orthotic devices; and~~
 - ~~_____ (F) transfer techniques.~~
 - ~~_____ (iv) Mental Health and Social Service Skills:~~
 - ~~_____ (A) modifying one's behavior in response to the resident's behavior;~~
 - ~~_____ (B) identifying developmental tasks associated with the aging process;~~
 - ~~_____ (C) training the resident in self care according to the resident's ability;~~
 - ~~_____ (D) behavior management by reinforcing appropriate resident behavior and reducing or eliminating inappropriate behavior;~~
 - ~~_____ (E) allowing the resident to make personal choices, providing and reinforcing other behavior consistent with the resident's dignity;~~
 - ~~and~~
 - ~~_____ (F) using the resident's family as a source of emotional support.~~
 - ~~_____ (v) Resident's rights:~~
 - ~~_____ (a) providing privacy and maintaining confidentiality;~~

- ~~_____ (b) promoting the resident's right to make personal choices to accommodate the resident's needs;~~
- ~~_____ (c) giving assistance in solving grievances;~~
- ~~_____ (d) providing needed assistance in getting to and participating in resident and family groups and other activities;~~
- ~~_____ (e) maintaining care and security of resident's personal possessions;~~
- ~~_____ (f) providing care that keeps a resident free from abuse, mistreatment, or neglect, and reporting any instances of poor care to appropriate facility staff; and~~
- ~~_____ (g) maintaining the resident's environment and care through appropriate nurse aide behavior to minimize the need for physical and chemical restraints.~~
- ~~_____ (8) Qualification of Instructors:~~
 - ~~_____ (a) a NATCEP must have a program coordinator who is a registered nurse with a current and active Utah license to practice;~~
 - ~~_____ (b) who is in good standing with DOPL;~~
 - ~~_____ (c) with two years of nursing experience, at least one of which is the provision of long term care facility services or caring for the elderly or chronically ill of any age; and~~
 - ~~_____ (d) must have at least three hours of documented consulting time per month with the respective program.~~
- ~~_____ (9) Nursing facility based programs:~~
 - ~~_____ (a) the program coordinator in a nursing facility based program may be the director of nursing for the facility as long as the facility remains in full compliance with OBRA requirements;~~
 - ~~_____ (b) the primary instructor must be a licensed nurse with a current and active Utah license to practice and must be in good standing with DOPL; and~~
 - ~~_____ (c) must have two years of nursing experience, at least one of which is the provision of long term care facility services or caring for the elderly or chronically ill of any age.~~
- ~~_____ (10) Before approval of a NATCEP, the program coordinator and primary instructor must successfully complete a UNAR approved "Train the Trainer" program or demonstrate competence to teach a CNA candidate who is at least 16 years old. All high school instructors must be certified to teach in the classroom by completing a "Train the Trainer" program or be certified to teach as defined by the Utah State Office of Education before providing instruction in the classroom.~~
- ~~_____ (11) Students who provide services to residents must be under the direct supervision of a licensed nurse who is a UNAR approved clinical instructor and whose clinical time is separate from her facility employment.~~
- ~~_____ (12) Qualified personnel from the health professions may supplement the program coordinator and primary instructor. The program coordinator or primary instructor must be present during all provided supplemental training.~~
- ~~_____ (13) Qualified personnel include registered nurses, licensed practical or vocational nurses, pharmacists, dietitians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists, activities specialists, speech or language therapists, and any other qualified personnel.~~
- ~~_____ (14) UNAR requires qualified personnel to have at least one year of current experience in the care of the elderly or chronically ill of any age, or to have equivalent experience. Qualified personnel must also meet current licensure requirements, whether they are registered or certified in their field.~~
- ~~_____ (15) A NATCEP must have a student to instructor ratio of 12:1 for clinical instruction and shall not exceed a 30:1 ratio for theory instruction. UNAR requires an instructor assistant when the program has more than 20 students.~~
- ~~_____ (16) A NATCEP must provide a classroom with the following:~~
 - ~~_____ (a) adequate space and furniture for the number of students;~~
 - ~~_____ (b) adequate lighting and ventilation;~~
 - ~~_____ (c) comfortable temperature;~~
 - ~~_____ (d) appropriate audio visual equipment;~~
 - ~~_____ (e) skills lab equipment to simulate a resident's unit;~~
 - ~~_____ (f) clean and safe environment; and~~
 - ~~_____ (g) appropriate textbooks and reference materials.~~
- ~~_____ (17) Initial post approval and ongoing reviews:~~
 - ~~_____ (a) After the initial approval of a NATCEP, UNAR grants a one year probationary period;~~
 - ~~_____ (b) During the probationary period, UNAR may withdraw program approval if there is a violation of OBRA, state, federal, or UNAR requirements;~~
 - ~~_____ (c) After the probationary period, UNAR shall complete an on-site review and then complete subsequent on-site reviews at least every two years;~~
 - ~~_____ (d) The CNA training program shall submit a self-evaluation to UNAR during the interim year that UNAR does not complete an on-site review;~~
 - ~~_____ (e) In the event that UNAR does not complete an on-site review within two years, the CNA training program is responsible to send a self-evaluation to UNAR for the applicable two year period;~~
 - ~~_____ (f) If UNAR does not make an on-site visit within two years and the CNA training program sends in a self-evaluation, UNAR must make an on-site visit within one year of the self-evaluation.~~
- ~~_____ (18) The training and evaluation program review must include:~~
 - ~~_____ (a) skills training experience;~~
 - ~~_____ (b) maintenance of qualified faculty members for both classroom and skills portions of the nurse aide training program;~~
 - ~~_____ (c) maintenance of the security of the competency evaluation examinations;~~
 - ~~_____ (d) a record of complaints received about the program;~~

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- _____ (e) a record that each nursing facility has provided certified nurse aides with at least 12 hours of staff development training each year with the compensation for the training;
- _____ (f) curriculum content that meets state and federal requirements; and
- _____ (g) classroom facilities and required equipment that meet state, federal, and UNAR requirements.

R432-45-6. Certified Nurse Aide Misconduct.

- _____ CNA misconduct that adversely affects the health, safety or welfare of the public may result in loss of nurse aide certification.
- _____ (1) CNA misconduct related to client safety and integrity includes:
 - _____ (a) leaving a nursing assistant assignment without properly notifying appropriate supervisory personnel;
 - _____ (b) failing to report information regarding incompetent, unethical or illegal practice of any health care provider to proper authorities;
 - _____ (c) failing to respect client rights and dignity regardless of social or economic status, personal attributes, or nature of health problems or disability; or
 - _____ (d) failing to report actual or suspected incidents of client abuse.
- _____ (2) Engaging in sexual misconduct related to the client or to the workplace includes:
 - _____ (a) engaging in sexual relations if the patient is receiving care from an institution or entity that employs the CNA;
 - _____ (b) engaging in sexual relations with a client for a period when a generally recognized caregiver and patient relationship exists; or
 - _____ (c) engaging in sexual relations for an extended period when a patient has reasonable cause to believe a professional relationship exists between the patient or anyone certified under the provisions of this rule (Rule R432-45).
- _____ (3) CNA misconduct related to administrative rules and state and federal law includes:
 - _____ (a) knowingly aiding, abetting or assisting an individual to violate or circumvent any rule or regulation intended to guide the conduct of health care providers;
 - _____ (b) violating the privacy rights and confidentiality of a client, unless disclosure of client information is required by law;
 - _____ (c) discriminating against a client on the basis of age, race, religion, sex, sexual preference, national origin, or disability;
 - _____ (d) abusing a client by intentionally causing physical harm or discomfort, or by striking a client, intimidating a client, threatening a client, or harassing a client;
 - _____ (e) neglecting a client by allowing a client to be injured or remain in physical pain and discomfort;
 - _____ (f) engaging in other unacceptable behavior or verbal abuse towards or in the presence of a client by using derogatory names or gestures or profane language;
 - _____ (g) using the client relationship to exploit the client by gaining property or other items of value from the client either for personal gain or sale, beyond the compensation for services;
 - _____ (h) possessing, obtaining, attempting to obtain, furnishing or administering prescription or controlled drugs to any person, including oneself, except as directed by a health care professional authorized by law to prescribe drugs; or
 - _____ (i) removing or attempting to remove drugs, supplies, property, or money from the workplace without authorization.
- _____ (4) CNA misconduct related to communication includes:
 - _____ (a) inaccurate recordkeeping in client or agency records;
 - _____ (b) incomplete recordkeeping regarding client care that includes failure to document care given or other information important to the client's care or documentation which is inconsistent with the care given;
 - _____ (c) falsifying a client or agency record that includes filling in someone else's omissions, signing someone else's name, recording care not given, or fabricating data and values;
 - _____ (d) altering a client or agency record that includes changing words, letters and numbers from the original document to mislead the reader of the record, and adding to the record after the original time and date without indicating a late entry;
 - _____ (e) destroying a client or agency record;
 - _____ (f) failing to maintain client records in a timely manner which accurately reflect management of client care, including failure to make a late entry within a reasonable time period; or
 - _____ (g) failing to communicate information regarding the client's status to the supervising nurse or other appropriate person in a timely manner.
- _____ (5) CNA misconduct related to the client's family includes:
 - _____ (a) failing to respect the rights of the client's family regardless of social or economic status, race, religion, or national origin;
 - _____ (b) using the CNA client relationship to exploit the family for the CNA's personal gain or for any other reason;
 - _____ (c) stealing money, property, services, or supplies from the family; or
 - _____ (d) soliciting or borrowing money, materials or property from the family.
- _____ (6) CNA misconduct related to co-workers that includes violent, abusive, threatening, harassing, or intimidating behavior towards a co-worker, which either occurs in the presence of clients or otherwise relates to the delivery of safe care to clients.
- _____ (7) CNA misconduct related to achieving and maintaining clinical competency includes:
 - _____ (a) failing to competently perform the duties of a nursing assistant;
 - _____ (b) performing acts beyond the authorized duties for which the individual is certified; or
 - _____ (c) assuming duties and responsibilities of a nursing assistant without nursing assistant training or when competency has not been established or maintained.
- _____ (8) CNA misconduct related to impaired function includes:
 - _____ (a) using drugs, alcohol or mind altering substances to an extent or in a manner dangerous or injurious to the nursing assistant or others, or to an extent that such use impairs the ability to safely conduct the duties of a nursing assistant; or
 - _____ (b) having a physical or mental condition that makes the nursing assistant unable to safely perform the duties of a nursing assistant.

- ~~(9) CNA misconduct related to certificate violations includes:~~
- ~~(a) providing, selling, applying for, or attempting to procure a certificate by willful fraud or misrepresentation;~~
 - ~~(b) functioning as a medication assistant without current certification as a medication assistant;~~
 - ~~(c) altering a certificate of completion of training or nursing assistant certification;~~
 - ~~(d) disclosing contents of the competency examination or soliciting, accepting or compiling information regarding the contents of the examination before, during or after its administration;~~
 - ~~(e) allowing another person to use one's nursing assistant certificate for any purpose;~~
 - ~~(f) using another's nursing assistant certificate for any purpose; or~~
 - ~~(g) representing oneself as a CNA without current, valid CNA certification.~~

R432-45-7. Nurse Aide Registry.

- ~~(1) UNAR is the central registry for all certified nurse aides. This registry must identify all individuals who have successfully completed a NATCEP with a passing score of 75.~~
- ~~(2) A NATCEP must report to UNAR, within five days after the program ends, the names of all individuals who satisfactorily completed the program.~~
- ~~(3) UNAR processes all renewals for each nurse aide who has performed paid services for at least 200 hours of nursing or nursing-related services under the direction of a licensed nurse during the 24 months following the completion date of the NATCEP or certification renewal.~~
- ~~(4) The state survey agency shall enforce the standards of UNAR described in OBRA, Secs. 4211 and 4212.~~
- ~~(5) The state survey agency shall investigate all complaints of resident neglect, abuse or misappropriation of resident property by a CNA. A CNA is entitled to a hearing through the Division of Medicaid and Health Financing before a substantiated claim can be entered into the registry.~~
- ~~(6) After notification from the health facility licensing, certification and resident assessment agency of a substantiated claim of abuse, neglect or misappropriation of property of a vulnerable adult by a CNA, the name of the CNA and an accurate summary of the findings are placed in the abuse registry in accordance with UNAR protocol.~~

R432-45-8. Limitations.

- ~~(1) UNAR may approve a facility-based NATCEP only if the facility's participation in the Medicare and Medicaid programs has not been terminated within the last two years.~~
- ~~(2) UNAR must review and reapprove a NATCEP at least every two years.~~
- ~~(3) A skilled nursing facility that participates in a Medicare or Medicaid facility may not administer the written and skills components of the competency evaluation.~~
- ~~(4) A nursing facility may employ a nurse aide for more than 120 days only if the aide has completed a NATCEP.~~
- ~~(5) Upon review of program performance standards, UNAR shall terminate a program that does not provide an acceptable plan to correct deficiencies.]~~

R432-45-1. Authority and Purpose.

- ~~(1) The Nurse Aide Training and Competency Evaluation Program (NATCEP) is authorized by the Omnibus Budget Reconciliation Act of 1987 (OBRA), Pub. L. No. 100 203, 101 Stat. 1330, Section 4211, and Subsections (b)(5)(A) through (G), (c)(1) and (2), and f(2)(A) and (B).~~
- ~~(2) The purpose of this program is for the Department of Health and Human Services (department) to carry out the requirements of Subsection 42 USC 1396r(5) that specifies requirements for nursing facilities to ensure nurse aides are trained according to federal requirements. The Utah State Medicaid Plan requires that the department administer the NATCEP and Utah Nurse Aide Registry (UNAR) to certify and regulate certified nursing aides (CNA) and approve the required training instructions. 42 CFR 431.10(b)(2)(ii) (2024) authorizes the department to make and follow rules in the administration of the Utah State Medicaid Plan, that are also binding upon the local contractors that administer the Utah State Medicaid Plan.~~

R432-45-2. Definitions.

~~Definitions in this rule are found in Rules R380-600 and R432-1. Additionally:~~

- ~~(1) "Applicant" means an entity for whom an individual applies to the UNAR requesting approval to operate a NATCEP.~~
- ~~(2) "Candidate" means a student who is actively enrolled in a NATCEP or an individual who applies for certification as a nurse aide.~~
- ~~(3) "CMS" means the Centers for Medicare and Medicaid Services and is a federal agency that provides healthcare coverage and delegates healthcare oversight to state entities.~~
- ~~(4)(a) "CNA" means certified nurse aide and is a person who completes the NATCEP and passes the competency evaluation.~~
- ~~(b) a CNA may also achieve certification through reciprocity or a waiver as outlined in Section R432-45-3.~~
- ~~(5) "Competency evaluation" means a written or audio-narrated examination and a demonstration of the skills administered to verify the knowledge and abilities essential to carry out the duties of a nurse aide.~~
- ~~(6) "DACs" means the Direct Access Clearance System that is the Division of Licensing and Background Checks' online background check system.~~
- ~~(7) "Instructor" means a UNAR-approved licensed nurse who is employed by a NATCEP that provides supervised and documented nurse aide training in accordance with state and federal requirements and UNAR policies to candidates in a classroom or clinical setting.~~
- ~~(8) "Instructor-assistant" means a CNA in good standing with UNAR, and in each state where the individual is certified, who assists candidates with skills taught by the NATCEP and who works under the direct supervision of an instructor.~~

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(9) "NAPP" means nurse aide proficiency performance and is a record maintained by the NATCEP for each candidate nurse aide to document each candidate's successful demonstration of competence of tasks generally performed by a nurse aide.

(10) "NATCEP" means the UNAR-approved nurse aide training and competency evaluation program that provides classroom, laboratory, and in-facility training and experience for a candidate for certification as a nurse aide.

(11)(a) "Nurse aide" means any individual who provides nursing or nursing-related services to residents in a nursing care facility.

(b) "Nurse aide" does not mean an individual who:

(i) is a licensed professional; or

(ii) who volunteers to provide services without monetary consideration.

(12) "Nursing care facility" means a skilled nursing facility, or an intermediate care facility, that provides long-term, 24-hour inpatient care and services through utilizing licensed healthcare professionals and ancillary staff to meet the complex physical, mental, and psychosocial needs of residents.

(13) "Program Director" means a UNAR-approved registered nurse, employed by a UNAR-approved NATCEP, who:

(a) has the primary responsibility for assuring the program is conducted in accordance with each regulation, rule, and UNAR policy;

(b) serves as the primary administrative contact with the UNAR; and

(c) holds authority over and serves as mentor to program instructors.

(14) "Qualified personnel" means:

(a) activities specialist;

(b) dietitian;

(c) fire safety expert;

(d) gerontologist;

(e) licensed practical or vocational nurse;

(f) nursing home, or health care facility administrator;

(g) pharmacist;

(h) physical or occupational therapist;

(i) psychologist;

(j) registered health specialist or registered sanitarian;

(k) registered nurse;

(l) social worker; or

(m) speech and language therapist.

(15) "Renewal" means the process the UNAR conducts every other year to verify that each CNA has provided at least 200 hours of compensated nursing or nursing-related services under the direction of a licensed nurse.

(16) "Resident" means an individual who resides in and receives services in a nursing care facility.

(17) "SSA" means the state survey agency and is the Office of Licensing and Background Checks, within DHHS, that is responsible for the certification activities of Medicaid and Medicare health care providers, including nursing care facilities.

(18) "Supervised practical training" means training on individuals or mannequins in a laboratory setting or on residents in a nursing care facility where the trainee demonstrates knowledge, skills, and competence while performing tasks under the direct supervision of a licensed nurse, who is a UNAR-approved instructor.

(19) "Train-the-trainer program" means a UNAR-approved program designed to educate instructors how to provide training and education to adult learners and nurse aide candidates, that consists of formal instructions regarding how to train a CNA candidate through demonstrations and lectures.

(20) "UNAR" means the Utah Nursing Assistant Registry and is the state agency that:

(a) approves and monitors test sites;

(b) approves, monitors, and withdraws approval of NATCEPs;

(c) certifies nurse aides who have completed a NATCEP and passed the competency evaluation;

(d) develops, updates and validates the competency evaluation;

(e) grants reciprocity to qualified individuals certified in other states;

(f) maintains a registry of each CNA with active certification in Utah;

(g) maintains an abuse registry for any substantiated allegations of resident neglect, abuse, or misappropriation of resident property by a CNA in a nursing care, Medicaid or Medicare facility; and

(h) renews certifications of qualified CNAs.

(21) "Waiver of NATCEP" means a provision allowing a qualified nursing student, nurse, or in-state expired CNA to challenge the competency evaluation requirement.

R432-45-3. Pathways to Become a CNA.

(1) A nurse aide performing nursing or nursing-related services in a Medicare or Medicaid certified nursing facility shall meet necessary requirements and become certified within 120 days of the first date of employment.

(2) An individual who was certified as a nurse aide on or before July 1, 1989, meets the OBRA requirement upon completion of the approved in-service training on intellectual disabilities and mental illness.

(3) To become certified through a NATCEP, a candidate shall:

(a) be at least 16 years old;

(b) enroll in a UNAR-approved NATCEP;

(c) fulfill each requirement in Subsections R432-45-4(1) and R432-45-5(9); and

(d) in accordance with Subsection 64-13-48(7) may not be an inmate.

(4)(a) UNAR may grant a waiver of NATCEP and require only the competency evaluation when accompanied by an application for certification testing to:

(i) a nursing student who has successfully completed the first semester of nursing school within the past two years, and can provide an official transcript demonstrating proof of a passing grade in a nurse fundamentals class;

(ii) a nurse with an expired license from any state or US Territory who can provide proof of previous licensure in good standing with the professional board; or

(iii) a CNA with a Utah certificate that has expired for between six and 24 months with no findings on UNAR's abuse registry.

(b) UNAR shall grant the candidate three attempts to pass both the skills and written portion of the examination within:

(i) 12 months of submitting the waiver of NATCEP application for a nursing student or a nurse with an expired license from any state or US Territory; or

(ii) two years for any CNA with a Utah certificate that has expired between six and 24 months.

(c) If the candidate does not pass either portion, the candidate shall complete another NATCEP.

(5) An individual may seek reciprocity from the UNAR if the individual provides the certification demonstrating they are currently certified in another state with no finding on the UNAR abuse registry.

(6) An individual with an expired certification from another state shall complete a NATCEP in Utah.

R432-45-4. Competency Evaluation.

(1) A candidate shall pass, according to policy established by UNAR, both the written and skills portions of the competency evaluation.

(2) For the written portion of the competency evaluation, UNAR shall ensure that:

(a) each written test is available with audio narration;

(b) it addresses each course requirement as required in Subsection 432-45-5(6);

(c) it is developed from a pool of test questions that:

(i) are maintained in a system that preserves the integrity of both the pool of questions and the individual evaluations;

(ii) are periodically updated and validated; and

(iii) only a portion of the pool of questions are used in any one evaluation.

(3) UNAR shall ensure the skills competency evaluation includes:

(a) a pool of skills as required in Subsection 432-45-5(9); and

(b) demonstration of the tasks the nurse aide is expected to perform as a CNA.

(4) Only a UNAR-approved testing center may perform competency evaluations.

(5) UNAR shall approve a testing center if it:

(a) ensures any remote locations can also provide security, integrity, and promotes a positive testing environment;

(b) has any items necessary to simulate a long-term resident care room;

(c) has appropriate audio-visual and technology support;

(d) has headphones and computer capabilities;

(e) has reliable internet access;

(f) has seating, comfortable ventilation, lighting, and temperature;

(g) has systems to ensure the maintenance of the security of the examinations;

(h) is ADASAD-compliant;

(i) is available to provide testing for a qualified candidate from any approved NATCEP;

(j) is in a clean and safe condition;

(k) provides a quiet testing environment; and

(l) provides supervision for monitoring and discouraging cheating.

(6) UNAR shall approve an application for a testing center if the applicant meets the criteria specified in each regulation, rule and UNAR policy.

(7) UNAR shall ensure that the competency evaluation is available through applied technical colleges or community colleges throughout Utah.

(8) UNAR shall ensure the following staffing requirements are met for testing center approval:

(a) a registered nurse is the skills observer who

(i) administers the examination;

(ii) attends the UNAR mandatory training sessions; and

(iii) has at least one year of experience in providing care for the elderly or chronically ill of any age;

(b) each proctor and skill observer:

(i) recuses themselves from observing any candidate who they have educated or trained in a nurse aide training program; and

(ii) signs a confidentiality disclosure and any other mandatory UNAR documents; and

(c) there are enough proctors to ensure the integrity of the written or audio testing.

(9) UNAR shall:

(a) advise the candidate that a record of the outcome of the competency evaluation will be included in the nurse assistant registry indicated in this section;

(b) ensure the active CNA registry includes:

(i) name;

NOTICES OF PROPOSED RULES

- (ii) certification number;
- (iii) city, state and zip code;
- (iv) certification status;
- (v) history of misconduct that is publicly searchable indefinitely; and
- (vi) certification history publicly searchable while certification is active, plus two years;
- (c) establish a NAPP record of major skills and duties for each candidate for the skills component of the evaluation to include:
 - (i) a list of the skills listed in Subsection R432-45-5(9);
 - (ii) a record that documents when the candidate performed each skill;
 - (iii) a record of satisfactory or unsatisfactory performance;
 - (iv) the date of the performance; and
 - (v) the instructor supervising the performance;
- (d) inform each candidate of the areas where they were deficient at each exam attempt and that after three failed attempts on the written, audio, or skills component of the competency evaluation, they shall complete re-training with an approved NATCEP; and
- (e) provide the candidate an opportunity to review and consent to the release of information UNAR requires for the nursing assistant registry.
- (10) At the completion of the training, the NATCEP shall give the nurse aide candidate a copy of the performance record.
- (11)(a) In accordance with 42 CFR 483.154 (2024), the UNAR shall ensure the demonstration aspect of the skills training portion of the competency evaluation has at least five performance tasks included in the NAPP record.
- (b) The UNAR shall utilize testing software to randomly select five tasks from the pool of evaluation items listed in Subsection R432-45-5(9).

R432-45-5. Nurse Aide Training Program Requirements Under UNAR.

- (1)(a) An applicant shall apply to UNAR on behalf of an entity that may include a:
 - (i) Medicare or Medicaid certified nursing facility;
 - (ii) secondary, or post-secondary educational institution; or
 - (iii) private business.
- (b) An entity may not include an educational program offered to an incarcerated inmate in accordance with Section 64-13-48.
- (2) Within 90 days of receipt of an application for a NATCEP, UNAR shall advise the applicant of UNAR's:
 - (a) approval;
 - (b) denial, including a summary of the reasons for denial; or
 - (c) request for any additional information.
- (3) An entity may not operate a NATCEP without UNAR approval.
- (4) A NATCEP shall ensure the program director and any NATCEP instructor or employee who has direct patient access successfully completes a background check in accordance with Rule R432-35.
- (5) UNAR shall ensure DACS reflects the current status of each individual required to have a clearance.
- (6) The NATCEP shall provide at least 100 hours of supervised and documented training by a licensed nurse using curriculum containing:
 - (a) basic nursing skills;
 - (b) comprehensive orientation to the training program and the nursing assistant's role on the healthcare team;
 - (c) communication and interpersonal skills;
 - (d) infection control;
 - (e) promoting resident independence;
 - (f) respecting resident rights; and
 - (g) safety and emergency procedures.
- (7)(a) A NATCEP shall ensure each candidate completes at least 24 of the required 100 hours of supervised practical training in a nursing care facility, except as follows:
 - (b) UNAR may approve a written request from a NATCEP to use a Type II assisted living facility for no more than eight of the 100 required hours of supervised practical training if the NATCEP:
 - (i) provides documentation of the lack of availability of sufficient nursing care facility locations to fulfill the required 24 hours supervised practical training for each of the NATCEP's candidates;
 - (ii) identifies the Type II assisted living facility the NATCEP intends to utilize; and
 - (iii) submits a request and receives UNAR approval before using a Type II assisted living facility for up to eight hours of the supervised practical training.
- (8) UNAR will not approve an assisted living to be used by a NATCEP, if the facility has been issued a conditional license by OL within the 12 months before the NATCEP submits a request to the UNAR.
- (9) NATCEP shall ensure the skills training requires demonstration of competencies in the following areas:
 - (a) basic nursing skills including:
 - (i) caring for a resident when death is imminent;
 - (ii) caring for the residents' environment;
 - (iii) measuring and recording weight and height;
 - (iv) recognizing abnormal changes in body functioning and the importance of reporting the changes to a supervisor; and
 - (v) taking and recording vital signs;

- (b) basic restorative services including:
 - (i) bowel and bladder training;
 - (ii) care and use of prosthetic and orthotic devices;
 - (iii) maintenance of range of motion;
 - (v) proper turning and positioning in bed and chair;
 - (vi) transfer techniques' and
 - (vii) training the resident in self-care according to the resident's ability; and
 - (viii) use of assistive devices in transferring, ambulation, eating, and dressing;
- (c) care of cognitively impaired residents including:
 - (i) appropriate responses to the behavior of a cognitively impaired resident;
 - (ii) communicating with a cognitively impaired resident;
 - (iii) methods for reducing the effects of cognitive impairments;
 - (iv) techniques for addressing the unique needs and behaviors of a resident with dementia or Alzheimer's; and
 - (v) understanding the behavior of a cognitively impaired resident;
- (d) mental health and social service skills including:
 - (i) allowing the resident to make personal choices and providing and reinforcing other behavior consistent with the resident's dignity;
 - (ii) awareness of developmental tasks associated with the aging process;
 - (iii) how to respond to resident behavior;
 - (iv) modifying the nurse aide's behavior in response to the resident's behavior; and
 - (v) using the resident's family as a source of emotional support;
- (e) personal care skills including:
 - (i) assisting with eating and hydration;
 - (ii) bathing;
 - (iii) dressing;
 - (iv) grooming that includes mouth care;
 - (v) proper feeding techniques;
 - (vi) skin care;
 - (vii) toileting; and
 - (viii) transfers, positioning and turning;
- (f) residents' rights including:
 - (i) aiding in getting to and participating in resident and family groups and other activities;
 - (ii) aiding in resolving grievances and disputes;
 - (iii) maintaining care and security of residents' personal belongings;
 - (iv) promoting the resident's right to be free from abuse, mistreatment, or neglect and the requirement to report any instances of abuse, mistreatment, or neglect to the appropriate staff, Adult Protective Services, and OL;
 - (v) promoting the resident's right to be free from physical and chemical restraints, unless the use is required to treat a medical symptom and is not used for discipline or staff convenience.
 - (vi) promoting resident's right to make personal choices to accommodate the resident's needs;
 - (vii) providing privacy and confidentiality;
- (10) A candidate may not perform any services that they have not been trained and found proficient to conduct by an instructor.
- (11) A NATCEP shall have:
 - (a) a program director who:
 - (i) is a registered nurse with an active license to practice nursing and is in good standing with the Division of Professional Licensing;
 - (ii) has two years of nursing experience with at least one year providing nursing care facility services, caring for the elderly, or caring for chronically ill of any age;
 - (iii) establishes policies to ensure a minimum of three hours consulting time with the NATCEP for a new program and can provide at least three hours consulting time per month at renewal application for an existing NATCEP and
 - (iv) may be the director of nursing in a nursing care facility-based NATCEP if the facility remains in compliance with OBRA requirements;
 - (b) one or more instructors who:
 - (i) hold an active license to practice nursing and is in good standing with the Division of Professional Licensing; and
 - (ii) has two years of nursing experience with at least one year of experience providing nursing care facility services, caring for the elderly, or caring for chronically ill of any age.
- (12) Before approval of a NATCEP, the program director and any instructors shall successfully complete a UNAR-approved train-the-trainer program or demonstrate competence to teach candidates.
- (13) Each high school instructor shall complete the train-the-trainer program or become certified to teach as defined by the Utah State Office of Education before providing instruction in the classroom.
- (14)(a) A licensed UNAR-approved nurse instructor shall directly supervise candidates who provide services to residents.
- (b) Each instructor's clinical oversight time is solely for the direct oversight of candidates and the instructor may not be used to perform other facility services simultaneously.
- (15)(a) Qualified personnel from the health professions may assist the program director and instructors.
- (b) The program director or instructors shall be present during any training provided by another qualified professional.

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(16)(a) UNAR shall require qualified personnel to have at least one year of recent experience in the care of the elderly, in the care of chronically ill of any age, or equivalent experience.

(b) Qualified personnel shall meet current licensure requirements regardless of whether they are licensed, registered, or certified in their field.

(17)(a) A NATCEP shall maintain a candidate-to-instructor ratio of 12:1 for clinical instruction and may not exceed a 30:1 ratio for theory instruction.

(b) A NATCEP shall ensure there is an instructor-assistant when the program has more than 20 candidates.

(18) NATCEP shall provide a classroom that:

(a) has adequate seating, comfortable ventilation, lighting and temperature;

(b) has appropriate audio-visual and other necessary technology support;

(c) has appropriate textbooks and reference materials;

(d) has skills lab equipment to simulate a resident's living unit; and

(e) is maintained in a clean and safe condition.

(19)(a) UNAR shall place a newly approved NATCEP on a one year probationary period.

(b) UNAR shall withdraw program approval if the NATCEP fails to comply with each regulation, rule and UNAR policy at any time during the probationary period.

(c) A NATCEP shall submit a self-evaluation to UNAR during any year that the UNAR does not complete an on-site review.

(20) UNAR on-site visits and NATCEP self-evaluations shall include a review of:

(a) any complaints received about the program;

(b) classroom facilities and equipment meet the requirements of rule and UNAR policy.

(c) documentation of candidate skill proficiency;

(d) documentation of required theory and clinical training hours;

(e) evidence that curriculum content meets the requirements of rule and UNAR policy; and

(f) files for the program director, each instructor, each instructor-assistant, and qualified personnel used by the NATCEP since the last review date;

(21) UNAR shall require a plan of correction for a NATCEP that fails to comply with rule, UNAR policy or any state or federal requirements.

(22) UNAR shall withdraw approval of a facility-based NATCEP, that within the last two years, if the facility:

(a) closed or had residents transferred to other facilities in an emergency;

(b) has been assessed a civil money penalty by CMS in an amount that compels approval withdrawal;

(c) has been subject to a partial extended or extended survey;

(d) has been subject to the enforcement remedy of a temporary manager;

(e) has been subject to the enforcement remedy of denial of payment for new admissions;

(f) has operated with an approved nurse staffing waiver; or

(g) as otherwise directed by the SSA or CMS.

(23) Upon review of program performance standards, UNAR shall end a program that does not provide an acceptable plan to correct deficiencies.

R432-45-6. Nurse Aide Registry.

(1) UNAR is the central registry for certified nurse aides in Utah. This registry shall identify each individual who has successfully completed a NATCEP with a passing score of 75.

(2) A NATCEP shall report to UNAR, within five days after the program ends, the names of each individual who satisfactorily completed the program.

(3) UNAR shall process renewals for each nurse aide who has performed paid services for at least 200 hours of nursing or nursing-related services under the direction of a licensed nurse during the 24 months following the completion date of the NATCEP or certification renewal.

(4) The SSA shall enforce the standards of UNAR described in OBRA, Secs. 4211 and 4212.

(5) The SSA shall investigate complaints of resident neglect, abuse, or misappropriation of resident property by a CNA. A CNA may request a hearing through the Division of Medicaid and Health Financing before a substantiated claim may be entered into the registry.

(6)(a) Upon notification by the SSA of a substantiated finding of abuse, neglect, or misappropriation of resident property, the UNAR shall include the following information on the abuse registry:

(i) documentation of the SSA'S investigation, including the nature of the allegation and the evidence that led the SSA to conclude that the allegation was valid;

(ii) the date of the hearing, if the individual chose to have one, and its outcome; and

(iii) a statement by the individual dispersing the allegation, if applicable.

(b) Information shall remain in the registry permanently unless:

(i) the finding was made in error;

(ii) the individual was found not-guilty in a court of law; or

(iii) the SSA is notified of the individual's death.

R432-45-7. Limitations.

(1) UNAR may approve a facility-based NATCEP only if the facility's participation in the Medicare and Medicaid programs has not been terminated within the last two years.

(2) UNAR must review and reapprove a NATCEP at least every two years.

(3) A skilled nursing facility that participates in a Medicare or Medicaid facility may not administer the written and skills components of the competency evaluation.

R432-45-8. Compliance.

Any provider found in noncompliance with any rule or statute governing the division may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: health care facilities

Date of Last Change: 2024~~[October 17, 2019]~~

Notice of Continuation: April 4, 2024

Authorizing, and Implemented or Interpreted Law: 42 CFR 431.10~~[26-21-5; 26-21-4]~~

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R432-150

Filing ID: 56892

Agency Information

1. Title catchline:	Health and Human Services, Health Care Facility Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Mailing 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:
R432-150. Nursing Care Facility
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to incorporate content to comply with the changes introduced in HB495 and SB229 from the 2024 General Session as summarized in Box 4.
4. Summary of the new rule or change:
This amendment adds content to address the allowance of monitoring devices and prohibition of tampering with monitoring devices in secure memory care units of nursing care facilities consistent with HB495 from the 2024 General Session. Additionally, it replaces references from "the department" to "OL" and defines "OL" as the Office of Licensing. Section R432-150-31, Penalties was updated to reference consolidated enforcement and penalties rule and statute following SB229 in the 2024 General Session. Finally, style and formatting changes were made for compliance with the Rulewriting Manual for Utah. The Health Care Facility Licensing committee unanimously recommended approval of this rule filing amendment.

Fiscal Information

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

A) State budget:

This amendment is not anticipated to have a fiscal impact on the Department of Health and Human Services or other state budgets. This amendment disallows denial of admission or early discharge based on a required monitoring device in the client's room. The overall inspection process is not expected to change by including this new requirement.

OL inspections will not change regardless of how many clients a provider admits or denies for admission to the facility and OL will continue to investigate any complaints of noncompliance with the rule with no cost or savings to the process.

B) Local governments:

This amendment is not anticipated to have a fiscal impact to local governments as they do not regulate facility licensing.

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

This amendment may have an inestimable fiscal impact on small business nursing care facilities because it is inestimable to quantify how many programs were refusing admittance or discharging clients early solely based on monitoring devices. Any small business found to be practicing these prohibited practices will receive a warning or citation of noncompliance before any civil money penalty is assessed as this is the tiered process utilized across all entities licensed by OL for noting noncompliance with any rule.

An average civil money penalty for noncompliance with this rule following a warning and citation would be \$150 per infraction. It is inestimable to determine how many programs are utilizing the prohibited practices or whether a warning or citation will correct the noncompliance before a monetary penalty is assessed.

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

This amendment may have an inestimable fiscal impact on non-small business nursing care facilities because it is inestimable to quantify how many programs were refusing admittance or discharging clients early solely based on monitoring devices. Any non-small business found to be practicing these prohibited practices will receive a citation of noncompliance before any civil money penalty is assessed as this is the tiered process utilized across all entities licensed by OL for noting noncompliance with any rule.

An average civil money penalty for noncompliance with this rule following the warning and citation would be \$150. It is inestimable to determine how many programs are utilizing the prohibited practices or whether a warning or citation will correct the noncompliance before a monetary penalty is assessed.

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):

Clients seeking admission to these facilities are the other persons impacted by this amendment filing. Clients will not be turned away from services simply on the basis of requiring a monitoring device in their room. It is unknown how many clients will present with monitoring devices to be accepted, or how many were previously denied admission or discharged before this regulation, therefore a cost or savings analysis is inestimable at this time.

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

The only change is that providers cannot deny or discharge a client if they require a monitoring device in their room. There is no anticipated compliance cost to the provider or client based on this requirement, as it just increases transparency for the provider's care for the vulnerable patients in these facilities.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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		
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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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	10/28/2024
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R432. Health and Human Services, Health Care Facility Licensing.

R432-150. Nursing Care Facility.

R432-150-1. Authority and Purpose.

(1) Section 26B-2-202 authorizes this rule.

~~**R432-150-2. Purpose.**~~

~~_____ (2) The purpose of this rule is to establish health and safety standards to provide for the physical and psychosocial well-being of [individuals]an individual receiving services in a nursing care facility[ies].~~

~~**R432-150-[3]2. Construction Standard.**~~

~~The licensee shall ensure the facility is constructed and maintained in accordance with Rule R432-5[~~, Nursing Care and Pediatric Respite Care Facility Construction~~].~~

~~**R432-150-[4]3. Definitions.**~~

~~(1) The definitions found in [Section]Rules R432-1[-3] and R380-600 apply to this rule. Additionally:~~

~~(2) "Adult [~~Day Care~~]day care" means nonresidential care and supervision for at least four, but less than 24 hours, a day, that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.~~

~~(3) "Certification in [~~Cardiopulmonary Resuscitation~~]cardiopulmonary resuscitation (CPR)" refers to certification issued after completion of an in- person course, to include skills testing and evaluation on-site with a licensed instructor.~~

NOTICES OF PROPOSED RULES

(4) "Chemical [R]restraint" means any medication administered to a resident to control or restrict the resident's physical, emotional, behavioral functioning for the convenience of staff, punishment, discipline, or as a substitute for direct resident care.

(5) "Dining [A]assistant" means an individual unrelated to a resident who meets the training requirements outlined in this rule to assist ~~nursing care residents~~ a resident with eating and drinking.

(6) "Governing [B]body" means the board of trustees, owner, and individuals designated by the owner with the legal authority and ultimate responsibility for the management, control, conduct, and functioning of the health care facility or agency.

(7) "Intermediate [C]care" means a level of care that provides 24-hour inpatient care to ~~residents~~ each resident who needs licensed supervision and supportive care[;] but does not require continuous nursing care.

(8) "Medically-~~Related Social Services~~ related social services" means assistance provided by the licensed social worker to maintain or improve each resident's ability to control everyday physical, mental, and psychosocial needs.

(9) "Monitoring device" means the same as defined in Section 26B-2-236.

(10) "Nurse [A]aide" means any individual, other than an individual licensed in another category, providing nursing or nurse related services to ~~residents~~ a resident in a nursing care facility.[-] This definition does not include an individual who volunteers to provide such services without pay.

~~(10)~~ (11) "Nursing [S]staff" means nurse aides that are in the process of becoming certified, certified nurse aides, and those individuals that are licensed, including licensed practical nurses and registered nurses, to provide nursing care in Utah.

~~(11)~~ (12) "OL" means the Office of Licensing in the Division of Licensing and Background Checks under the Department of Health and Human Services.

(13) "Palatable" means food that has a pleasant and agreeable taste and is acceptable to eat.

~~(12)~~ (14) "Physical [R]restraint" means any physical method, physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the resident cannot easily remove and restricts the resident's freedom of movement or normal access to their body.

~~(13)~~ (15) "Pre-~~Admission Screening Resident Review~~ admission screening resident review" is a preliminary assessment completed for each individual before admission to a Medicaid-certified ~~Nursing Facility~~ nursing facility to determine whether an individual might have a mental illness or intellectual disability.

~~(14)~~ (16) "Respite" means to provide intermittent, time-limited care to give primary caretakers relief from the demands of caring for a person.

(17) "Resident care conference" means a review of the resident's care plan by an interdisciplinary team comprised of representatives of disciplines based on the resident's needs.

~~(15)~~ "Significant Change" (18) "Responsible person" means the same as defined in Rule R432-1.

(19) "Secure memory care unit" means a nursing care unit with a controlled egress locking system to ensure a resident in cognitive decline, including dementia or Alzheimer's Disease, is prevented from wandering away or getting lost.

(10) "Significant change" means a major change in a resident's status that impacts more than one area of the resident's health status.

~~(16)~~ (21) "Skilled [L]level of ~~Nursing Care~~ nursing care" means a level of care that provides 24-hour inpatient care to ~~residents~~ a resident who needs licensed nursing supervision[-Licensed]; by licensed health care personnel ~~shall~~ who closely supervise or perform the prescribed services.

~~(17)~~ (22) "Therapeutic [L]leave" means leave pertaining to planned medical treatment that is implemented to meet an objective that is specified in the individual care plan[-of care].

~~(18)~~ (23) "Unnecessary [D]drug" means any drug used:

(a) excessive in dose;

(b) for any combination of these reasons;

(c) for excessive duration;

~~(e) without monitoring;~~

(d) ~~without indications for its use;~~

~~(e) in the presence of adverse consequences that indicate show the dose should be reduced or discontinued;[-or]~~

~~(e) without indications for its use; or~~

(f) ~~for any combination of these reasons~~ without monitoring.

R432-150-~~5~~4. Scope of Services.

(1) For an ~~interm~~mediate care facility, the licensee:

~~(a) shall provide 24 hour licensed nursing services;~~

~~(b) shall ensure nursing staff are present on the premises 24 hours a day to meet the needs of residents;~~

~~(c) shall provide at least one registered nurse either by direct employ or by contract to provide direction to nursing services;~~

~~(d) (a) may employ a licensed practical nurse to act as the health services supervisor instead of a director of nursing if a registered nurse consultant meets regularly with the health services supervisor;[-and]~~

~~(b) shall ensure nursing staff are present on the premises 24 hours a day to meet the needs of each resident;~~

~~(c) shall provide 24-hour licensed nursing services;~~

~~(d) shall provide at least one registered nurse either by direct employ or by contract to provide direction to nursing services; and~~

~~(e) shall provide at least[the following]:~~

~~(i) dietary services;~~

~~(ii) medical supervision;~~

~~(ii) dietary services;~~

- ~~]~~ (iii) ~~[social services; and~~
~~(iv)]recreational therapy[-]; and~~
 (iv) social services.
- (2) The licensee shall provide the following service[s] as required in the resident's care plan:
- ~~(a) [physical therapy;~~
~~(b)]occupational therapy;~~
 (c) ~~[speech]~~physical therapy;
 (d) respiratory therapy;~~[-and]~~
~~[(e) other therapies as ordered by the licensed practitioner.~~
~~]~~ (e) speech therapy; and
~~(f) any other therapy as ordered by the licensed practitioner.~~
- (3) For a skilled level of ~~[care]~~nursing care facility, the licensee shall:
- (a) ~~[provide 24-hour licensed-]~~designate a registered nurse to serve as the director of nursing ~~[services]on a full-time basis;~~
 (b) ~~[ensure nursing staff are present on the premises 24]~~employ a registered nurse for at least eight consecutive hours a day~~[-to meet the needs of residents], seven days a week;~~
 (c) ensure a licensed charge nurse is present on each shift;
 (d) ~~[employ a registered nurse for at least eight consecutive]~~ensure nursing staff are present on the premises 24 hours a day~~[-seven days a week;~~
~~(e) designate a registered nurse]~~ to ~~[serve as]~~meet the ~~[director]~~needs of ~~[nursing on a full-time basis]~~each resident;
~~[(f)]e~~ not permit a person to concurrently serve as the director of nursing and as a charge nurse;~~[-and]~~
~~(f) provide 24-hour licensed nursing services; and~~
 (g) provide ~~[services]~~a service to ~~[the residents]~~each resident that ~~[preserve]~~maintains current capabilities and prevents further deterioration, including~~[the following]:~~
- (i) ~~[medical supervision]~~a dental service;
 (ii) a dietary service[s];
 (iii) a pharmacy service;
~~(iv) medical supervision;~~
~~(v) physical therapy;~~
~~[(iv) social services;~~
~~(v) recreation]~~ (vi) recreational therapy;~~]~~
~~(vi) dental services;]~~ and
 (vii) ~~[pharmacy]~~social services.
- (4) The licensee shall provide the following services as required by the resident's care plan:
- ~~(a) [respiratory;~~
~~(b)]occupational therapy;~~
~~(b) respiratory therapy; and~~
 (c) speech therapy.
- (5)(a) The licensee shall ensure ~~[any]~~that a respite service[s] comply with ~~[this subsection.]~~Subsections R432-150-5(5) through (13).
 (b) The licensee may provide a respite service[s] at an hourly rate or daily rate~~[-]~~ but may not exceed 14 days for any single respite stay.
- ~~(c)~~ A respite stay that exceeds 14 days is considered a nursing facility admission and is subject to the requirements of this rule applicable to a non-respite resident[s].
- ~~[(e)]d~~ The licensee shall coordinate the delivery of respite services with the recipient, the case manager, if applicable, and the family member, or primary caretaker.
- ~~[(d)]e~~ The licensee shall document and coordinate with each provider agency to ensure uninterrupted service delivery.
- (6) The licensee shall complete:
- (a) a Level 1 ~~[P]~~pre-admission ~~[S]~~screening upon the person's admission for respite services;
 (b) a record for each person receiving respite services;
 (c) a service agreement to serve as the ~~[plan of]~~care plan, that identifies the prescribed medications, physician treatment orders, need for assistance with activities of daily living, and diet orders; and
 (d) written respite care policies and procedures that are available to staff.
- (7) The licensee shall ensure respite care policies and procedures address~~[the following]:~~
- ~~(a) behavior management interventions;~~
~~(b) handling personal funds;~~
~~(c) medication administration;~~
~~[(b)]d~~ notification of a responsible person in the case of an emergency;
~~[(c) service agreement and admission criteria;~~
~~(d) behavior management interventions;~~
- ~~]~~ (e) philosophy of respite services;
 (f) post-service summary;
~~(g) service agreement and admission criteria; and~~
~~(h) training and in-service requirement for employees[-and].~~

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- ~~(h) handling personal funds.~~
-] (8) The licensee shall ensure the individual receiving respite services receives a copy of the resident rights documents upon ~~admission~~ initiation of the respite services.
- (9) The licensee shall ensure a respite ~~records contain the following~~ record contains:
 - (a) ~~the~~ a post-service ~~agreement~~ summary;
 - (b) ~~resident demographic information;~~
 - ~~(c) nursing notes;~~
 - ~~(d) physician treatment orders;~~
 - ~~(e) daily staff notes;~~
 - ~~(f) any~~ accident and injury report[s];
 - ~~(g) a post-service summary; and~~
 - ~~(h)~~ (c) an advanced directive, if available[-];
 - ~~(d) daily staff notes;~~
 - ~~(e) nursing notes;~~
 - ~~(f) physician treatment orders;~~
 - ~~(g) resident demographic information; and~~
 - ~~(h) the service agreement.~~
- (10) The licensee shall ensure retention and storage of a respite record[s] complies with Subsection R432-150-25(3).
- (11) The licensee shall ensure confidentiality and release of information complies with Subsection R432-150-25(4).
- (12) Hospice care may only be arranged and provided by a licensed hospice agency in accordance with Rule R432-750.
- (13) A nursing care facility may provide terminal care.

R432-150-~~6~~5. Adult Day Care Services.

- (1) A ~~licensed~~ nursing care facility licensee may provide adult day care without an additional license from ~~the department~~ OL.
- (2) The licensee shall submit policies and procedures for adult day care to the ~~department~~ OL for approval.
- (3) The governing body shall designate a qualified director to be responsible for the day-to-day program operation.
- ~~(4) The director shall maintain written records on site for each client and staff person, that includes the following:~~
 - ~~(a) demographic information;~~
 - ~~(b) an emergency contact with name, address, and telephone number;~~
 - ~~(c) client health records, including the following:~~
 - ~~(i) record of medication including dosage and administration;~~
 - ~~(ii) a current health assessment, signed by a licensed practitioner; and~~
 - ~~(iii) level of care assessment;~~
 - ~~(d) signed client agreement and service plan; and~~
 - ~~(e) employment file for each staff person that includes:~~
 - ~~(i) health history;~~
 - ~~(ii) background clearance consent and release form;~~
 - ~~(iii) orientation completion; and~~
 - ~~(iv) in-service requirements.~~
-] (4) The director shall maintain the following information on-site for each staff member:
 - (a) a background check consent and release form;
 - (b) an emergency contact with name, address, and telephone number;
 - (c) health history;
 - (d) in-service training requirements; and
 - (e) verification of orientation completion.
- (5) The director shall maintain the following information on-site for each client:
 - (a) a health record to include:
 - (i) a current health assessment signed by a licensed practitioner;
 - (ii) a level of care assessment; and
 - (iii) a record of medication including dosage and administration;
 - (b) a signed client agreement and care plan;
 - (c) an emergency contact with name, address, and telephone number; and
 - (d) demographic information.
- ~~(5) (6) The licensee shall have a written eligibility, admission, and discharge policy that includes ~~the following~~:~~
 - (a) intake process;
 - (b) notification of responsible person of any upcoming admission or discharge;
 - ~~(c) reason for discharge or dismissal;~~
 - (d) reasons for admission refusal, including the director's written, signed statement; and
 - ~~(e) resident rights notification; and~~
 - ~~(e) reason for discharge or dismissal.~~
-] (6) (7) Before the licensee ~~admits~~ may admit a client to the facility, the licensee ~~shall~~ must ensure the following are addressed in writing to determine client eligibility for the program:

- (a) current health status;
- (b) ~~medical history;~~ immunizations;
- (c) immunizations;
- ~~(d) legal status;~~
- ~~(d) medical history;~~ and
- (e) psychological factors.

~~(7)8~~ The licensee shall ensure that the director or designee, the responsible person, and the client if competent develops a written, signed client agreement that includes:

- (a) ~~rules of the program;~~
- ~~(b) services to be provided and cost of service, including refund policy; and~~
- ~~(c) arrangements regarding the following:~~
 - (i) absenteeism;
 - (ii) ~~gifts;~~
 - (iii) ~~vacations;~~ mail;
 - (iv) mail;
 - ~~(v) gifts; and~~
 - ~~(vi) telephone calls;~~
 - (v) vacations; and
 - (vi) visits.

- ~~(b) rules of the program; and~~
- ~~(c) services provided and cost of service, including refund policy.~~

~~(8)9~~ The licensee shall ensure the ~~following:~~

- ~~(a) the director or designee;~~
- ~~(a) develops an individual client service care plan that is implemented for the client within three days of admission to the program;~~
- ~~(b) the director or designee ensures the service care plan includes the specification of daily activities and services; and~~
- (c) ~~the director or designees shall reevaluate,~~ reevaluates and changes, if necessary, the client's service care plan at least every six months.

~~(9)10~~ The licensee shall comply with Rule R380-600 regarding critical incident reporting. ~~maintain the following incident report documentation that outlines the actions taken, including actions taken to avoid future incident or injury following any:~~

- ~~(a) client death;~~
- ~~(b) injuries;~~
- ~~(c) elopement;~~
- ~~(d) fights or physical confrontations;~~
- ~~(e) situations that require the use of passive physical restraints;~~
- ~~(f) suspected abuse or neglect; and~~
- ~~(g) other situations or circumstances affecting the health, safety, or well-being of a client while in care.]~~

~~(10)1~~ The director shall notify and review the incident report with the responsible person no later than when the client is picked up at the end of the day.

~~(11)2~~ The licensee shall post and implement a daily activity schedule.

~~(12)3~~ The licensee shall:

- (a) ensure ~~clients are~~ a client is always directly supervised ~~at all times~~ and are encouraged to participate in activities;
- ~~(b) ensure one staff member provides continuous, direct supervision when eight or fewer clients are present;~~
- ~~(c) ensure staff supervision is provided continually when a client is present;~~
- ~~(d) if one-half or more of the clients are diagnosed by a physician's assessment with Alzheimer's or other dementia, the ratio is one staff for every six clients, or fraction thereof;~~

~~(e) maintain any indoor and outdoor areas in a clean, secure, and safe condition;~~

~~(f) provide at least 50 square feet of indoor floor space, excluding hallways, office, storage, kitchens, and bathrooms, per client designated for adult day care during program operational hours;~~

~~(e) maintain any indoor and outdoor areas in a clean, secure, and safe condition;~~

~~(d)g~~ provide at least one bathroom designated for client use during business hours;

~~(e)~~ (h) provide continuous, direct supervision at a ratio of one staff to every eight clients; and

~~(i) provide at least two designated separate male and female bathrooms designed for client use if serving more than ten clients;~~

~~(f) ensure staff supervision is provided continually when clients are present;~~

~~(g) ensure one staff member provides continuous, direct supervision when eight or fewer clients are present;~~

~~(h) provide continuous, direct supervision at a ratio of one staff to every eight clients; and~~

~~(i) if one-half or more of the clients are diagnosed by a physician's assessment with Alzheimer's or other dementia, the ratio is one staff for every six clients, or fraction thereof.~~

R432-150-~~7)6~~. Governing Body.

(1) The licensee shall have a governing body or designated persons functioning as a governing body.

(2) The licensee shall ensure that the governing body establishes and implements policies regarding the management and operation of the facility.

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- (3) The governing body shall institute bylaws, policies, and procedures relative to the general operation of any licensee services including the health care of the resident[s] and the protection of resident rights.
- (4) The governing body shall appoint the administrator in writing.

R432-150-[8]7. Administrator.

- (1) The licensee shall ensure that the administrator:
 - (a) ~~holds a current license as a health facility administrator by the Utah Department of Commerce pursuant to Title 58, Chapter 15, Health Facility Administrator Act;~~
 - ~~(b) posts the license in a place readily visible to the public;~~
 - ~~(c) does not supervise more than one nursing care facility;~~
 - ~~(d) has enough freedom from other responsibilities to permit attention to the management and administration of the facility;~~
 - ~~(e) designates, in writing, the name and job title of the person who has the authority and freedom to act in the best interests of resident safety and well-being to act as administrator in any temporary absence of the administrator; ~~and~~~~
 - ~~(f) (b) does not supervise more than one nursing care facility;~~
 - (c) is not superseded by an unlicensed administrator designee;
 - (d) has enough freedom from other responsibilities to permit attention to the management and administration of the facility;
 - (e) holds a current license as a health facility administrator by the Utah Department of Commerce in accordance with Title 58, Chapter 15, Health Facility Administrator Act; and
 - (f) posts the license in a place visible to the public.
- (2) The licensee shall ensure the administrator's responsibilities are defined in a written job description on file in the facility that includes the following responsibilities:
 - ~~(a) (a) secure and update contracts for required professional services that are not provided directly by the facility that document:~~
 - ~~(i) a copy of the business or professional license of the contractor;~~
 - ~~(ii) a description of goods or services provided by the contractor to the facility;~~
 - ~~(iii) a provision to report findings, observations, and recommendations to the administrator on a regular basis;~~
 - ~~(iv) a provision to terminate the contract with advance notice;~~
 - ~~(v) a statement that the contractor shall conform to the standards required by law or rule;~~
 - ~~(vi) contracts are signed, dated, and maintained for review by OL;~~
 - ~~(vii) the effective and expiration date of contract; and~~
 - ~~(viii) the financial terms of the contract;~~
 - (b) the completion, submission, and filing of any required reports, including a monthly census report to the Department of Health and Human Services, Division of Integrated Healthcare as required by Section R414-401-4, by the end of the succeeding month ~~to avoid department issued sanctions, including civil money penalties, in accordance with Section R432-3-7, for failure to report the required census information~~;
 - ~~(b)(c) to act as a liaison between the licensee, medical and nursing staffs, and other supervisory staff of the facility;~~
 - ~~(c) to respond to recommendations made by the quality assurance committee;~~
 - ~~(d) to implement policies and procedures governing the operation of any functions of the facility;~~
 - ~~(e) to review any incident, accident report, and document the action taken or reason for no action;~~
 - ~~(f) (d) to ensure that facility policies and procedures reflect current facility practice, and are revised and updated as needed; ~~and~~~~
 - ~~(g) secure and update contracts for required professional services that are not provided directly by the facility that document the following:~~
 - ~~(i) the effective and expiration date of contract;~~
 - ~~(ii) a description of goods or services provided by the contractor to the facility;~~
 - ~~(iii) a statement that the contractor shall conform] (c) to implement policies and procedures governing the operation of any functions of the facility;~~
 - ~~(f) to [the standards required by Utah law or rules;~~
 - ~~(iv) a provision]respond to [terminate the contract with advance notice;~~
 - ~~(v) the financial terms of the contract;~~
 - ~~(vi) a copy of the business or professional license of the contractor;~~
 - ~~(vii) a provision to report findings, observations, and]recommendations [to]made by the [administrator on a regular basis]quality assurance committee; and~~
 - ~~(viii) contracts are signed, dated, and maintained for-]g) to review [by]any incident, accident report, and document the [department]action taken or reason for no action.~~
- (3) The licensee shall ensure the administrator maintains a written transfer agreement with one or more hospitals to facilitate the transfer of ~~residents]a resident~~ and essential resident information that includes:
 - (a) criteria for transfer;
 - (b) method of transfer;
 - ~~(c) proper notification of hospital and responsible person before the transfer ~~of information needed for proper care and treatment of the~~];~~
 - (d) resident [transferred]confidentiality;

- ~~(d)~~(e) security and accountability of personal property of the resident transferred;
- ~~(e) proper notification of hospital and responsible person before transfer;~~
- (f) the facility responsible for resident care during the transfer; and
- (g) transfer of information needed for proper care and treatment of the resident [confidentiality]transferred.

R432-150-[9]8. Medical Director.

(1) The licensee shall ensure that the administrator ~~[retains]~~secures, by formal agreement, a licensed physician to serve as medical director or advisory physician according to resident and facility needs.

(2) The medical director or advisory physician shall:

- ~~(a) develop resident care policies and procedures including the delineation of responsibilities of attending physicians;~~
- ~~(b) review current resident care policies and procedures with the administrator;~~
- ~~(c) serve as a liaison between resident physicians and the administrator;~~
- ~~(d) review incident and accident reports at the request of the administrator to identify health hazards to residents and employees; and~~
- ~~(e) _____ (a) act as consultant to the director of nursing or the health services supervisor in matters relating to resident care policies[-];~~
- ~~(b) develop resident care policies and procedures, including the delineation of responsibilities of attending physicians;~~
- ~~(c) review current resident care policies and procedures with the administrator;~~
- ~~(d) review incident and accident reports at the request of the administrator to identify health hazards to a resident and employee; and~~
- ~~(e) serve as a liaison between resident physicians and the administrator.~~

R432-150-[10]9. Staff and Personnel.

(1) The administrator shall employ personnel who are able and competent to perform their respective duties, services, and functions.

(2) The administrator shall ensure the administrator, director of nursing or health services supervisor, and facility supervisors ~~[shall]~~ develop job descriptions for each position, including ~~[job title,];~~

- ~~(a) a job summary[-responsibilities,];~~
- ~~(b) a job title;~~
- ~~(c) any required qualifications[-];~~
- ~~(d) any required skills and licenses[-];~~
- ~~(e) responsibilities of the position; and~~
- ~~(f) the position's physical requirements.~~

(3) The licensee shall monitor staff to ensure compliance with each applicable rule under Title R432.

(4) The licensee shall ensure each employee has access to facility policy and procedure manuals and other information necessary to effectively perform duties and carry out responsibilities.

(5) The licensee shall ensure each employee is licensed, certified, or registered as required by the Utah Department of Commerce, and a copy of the license, certification, or registration is maintained for ~~[department]~~OL review.

(6) The licensee shall:

- ~~(a) maintain staffing records, including employee performance evaluations, for the preceding 12 months;~~
- ~~(b) establish a personnel health program through written personnel health policies and procedures;~~
- ~~(c) _____ (a) complete a health evaluation for each employee upon hire that includes the employee's history of the following:~~
 - ~~(i) any condition[s] that [predispose]may prevent the employee [to acquiring or transmitting infectious diseases]from performing certain assigned duties satisfactorily; and~~
 - ~~(ii) any condition[s] that [may prevent]predisposes the employee to acquiring or transmitting infectious diseases;~~
- ~~(b) conduct regular performance reviews and regular in-service education to ensure that individuals used as nurse aides are competent to perform services as nurse aides;~~
- ~~(c) develop and ensure adherence to a policy that prohibits employees from [performing certain assigned duties satisfactorily]deactivating, repositioning, or otherwise interfering with the operation of a monitoring device in a secure memory care patient's room;~~

~~(d) ensure a health screening and immunization component is included in [of-]the employee's personnel health program[-is included], outlined in Subsection (j);~~

- ~~(e) ensure infection control includes staff immunization as necessary to prevent the spread of disease;~~
- ~~(f) ensure employee skin testing by the Mantoux method or other FDA approved in vitro serologic test and follow up for tuberculosis is done in accordance with Rule R388-804, Special Measures for the Control of Tuberculosis, and each employee is skin tested for tuberculosis within two weeks of:~~

- ~~(i) initial hiring;~~
- ~~(ii) suspected exposure to a person with active tuberculosis; and~~
- ~~(iii) development of symptoms of tuberculosis;~~
- ~~(g) exempt skin testing for each employee with a known positive reaction to skin tests;~~
- ~~(h) _____ (e) ensure any infections and communicable diseases reportable by law are reported to the local health department in accordance with Section R386-702-3;~~

~~(i) _____ (f) ensure any person who provides nursing care, including any nurse aide or orderly, works under the supervision of a registered nurse or licensed practical nurse and demonstrates competency and dependability in resident care;~~

~~(g) ensure employee skin testing by the Mantoux method or other FDA approved in vitro serologic test and follow up for tuberculosis is done in accordance with Rule R388-804 and each employee is skin-tested for tuberculosis within two weeks of:~~

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- ~~_____ (i) development of symptoms of tuberculosis;~~
- ~~_____ (ii) initial hiring; and~~
- ~~_____ (iii) suspected exposure to a person with active tuberculosis;~~
- ~~_____ (h) ensure infection control includes staff immunization as necessary to prevent the spread of disease;~~
- ~~_____ (i) ensure staff are available on each shift, who are CPR certified, trained in emergency procedures and basic first aid, including the Heimlich maneuver;~~
- ~~_____ (j) establish a personnel health program through written personnel health policies and procedures;~~
- ~~_____ (k) exempt skin testing for each employee with a known positive reaction to skin tests;~~
- ~~_____ (l) maintain staffing records, including employee performance evaluations, for the preceding 12 months;~~
- ~~_____ (m) plan and document in-service training for each staff member and address the following topics annually:~~
 - ~~_____ (i) fire prevention;~~
 - ~~_____ (ii) review and drill of emergency procedures and evacuation plan;~~
 - ~~_____ (iii) the reporting of resident abuse, neglect, or exploitation to the proper authorities;~~
 - ~~_____ (iv) prevention and control of infections;~~
 - ~~_____ (v) _____ (i) a basic understanding of the various types of mental illness, including symptoms, expected behaviors and intervention approaches;~~
 - ~~_____ (ii) accident prevention and safety procedures including instruction in body mechanics for any employees required to lift, turn, position, or ambulate [residents]a resident; and proper safety precautions when floors are wet or waxed;~~
 - ~~_____ (iii) confidentiality of resident information;~~
 - ~~_____ (iv) fire prevention;~~
 - ~~_____ (v) prevention and control of infections;~~
 - ~~_____ (vi) proper use and documentation of restraints;~~
 - ~~_____ (vii) resident rights;~~
 - ~~_____ (viii) a basic understanding of the various types of mental illness, including symptoms, expected behaviors and intervention approaches; and~~
 - ~~_____ (viii) review and drill of emergency procedures and evacuation plan; and~~
 - ~~_____ (ix) [confidentiality]the reporting of resident [information];~~
 - ~~_____ (j) ensure any person who provides nursing care, including nurse aides and orderlies, works under [abuse, neglect, or exploitation to the [supervision of an RN or LPN and shall demonstrate competency and dependability in resident care:]]proper authorities;~~
 - ~~_____ (k)a prohibit any person from working in the facility as a nurse aide for more than four months, on full-time, temporary, per diem, or other basis, unless that individual has successfully completed a [S]state Department of Education-approved training and testing program;~~
 - ~~_____ (l) verify through the nurse aid registry before offering employment, that nurse aide applicants do not have a verified report of abuse, neglect, or exploitation and if such a verified report exists, the licensee may not hire the applicant;~~
 - ~~_____ (m) _____ (o) require a person to complete a new training and competency evaluation program if an individual has not performed paid nursing or nursing related services for a continuous period of 24 consecutive months since the most recent completion of a training and competency evaluation program; and~~
 - ~~_____ (n) conduct regular performance reviews and regular in-service education to ensure that individuals used as nurse aides are competent to perform services as nurse aides; and~~
 - ~~_____ (o) ensure staff are available on each shift, who are CPR certified, trained in emergency procedures and basic first aid, including the Heimlich maneuver.~~
 - ~~_____ (p) verify through the nurse aid registry before offering employment that nurse aide applicants do not have a verified report of abuse, neglect, or exploitation, and if such a verified report exists, the licensee may not hire the applicant.~~
- ~~(7) The licensee may utilize volunteers in the daily activities of the licensee [provided that]if volunteers are not included in the licensee's staffing plan in lieu of facility employees [if]and the licensee ensures:

 - ~~(a) [volunteers are]each volunteer is supervised and familiar with resident[is] rights and the licensee's policies and procedures; and~~
 - ~~(b) [volunteers]each volunteer who provides personal care to [residents are]a resident is screened according to facility policy and under the direct supervision of a qualified employee.~~~~
- ~~(8) The licensee shall ensure an employee who reports suspected abuse, neglect, or exploitation is not subject to retaliation, disciplinary action, or termination by the licensee for making the report.~~

R432-150-[44]10. Quality Assurance.

- ~~(1) The administrator shall develop and follow a well-defined quality assurance plan designed to improve resident care that:

 - ~~_____ (a) includes a system for the collection of data indicators;~~
 - ~~_____ (b) includes an incident reporting system to identify problems, concerns, and opportunities for improvement of resident care;~~
 - ~~_____ (c) _____ (a) implements a system to assess identified problems, concerns, and opportunities for improvement;[and]~~
 - ~~_____ (d) implements actions that are designed to eliminate identified problems and improve resident care;~~
 - ~~_____ (e) includes a system for the collection of data indicators; and~~
 - ~~_____ (f) includes an incident reporting system in accordance with Rule R380-600 to identify problems, concerns, and opportunities for improvement of resident care.~~~~
- ~~(2) The licensee shall ensure the quality assurance plan includes a quality assurance committee that functions as follows:

 - ~~_____ (a) documents committee meeting minutes including any corrective actions and results;~~
 - ~~_____ (b) _____ (a) conducts quarterly meetings and reports findings, concerns and actions to the administrator and governing body;[and]~~~~

(~~e~~)b) coordinates input of data indicators from any provided services and other departments as determined by the resident's care plan [~~of care~~] and facility scope of services~~[-]; and~~

~~(c) documents committee meeting minutes including any corrective actions and results.~~

(3) The licensee shall ensure incident and accident reports:

(a) are available for [~~department~~]OL and quality assurance committee review;

(b) are numbered and logged in a manner to account for each filed report; and

(c) have space for written comments by the administrator or medical director.

(4) The licensee shall ensure infection reporting is integrated into the quality assurance plan and is reported to the department in accordance with Rule R386-702 [~~Communicable Disease Rule~~].

R432-150-~~12~~11. Resident Rights.

(1) The licensee shall establish written resident rights.

(2) The licensee shall post resident rights in areas accessible to [~~residents~~]a resident.

(3) The licensee shall ensure a copy of the resident rights document is available to [~~the residents, the~~];

~~(a) each resident;~~

~~(b) each residents' guardian[-] or responsible person[-]; and~~

~~(c) to the public and [~~the department~~]OL upon request.~~

(4) The licensee shall ensure that each resident admitted to the facility has the right to:

~~(a) allow relatives or responsible persons to visit a critically ill resident at any time;~~

~~(b) associate and communicate privately with persons of the resident's choice, and to send and receive personal mail unopened;~~

~~(c) be allowed privacy for visits with family, friends, clergy, social workers, or for professional or business purposes;~~

~~(d) be assured confidential treatment of personal and medical records, including photographs, and to approve or refuse their release to any individual outside the facility, except in the case of transfer to another health facility, or as required by law or third-party payment contract;~~

~~(e) be encouraged and assisted throughout the period of stay to exercise any rights as a resident and as a citizen;~~

~~(f) be free from abuse, neglect, and exploitation and from chemical and physical restraints;~~

~~(g) be given reasonable advance notice to ensure orderly transfer or discharge;~~

~~(h) be informed, at the time of admission and during the stay, of resident rights and of any rules [~~and regulations~~]or laws governing resident conduct;~~

~~(b)j) be informed, at the time of admission and during the stay, of services available in the facility and of related charges, including any charges for services not covered by the licensee's basic per diem rate or not covered under Titles XVIII or XIX of the Social Security Act;~~

~~(e)j) be informed by a licensed practitioner of current total health status, including current medical condition, unless medically contraindicated, the right to refuse treatment, and the right to formulate an advance directive in accordance with Section 75-2a-107;~~

~~(d)k) be transferred or discharged only for [~~medical reasons, for personal welfare or that of other residents, or for~~];~~

~~(i) nonpayment for the stay;~~

~~(ii) personal welfare or welfare of another resident; or~~

~~(iii) medical reasons;~~

~~(l) be treated with consideration, respect, and [~~to be given reasonable advance notice to ensure orderly transfer or discharge~~]full recognition of dignity and individuality, including privacy in treatment and in care for personal needs;~~

~~(e) be encouraged]m) choose activities, schedules, and [~~assisted throughout the period of stay~~]health care consistent with individual interests, assessments, and care plan;~~

~~(n) have access to [~~exercise any rights as a~~]the state long term care ombudsman program or representatives of the long term care ombudsman program;~~

~~(o) have confidential access to telephones for both free local calls and for accommodation of long-distance calls according to facility policy;~~

~~(p) have members of the clergy admitted at the request of the resident [~~and as a citizen, and to voice grievances~~]or responsible person at any time;~~

~~(q) if married, to be assured privacy for visits by the spouse and [~~recommend changes~~]if both are residents in [~~policies and services to~~]the facility [~~staff~~], to be permitted to share a room;~~

~~(r) interact with members of the community both inside and outside [~~representatives of~~]the facility;~~

~~(s) keep and use personal [~~choice, free from restraint, interference, coercion, discrimination, or reprisal~~]clothing and possessions as space permits, unless to do so would infringe upon rights of another resident;~~

~~(f) (t) make choices about any aspects of life in the facility that are significant to the resident;~~

~~(u) manage personal financial affairs or to be given at least a quarterly accounting of financial transactions made on their behalf should the licensee accept their written delegation of this responsibility;~~

~~(g) be free from mental and physical abuse, and from chemical and physical restraints;~~

~~(h) be assured confidential treatment of personal and medical records, including photographs, and to approve or refuse their release to any individual outside the facility, except in the case of transfer to another health facility, or as required by law or third-party payment contract;~~

~~(i) be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs;~~

~~(j) not be required to perform services for the facility that are not included for therapeutic purposes in the plan of care;~~

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- ~~_____ (k) associate and communicate privately with persons of the resident's choice, and to send and receive personal mail unopened;~~
 - ~~_____ (l) _____ (v) meet with social, religious, and community groups and participate in activities provided that the activities do not interfere with the rights of any other [residents in the facility];~~
 - ~~_____ (m) retain and use personal clothing and possessions as space permits, unless to do so would infringe upon rights of other residents;~~
 - ~~_____ (n) if married, to be assured privacy for visits by the spouse and if both are residents in the facility, to be permitted to share a room;~~
 - ~~_____ (o) have members of the clergy admitted at the request of the [resident [or responsible person at any time] in the facility;~~
 - ~~_____ (p) allow relatives or responsible persons to visit critically ill residents at any time;~~
 - ~~_____ (q) [w] not be [allowed privacy] required to perform services for [visits with family, friends, clergy, social workers, or] the facility that are not included for [professional or business] therapeutic purposes[;]~~
 - ~~_____ (r) have confidential access to telephones for both free local calls and for accommodation] in the care plan [of long distance calls according to facility policy;~~
 - ~~_____ (s) have access to the state long term care ombudsman program or representatives of the long term care ombudsman program[;] and~~
 - ~~[_____ (t) choose activities, schedules, and health care consistent with individual interests, assessments, and care plan;~~
 - ~~_____ (u) interact with members of the community both inside and outside the facility; and~~
 - ~~_____ (v) make choices about any aspects of life in the facility that are significant to the resident.~~
 - ~~_____ (x) voice grievances and recommend changes in policies and services to facility staff and outside representatives of personal choice, free from restraint, interference, coercion, discrimination, or reprisal.~~
- (5)(a) A resident has the right to organize and participate in resident and family groups in the facility.
- (b) A resident's family has the right to meet in the facility with the families of other residents in the facility.
- (c) The licensee shall provide a resident or family group, if one exists, with private space.
- (d) Staff or visitors may attend meetings at the group's invitation.
- (e) The licensee shall designate a staff person responsible for ~~[providing assistance]~~ assisting and responding to written requests that result from group meetings.
- (f) If a resident or family group exists, the licensee shall listen to the views and act upon the grievances and recommendations of ~~[residents and families]~~ the resident or family group concerning proposed policy and operational decisions affecting resident care and life in the facility.
- (6) The licensee shall:
- (a) accommodate resident needs and preferences, except when the health and safety of the individual or ~~[other residents]~~ another resident may be endangered;
 - (b) ensure a resident is given at least a 24-hour notice before an involuntary room move is made in the facility;
 - (c) ensure that in an emergency when there is actual or threatened harm to others, property, or self, the ~~[24hour]~~ 24-hour notice requirement for an involuntary room move may be waived ~~[and]~~ if the circumstances requiring the emergency room change are documented for ~~[department]~~ OL review; and
 - (d) make and document efforts to accommodate the resident's adjustment and choices regarding room and roommate changes.
- (7) If a licensee is entrusted with ~~[residents']~~ a residents funds or valuables, the licensee or staff may not use resident funds or valuables or mingle them with their own and shall ~~[-comply with the following]:~~
- (a) deposit any money over \$100 in an interest-bearing account;
 - (b) deposit each resident's funds not kept in the facility within five days of receipt of the funds in an interest-bearing, insured account in a local bank or savings and loan association authorized to do business in Utah;
 - (c) ensure [residents'] each resident's account is kept current with columns for debits, credits, and balance;
 - (d) ensure each residents funds and valuables are separate, intact, and free from any liability that the licensee incurs in the use of their own or the institution's funds and valuables;
 - ~~[(b) maintain adequate safeguards]~~ (e) ensure records of each resident's funds and [accurate records of residents' monies and] other valuables entrusted to the [licensee's care] licensee for safekeeping include a copy of the receipt furnished to the resident or to the person responsible for the resident;
 - ~~[(e)]~~ (f) ensure records of [residents'] each resident's funds that are maintained as a drawing account include a control account for any receipts and expenditures, an account for each resident, and supporting vouchers filed in chronological order;
 - ~~_____ (d) ensure each account is kept current with columns for debits, credits, and balance;~~
 - ~~_____ (e) ensure records of residents' funds and other valuables entrusted to the licensee for safekeeping include a copy of the receipt furnished to the resident or to the person responsible for the resident;~~
 - ~~_____ (f) deposit residents' funds not kept in the facility within five days of receipt of such funds in an interest-bearing, insured account in a local bank or savings and loan association authorized to do business in Utah;~~
 - ~~_____ (g) [a person, firm, partnership, association, or corporation that] maintain a separate account for each facility, when a licensee is licensed to operate more than one health facility[- maintains a separate account for each facility], and may not commingle resident funds from one facility with another;~~
 - ~~_____ (h) deposit any money over \$100 in an interest bearing account;~~
 - ~~_____ (h) maintain adequate safeguards and accurate records of each resident's monies and valuables entrusted to the licensee's care;~~
 - (i) provide evidence of the purchase of a surety bond or other equivalent assurance to secure any resident funds, upon license renewal;
 - ~~_____ (j) surrender upon discharge any resident money and valuables that have been entrusted to the licensee in exchange for a signed receipt; and~~
 - ~~_____ (k) _____ (j) surrender any money and valuables kept within the facility upon demand and make available any money kept in an interest-bearing account within three working days[-]; and~~

_____ (k) surrender upon discharge any resident money and valuables that have been entrusted to the licensee in exchange for a signed receipt.

(8)(a) Within 30 days following the death of a resident, except in a case under investigation by the medical examiner, the licensee shall surrender any money and valuables of the resident that have been entrusted to the licensee to the person responsible for the resident or to the executor or the administrator of the estate in exchange for a signed receipt.

_____ (b) If a resident dies without a representative or known heirs, the licensee shall immediately notify the local probate court and [the department]OL in writing.

R432-150-~~13~~12. Resident Assessment.

(1) The licensee shall, upon resident admission, obtain physician orders for the resident's immediate care.

(2) The licensee shall:

(a) complete a comprehensive assessment of each resident's needs including a description of the resident's capability to perform daily life functions and significant impairments in functional capacity that includes~~[the following]~~:

_____ (i) activities potential;

_____ (ii) cognitive status;

_____ (iii) dental condition;

_____ (iv) discharge potential;

_____ (v) drug therapy;

_____ (vi) medical status measurement;

_____ (vii) medically defined conditions and prior medical history;

~~_____ (ii) medical status measurement;~~

~~_____ (iii) physical and mental functional status;~~

~~_____ (iv) sensory and physical impairments;~~

~~_____ (v) nutritional status and requirements;~~

~~_____ (vi) special treatments or procedures;~~

~~_____ (vii) mental and psychosocial status;~~

~~_____ (viii) discharge potential;~~

_____ (ix) [dental condition]nutritional status and requirements;

_____ (x) [activities potential]physical and mental functional status;

_____ (xi) rehabilitation potential;

_____ (xii) [cognitive status;]sensory and physical impairments; and

_____ (xiii) [drug therapy]special treatments or procedures;

~~_____ (b) ensure the initial assessment is completed within 14 calendar days of admission and any revisions to the initial assessment within 21 calendar days of admission;~~

_____ (b) complete three quarterly reviews and one full assessment in each 12-month period;

(c) ensure that ~~[an interdisciplinary team review]~~a resident care conference is conducted when there is any significant change in a resident's physical or mental health and the team may require a new assessment within 14 days of the condition change;

~~_____ (d) complete three quarterly reviews and one full assessment in each 12-month period; and~~

_____ (d) ensure the initial assessment is completed within 14 calendar days of admission and any revisions to the initial assessment are completed within 21 calendar days of admission; and

(e) use the results of the assessment to develop, review, and revise the resident's comprehensive care plan.

(3) The licensee shall ensure each individual who completes a portion of the assessment signs and certifies the accuracy of that portion of the assessment.

(4) The licensee shall develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing, and mental and psychosocial needs as identified in the comprehensive assessment.

(5) The licensee shall ensure the comprehensive care plan is:

(a) developed within seven days after completion of the comprehensive assessment;

_____ (b) periodically reviewed and revised by a team of qualified individuals at least after each assessment and as the resident's condition changes; and

_____ (c) prepared with input from the client, the resident's responsible person to the extent practicable, and a resident care conference[an interdisciplinary team] that includes;

_____ (i) the attending physician[;];

_____ (ii) the registered nurse [having responsibility]responsible for the resident[;]; and

_____ (iii) other appropriate staff in disciplines determined by the resident's needs[; and with the participation of the resident, and the resident's family or guardian, to the extent practicable; and].

~~_____ (e) periodically reviewed and revised by a team of qualified persons at least after each assessment and as the resident's condition changes.~~

(6) The licensee shall ensure the services provided or arranged meet professional standards of quality and be provided by qualified persons in accordance with the resident's written care plan.

(7)(a) The licensee shall ensure a final summary of the resident's status, to include items in Subsection R432-150-13(2)(a), is prepared at the time of discharge and is available for release to authorized persons and agencies, with the consent of the resident or ~~[representative]~~responsible person.

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(b) The licensee shall ensure the final summary includes a post-discharge care plan developed with the participation of the resident and resident's family or guardian.

(c) If the licensee discharges a resident because they cannot meet the resident's needs, the licensee shall include a detailed explanation of why the resident's needs could not be met in the final summary.

R432-150-[14]13. Restraint Policy.

(1) Each resident has the right to be free from physical and chemical restraints imposed for purposes of discipline or convenience, or not required to treat the resident's medical symptoms.

(2)(a) The licensee shall have written policies and procedures regarding the proper use of restraints.

(b) The licensee shall ensure physical and chemical restraints are only used to assist ~~[residents]~~ a resident to attain and maintain optimum levels of physical and emotional functioning.

(c) The licensee shall ensure physical and chemical restraints are not used as substitutes for direct resident care, activities, or other services.

(d) The licensee shall ensure restraints do not ~~[unduly]~~ hinder evacuation of the resident in the event of fire or other emergency.

(e) If use of a physical or a chemical restraint is implemented, the licensee shall ensure the resident ~~[, next of kin, and the legally designated representative is]~~ and responsible person are informed of the reasons for the restraint, the circumstances that allow the restraint to be discontinued, and the hazards of the restraint, including potential physical side effects.

(3) The licensee shall develop and implement policies and procedures that govern the use of physical and chemical restraints ~~[. The licensee shall ensure these policies]~~, promote optimal resident function ~~[in a safe, therapeutic manner and]~~, minimize adverse consequences of restraint use and incorporate and address ~~[the following]~~:

(a) examples of the types of restraints and safety devices that are acceptable for the specified use and possible resident conditions when the restraint may be used;

(b) govern the use of physical and chemical restraints;

(c) incorporate and address:

(i) resident assessment criteria that includes:

(i) ~~[i]~~ appropriateness of use;

~~[(ii) procedures for use;~~

~~[(iii) purpose and nature of the restraint;~~

~~[(iv) less restrictive alternatives before the use of more restrictive measures; and~~

~~[(v) (B) behavior management and modification protocols including possible alterations to the physical environment;~~

~~[(b) examples of the types of restraints and safety devices that are acceptable for -] (C) less restrictive alternatives before the use [indicated] of more restrictive measures;~~

(D) procedures for use; and

(E) purpose and [possible resident conditions when] nature of the restraint [may be used; and];

~~[(e) (d) minimize adverse consequences of restraint use;~~

(e) physical restraint guidelines for periodic release and position change or exercise, with instructions for documentation of this action[-]; and

(f) safely and therapeutically promote optimal resident function.

(4) The licensee shall ensure emergency use of physical and chemical restraints comply with ~~[the following]~~:

(a) a physician, a licensed health practitioner, the director of nursing, or the health services supervisor authorizes the emergency use of restraints;

(b) the attending physician is notified as soon as possible, but at least within 24 hours of the application of the restraints;

~~[(e) (c) the circumstances necessitating emergency use of the restraint and the client's response is documented in the resident's record; and~~

(d) the director of nursing or health services supervisor is notified no later than the beginning of the next day shift of the application of the restraints[- and].

~~[(d) the resident's record the circumstances necessitating emergency use of the restraint is documented and the resident's response.~~

(5) The licensee shall ensure:

~~[(a) (a) any medication given to a resident is administered according to the requirements of professional and ethical practice and according to the policies and procedures of the facility;~~

(b) chemical restraints are authorized in writing by a licensed practitioner and incorporated in the resident's care plan in conjunction with an individualized behavior management program;

(c) each resident receiving chemical restraints is monitored for adverse effects that significantly hinder verbal, emotional, or physical abilities;

(d) leather restraints, straight jackets, or locked restraints are prohibited;

(e) physical restraints are authorized in writing by a licensed practitioner and incorporated in the resident's [plan of] care plan;

~~[(b) (f) staff application of physical restraints do not cause injury or allow a potential for injury;~~

(g) staff application of physical restraints ensures minimal discomfort to the resident and allow sufficient body movement for proper circulation;

(h) the resident care conference team reviews and documents the use of chemical restraints during each resident care conference and upon receipt of renewal orders from the licensed practitioner;

- ~~_____ (i) the [interdisciplinary]resident care conference team reviews and documents the use of physical restraints, including simple safety devices, during each resident care conference, and upon receipt of renewal orders from the licensed practitioner; and~~
- ~~(e) the resident's care plan [indicates]includes:~~
 - ~~(i) the [type]frequency of [physical restraint or safety device,]release;~~
 - ~~(ii) the length of time to be used[, the frequency of release, and];~~
 - ~~(iii) the type of exercise or ambulation [to be]provided; and~~
- ~~_____ (d) staff application of physical restraints ensures minimal discomfort to the resident and allow sufficient body movement for proper circulation;~~
- ~~_____ (e) staff application of physical restraints do not cause injury or allow a potential for injury;~~
- ~~_____ (f) leather restraints, straight jackets, or locked restraints are prohibited;~~
- ~~_____ (g) chemical restraints are authorized in writing by a licensed practitioner and incorporated into the resident's plan of care in conjunction with an individualized behavior management program;~~
- ~~_____ (h) the interdisciplinary team reviews and documents the use of chemical restraints during each resident care conference and upon receipt of renewal orders from the licensed practitioner;~~
- ~~_____ (i) each resident receiving chemical restraints is monitored for adverse effects that significantly hinder verbal, emotional, or physical abilities; and~~
- ~~_____ (j) any medication given to a resident is administered according to the requirements of professional and ethical practice and according to the policies and procedures of the facility.~~
- ~~_____ (iv) the type of physical restraint or safety device.~~
- (6) The licensee shall initiate gradual drug dosage reductions as outlined in Subsection R432-150-15(13)(c).
- (7) The licensee shall include criteria for admission and retention of ~~[residents]~~a resident who requires behavior management program in the facility policy.

R432-150-[15]14. Quality of Care.

- (1)(a) The licensee shall ensure each resident is provided the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and care plan.
 - (b) Necessary care and services under Subsection (1)(a) include the resident's ability to:
 - (i) bathe, dress, and groom;
 - (ii) eat;
 - ~~_____ (iii) transfer and ambulate;~~
 - ~~_____ (iii) use the toilet;~~
 - ~~_____ (iv) [eat; and~~
 - ~~_____ (v) use speech, language, or other functional communication systems[-]; and~~
 - ~~_____ (v) use the toilet.~~
 - (c) Based on the resident's comprehensive assessment, the licensee shall ensure that:
 - ~~_____ (i) a resident who cannot carry out these functions receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene;~~
 - ~~_____ (ii) each resident is given the treatment and services to maintain or improve their abilities; and~~
 - ~~_____ (iii) each resident's abilities in activities of daily living do not diminish unless circumstances of the individual's clinical condition demonstrates that diminution was unavoidable[-];~~
 - ~~_____ (ii) each resident is given the treatment and services to maintain or improve their abilities; and~~
 - ~~_____ (iii) a resident who cannot carry out these functions receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene.~~
- (2) The licensee shall assist ~~[residents]~~each resident in scheduling appointments and arranging transportation for vision, dental, and hearing care as needed.
- (3) The licensee's comprehensive assessment of a resident shall include an assessment of pressure sores. The licensee shall additionally ensure:
 - ~~_____ (a) a resident having pressure sores receives the necessary treatment and services to promote healing, prevent infection, and prevent new sores from developing; and~~
 - ~~_____ (b) a resident who enters the facility without pressure sores does not develop pressure sores unless the individual's clinical condition demonstrates that they were unavoidable[-; and].~~
 - ~~_____ (b) a resident having pressure sores receives the necessary treatment and services to promote healing, prevent infection, and prevent new sores from developing.~~
- (4)(a) The licensee's comprehensive assessment of the resident shall include an assessment of incontinence.~~[The licensee shall additionally ensure that:]~~
 - ~~_____ (a) a resident who is incontinent of bowel or bladder receives the treatment and services to restore as much normal functioning as possible;~~
 - ~~_____ (b)~~ (b) The licensee shall additionally ensure that:
 - ~~_____ (i) a licensed nurse completes a written assessment to determine the resident's ability to participate in a bowel and bladder management program;~~
 - ~~_____ (ii) a resident who enters the facility without an indwelling catheter is not catheterized unless the resident's clinical condition demonstrates that catheterization is necessary;~~

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(~~e~~)iii) a resident who is incontinent of bladder receives appropriate treatment and services to prevent urinary tract infections; and
(~~d~~)iv) a ~~licensed nurse completes a written assessment to determine the resident's ability to participate in a~~resident who is incontinent of bowel [and] or bladder [management program] receives the treatment and services to restore as much normal functioning as possible.

(5) The licensee shall assess each resident to ensure that:

(a) a resident who enters the facility without a limited range of motion does not experience reduction in range of motion unless the resident's clinical condition demonstrates that a reduction in range of motion is unavoidable; and

(b) a resident with a limited range of motion receives treatment and services to increase range of motion or to prevent further decrease in range of motion.

(6) The licensee shall ensure that the psychosocial function of the resident remains at or above the level at the time of admission, unless the individual's clinical condition demonstrates that a reduction in psychosocial function was unavoidable and psychosocial practices adhere to ~~the following~~:

(a) a resident who displays psychosocial adjustment difficulty receives treatment and services to achieve as much re-motivation and reorientation as possible; and

(b) a resident whose assessment does not reveal a psychosocial adjustment difficulty does not display a pattern of decreased social interaction, increased withdrawn anger, or depressive behaviors, unless the resident's clinical condition demonstrates that such a pattern is unavoidable.

(7) The licensee shall assess alternative feeding methods to ensure that:

(a) a resident who has been able to eat enough alone or with assistance is not fed by naso-gastric tube unless the resident's clinical condition demonstrates that use of a naso-gastric tube is unavoidable; and

(b) a resident who is fed by a naso-gastric or gastrostomy tube receives the treatment and services to prevent aspiration pneumonia, diarrhea, vomiting, dehydration, metabolic abnormalities, and nasal-pharyngeal ulcers and to restore, if possible, normal feeding function.

(8) The licensee shall maintain the resident's environment and is free of accident hazards.

(9) The licensee shall provide each resident with supervision and assistive devices to prevent accidents.

(10) The licensee shall ensure that each resident's comprehensive assessment includes an assessment of nutritional status and nutritional practices to ensure that each resident:

(a) maintains acceptable nutritional status parameters, including body weight and protein levels, unless the resident's clinical condition demonstrates that this is not possible; and

(b) receives a therapeutic diet when there is a nutritional problem.

(11) The licensee shall provide each resident with sufficient fluid intake to maintain proper hydration and health.

(12) The licensee shall ensure that ~~residents receive~~each resident receives proper treatment and care for the following special services:

(a) ~~injections;~~

~~(b) parenteral and enteral fluids;~~

~~(c) colostomy, ureterostomy, or ileostomy care;~~

~~(d) tracheostomy;~~ b) foot care;

~~(c) injections;~~

~~(d) parenteral and enteral fluids;~~

~~(e) tracheal suctioning;~~ prostheses care;

(f) respiratory care;

(g) ~~foot care;~~ tracheal suctioning; and

(h) ~~prostheses;~~ tracheostomy care.

(13) The licensee shall ensure:

(a) ~~each resident's drug regimen is free from unnecessary drugs;~~

~~(b) residents~~ a resident who ha[ve]s not used antipsychotic drugs ~~[are]~~ is not given these drugs unless antipsychotic drug therapy is necessary to treat a specific condition as diagnosed and documented in the clinical record; ~~and~~

~~(e) residents~~ b) a resident who use[s] antipsychotic drugs ~~[receive]~~ receives a gradual dose reduction[s] and behavioral ~~[interventions]~~ intervention to discontinue the drugs, unless clinically contraindicated ~~[in an effort to discontinue these]; and~~

~~(c) each resident's drug regimen is free from unnecessary drugs.~~

(14) The licensee shall ensure the quality assurance committee monitors medication errors to ensure that:

(a) the licensee does not have medication error rates of 5% or greater; and

(b) ~~residents are~~ each resident is free of any significant medication errors.

R432-150-~~14~~15. Physician Services.

(1)(a) The licensee shall ensure a physician approves, in writing, a recommendation that an individual be admitted to the nursing care facility.

(b) Each resident shall remain under the care of a physician licensed in Utah to deliver the scope of services required by the resident.

(c) Nurse practitioners or physician assistants, working under the direction of a licensed physician may initiate admission to a nursing care facility pending personal review by the physician.

(2) The licensee shall provide supervision to ensure that the medical care of each resident is supervised by a physician. When a resident's attending physician is unavailable, another qualified physician shall supervise the medical care of the resident.

(3) The physician that supervises the resident's care shall:

- (a) review the resident's total program of care, including medications and treatments, at each visit;
- (b) ~~write, sign, and date progress notes at~~ each ~~visit~~ order;
- (c) ~~indicate~~ state, in writing, direction and supervision of health care provided to ~~residents~~ the resident by a nurse practitioner[s] or physician assistant[s]; and
- (d) write, sign, and date progress notes at each ~~order~~ visit.
- (4) The licensee shall ensure that physician visits comply with the following:
 - ~~_____~~ (a) ~~the physician notifies the facility of the name of the nurse practitioner or physician assistant who is providing care to the resident at the facility;~~
 - ~~_____~~ (b) (a) a physician sees each resident at least once every 30 days for the first 90 days after admission, and at least every 60 days thereafter;
 - ~~_____~~ (c) ~~physician visits are completed within ten days of the date the visit is required;~~
 - ~~_____~~ (d) ~~except as permitted in Subsection R432-150-16(4)(e), the physician makes each required visit; and~~
 - ~~_____~~ (e) (b) at the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner[-];
 - ~~_____~~ (c) ~~except as permitted in Subsection R432-150-16(4)(e), the physician makes each required visit; and~~
 - ~~_____~~ (d) physician visits are completed within ten days of the date the visit is required.
 - (5) The licensee shall provide or arrange for physician services 24 hours a day ~~in case of~~ if there is an emergency.

R432-150-~~17~~16. Laboratory Services.

- (1) The licensee shall provide laboratory services in accordance with the size and needs of the facility.
- (2) The licensee shall comply with and maintain the Clinical Laboratory Improvement Amendments of 1988 (CLIA) inspection reports for ~~department~~ OL review.

R432-150-~~18~~17. Pharmacy Services.

- (1) The licensee shall provide, or obtain by contract, routine and emergency drugs, biologicals, and pharmaceutical services to meet each resident's physician's orders for medications.
- (2) The licensee shall employ or obtain the services of a licensed pharmacist who:
 - ~~_____~~ (a) ~~provides consultation on the pharmacy services in the facility;~~
 - ~~_____~~ (a) determines that drug records are in order and that an account of controlled substances is maintained and reconciled monthly;
 - (b) establishes a system of records of receipt and disposition of any controlled substances that documents an accurate reconciliation; and
 - ~~_____~~ (c) ~~determines that drug records are in order and that an account of controlled substances is maintained and reconciled monthly.~~
 - ~~_____~~ (c) provides consultation on the pharmacy services in the facility.
- (3)(a) A licensed pharmacist shall review the drug regimen of each resident at least monthly.
- (b) The pharmacist shall provide reports of any drug regimen irregularities to the attending physician and the director of nursing or health services supervisors.
- (c) The physician and director of nursing or health services supervisor shall ~~indicate~~ document acceptance or rejection of the pharmacist's irregularity report and document any action taken.
- (4) Pharmacy personnel shall ensure that labels on drugs and biologicals are in accordance with currently accepted professional principles, and include the appropriate accessory and cautionary instructions, and the expiration date.
- (5)(a) The licensee shall store any drugs and biologicals in locked compartments under proper temperature controls in accordance with Subsections R432-150-18(5)(c)(iii) and (iv), and permit only authorized personnel to have access to the keys.
- (b) The licensee shall provide separately locked, permanently affixed compartments for storage of controlled substances and other drugs subject to abuse, except when the licensee uses single unit dose package drug distribution systems where the quantity stored is minimal and a missing dose can be readily detected.
- (c) The licensee may not store non-medication materials that are poisonous or caustic with medications.
- (d) The licensee shall ensure:
 - (i) containers are clearly labeled;
 - (ii) medication intended for internal use is stored separately from medication intended for external use;
 - (iii) medications stored at room temperature are maintained within 59 and 80 degrees F; and
 - (iv) refrigerated medications are maintained within 36 and 46 degrees F.
- (6) The licensee shall maintain an emergency drug supply and ensure emergency drug practices adhere to the following:
 - ~~_____~~ (a) ~~emergency drug containers are sealed to prevent unauthorized use;~~
 - ~~_____~~ (b) (a) contents of the emergency drug supply are listed on the outside of the container and the use of contents is documented by the nursing staff;
 - ~~_____~~ (b) emergency drug containers are sealed to prevent unauthorized use;
 - (c) the emergency drug supply is stored and located for access by the nursing staff;
 - (d) the pharmacist inventories the emergency drug supply monthly; and
 - (e) used or outdated items are replaced within 72 hours by the pharmacist.
- (7) The licensee shall ensure that the pharmacy dispenses drugs and biologicals on a timely basis.
- (8) The licensee shall limit the duration of a drug order in the absence of the prescriber's specific instructions.

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(9) The licensee shall ensure drug references are available for any drugs used in the facility and references include generic and brand names, available strength and dosage forms, indications and side effects, and other pharmacological data.

(10) The licensee may send drugs with the resident upon discharge, if ordered by the discharging physician provided that a record of the drugs sent with the resident is documented in the resident's health record.

(11) The licensee shall ensure disposal of controlled substances are in accordance with Title 58, Chapter 17b, [the] Pharmacy Practice Act.

R432-150-[19]18. Recreation Therapy.

(1) The licensee shall provide an ongoing program of individual and group activities and therapeutic interventions designed to meet the interests, and attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident in accordance with the comprehensive assessment.

(2) Additionally, the licensee shall ensure:

(a) recreation therapy is provided in accordance with Title 58, Chapter 40, Recreational Therapy Practice Act; and

(b) the recreation therapy staff develops and conspicuously posts monthly resident activity calendars for ~~[residents]~~ each resident, staff, and visitor[s] to reference.

(3) Each licensee shall ensure sufficient space and a variety of supplies and resource equipment are provided to meet the recreational needs and interests of ~~[the residents are provided.]~~ each resident.

(4) The licensee shall ensure storage is provided for recreational equipment and supplies.

(5) The licensee shall ensure locked storage is provided for potentially dangerous items including scissors, knives, and toxic materials.

R432-150-[20]19. Pet Policy.

(1) The licensee shall develop a written policy regarding pets in accordance with local ordinances.

(2) The licensee shall ensure that the administrator or designee determines which pets may be brought into the facility and ensures that pet policy and practices adhere to the following:

(a) family members may bring pets to visit provided they have approval from the administrator and offer assurance that the pets are clean, disease free, and vaccinated;

(b) pets are not permitted in ~~[food preparation or storage areas]~~ any area where their presence would create a health or safety risk; and

(c) pets are not permitted in ~~[any area where their presence would create a health]~~ food preparation or [safety risk]storage areas.

R432-150-[21]20. Admission, Transfer, and Discharge.

(1) Each licensee shall develop written admission, transfer, and discharge policies and make these policies available to the public upon request.

(2) The licensee shall permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:

(a) the ~~[transfer]health or [discharge is necessary for the resident's welfare and the resident's needs cannot be met]~~ safety of an individual in the facility is endangered;

~~_____ [_____ (b) _____ (b) the licensee ceases to operate the facility;~~

~~_____ (c) the resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility;~~

~~_____ (d) the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility; or~~

~~_____ [_____ (e) the health or safety of an individual in the facility is endangered;~~

~~_____ (d) the resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility; or~~

~~_____ (e) the licensee ceases to operate the facility.~~

~~_____ (3) _____ (e) the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility.~~

~~_____ (3) The licensee may not deny an individual admission to a secure memory care unit for the sole reason that the individual or the individual's legal representative requests to install or operate a monitoring device in the individual's room in accordance with Section 26B-2-236.~~

~~_____ (4) The licensee may not discharge an individual for the sole reason that the resident or the resident's legal representative requests to install or operate a monitoring device in the individual's secure memory care unit room in accordance with Section 26B-2-236.~~

~~_____ (5)(a) The licensee shall ensure resident transfers or discharges are documented under any of the circumstances specified in Subsection R432-150-22(1), in the resident's medical record. [The licensee shall ensure the transfer or discharge documentation is made by:]~~

~~_____ (a) _____ (b) The licensee shall ensure the transfer or discharge documentation is made by:~~

~~_____ (i) a physician if transfer or discharge is necessary under Subsection R432-150-22(1)(c); or~~

~~_____ (ii) the resident's physician if transfer or discharge is necessary under Subsections R432-150-22(1)(a) and (b); or]~~

~~_____ (b) a physician if transfer or discharge is necessary under Subsection R432-150-22(1)(c).~~

~~_____ (4)(6) Before the transfer or discharge of a resident, the licensee [shall] must ensure:~~

(a) a written notification of the transfer or discharge and the reasons for the transfer or discharge to the resident is provided in a language and manner the resident understands, and, if known, to a family member or legal representative of the resident;

(b) the ~~[reasons are recorded in the resident's clinical record; and~~

~~_____ (c) the [notice includes [the following]:~~

(i) the ~~[reason for transfer or discharge;~~

~~_____ (ii) the [effective date of transfer or discharge;~~

(ii~~(i)~~) the location where the resident is transferred or discharged;~~and~~
~~(i~~v~~)~~(iii) the name, address, and telephone number of the state and local long term care ombudsman programs~~[-]; and~~
~~(5)~~ (iv) the reason for transfer or discharge; and
 (c) the reasons are recorded in the resident's clinical record.
 (7)(a) Except when specified in Subsection R432-150-21(6)(a), the licensee ~~[shall]~~must ensure the notice of transfer or discharge required under Subsection R432-150-(21)(4), is made by the licensee at least 30 days before the resident is transferred or discharged.
 (b) The licensee may issue the notice of transfer or discharge as soon as practicable before transfer or discharge if:
~~(i)~~ (i) a resident has not resided in the facility for 30 days;
~~(ii)~~ (ii) an immediate transfer or discharge is required by the resident's urgent medical needs;
~~(iii)~~ (iii) the resident's health improves sufficiently to allow a more immediate transfer or discharge; and
~~(iv)~~ (iv) the safety or health of individuals in the facility would be endangered if the resident is not transferred or discharged sooner~~[-]~~.
~~(ii)~~ (ii) the resident's health improves sufficiently to allow a more immediate transfer or discharge;
~~(iii)~~ (iii) an immediate transfer or discharge is required by the resident's urgent medical needs; or
~~(iv)~~ (iv) a resident has not resided in the facility for 30 days.
] (c) The licensee shall ensure that the notice for ~~[nursing facility residents]~~a resident with developmental disabilities contains the mailing address and telephone number of the Disability Law Center that is responsible for the protection and advocacy of developmentally disabled individuals~~[- and]~~.
 (d) The licensee shall ensure that the notice for ~~[nursing facility residents]~~a resident who ~~[are]~~is mentally ill contains the mailing address and telephone number of the Disability Law Center who is responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.
 (6~~8~~) The licensee shall provide discharge planning to prepare and orient a resident to ensure safe and orderly transfer or discharge from the facility.
 (7~~9~~) Before a licensee transfers a resident to a hospital or allows a resident to go on therapeutic leave, the licensee ~~[shall]~~must ensure:
 (a) a written ~~[notification and information is provided to the resident and a family member or legal representative that specifies:~~
~~(i) the policies regarding bed hold periods permitting]~~policy is established and followed for when a resident ~~[to return; and~~
~~(ii) the duration of the bed hold policy, if any, and the resident is permitted to return and resume residence in the]~~whose hospitalization or therapeutic leave exceeds the bed-hold period may be readmitted to the facility;
~~(b)~~ (b) notification is provided as soon as possible following a transfer necessitated by a medical emergency;
 (c) written notice is provided to the resident and a family member or ~~[legal representative]~~responsible person, that specifies the duration of the bed-hold policy at the time of transfer of a resident to a hospital or for therapeutic leave; and
 (e~~-~~)~~d~~ written notification and information is provided ~~[as soon as possible following a transfer necessitated by a medical emergency;~~
 and
~~(d) a written policy is established and followed for when a]~~to the resident ~~[whose hospitalization]~~and a family member or ~~[therapeutic leave exceeds the bed hold period may be readmitted to the facility.]~~legal representative that specifies:
~~(8)~~ (i) the duration of the bed-hold policy, if any, and the resident is permitted to return and resume residence in the facility;
 and
 (ii) the policies regarding bed-hold periods permitting a resident to return.
 (10) The licensee shall establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services for each individual regardless of pay source.
 (9~~11~~) The licensee shall have a written transfer agreement in effect with one or more hospitals to ensure that:
~~(a) residents are]~~ (a) medical and other information needed for care and treatment of the resident is exchanged between facilities including documentation of reasons for a less expensive setting;
 (b) security and accountability of personal property of the individual transferred is maintained; and
 (c) the resident is transferred from the facility to the hospital and ensured of timely admission to the hospital when transfer is medically necessary as determined by the attending physician~~[-]~~.
~~(b) medical and other information needed for care and treatment of residents is exchanged between facilities including documentation of reasons for a less expensive setting; and~~
 (e) security and accountability of personal property of the individual transferred is maintained.
]

R432-150-~~22~~21. Ancillary Health Services.

(1) A licensee that provides its own radiology services shall comply with Section R432-100-23.
 (2) A licensee may provide specialized rehabilitative services directly or through agreements with outside agencies or qualified therapists.
 (3) A licensee that directly provides specialized rehabilitative services shall ensure:
 (a) ~~[there is space and equipment provided to meet]~~an attending physician initiates the ~~[prescribed needs]~~care plan of ~~[the residents]~~treatment;
 (b) delivery of any specialized rehabilitative services are ~~[only provided by therapists licensed]~~documented in ~~[Utah]~~the resident record;
~~(c) each therapy assistant works under the direct supervision of the licensed therapist at all times;~~
~~(d)~~ (c) each speech pathologist has a certificate of clinical compliance issued by the American Speech and Hearing Association;
 (d) each therapy assistant always works under the direct supervision of the licensed therapist;

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(e) specialized rehabilitative services are only provided by therapists licensed in Utah;

~~(f) specialized rehabilitative services are only provided upon order of the attending physician;~~

~~(f) an attending~~ (g) the physician ~~[initiates]~~ and therapist review the care plan ~~[of treatment]~~ at least monthly unless the physician recommends an alternate schedule in writing;

~~(g)~~ (h) the therapist, in consultation with the nursing staff develops and implements the care plan ~~[of treatment]~~ and provides an initial progress report to the attending physician within two weeks of the start of treatment, or as specified by the attending physician; and

~~(h)~~ (i) there is space and equipment provided to meet the ~~[physician and therapist review the plan]~~ prescribed needs of ~~[treatment at least monthly unless the physician recommends an alternate schedule in writing; and~~

~~(g) delivery of any specialized rehabilitative services are documented in~~ the resident ~~[record].~~

(4) The licensee shall provide or arrange for regular and emergency dental care for ~~[residents. Dental]~~ each resident through dental care practices that include:

~~(a)~~ (a) arrangement for transportation to and from the dentist's office;

(b) development of oral hygiene policies and procedures with input from dentists;

~~(b) presentation of oral hygiene in-service programs to staff by knowledgeable persons;~~

(c) development of referral service for any resident who does not have a personal dentist; and

~~(d) arrangement for transportation to and from the dentist's office.~~

~~(d) presentation of oral hygiene in-service programs to staff by knowledgeable persons.~~

(5)(a) The licensee shall ensure that medical social services are sufficient to meet the needs of the resident[s] and provided or arranged by the nursing care facility.

(b) The licensee shall ensure that social services are under the direction of a therapist licensed in accordance with Title 58 Chapter 60~~[of the]~~, Mental Health Professional Practice Act.

R432-150-~~23~~22. Food Services.

(1) The licensee shall provide each resident with a safe, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

(2) The licensee shall employ ~~[there]~~ enough staff to assist residents to meet their dietary needs~~[of the residents].~~

(3) For food services and practices, the licensee shall ensure:

(a) there is a dietitian employed either full-time, part-time, or on a consultant basis to perform the duties outlined in this section;

(b) the dietitian is certified in accordance with Title 58, Chapter 49, Dietitian Certification Act;

(c) if a dietitian is not employed full-time, the administrator designates a full-time person to serve as the dietetic supervisor;

(d) if the dietetic supervisor is not a certified dietitian, the ~~[licensee]~~ dietetic supervisor consults a certified dietitian at least monthly, according to the needs of ~~[the residents]~~ each resident and documents the consultations; and

(e) the dietetic supervisor is available when the consulting dietitian visits the facility.

(4) The licensee shall develop menus that meet the nutritional needs of ~~[residents]~~ each resident to the extent medically possible and ensure the menus are:

(a) ~~[prepared in advance]~~ approved and signed by a certified dietitian;

(b) ~~[followed]~~ cycled no less that every three weeks;

(c) different each day;

(d) followed;

(e) posted ~~[for]~~ each day of the week; and

~~(e) approved and signed by a certified dietitian; and~~

~~(f) [cycled no less than every three weeks]~~ prepared in advance.

(5) The licensee shall ~~[retain]~~ keep documentation for at least three months for any served substitutions to the menu.

(6) The licensee shall ensure any food sanitation inspection reports of state or local health department inspections are available for ~~[department]~~ OL review.

(7) The licensee shall ensure the attending physician or qualified registered dietitian in consultation with the physician, orders each therapeutic diet in writing, if allowed by facility policy.

(8) The licensee shall ensure there is no more than a 14-hour interval between the evening meal and breakfast, unless a substantial snack is served in the evening.

(9) The licensee shall provide special eating equipment and assistive devices for ~~[residents]~~ each resident who needs them.

(10) The licensee shall ensure the facility's food service complies with Rule R392-100.

(11) The licensee shall ensure a one-week supply of nonperishable staple foods and a three-day supply of perishable foods are maintained to complete the established menu for three meals ~~[per]~~ a day, per resident.

(12) A nursing care licensee may use trained dining assistants to aid ~~[residents]~~ a resident in eating and drinking if:

(a) a licensed practical nurse-geriatric care manager, registered nurse, advance practice registered nurse, speech pathologist, occupational therapist, or dietitian has assessed that the resident does not have complicated feeding problems, including recurrent lung aspirations, behaviors that interfere with eating, difficulty swallowing, or tube or parenteral feeding; and

(b) the service plan or plan of care documents that the resident needs assistance with eating and drinking and defines who is qualified to offer the assistance.

(13) If the nursing care facility uses a dining assistant, the licensee shall ensure that the dining assistant:

(a) has completed a background screening pursuant to Rule R432-35;

~~(b) has completed a training course from [a department]~~ an OL-approved training program; and

- ~~_____~~ (b) has completed a background screening pursuant to Rule R432-35; and
- _____] (c) performs duties only for ~~[these residents]~~ a resident who does not have complicated feeding problems.
- (14) A long term care licensee shall submit the following to ~~[the department]~~ OL to become an approved training program:
 - (a) a copy of the curriculum to be implemented that meets the requirements of Subsection (13); and
 - (b) the names and credentials of the trainers.
- (15) The long term care licensee shall ensure a dietitian training program is approved by ~~[the department]~~ OL if it includes ~~[the following]~~:
 - ~~_____~~ ~~(a)~~ (a) appropriate response to resident behaviors;
 - ~~_____~~ (b) assistance with eating and drinking;
 - ~~_____~~ (c) communication and interpersonal skills;
 - ~~_____~~ (d) documentation of type and amount of food and hydration intake;
 - ~~_____~~ (e) eight hours of instruction for the dining assistant and one hour of observation by the trainer to ensure competency;
 - ~~_____~~ ~~(b)~~ (f) feeding techniques;
 - ~~_____~~ ~~(e)~~ (e) assistance with eating and drinking;
 - ~~_____~~ (d) communication and interpersonal skills;
 - ~~_____~~ (e) safety and emergency procedures including the Heimlich maneuver;
 - ~~_____~~ ~~(f)~~ (g) infection control;
 - ~~_____~~ (g) resident rights;
 - _____] (h) recognizing resident changes inconsistent with their normal behavior and the importance in reporting those changes to the supervisory nurse;
 - (i) resident rights;
 - _____ (j) safety and emergency procedures including the Heimlich maneuver;
 - _____ (k) special diets; and
 - ~~_____~~ (j) documentation of type and amount of food and hydration intake;
 - ~~_____~~ (k) appropriate response to resident behaviors; and
 - _____] (l) use of adaptive equipment.
 - (16) The licensee shall issue a training certificate of completion and maintain a list of the dining assistants that identifies:
 - (a) ~~[the training program provider]~~ each dining assistant's name and address;
 - (b) the telephone number where the licensee may verify the training; and
 - (c) ~~[each dining assistant's name and address]~~ the training program provider.
 - (17) To provide dining assistant training in ~~[a department]~~ an OL-approved training program, the licensee shall ensure a trainer holds a current valid license to practice as:
 - (a) a registered dietitian, pursuant to Title 58, Chapter 49, Dietitian Certification Act;
 - ~~_____~~ (b) a registered nurse, advanced practice registered nurse, or licensed practical nurse-geriatric care manager pursuant to Title 58, Chapter 31b, Nurse Practice Act;
 - ~~_____~~ (b) a registered dietitian, pursuant to Title 58, Chapter 49, Dietitian Certification Act;
 - _____] (c) a speech-language pathologist, pursuant to Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act; or
 - _____ (d) an occupational therapist, pursuant to Title 58, Chapter 42a, Occupational Therapy Practice Act.
 - (18) The licensee may suspend a training program if the program's courses do not meet the requirements of this rule.
 - (19) The licensee may suspend a training program operated by a nursing care facility if:
 - (a) a federal or state survey reveals failure to comply with ~~[federal]~~ regulations or ~~[state]~~ rules regarding feeding or dining assistant programs;
 - ~~_____~~ (b) ~~[the licensee fails to provide sufficient, competent staff to respond to emergencies];~~
 - ~~_____~~ (e) the department sanctions the facility for any reason; or
 - ~~_____~~ (d) ~~the department~~ OL determines that the licensee is in continuous or chronic noncompliance under ~~[state]~~ rule or that the licensee has provided sub-standard quality of care under ~~[federal]~~ regulation[-];
 - _____ (c) OL sanctions the facility for any reason; or
 - ~~_____~~ (d) the licensee fails to provide sufficient, competent staff to respond to emergencies.

R432-150-[24]23. Medical Records.

- (1) The licensee shall implement a medical records system to ensure complete and accurate retrieval and compilation of information.
- (2)(a) The administrator shall designate an employee to be responsible and accountable for the processing of medical records.
- (b) The administrator shall ensure that a registered record administrator (RRA) or accredited record technician (ART) directs the medical records department.
- (c) If an RRA or ART is not employed at least part-time, the administrator shall consult with an RRA or ART according to the needs of the facility, and no less than semi-annually.
- (3) The licensee shall ensure resident medical records are:
 - (a) ~~[retained]~~ kept for at least seven years and medical records of minors are kept until the age of 18 plus four years, but in no case less than seven years;
 - ~~_____~~ (b) kept, stored, and safeguarded from loss, defacement, tampering, and damage from fires and floods; and
 - ~~_____~~ ~~(b)~~ (c) protected against access by unauthorized individuals[-]; and

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~~_____ (e) retained for at least seven years and medical records of minors are kept until the age of eighteen plus four years, but in no case less than seven years].~~

(4) The licensee shall maintain an individual medical record for each resident that contains written documentation of ~~[the following]:~~

~~(a) [records made by staff regarding daily care] a copy of an advanced directive, if a resident has one;~~

~~(b) a discharge summary for the resident to include a note of condition, instructions given, and referral as appropriate;~~

~~[(b) _____ (c) a history and physical examination up-to-date at the time of the resident's admission;~~

~~(d) a pre-admission screening;~~

~~(e) a record of assessments, including the comprehensive resident assessment, care plan, and services provided;~~

~~(f) a record of medications and treatments administered;~~

~~(g) a service agreement if respite services are provided;~~

~~(h) an admission record with demographic information and resident identification data;~~

~~(i) orders by clinical staff members;~~

~~(j) information pertaining to incidents, accidents, and injuries;~~

~~(k) informative progress notes by staff to record changes in the resident's condition and response to care and treatment in accordance with the care plan;~~

~~[(e) a pre admission screening;~~

~~(d) an admission record with demographic information and resident identification data;~~

~~(e) a history and physical examination up to date at the time of the resident's admission;~~

~~(f) written and signed informed consent;~~

~~(g) orders by clinical staff members;~~

~~(h) a record of assessments, including the comprehensive resident assessment, care plan, and services provided;~~

~~(i) nursing notes;~~

~~(j) monthly nursing summaries;~~

~~(k) quarterly resident assessments;~~

~~] (l) [a record of medications and treatments administered;~~

~~(m)]laboratory and radiology reports;~~

~~[(n) a discharge summary for the resident to include a note of condition, instructions given, and referral as appropriate;~~

~~] (m) monthly nursing summaries;~~

~~(n) nursing notes;~~

~~(o) [a service agreement if respite services are provided;~~

~~(p)]physician treatment orders;~~

~~(p) quarterly resident assessments;~~

~~(q) [information pertaining to incidents, accidents,]records made by staff regarding daily care of the resident; and [injuries; and]~~

~~[(r) a copy of an advanced directive, if a resident has one.~~

~~] (r) written and signed informed consent.~~

(5) The licensee shall ensure any entries into the medical record are authenticated including date, name or identifier initials, and job title of the person making the entries.

(6) The licensee shall ensure resident respite records are maintained within the facility.

R432-150-~~[25]~~24. Housekeeping Services.

(1) The licensee shall provide a safe, clean, comfortable environment, allowing the resident to use personal belongings to create a homelike environment.

(2) The licensee shall ensure cleaning agents, bleaches, insecticides, poisonous, dangerous, or flammable materials are stored in a locked area to prevent unauthorized access.

(3) The licensee shall:

~~[(a) provide enough housekeeping services and personnel to maintain a clean and sanitary environment;~~

~~(b) ensure personnel engaged in housekeeping or laundry services are not engaged concurrently in food service or resident care; and~~

~~(e) (a) develop and implement employee hygiene and infection control measures to maintain a safe, sanitary environment if housekeeping personnel also work in food services or direct patient care services[-];~~

~~(b) ensure personnel engaged in housekeeping or laundry services are not engaged concurrently in food service or resident care; and~~

~~(c) provide enough housekeeping services and personnel to maintain a clean and sanitary environment.~~

R432-150-~~[26]~~25. Laundry Services.

(1) ~~[†]~~The administrator shall designate a person to direct the facility's laundry service that has experience, training, or knowledge of ~~[the following]:~~

~~(a) [proper use of chemicals in the laundry;~~

~~(b) proper laundry procedures;~~

~~(c) proper use of laundry equipment;~~

~~(d)]facility policies and procedures; [and]~~

~~([e]b) federal, state, and local rules and regulations;~~

~~(c) proper laundry procedures;~~

~~(d) proper use of chemicals in the laundry; and~~

- ~~(e) proper use of laundry equipment.~~
- (2) The licensee shall provide clean linens, towels, and washcloths for resident use.
- (3) If the licensee contracts for laundry services, there is a signed, dated agreement that details any services provided.
- (4) The licensee shall inform the resident and family of facility laundry policy for personal clothing.
- (5) The licensee shall ensure:
- ~~(a) clean linen is handled and stored in a manner to minimize contamination from surface contact or airborne deposition;~~
- (b) each resident's personal laundry is marked for identification;
- ~~(b) (c) soiled linen is handled, stored, and processed in a manner to prevent contamination and the spread of infections;~~
- ~~(d) soiled linen is sorted in a separate room by methods affording protection from contamination;~~
- ~~(e) the laundry area is separate from any room where food is stored, prepared, or served;~~
- ~~(f) there are enough clean linen, towels, and washcloths for at least three complete changes of the facility's licensed bed capacity;~~
- and
- ~~(e)g) there is a bedspread for each resident bed[?].~~
- ~~(d) clean linen is handled and stored in a manner to minimize contamination from surface contact or airborne deposition;~~
- ~~(e) soiled linen is handled, stored, and processed in a manner to prevent contamination and the spread of infections;~~
- ~~(f) soiled linen is sorted in a separate room by methods affording protection from contamination; and~~
- ~~(g) the laundry area is separate from any room where food is stored, prepared, or served.~~

R432-150-~~27~~26. Maintenance Services.

- (1) The licensee shall ensure that buildings, equipment, and grounds are maintained in a clean and sanitary condition and in good repair for the safety and well-being of ~~[residents]~~each resident, staff, and visitor[s].
- (2) For facility maintenance services the licensee shall ensure:
- ~~(a) the administrator employs a person, qualified by experience and training, to be in charge of facility maintenance;~~
- ~~(b) (a) any facility equipment is tested, calibrated, and maintained in accordance with manufacturer specifications;~~
- (b) any spaces within buildings that house people, machinery, equipment, approaches to buildings, and parking lots have lighting;
- (c) back-flow prevention devices are maintained in operating condition and tested according to manufacturer specifications;
- (d) disposable and single use items are properly disposed of after use;
- (e) documentation of testing or calibration conducted by an outside agency is available for OL review;
- (f) emergency lighting and heat are provided to meet the needs of each resident in a facility that provides care for a resident who cannot be relocated in an emergency;
- ~~(g) entrances, exits, steps, ramps, and outside walkways are maintained in a safe condition with regard to snow, ice, and other hazards;~~
- ~~(h) functional flashlights are available for emergency use by staff;~~
- (i) heating, air conditioning, and ventilating systems are maintained to provide comfortable temperatures;
- (j) hot water temperature controls automatically regulate temperatures of hot water delivered to plumbing fixtures used by a resident and hot water is delivered to public and resident care areas at temperatures between 105-115 degrees F;
- (k) if the licensee contracts for maintenance services, there is a signed and dated agreement that details each service provided and the contracted maintenance service meets each requirement of this section;
- ~~(e) (j) nursing equipment and supplies are available as determined by facility policy in accordance with the needs of each resident;~~
- (l) testing frequency and calibration documentation is available for OL review;
- ~~(m) the administrator employs a person, qualified by experience and training, to be in charge of facility maintenance;~~
- (n) the licensee develops and implements a written maintenance program, that includes preventive maintenance, to ensure the continued operation of the facility and sanitary practices throughout the facility;
- ~~(f)g) the premises are free from vermin and rodents;~~
- ~~(e) entrances, exits, steps, ramps, and outside walkways are maintained in a safe condition with regard to snow, ice, and other hazards;~~
- ~~(f) emergency lighting and heat are provided to meet the needs of residents in a facility that provides care for residents who are unable to be relocated in an emergency;~~
- ~~(g) functional flashlights are available for emergency use by staff;~~
- ~~(h) any facility equipment is tested, calibrated and maintained in accordance with manufacturer specifications;~~
- ~~(i) testing frequency and calibration documentation is available for department review;~~
- ~~(j) documentation of testing or calibration conducted by an outside agency is available for department review;~~
- (k) any spaces within buildings that house people, machinery, equipment, approaches to buildings, and parking lots have lighting;
- (l) heating, air conditioning, and ventilating systems are maintained to provide comfortable temperatures;
- (m) back flow prevention devices are maintained in operating condition and tested according to manufacturer specifications;
- (n) hot water temperature controls automatically regulate temperatures of hot water delivered to plumbing fixtures used by residents and hot water is delivered to public and resident care areas at temperatures between 105-115 degrees F;
- ~~(o) disposable and single use items are properly disposed of after use;~~
- ~~(p) nursing equipment and supplies are available as determined by facility policy in accordance with the needs of the residents;~~
- ~~(q) (p) there is at least one first aid kit available at a specified location in the facility accompanied by a current edition of a first aid manual approved by the American Red Cross or the American Medical Association;~~
- (r) there is at least one Occupational Safety and Health Administration (OSHA) approved spill or clean-up kit for blood-borne pathogens; and

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(~~s~~)r] vehicles used to transport ~~residents are~~ a resident is:

(i) ~~licensed~~ equipped with a first aid kit and current ~~vehicle registration and safety inspection~~ version of a first aid manual approved by the American Red Cross or the American Medical Association;

(ii) equipped with individual, size-appropriate safety restraints including seat belts that are installed and used in accordance with manufacturer specifications; and

(iii) ~~equipped~~ licensed with a ~~first aid kit and~~ current ~~version of a first aid manual approved by the American Red Cross or the American Medical Association; and~~ vehicle registration and safety inspection.

~~(iv) equipped with an OSHA approved spill or clean up kit.~~

R432-150-~~28~~27. Emergency Response and Preparedness Plan.

(1)(a) The licensee shall ensure the safety and well-being of ~~residents~~ each resident and provide for a safe environment in the event of an emergency or disaster.

~~(b) An emergency or disaster may include utility interruption, explosion, fire, earthquake, bomb threat, flood, windstorm, epidemic, and injury.~~

(2)(a) The licensee shall develop an emergency and disaster plan that is approved by the governing body.

(b) The emergency and disaster plan shall delineate:

(i) ~~the person with decision-making authority for fiscal, medical, and~~ assignment of personnel ~~management~~ to specific tasks during an emergency;

~~(ii)~~ (ii) individuals to be notified in an emergency in order of priority;

~~(iii) methods of communicating with local emergency agencies, authorities, and other appropriate individuals;~~

~~(iv) methods of transporting and evacuating each resident and staff to other locations;~~

~~(v) on-hand personnel, equipment, and supplies and how to acquire additional help, supplies, and equipment after an emergency or disaster; and~~

~~(iii) assignment of personnel to specific tasks during an emergency;~~

~~(iv) methods of communicating with local emergency agencies, authorities, and other appropriate individuals;~~

~~(v) individuals to be notified in an emergency in order of priority; and~~

~~(vi) methods of transporting and evacuating residents and staff to other locations.~~

~~(vi) the person with decision-making authority for fiscal, medical, and personnel management.~~

(c) The licensee shall have emergency phone numbers at each nursing station with responsible staff listed in the order of priority contact.

(d) The licensee shall document resident emergencies and responses, emergency events and responses, and the location of ~~residents~~ each resident and staff evacuated from the facility during an emergency.

(e) The licensee shall conduct and document simulated disaster drills semi-annually.

(3) The administrator shall develop a written fire emergency and evacuation plan in consultation with qualified fire safety personnel that:

(a) delineates evacuation routes, location of fire alarm boxes, fire extinguishers, and emergency telephone numbers of the local fire department;

(b) ensures fire drills and fire drill documentation are completed in accordance with Rule R710-4;

~~(c) ensures~~ the evacuation plan is posted in prominent locations in exit access ways throughout the building; and

~~(e)d~~ includes fire containment procedures and how to use the facility alarm systems and signals~~;~~ and

~~(d) ensures fire drills and fire drill documentation are completed in accordance with the State of Utah Fire Prevention Board, Rule R710-4.~~

R432-150-~~29~~28. Alternative Sanctions for Nursing Facilities.

(1) This section applies in addition to the requirements of Rule R380-600 for certified nursing facility licensees participating in the Centers for Medicare and Medicaid (CMS) program and establishes criteria for the imposition of sanctions authorized by statute.

(2)(a) As the sole agency of the state authorized to act as the health care facilities certification agency under Section 26B-2-217, ~~the department~~ OL shall conduct on-site inspections of nursing facilities to determine compliance with federal nursing home requirements found in 42 CFR 488 (2023).

(b) When ~~the department~~ OL finds that a nursing facility licensee is out of compliance with requirements of participation in the CMS program, ~~the department~~ OL may recommend to CMS the imposition of sanctions, including federal civil money penalties (CMP).

(3)(a) For a CMS certified nursing facility licensee, ~~the department~~ OL has authority to apply the sanctions defined in the federal Omnibus Budget Reconciliation Act (OBRA) of 1987, ~~(Pub. L. No. 100[-]203)~~ and Sections 1819(h) and 1919(h) of the Social Security Act.

(b) ~~The department~~ OL may recommend termination from the Medicare or Medicaid program if a nursing facility licensee is found in chronic noncompliance with CMS participation requirements.

(4) In accordance with 42 CFR 488 (2023), ~~the department~~ OL may recommend any of the following sanctions:

(a) ~~temporary management;~~

~~(b) denial of payment for new admissions;~~

~~(c) transfer of residents;~~

~~(d) closure of the facility and transfer of~~ ~~residents~~ a resident;

~~(e) directed plan of correction;~~

- ~~(f) directed in-service training;~~
- ~~(g) state monitoring; and~~
- ~~(h) civil money penalties]~~ **b) CMPs for:**
- ~~(i) the number of days a facility is out of compliance with one or more participation requirements; or~~
- ~~(ii) (i) each instance that a facility is not in substantial compliance in accordance with 42 CFR 488 (2023[?]); or~~
- ~~(ii) the number of days a facility is out of compliance with one or more participation requirements;~~
- ~~(c) denial of payment for new admissions;~~
- ~~(d) directed in-service training;~~
- ~~(e) directed plan of correction;~~
- ~~(f) state monitoring;~~
- ~~(g) temporary management; and~~
- ~~(h) transfer of a resident.~~
- (5)(a) ~~[The department]OL~~ shall assess interest on the unpaid balance of any CMP issued and collected by ~~[the department]OL~~ on behalf of CMS, beginning on the due date.
- (b) The interest rate charged is the average of the bond equivalent of the federal standard as outlined in 42 CFR 488 (2023) during the period when interest is charged.
- (6) ~~[The department]OL~~ shall apply CMPs collected under this section in accordance with Sections 1819 and 1919 of the Social Security Act to the protection of the health and property of ~~[residents]~~ each resident.

R432-150-~~30~~29. Annual Reporting Requirements.

- (1) A nursing care facility licensee approved for a health facility license under Subsection 26B-2-222(2)(c) shall submit an annual financial report within 90 days of the end of each calendar year.
- (2) The annual financial report shall contain:
 - ~~(a) total of any revenue received within the calendar year;~~
 - ~~(b) total of any Medicare inpatient revenue received within the calendar year;~~
 - ~~(c) total of any Medicare Advantage revenue received within the calendar year; and~~
 - ~~(d) (a) percentage of Medicare inpatient revenue including Medicare Advantage revenue in relation to the total of any revenue received within the calendar year[?];~~
 - ~~(b) total of any Medicare Advantage revenue received within the calendar year;~~
 - ~~(c) total of any Medicare inpatient revenue received within the calendar year; and~~
 - ~~(d) total of any revenue received within the calendar year.~~
- (3)(a) ~~[The department]OL~~ shall review the submitted reports for compliance with ~~[Subsection 26B]~~ Subsection 26B-2-222(7)(a).
- (b) ~~[The department]OL~~ may perform financial audits as part of a review.
- (c) If ~~[the department]OL~~ determines a facility is not in compliance with Subsection 26B-2-222(7)(a), a CMP of \$50,000 will be issued for the facility's failure to comply.

R432-150-~~31~~30. Penalties.

~~[The department may issue a penalty enumerated in Sections 26B-2-208, 26B-2-216 and Rule R380-600 to any licensee who is]~~
Any provider found [to be] in noncompliance with any part of this rule may be subject to the penalties enumerated in this rule, Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: health care facilities

Date of Last Change: ~~[December 12, 2023]~~2024

Notice of Continuation: January 24, 2022

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

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R432-270	Filing ID: 56887

Agency Information	
1. Title catchline:	Health and Human Services, Health Care Facility Licensing
Building:	Multi-Agency State Office Building
Street address:	195 N 1950 W
City, state:	Salt Lake City, UT

Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahmoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R432-270. Assisted Living Facilities
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to clarify definitions and processes, update content in response to SB229, HB518, and HB495, references the Division of Licensing and Background Checks (DLBC) Enforcement rule, Rule R380-600, and makes stylistic amendments to comply with the Rulewriting Manual of Utah.
4. Summary of the new rule or change:
This amendment adds content to address the allowance of monitoring devices and prohibition of tampering with monitoring devices in assisted living facilities consistent with HB495 from the 2024 General Session. It also replaces references from "the department" to "OL" and defines "OL" as the Office of Licensing. Section R432-270-31, Penalties was updated to reference consolidated enforcement and penalties rule and statute following SB229 in the 2024 General Session. Stylistic and formatting changes were made for compliance with the Rulewriting Manual for Utah. Other revisions clarifies definitions, updates posting requirements in Subsection R432-270-10(7) to refer to the DLBC public record site as the location to find publicly available inspection reports, adds Subsection R432-270-11(7)(b) to prohibit tampering with a monitoring device in accordance with HB495, addresses "mandatory placement in a shared room" to require transparent disclosure at admission for when placement in shared rooms is required by the facility in Subsection R432-270-10(8)(a), addresses secure unit in Subsection R432-270-16(6) from HB 518 limiting the number of patients in a secure unit to 30. The health care facilities committee unanimously recommended approval of this rule filing amendment.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This amendment is not anticipated to have a fiscal impact on the Department of Health and Human Services. This amendment disallows denial of admission or early discharge based on a required monitoring device in the client's room. Overall inspection process is not expected to change including this new requirement. OL inspections will not change regardless of how many clients a provider admits or denies for admission to the facility. OL will continue to investigate any complaints of noncompliance with the rule with no cost or savings to the process.
B) Local governments:
This amendment is not anticipated to impact local governments as they do not regulate health care facility licensing.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no estimated impact or savings for small assisted living facilities as a result of this amendment because it is inestimable to quantify how many programs were refusing admittance or discharging clients early solely based on monitoring devices, as OL does not track this data. Any small assisted living facility found to be practicing these prohibited practices will receive a warning or citation of noncompliance before any civil money penalty is assessed, as this is the tiered process utilized across all entities licensed by OL for noting noncompliance with any rule. An average civil money penalty for noncompliance with this rule, following a warning and citation, would be \$150 per infraction. It is inestimable to determine how many programs are utilizing the prohibited practices or whether a warning or citation will correct the noncompliance before a monetary penalty is assessed. The updated definitions align with the construction rule definitions and requirements already in place for assisted living facilities in Rule R432-6. Other amendments increase transparency and do introduce processes or requirements that would incur a cost to implement.

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

There is no estimated impact or savings for non-small assisted living facilities as a result of this amendment because it is inestimable to quantify how many programs were refusing admittance or discharging clients early solely based on monitoring devices, as OL does not track this data. Any non-small assisted living facility found to be practicing these prohibited practices will receive a warning or citation of noncompliance before any civil money penalty is assessed, as this is the tiered process utilized across all entities licensed by OL for noting noncompliance with any rule. An average civil money penalty for noncompliance with this rule, following a warning and citation, would be \$150 per infraction. It is inestimable to determine how many programs are utilizing the prohibited practices or whether a warning or citation will correct the noncompliance before a monetary penalty is assessed.

The updated definitions align with the construction rule definitions and requirements already in place for assisted living facilities in Rule R432-6. Other amendments increase transparency and do introduce processes or requirements that would incur a cost to implement.

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**):

Clients seeking admission to these facilities are the other persons impacted by this amendment filing. They will not be turned away from services solely on the basis of requiring a monitoring device in their room. It is unknown how many clients will present with monitoring devices to be accepted, or how many were previously denied admission or discharged before this regulation, therefore a cost or savings analysis is inestimable at this time.

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

The only change is that providers cannot deny or discharge a client if they require a monitoring device in their room. There is no cost or savings to the provider or client based on this requirement, as it just increases transparency for the provider's care for the vulnerable patients in these facilities.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, DHHS Executive Director	Date:	10/27/2024
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R432. Health and Human Services, Health Care Facility Licensing.

R432-270. Assisted Living Facilities.

R432-270-1. ~~Legal~~ Authority and Purpose.

(1) This rule is authorized by Section 26B-2-202.

~~R432-270-2. Purpose.~~

(2) This rule establishes the licensing and operational standards for assisted living facilities. Assisted living is intended to enable an individual experiencing functional impairments to receive 24-hour personal and health-related services in a place of residence with enough structure to meet the care needs in a safe manner.

R432-270-~~3~~2. Compliance and Responsibility.

The licensee shall comply with each ~~Section~~ applicable section of ~~Rule~~ Rules R380-600, R432-6, R432-35, and R432-270.

R432-270-~~4~~3. Definitions.

~~(1) Section R432-1-3 additionally applies.~~

(1) Definitions in this rule are found in Rules R432-1, R432-6, and R380-600. Additionally:

(2)(a) "Activities of ~~["Daily Living" (ADL)]~~daily living" or "ADLs" means those personal functional activities required for ~~an individual~~a resident for continued well-being, including:

- ~~(a)~~ (i) administration of medication;
- ~~(ii) bathing;~~
- ~~(iii) dressing;~~
- ~~(iv) eating and nutrition;~~
- (v) personal grooming, including oral hygiene and denture care;
- ~~(b) dressings;~~
- ~~(c) bathing;~~
- ~~(d)~~(vi) toileting and ~~[toilet hygiene;]~~bathing; and
- ~~(e) eating and nutrition;~~
- ~~(f) administration of medication; and~~
- ~~(g)~~ (vii) transferring, ambulation, and mobility.

~~(3) ADL's]~~ADLs are divided into the following levels:

- (i) "Assistance" means the resident can perform some part of an ADL, but cannot do it entirely alone;
- (ii) "Dependent" means the resident cannot perform any part of an ADL and it is done entirely by someone else; and
- (iii) "Independent" means the resident can perform the ADL without help.

~~(4)]~~3) "Adult ~~[Day Care]~~day care" means the care and support to three or more functionally impaired adults through a comprehensive program that provides a variety of social, recreational, and related support services in a licensed health care setting.

~~(5)]~~4) "Assessment" means documentation of each resident's ability or current condition in the following areas:

- ~~(a) [memory and daily decision-making ability;~~
- ~~(b)]~~ability to communicate effectively with others;
- ~~(b) assistive devices;~~
- ~~(c) [physical functioning and ability to perform ADLs;~~
- ~~(d)]~~continence;
- ~~(e) mood and behavior]~~ (d) leisure patterns and interests;

- ~~(f) weight loss;~~
- ~~(g) medication use and the ability to self-medicate;~~
- ~~(h) special treatments and procedures;~~
- ~~(i) medical diagnoses that have a relationship to current ADL status, behavior status, medical treatments, or risk of death;~~
- ~~(j) leisure]~~ (f) medication use and the ability to self-medicate;
- ~~(g) memory and daily decision-making ability;~~
- ~~(h) mood and behavior patterns[and interests];~~
- ~~(i) physical functioning and ability to perform ADLs;~~
- ~~(j) prosthetics;~~
- ~~(k) [assistive devices]special treatments and procedures; and~~
- ~~(l) [prosthetics]weight loss.~~
- ~~(6)5~~ "Certification in [~~Cardiopulmonary Resuscitation~~ (~~cardiopulmonary resuscitation~~" or "CPR")]" refers to means a certification issued after completion of an in-person course, to include skills testing, and evaluation on-site with a licensed instructor.
- ~~(7)6~~ "Core competencies" mean:
 - (a) communication;
 - ~~(b) [person centered care principles and practices;~~
 - ~~(c) observation;~~
 - ~~(d) crisis prevention and intervention;~~
 - ~~(e) safety;~~
 - ~~(f) professionalism and ethics;~~
 - ~~(g) empowerment and advocacy;~~
 - ~~(h) health and wellness;~~
 - ~~(i)]community living skills and supports;~~
 - ~~(j)]~~ (c) crisis prevention and intervention;
 - ~~(d) cultural competency and community inclusion;~~
 - ~~(e) dementia care competencies;~~
 - ~~(f) empowerment and advocacy;~~
 - ~~(g) health and wellness;~~
 - ~~(h) observation;~~
 - ~~(i) person-centered care principles and practices;~~
 - ~~(j) professionalism and ethics;~~
 - ~~(k) safety; and~~
 - ~~(l) training and self-development.~~
- ~~(7)~~ "Facility" means the same as defined in Rule R432-1, and for this rule, includes the definition listed in Section 26B-2-236.
- ~~(8)(a)~~ "Home-like" means a place of residence, that creates an atmosphere supportive of the resident's preferred lifestyle.
- ~~(b)~~ Home-like is also supported by the use of residential building materials and furnishings.
- ~~(9)~~ "Hospice patient" means an individual who is admitted to a hospice program or agency.
- ~~(10)~~ "Legal representative" means ~~[an individual who is legally authorized to make health care decisions on behalf of another individual.]~~ the same as defined in Section 26B-2-236.
- ~~(11)~~ "Monitoring device" means a video surveillance camera, microphone, or other device that captures audio, but does not include:
 - ~~(a) a device that is specifically intended to intercept wire, electronic, or oral communication without notice to or the consent of a party to the communication; or~~
 - ~~(b) a device that is connected to the internet or that is set up to send data via an electronic communication.~~
- ~~(12)~~ (11) "Licensed health care professional" means a registered nurse, physician assistant, advanced practice registered nurse, or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of the resident.
- ~~(12)~~ "Monitoring device" means the same as defined in Section 26B-2-236.
- ~~(13)~~ "OL" means the Office of Licensing in the Division of Licensing and Background Checks, under the Department of Health and Human Services.
- ~~(14)~~ "Responsible person" means ~~[an individual who:]~~ the same as defined in Rule R432-1.
 - ~~(a) is designated in writing by a resident to receive communication on behalf of the resident; or~~
 - ~~(b) a legal representative.~~
- ~~(14)~~ (15) "Self-direct medication administration" means the resident can:
 - (a) recognize medications offered by color or shape; and
 - (b) identify and report differences in the usual routine of medications.
- ~~(15)16~~ "Service [~~P~~]plan" means a written plan of care for services that meets the requirements of Section R432-270-14.
- ~~(16)17~~ "Services" means activities that help ~~[the residents.]~~ each resident develop skills to increase or maintain their level of psychosocial and physical functioning, or~~;~~ that assists them in ~~[activities of daily living]~~ ADLs.
- ~~(17)18~~ "Significant assistance" means the resident cannot perform any part of an ADL and ~~[is dependent upon]~~ depends on staff or others to accomplish the ADL.
- ~~(18)19~~ "Significant change" means a major change in a resident's status that is self-limiting or impacts on more than one area of the resident's health status.

NOTICES OF PROPOSED RULES

~~[(19)20]~~ "Social care" means:

- (a) providing opportunities for social interaction in the facility or in the community; or
- (b) providing services to promote independence or a sense of self-direction.

~~[(20) "Unit" means an individual living space, including living and sleeping space, bathroom, and optional kitchen area.~~

~~[(21)]~~ (21) "Type I assisted living" means the same as "Assisted Living Facility Type I," as defined in Rule R432-6.

~~[(22) "Type II assisted living" means the same as "Assisted Living Facility Type II," as defined in Rule R432-6.~~

~~[(23) "Unit" means the same as "resident living unit," as defined in Rule R432-6.~~

~~[(24) "Vulnerable adult" [is]means the same as defined in Subsection 26B-6-201(30).~~

R432-270-5. Licensing.

(1) ~~[The licensee shall ensure a]~~ A person or entity who offers or provides care to two or more unrelated individuals in a residential facility ~~[is]shall become~~ licensed as an assisted living facility if:

- (a) the individuals stay in the facility for more than 24 hours; and
- (b) the ~~[facility]person or entity~~ provides or arranges for assistance with one or more ADLs for ~~[any of]the~~ individuals.

(2) The ~~[licensee-]shall ensure~~ an assisted living facility is licensed as a type I assisted living facility if ~~[the individuals under care are capable of achieving enough mobility to]~~ each resident can exit the facility without the assistance of another person.

(3) ~~[The licensee]~~ A person or entity shall ensure an assisted living facility is licensed as a type II assisted living facility if ~~[the individuals under care are capable of achieving mobility enough to]~~ each resident can exit the facility only with the limited assistance of one person.

(4) A type I assisted living facility licensee shall provide social care to ~~[the individuals under care]~~ each resident.

(5) A type II assisted living facility licensee shall provide care in a home-like setting that provides an array of coordinated supportive personal and health care services that are available 24 hours a day to ~~[residents]~~ each resident who needs any of these services ~~[as required by department rule].~~

(6)(a) Type I and II assisted living facility licensees shall provide each resident with a ~~[separate]~~ choice of an individual resident living unit ~~[Two residents may share a]~~ or shared resident living unit ~~[upon written request of both residents.]~~ unless the resident and responsible person have been informed through the signed admission agreement regarding the facility policy regarding mandatory placement in a shared unit.

~~[(b) The licensee shall ensure each resident living unit provides accommodation for each resident to conduct or receive assistance with ADLs privately and in a way that preserves their dignity.~~

~~[(c) The licensee shall ensure each resident in a shared resident living unit has access to a bathroom and additional living space as defined in Rule R432-6.~~

(7) ~~[An individual]~~ A resident may continue to remain in an assisted living facility if:

- (a) the facility construction meets the ~~[individual's]resident's~~ needs;
 - (b) the ~~[individual's]resident's~~ physical and mental needs are appropriate to the assisted living criteria; and
 - (c) the licensee provides ~~[adequate staffing]~~ enough staff to meet the ~~[individual's]resident's~~ needs.
- (8) The licensee shall ensure each assisted living ~~[facilities are]~~ facility is licensed as one of the following:
- (a) a large assisted living facility housing 17 or more residents;
 - (b) a small assisted living facility housing six to 16 residents; or
 - (c) a limited capacity assisted living facility housing two to five residents.

R432-270-6. Licensee.

(1) The licensee shall:

~~[(a) ensure compliance with each federal, state, and local law;~~

~~[(b)]~~ (a) assume responsibility for the overall organization, management, operation, and control of the facility;

~~[(b) ensure compliance with each federal, state, and local law;~~

(c) establish policies and procedures for ~~[the]resident~~ welfare ~~[of residents, the]~~, protection of ~~[their]resident~~ rights, and the general operation of the facility; and

(d) implement and follow a policy that ensures the ~~[facility does]~~ licensee may not discriminate on the basis of race, color, sex, or religion ~~[, ancestry, or national origin in accordance with state and federal laws].~~

~~[(e) secure and update contracts for required services not provided directly by the facility;~~

~~[(f) respond to requests for reports from the department; and~~

~~[(g) appoint, in writing, a qualified administrator who shall assume full responsibility for the day to day operation and management of the facility. The licensee and administrator may be the same person.~~

(2)(a) The licensee shall implement a quality assurance program to include a quality assurance committee. ~~[The committee shall:]~~

~~[(a)]~~ (b) The quality assurance committee shall:

(i) consist of at least the ~~[facility-]administrator~~ and a health care professional; and

~~[(b)]ii~~ meet at least quarterly to identify and act on quality issues.

(3) If the licensee is a corporation or an association, it shall maintain an active and functioning governing body to fulfill licensee duties and to ensure accountability.

R432-270-7. Administrator Qualifications.

- (1) The administrator shall:
- (a) be 21 years of age or older;
 - ~~(b) know applicable laws and rules;~~
 - (b) complete an OL-approved national certification program within six months of hire for a type II facility;
 - (c) ~~[have the ability]~~be able to deliver, or direct the delivery of, appropriate care to ~~[residents]~~each resident;
 - ~~(d) know applicable laws and rules; and~~
 - (e) successfully complete the criminal background screening process ~~[defined-]~~in Rule R432-35~~;~~ and~~].~~
 - ~~(e) complete a department approved national certification program within six months of hire for type II facilities.~~
- (2) The administrator of a type I assisted living facility shall have an associate degree or two years of experience in a health care facility.
- (3) The administrator of a type II small or limited capacity assisted living facility shall have ~~[one or more]~~any of the following:
- (a) an associate degree in a health care field;
 - ~~(b) [two years or more management experience in a health care field; or~~
 - ~~(e) one year of experience in a health care field as a licensed health care professional[-]; or~~
 - (c) two years or more of management experience in a health care field.
- (4) The administrator of a type II large assisted living facility shall have ~~[one or more]~~any of the following:
- (a) an associate degree and four years or more of management experience in a ~~[Utah]~~health ~~[facility administrator license]~~care field;
 - (b) a bachelor's degree in a health care field~~[-, to include]~~ that includes management training, or one or more years of management experience;
 - (c) a bachelor's degree in any field~~[-, to include]~~ that includes management training, or one or more years of management experience and one year or more experience in a health care fi~~[e]~~led; or
 - (d) ~~[an associate degree and four years or more management experience in]~~a health ~~[care field.]~~facility administrator license issued in Utah.

R432-270-8. Administrator Duties.

- (1) The administrator shall:
- (a) admit and only keep a resident who meets admissions criteria and whose needs can be met by the facility;
 - (b) be on~~[the premises]-~~site enough hours in the business day, and at other times as necessary, to manage and ~~[administer]~~oversee the facility;
 - ~~(b)-]~~ (c) complete, submit, and file records and reports required by OL;
 - (d) conduct and document regular inspections of the facility to ensure it is safe from potential hazards;
 - (e) designate, in~~[-]~~writing, a competent employee, 21 years of age or older, to ~~[aet]~~serve as an acting administrator only for when the administrator is unavailable for immediate contact~~[- and it is not the intent of this subsection to permit a de facto],~~ and ensure an acting administrator ~~[to]~~does not replace ~~[the-]~~designated administrator~~;~~
 - ~~(e) recruit, employ, and train the number]~~ in the day-to-day functioning of ~~[licensed and unlicensed staff needed to provide services;]~~the facility;
 - ~~(d) verify required licenses and permits of staff and consultants at the time of hire or the effective date of contract;~~
 - ~~(e) maintain facility staffing records for the preceding 12 months;~~
 - (f) admit and retain only those residents who meet admissions criteria and whose needs can be met by the facility;
 - ~~(g) review at least quarterly every injury, accident, and incident to a resident or employee and document appropriate corrective action;~~
 - ~~(h) (f) maintain a log indicating any significant change in a resident's condition and the facility's action or response;~~
 - ~~(i) complete an investigation when there is reason to believe a resident has been subject to abuse, neglect, or exploitation;~~
 - ~~(k) report any suspected abuse, neglect, or exploitation in accordance with Section 62A-3-305, and document appropriate action if the alleged violation is verified;~~
 - ~~(f) (g) maintain facility staffing records for the preceding 12 months;~~
 - (h) notify the resident's responsible person within 24 hours of significant changes or deterioration of the resident's health, and ensure the resident's transfer to an appropriate health care facility if the resident requires services beyond the scope of the facility's license;
 - ~~(m) conduct and document regular inspections of the facility to ensure it is safe from potential hazards;~~
 - ~~(n) complete, submit, and file records and reports required by the department;~~
 - ~~(e) (i) participate in a quality assurance program;[- and]~~
 - ~~(p) (j) recruit, hire, maintain, and train the number of licensed and unlicensed staff needed to provide services;~~
 - (k) report any critical incident to OL in accordance with Rule R380-600;
 - (l) report any suspected abuse, neglect, or exploitation in accordance with Section 62A-3-305, and document appropriate action if the alleged violation is verified;
 - ~~(m) review, at least quarterly, every injury, accident, and incident to a resident or employee and document appropriate corrective action;~~
 - (n) secure and update contracts for required professional and other services not provided directly by the facility[-];
 - ~~(o) verify required licenses and permits of staff and consultants upon hire, or before the effective date of contract;~~
- (2) The licensee shall maintain the administrator's responsibilities in a written and signed job description on file in the facility.

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R432-270-9. Personnel.

(1) The licensee shall ensure that qualified direct-care personnel are on ~~the premises~~-site 24 hours a day to meet ~~residents'~~each resident's needs as determined by the resident's[-] assessment and service plans.~~[-The licensee shall employ additional staff as necessary to perform:]~~

(2) The licensee shall hire and keep additional staff as necessary to perform:

- ~~(a) office work;~~
- ~~(b) cooking;~~
- ~~(b) general maintenance;~~
- ~~(c) housekeeping;~~
- ~~(d) laundering; and~~
- ~~(e) [general maintenance.]office work.~~

(2) The licensee shall ensure qualified staff perform services in accordance with the resident's written service plan.

(3) The licensee shall ensure that any personnel who provide personal care to ~~residents~~any resident in a type I and type II assisted living facility:

~~(a) are at least 18 years of age; or [may be]~~

~~(b) is a certified nurse aide in accordance with Section 58-31b-3[and shall have], with related experience or on [-]the [-]job training for the job assigned[-];~~

(4) The licensee shall ensure that personnel are licensed, certified, or registered in accordance with applicable ~~state laws~~laws governing their professional licensure in Utah.

(5) The administrator shall maintain written job descriptions for each position, including ~~job title, job responsibilities,~~each position's:

- ~~(a) qualifications[-or];~~
- ~~(b) required skills;~~
- ~~(c) responsibilities; and~~
- ~~(d) title.~~

(6) The licensee shall make facility policies and procedures available to personnel.

(7)(a) The licensee shall ~~ensure~~provide and document each ~~employee receives documented~~employee's orientation to the facility for their hired position.

~~(b) The licensee shall provide orientation to each employee within 30 days of hire that includes [the following]:~~

- ~~(a) job description;~~
- ~~(b) i) an explanation of ethics, confidentiality, and resident[s'] rights;~~

~~(c) [] (ii) an OL-approved core competency training;~~

~~(iii) each relevant job description;~~

~~(iv) employee responsibility for reporting abuse, neglect, and exploitation;~~

~~(v) the facility fire and disaster plan; and~~

~~(d) [] (vi) the facility policy and procedures[;].~~

~~(e) reporting responsibility for abuse, neglect and exploitation; and~~

~~(f) a department approved core competency training.~~

~~(8) [] In addition to completing facility orientation and [] (a) The licensee shall provide each direct-care employee with:~~

~~(i) a demonstration of core competency skills[; the licensee shall provide each direct-care employee with];~~

~~(ii) a facility orientation;~~

~~(iii) 16 hours of [documented]one-on-one [job-]training with a direct-care employee[; with] who has at least three months [of] experience and [who-]has completed [orientation, or with the supervising nurse at-]the facility[-. Additionally, the licensee shall ensure:] orientation.~~

~~(a) [] (b) The licensee shall ensure training is not transferred to another facility, and includes:~~

~~(i) ADLs; and~~

~~(ii) transfer assistance and safety[; and].~~

~~(ii) activities of daily living;~~

~~(b) [] (c) The licensee shall ensure:~~

~~(i) a direct-care employee[s] hired from a staffing agency [are]is a certified nurse aide; and~~

~~(ii) each certified nurse [aides and are]aide is exempt from the 16 hours of one-on-one job training[; and].~~

~~(c) employees who are certified nurse aides are exempt from the 16 hours of one on one job training.~~

~~(9)(a) The licensee shall ensure each employee receives documented in-service training[and tailor the training to annually].~~

~~(b) The licensee shall ensure the in-service and annual trainings include the following subjects relevant to the employee's job responsibilities:~~

~~(a) [] (i) abuse and neglect reporting requirements;~~

~~(ii) accident prevention, including safe bath and shower temperatures;~~

~~(iii) communication skills that enhance resident dignity;~~

~~(iv) dementia and Alzheimer's-specific training;~~

~~(v) first aid;~~

~~(vi) principles of good housekeeping;~~

~~(vii) principles of good nutrition, menu planning, food preparation[;] and food storage;~~

- ~~(b) principles of good housekeeping and sanitation;~~
~~(e) (viii) principles of providing personal and social care;~~
~~(d)ix) proper procedures in assisting ~~residents~~ a resident with medication[s];~~
~~(e)x) recognizing early signs of illness and determining ~~if~~ when there is a need for professional ~~help~~ assistance;~~
~~(f) accident prevention, including safe bath and shower water temperatures;~~
~~(g) communication skills, that enhance ~~xi~~ resident ~~dignity~~;~~
~~(h) first aid;~~
~~(i) resident's] rights; and~~
~~(j) abuse and neglect reporting requirements of Section 26B-6-205;~~
~~(k) dementia and Alzheimer's specific training; and~~
~~(l) (xii) review of core competency training.~~
- (10) The ~~facility~~ administrator shall annually complete a minimum of four hours of core competency training that includes dementia and Alzheimer's~~]-specific~~ training.
- (11) In addition to core competency training, the ~~facility~~ administrator shall:
- (a) complete a minimum of six hours of approved continuing professional education (CPE) annually ~~as follows~~ that include a minimum of:
- (i) ~~complete a minimum of~~ five hours in~~]-person;~~~~and~~
(ii) ~~complete a minimum of~~ one additional hour either in~~]-person or online;~~ and
(iii) calculate 50 minutes of CPE as one hour;
- ~~(b) ensure CPE courses under ~~Subsection (11)~~ this subsection are~~]:~~~~
~~(i)-] approved by~~]-the~~;~~
~~(i) Utah Assisted Living Association~~]- (UALA);~~;~~
~~(ii) Utah Health Care Association~~]- (UHCA), or~~;~~
~~(iii) Beehive Homes; or~~
~~(ii) require prior approval under Subsection (11)(b)(i) for courses offered by other entities or organizations; and~~
~~(e) calculate 50 minutes of CPE as one hour.~~
~~(c) an entity listed in this subsection if the course is offered by another entity or organization.~~
- (12) The licensee shall ensure employees who report suspected abuse, neglect, or exploitation are not subject to retaliation, disciplinary action, or termination by the ~~facility~~ licensee for that reason alone.
- (13) The licensee shall ensure a personnel health program is established through written personnel health policies and procedures that protect the health and safety of personnel, residents, and the public.
- (14) The licensee shall:
- (a) ensure an employee health inventory is completed when an employee is hired;
(b) use ~~a department~~ an OL-approved form for the health inventory evaluation or their own form if it includes at least the employee's history of ~~the following~~:
- (i) conditions that may predispose the employee to acquiring or transmitting infectious diseases; and
(ii) conditions that may prevent the employee from performing certain assigned duties satisfactorily;
(c) develop an employee health screening and immunization components of for its personnel health program;
(d) ensure employee skin testing:
(i) uses the Mantoux Method or other Food and Drug Administration, (FDA) approved in~~]-~~ vitro serologic test; and
(ii) perform follow-up procedures for tuberculosis in accordance with Rule R388-804, Special Measures for the Control of Tuberculosis;
- (e) ensure employees are skin-tested for tuberculosis within two weeks of:
(i) initial hiring;
(ii) suspected exposure to a person with active tuberculosis; and
(iii) development of symptoms of tuberculosis;
(f) report any infections and communicable diseases reportable by law to the local health department in accordance with Section R386-702-3; and
(g) allow employees with known positive reaction to skin tests to be exempt from skin testing.
- (15) The licensee shall ~~ensure~~ develop and implement policies and procedures governing an infection control program ~~are developed and implemented to protect residents, family, and personnel including appropriate~~ that include task-related employee infection control procedures and practices that protect residents, family members, and personnel from infection.
- (16) The licensee shall ensure compliance with 29 CFR 1910.1030 (2001), the Occupational Safety and Health Administration's Bloodborne Pathogen Standard.

R432-270-10. Resident[s]-] Rights.

- (1) Assisted living facility licensees shall develop a written resident~~]-s~~ rights statement based on this section.
- (2) The licensee shall ensure the administrator or designee gives each resident a written description of the resident's legal rights upon admission, ~~including the following~~ that includes:
- (a) a description of the manner of protecting personal funds; and
(b) a statement that the resident may file a complaint with the ~~state~~ state-long-term care ombudsman and any other advocacy group concerning resident abuse, neglect, or misappropriation of resident property in the facility.

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(3) The licensee shall ensure the administrator or designee notifies the resident or the resident's responsible person ~~[at the time of admission, in writing and in]~~ a language and manner ~~[that]~~ the resident or ~~[the resident's]~~ resident's responsible person ~~[understands]~~ can understand, in writing, upon admission, of the resident's rights and rules governing resident conduct and responsibilities during the stay in the facility.

(4) The licensee shall ensure the administrator or designee promptly notifies in ~~[-]~~ writing the resident or the resident's responsible person when there is a change in resident rights under state law.

(5) The licensee shall ensure resident rights include the right to:

- (a) be treated with respect, consideration, fairness, and full recognition of personal dignity and individuality;
- (b) be transferred, discharged, or evicted by the facility only in accordance with the terms of the signed admission agreement;
- (c) be free of mental and physical abuse, and chemical and physical restraints;
- (d) refuse to perform work for the facility;
- (e) perform work for the facility if the facility consents and if:
 - (i) the facility has documented the resident's need or desire for work in the service plan;
 - (ii) the resident agrees to the work arrangement described in the service plan;
 - (iii) the service plan specifies the nature of the work performed and whether the services are voluntary or paid; and
 - (iv) compensation for paid services is at or above the prevailing rate for similar work in the surrounding community;
- (f) privacy during visits with family, friends, clergy, social workers, ombudsmen, resident groups, and advocacy representatives;
- (g) share a resident living unit with a spouse if:

~~(i) both spouses consent[- and if];~~

~~(ii) both spouses are facility residents; and~~

~~(iii) the unit meets the construction requirements of Rule R432-6 for a shared or semi-private resident living unit;~~

(h) privacy when receiving personal care or services;

(i) keep personal possessions and clothing as space permits;

(j) participate in religious and social activities of the resident's choice;

(k) interact with members of the community both inside and outside the facility;

(l) send and receive mail unopened;

(m) have access to telephones to make and receive private calls;

(n) arrange for medical and personal care;

(o) have a family member or responsible person informed by the facility of significant changes in the resident's cognitive, medical, physical, or social condition or needs;

(p) leave the facility at any time and not be locked into any room, building, or on-site at the facility ~~[premises]~~ during the day or night, except:

(i) a type II assisted living ~~[type II residents who have been]~~ resident is assessed to require a secure environment may be housed in a secure unit, ~~[provided]~~ if the secure unit is approved by the fire authority having jurisdiction; and

(ii) th~~[is]~~e right does not prohibit the locking of facility entrance doors if egress is maintained;

(q) be informed of complaint or grievance procedures and to voice grievances and recommend changes in policies and services to facility staff or outside representatives without restraint, discrimination, or reprisal;

(r) be encouraged and assisted throughout the period of a stay to exercise these rights as a resident and as a citizen;

(s) manage and control personal funds, or to be given an accounting of personal funds entrusted to the facility, as provided in Section R432-270-20 concerning management of resident funds;

(t) upon oral or written request, to access within 24 hours records pertaining to the resident, including clinical records;

(u) two working days after the day of the resident's oral or written request, to purchase at a cost not to exceed the community standard photocopies of the resident's records or any portion thereof;

(v) personal privacy and confidentiality of personal and clinical records;

(w) be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being; and

(x) be fully informed in a language and in a manner the resident understands of the resident's health status and health rights, including the following:

(i) medical condition;

(ii) the right to refuse treatment;

(iii) the right to formulate an advance directive in accordance with Title 75, Chapter 2a, Advance Health Care Directive Act; and

(iv) the right to refuse to participate in experimental research.

(6) The licensee shall ensure the following items are posted in a public area of the facility that is easily accessible and visible by ~~[residents]~~ each resident and the public:

(a) the long-term care ombudsmen's notification poster;

(b) information on Utah protection and advocacy systems; and

(c) a copy of the resident~~[s]~~ rights.

(7) The licensee shall ~~[make]~~ post the ~~[results of]~~ link to the ~~[current]~~ facility ~~[survey with any plans of correction available]~~ search section of the OL website at <https://dlbc.utah.gov/find-health-providers/> in a public area of the facility with an explanation that they may find compliance history and inspection results by searching for the facility's name on that link.

(8)(a) A resident may organize and participate in resident groups in the facility, and a resident's family may meet in the facility with the families of other residents.

- (b) The licensee shall ~~[ensure]~~ provide private space ~~[is provided]~~ for resident groups or family groups.
- (c) Facility personnel or visitors may attend resident group or family group meetings only at the group's invitation.
- (d) The administrator shall designate an employee to ~~[provide assistance]~~ assist with and respond to written requests that result from group meetings.

R432-270-11. Admissions.

- (1) The licensee shall have written admission, retention, and transfer policies that are available to the public upon request.
- (2) Before accepting a resident, the licensee ~~[shall]~~ must ensure enough information is obtained about the person's ability to function in the facility through the following:
 - (a) an interview with the resident and the resident's responsible person; and
 - (b) the completion of the resident assessment.
- (3) If the ~~[department]~~ OL determines during inspection or interview that the facility knowingly and willfully admits or ~~[retains residents]~~ keeps a resident who does not meet ~~[license]~~ admission criteria, ~~[then the department]~~ OL may, for a time period specified, require that resident assessments be conducted by an individual who is independent from the facility.
- (4) A type I assisted living licensee may accept and keep a resident who:
 - ~~[(a) shall accept and retain residents who meet the following criteria:~~
 - ~~_____ (i) are] (a) does not require total assistance from another person with more than three ADLs;~~
 - ~~_____ (b) has stable health;~~
 - ~~_____ (c) is ambulatory or mobile and [are capable of taking] can take life-saving action in an emergency without the assistance of another person;~~
 - ~~[(ii) have stable health;~~
 - ~~_____ (iii) require no assistance or only limited assistance with ADLs; and~~
 - ~~_____ (iv) do not require total assistance from staff or others with more than three ADLs and~~
 - ~~_____ (b) may accept and retain residents who meet the following criteria:~~
 - ~~_____ (i) are] (d) is cognitively impaired or physically disabled, but [able to] can evacuate from the facility without the assistance of another person; [and]~~
 - ~~_____ [(ii) require] (e) requires and received intermittent care [or] of treatment in the facility from a licensed health care professional, either through contract or by the [facility] licensee, if permitted [by facility] in policy [-]; or~~
 - ~~_____ (f) requires no assistance, or only limited assistance with ADLs.~~
- (5) A type II assisted living facility licensee may accept and ~~[retain residents who meet the following criteria:~~
 - ~~_____ (f) keep a] require total assistance from staff or others in more than three ADLs, provided that] resident who:~~
 - ~~_____ [(i) the staffing level and coordinated supportive health and social services meet the needs of the resident; and~~
 - ~~_____ (ii) the resident is capable of evacuating the facility with the limited assistance of one person.~~
 - ~~_____ (b) are physically disabled but able to direct their own care; or~~
 - ~~_____ (c) are] (a) is cognitively impaired or physically disabled, but [able to] can evacuate from the facility with the limited assistance of one person [-];~~
 - ~~_____ (b) is physically disabled, but can direct their own care; or~~
 - ~~_____ (c) requires total assistance from another person in more than three ADLs if:~~
 - ~~_____ (i) the resident can evacuate the facility with the limited assistance of one person; and~~
 - ~~_____ (ii) the staffing level and coordinate supportive health and social services meet the needs of the resident.~~
- (6) ~~[Type]~~ A type I and type II assisted living licensee[s] may not admit or ~~[retain a person who:~~
 - ~~_____ (f) keep a] manifests behavior that is suicidal, sexually or socially inappropriate, assaultive, or poses a danger to self or others;] person who:~~
 - ~~_____ [(b) a] has active tuberculosis or other chronic communicable diseases that cannot be treated in the facility or on an outpatient basis [-];~~
 - or may be transmitted to other residents or guests through the normal course of activities; ~~[-or]~~
 - ~~_____ (b) manifests behavior that is:~~
 - ~~_____ (i) assaultive;~~
 - ~~_____ (ii) poses a danger to self or others;~~
 - ~~_____ (iii) sexually or socially inappropriate; or~~
 - ~~_____ (iv) suicidal; and~~
 - ~~_____ (c) requires inpatient hospital, long-term nursing care or 24-hour continual nursing care that will last longer than 15 calendar days after the day that the nursing care begins.~~
- (7) ~~[Type]~~ In accordance with Section 26B-2-236, a type I ~~[and]~~ or type II assisted living licensee[s] may not:
 - ~~_____ (a) deny an individual admission to the facility for the sole reason that the individual or the individual's legal representative requests to install or operate a monitoring device in the individual's room [in accordance with Title 26, Chapter 21, Part 304, Monitoring Device — Facility admission, patient discharge, and posted notice.]; and~~
 - ~~_____ (b) permit any employee, as outlined in the policy, to deactivate, reposition, or otherwise interfere with the operation of a monitoring device in a resident's room.~~
- (8) ~~(a)~~ The licensee shall ensure the prospective resident or the prospective resident's responsible person signs a written admission agreement before admission. ~~[The licensee shall maintain the admission agreement on file and shall specify at least the following:]~~
 - ~~_____ (a) room and board charges and charges for basic and optional services;~~
 - ~~_____ (b) [provision for a 30-day notice before any change in established charges;]~~

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~~(c) admission, retention, transfer, discharge, and eviction policies;~~
~~(d) conditions when the]The licensee shall maintain the admission agreement [may be terminated;]on file.~~
~~(e) the name of the responsible party;~~
~~(f) notice] (c) The licensee shall ensure the admission agreement specifies:~~
~~(i) a notification that [the department]OL has the authority to examine resident records to determine compliance with licensing requirements;[and]~~
~~(g) refund procedures] (ii) an outline of each condition that [address]may end the [following:]agreement;~~
~~(i) thirty day notices] (iii) any reason for [transfer or discharge given by the facility or by the]mandatory placement in a shared resident living unit;~~
~~(ii) emergency transfers or discharges;~~
~~(iii) transfers or discharges without notice; and~~
] ~~(iv) any refund procedures for:~~
~~(A) a thirty-day notice provided by the licensee to the resident for a transfer or discharge;~~
~~(B) a transfer or discharge without notice;~~
~~(B) an emergency transfer or discharge; and~~
~~(C) the death of a resident[-];~~
~~(v) any room and board charge including any charge for any basic and optional service;~~
~~(vi) the facility's admission, retention, transfer, discharge, and eviction policies; and~~
~~(vii) the provision for a 30-day notice before any change in any established charge.~~
(9)(a) A type I assisted living licensee may accept and retain resident[s] who ~~[have been]~~is admitted to a hospice program~~[-, under the following conditions] if:~~
~~([a]i) the licensee keeps a copy of the physician's diagnosis and orders for care; and~~
~~(b) the licensee makes the hospice services part of the resident's service plan that shall explain who is responsible to meet the resident's needs; and~~
~~(c) a licensee may retain hospice patient residents who are not capable of exiting the facility without assistance with the following conditions:~~
~~(i) a worker or an individual is assigned solely to each specific hospice patient and is on site to assist the resident in emergency evacuation 24 hours a day, seven days a week;~~
~~(ii) the assigned worker or individual is trained to specifically assist in the emergency evacuation of the assigned hospice patient resident;~~
~~(iii) the worker or individual is physically capable of providing emergency evacuation assistance to the particular hospice patient resident; and~~
~~(iv) hospice residents who are not capable of exiting the facility without assistance comprise no more than 25% of the facility's resident census.~~
(10) A type II assisted living licensee may accept and retain hospice patient residents under the following conditions:
~~(a) the licensee keeps a copy of the physician's diagnosis and orders for care;~~
~~(b) (i) the licensee makes the hospice services part of the resident's service plan that explains who is responsible to meet the resident's needs[-; and].~~
~~(e) (b) A type I assisted living licensee may keep a hospice patient resident who cannot exit the facility without assistance if:~~
~~(i) a worker or individual is assigned to each specific hospice patient resident and is on-site to assist the resident in emergency evacuation 24 hours a day, seven days a week;~~
~~(ii) the assigned worker or individual is physically able to provide emergency evacuation assistance to the particular hospice patient resident;~~
~~(iii) the assigned worker or individual is trained to specifically assist in the emergency evacuation of the assigned hospice patient resident; and~~
~~(iv) the hospice patient residents who cannot evacuate without assistance does not comprise more than 25% of the facility resident census.~~
(10) A type II assisted living licensee may accept and keep a hospice patient resident under the following conditions:
~~(a) if the hospice patient resident cannot evacuate the facility without significant assistance, the licensee shall:~~
~~(i) develop an emergency plan to evacuate the hospice patient resident in the event of an emergency; and~~
~~(ii) integrate the emergency plan into the hospice patient resident's service plan;~~
~~(b) the licensee keeps a copy of the physician's diagnosis and orders for care; and~~
~~(c) the licensee makes the hospice services part of the hospice patient resident's service plan that explains who is responsible to meet the hospice patient resident's needs.~~

R432-270-12. Transfer or Discharge Requirements.

(1) The licensee may discharge, transfer, or evict a resident for ~~[one or more]any~~ of the following reasons:
~~(a) the resident's needs are no longer able to be met because the resident poses a threat to the health or safety to self or others, or the resident's required medical treatment is no longer able to be provided;~~
] ~~(a) the facility ceases to operate;~~
~~(b) the resident fails to comply with written policies or rules of the facility;~~
~~(c) the resident fails to pay for services as required by the admission agreement;~~

- ~~_____ (e) the resident fails to comply with written policies or rules of the facility;~~
~~_____ (d) the resident wishes to transfer; or~~
~~_____ (e) the facility ceases to operate.~~
~~_____ (e) the resident's needs cannot be met because the resident poses a threat to the health or safety of self or others, or the resident's required medical treatment cannot be provided.~~
 (2) Before a resident transfer or discharge is initiated, the licensee shall ensure a transfer or discharge notice is served ~~[upon]~~to the resident and the resident's responsible person.
 _____ (3) Before a resident transfer or discharge is initiated, the licensee shall:
 _____ (a) ensure the notice is delivered either by hand or by certified mail; and
 _____ (b) ensure the notice is served at least 30 days before the day of planned resident transfer or discharge, unless notice for a shorter period ~~[of time]~~is necessary ~~[to protect]~~:
 _____ (i) ~~if the [safety]resident's urgent medical needs require an immediate transfer or discharge;~~
 _____ (ii) ~~if the resident has not resided in the facility for at least 30 days;~~
 _____ (iii) ~~to protect the health of the~~ individuals in the facility from endangerment due to the medical or behavioral status of the resident;
 or
 _____ ~~([ii])~~iv) ~~to protect the [health]safety of the individuals in the facility from endangerment due to the resident's continued residency[;].~~
~~_____ (iii) an immediate transfer or discharge is required by the resident's urgent medical needs; or~~
~~_____ (iv) the resident has not resided in the facility for at least 30 days.~~
 _____ (3) _____ (4) The licensee shall ensure that the notice of transfer or discharge:
 _____ (a) ~~is in writing with a copy placed in the resident file;~~
 _____ (b) ~~is phrased in a manner and in a language that is most likely to be understood by the resident and the resident's responsible person;~~
 _____ (c) ~~details the reasons for transfer or discharge;~~
 _____ (d) ~~states the effective date of transfer or discharge;~~
 _____ (e) ~~states the location where the resident will be transferred or discharged, if known;~~
 _____ (f) ~~states that the resident may request a conference to discuss the transfer or discharge; and~~
 _____ (g) ~~contains the [following information:~~
 _____ (i) ~~the]name, mailing address, email address, and telephone number of [the state]Utah's long[-]-term care ombudsman;~~
~~_____ (ii) for facility residents with developmental disabilities] (b) contains, for a developmentally disabled resident, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under [the-]Developmental Disabilities Assistance and Bill of Rights Act[-, Part C; and] of 2000, Pub. L. No. 106-402;~~
~~_____ (iii) (c) contains, for [facility residents who are]a mentally ill resident, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under [the-]Protection and Advocacy for Mentally Ill Individuals Act of 1986, Pub. L. No. 99-319[-];~~
 _____ (4)d) ~~is in writing with a copy placed in the resident file;~~
 _____ (e) ~~is phrased in a manner and language that can be understood by the resident and the resident's responsible person;~~
 _____ (f) ~~states the effective date of transfer or discharge;~~
 _____ (g) ~~states the location where the resident will be transferred or discharged to if known;~~
 _____ (h) ~~states the reasons for transfer or discharge; and~~
 _____ (i) ~~states that the resident may request a conference within five calendar days of receipt of the notice to discuss the transfer or discharge.~~
 _____ (5) The licensee shall:
~~_____ (a) _____ (a) provide the notice described in this section to the resident and the resident's responsible person at least 30-days before the day that the resident is transferred or discharged, unless notice of a shorter period is necessary to protect the health or safety of individuals in the facility due to the medical or behavioral status of the resident;~~
 _____ (b) ~~send a copy of the notice described in this section to Utah's long-term care ombudsman on the same day that the licensee delivers the notice to the resident and resident's responsible person;~~
 _____ (c) ~~update the transfer or discharge notice as soon as practicable before the transfer or discharge, if information in the notice changes before the transfer or discharge; and~~
 _____ (b)d) ~~verbally explain to the resident, the services available through the ombudsman and the contact information for the ombudsman[- and].~~
~~_____ (c) send a copy of the notice described in Subsection R432-270-12(2) to the state long-term care ombudsman:~~
~~_____ (i) on the same day that the facility delivers the notice described in Subsection R432-270-12(2) to the resident and the resident's responsible person; and~~
~~_____ (ii) provide the notice described in Subsection R432-270-12(2) at least 30 days before the day that the resident is transferred or discharged, unless notice for a shorter period is necessary to protect the safety of individuals in the facility from endangerment due to the medical or behavioral status of the resident.~~
 _____ (5) _____ (6) The licensee shall ensure the ~~[preparation and orientation is]transfer or discharge notice is prepared, discussed, provided, and documented[-, in a language and manner the resident is most likely to understand, for a resident]~~ to ensure a safe and orderly transfer or discharge from the facility.
 _____ (6)Z(a) The resident or the resident's responsible person may contest a transfer or discharge.
 _____ (b) If the transfer or discharge is contested, the licensee shall provide an informal conference, except where undue delay might jeopardize the health, safety, or well-being of the resident or others.

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(b)(c) The resident, or the resident's responsible person, shall request the conference within five calendar days of the day of receipt of notice of discharge to determine if a satisfactory resolution can be reached.

(e)(d) Participants in the conference shall include:

- (i) the facility representatives;
- (ii) the resident, or the resident's responsible person; and
- (iii) any others requested by the resident, or the resident's responsible person.

(7) In (8) If the [event of a] facility closes, the licensee shall provide written notification of the closure to [the state]:

- (i) Utah's long-term care ombudsman;
- (ii) each resident of the facility; and
- (iii) each resident's responsible person.

(8)(9) The licensee may not discharge a resident for the sole reason that the resident or the resident's legal representative requests to install or operate a monitoring device in the [individual's]resident's room in accordance with Section 26B-2-236 [Monitoring Device Installation, notice, and consent Liability].

R432-270-13. Resident Assessment.

(1) The licensee shall ~~shall~~ must ensure a signed and dated resident assessment is completed for each resident before admission and at least every six months thereafter.

(2) In each type I and type II [~~facilities~~] assisted living facility, a licensed health care professional shall complete and sign the initial and six-month resident assessment.

(3) The licensee shall ensure that the resident assessment:

- (a) accurately reflects the resident's status [~~at the time of assessment~~] when assessed; and
- (b) includes a statement signed by the licensed health care professional completing the resident assessment that the resident meets the admission and level of assistance criteria for the facility.

(4) The licensee shall ensure the resident assessment form is approved [~~and reviewed~~] by the [~~department to document the~~] OL for documenting resident assessments.

(5)(a) The licensee shall ensure each resident's assessment is revised and updated when there is a significant change in the resident's [~~cognitive, medical, physical, or social condition and update the resident's service plan to reflect the change in condition~~]:

- (i) cognitive condition;
- (ii) medical condition;
- (iii) physical condition; or
- (iv) social condition.

(b) The licensee shall update the resident's service plan to reflect any change in condition.

R432-270-14. Service Plan.

(1)(a) The licensee shall ensure that each resident has an individualized service plan that is consistent with the resident's unique cognitive, medical, physical, and social needs [~~and~~].

(b) The licensee shall ensure the service plan is developed within seven calendar days of the day the facility admits the resident.

(c) The licensee shall ensure the service plan is periodically revised as needed.

(2) The licensee shall ensure the resident assessment is used to develop, review, and revise the service plan for each resident.

(3) The licensee shall ensure that the service plan includes a written description of the [~~following~~] services to be provided and:

- (a) [~~the~~] how services [to be] are provided;
- (b) each change to services and reason for each change;
- (c) the frequency of services; and
- (d) who will provide the services, including the resident's significant others who may participate in the delivery of services;
- [~~(e) how the services are provided;~~
- [~~(d) the frequency of services; and~~
- [~~(e) changes in services and reasons for those changes.~~

R432-270-15. Nursing Services.

(1) The licensee shall ensure written policies and procedures are developed defining the level of nursing services provided by the [~~facility~~] licensee.

(2) A type I assisted living licensee shall [~~employ~~] hire or contract with a registered nurse to provide or delegate medication administration for any resident who cannot to self-medicate or self-direct medication management.

(3) A type II assisted living licensee shall [~~employ~~] hire or contract with a registered nurse to provide or supervise nursing services to include:

- (a) a nursing assessment on each resident;
- (b) general health monitoring on each resident; and
- (c) routine nursing tasks, including those that may be delegated to unlicensed assistive personnel [~~in accordance with~~] per Section R156-31B-701.

(4) A type I assisted living licensee may provide nursing care [~~according to~~] per facility policy. [~~-~~] If a type I assisted living [~~facility~~] licensee chooses to provide nursing services, the nursing services shall be provided [~~in accordance with~~] per Subsections R432-270-15(3)(a) through (c).

(5)(a) Type I and type II assisted living licensees may not provide skilled nursing care, but shall assist the resident in obtaining required services. ~~[To determine whether a nursing service is skilled, the following criteria shall apply:]~~

~~_____ (a) _____~~ (b) A nursing service is considered skilled nursing when:

(i) the complexity or specialized nature of the prescribed services can be safely or effectively performed only by, or under the close supervision of, a licensed health care professional personnel; or

(ii) care is needed to prevent, to the extent possible, deterioration of a condition or to sustain the current capacities of a resident.

(6) At least one certified nurse aide shall be on ~~[-]~~-duty in a type II assisted living facility 24 hours a day.

R432-270-16. Secure Units.

(1) A type II assisted living licensee with approved secure units may admit ~~[residents]~~ a resident with a diagnosis of Alzheimer's or dementia if the resident can exit the facility with limited assistance from one person.

(2) The licensee shall ensure that each resident admitted to a secure unit has an admission agreement that ~~[indicates placement in the secure unit]~~ is signed by the resident or their legal representative that acknowledges understanding and consent to reside in a facility where egress is controlled. The licensee shall ensure the secure admission agreement:

(a) documents that a wander risk management agreement has been negotiated with the resident or resident's responsible person; and

(b) identifies discharge criteria that would initiate a transfer of the resident to a higher level of care than the assisted living facility can provide.

(3) In addition to completing the facility orientation and ~~[demonstration of]~~ demonstrating core competency skills, the licensee shall ensure each direct-care employee in the secure unit is provided a minimum of four hours of the 16 required hours of documented one-on-one job training in the secure unit.

(4) The licensee shall ensure that there is at least one direct-care staff in the secure unit continuously.

(5) The licensee shall provide an emergency evacuation plan on each secure unit that addresses the ability of the secure unit staff to evacuate ~~[the residents]~~ each resident in ~~[ease of]~~ an emergency.

(6) The licensee shall ensure a secure unit is constructed in accordance with Section 15A-3-105 and no more than 30 residents may reside in an area enclosed for smoke and fire and with controlled egress.

R432-270-17. Arrangements for Medical or Dental Care.

(1) The licensee shall ensure ~~[residents are]~~ each resident is assisted in arranging access for any required ancillary services for medically related care including~~[-]~~

~~_____ (a) _____~~ physician;

~~_____ (b) _____~~ dentist;

~~_____ (c) _____~~ home health provider;

~~_____ (d) _____~~ hospice provider;

~~_____ (e) _____~~ pharmacist;

~~_____ (f) _____~~ therapy;

~~_____ (g) _____~~ podiatry]physician;

~~_____ (h) _____~~ hospice]podiatrist;

~~_____ (i) _____~~ home health]therapist; and

~~_____ (j) _____~~ provider of any other services necessary to support the resident.

(2) The licensee shall ensure care through one or more of the following methods is arranged:

(a) notifying the resident's responsible person;

(b) arranging for transportation to and from the practitioner's office; or

(c) arrange for a home visit by a health care professional.

(3) The licensee shall ~~[ensure]~~ notify a physician or other health care professional~~[is notified]~~ when the resident requires immediate medical attention.

R432-270-18. Activity Program.

(1) The licensee shall ensure ~~[residents are]~~ each resident is encouraged to maintain and develop their fullest potential for independent living through participation in activity and recreational programs.

(2) The licensee shall ensure opportunities for the following are provided:

(a) ~~[socialization]~~ community activities to promote resident participation in activities away from the facility;

(b) independent living activities to foster and maintain independent functioning;

(c) physical activities; and

(d) ~~[community]~~ socialization activities~~[to promote resident participation in activities away from the facility].~~

(3) The administrator shall designate an activity coordinator to direct the facility's activity program. ~~[-]~~ The activity coordinator's duties include~~[the following]:~~

(a) coordinate]ing recreational activities, including volunteer and auxiliary activities;

(b) ~~[plan, organize,]~~ developing and ~~[conduct the residents' activity program with resident participation; and~~

~~_____ (c) _____~~ develop and post]posting monthly activity calendars, including information on community activities~~[-]~~ based on resident~~[s']~~ needs and interests~~[-]; and~~

~~_____ (d) _____~~ planning, organizing, and conducting the resident activity program with resident participation.

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(4) The licensee shall ~~[ensure]~~provide enough equipment, supplies, and indoor and outdoor space to meet the recreational needs and interests of ~~the residents~~[are provided].

(5) The licensee shall ensure storage for recreational equipment and supplies is provided.~~[-]~~ The licensee shall ensure locked storage is provided for potentially dangerous items such as scissors, knives, and toxic materials.

R432-270-19. Medication Administration.

(1) A licensed health care professional shall assess each resident to determine what level and type of assistance is required for medication administration. ~~[-]~~The health care professional shall document the level and type of assistance the health care professional provides in each resident's assessment.

(2) The licensee shall ensure each resident's medication program is administered by one of the methods described Subsections R432-270-19(2) through (9).

(3) A resident assessed to be able to self-administer medication may keep prescription medications in their room.

(4) If more than one resident resides in a resident living unit, the licensee shall ensure each person's ability is assessed to safely have medications in the resident living unit.~~[-]~~ If safety is a factor, the licensee shall ensure a resident stores their medication in a locked container in the resident living unit.

(5)(a) A resident may be assessed to be able to self-direct medication administration.

(b) Facility staff may assist a resident assessed to self-direct medication by:

~~(i) [reminding the resident to take the medication;~~

~~(ii)]opening medication containers;[-and]~~

~~(iii)]reminding the resident or the resident's responsible person when the prescription needs to be refilled[-]; and~~

~~(iii) reminding the resident to take the medication.~~

(6)(a) A resident may be assessed to allow family members or a designated responsible person to administer medications.

(b) If a family member or designated responsible person assists with medication administration, the licensee shall ensure they sign a waiver indicating that they agree to assume the responsibility to fill prescriptions, administer medication, and document that the medication has been administered.

(c) Facility staff may not serve as the designated responsible person.

(7)(a) A resident may be assessed as unable to self-administer or self-direct medications.

(b) Facility staff may administer medications only after delegation by a licensed health care professional under the scope of their practice.

(c) If a licensed health care professional delegates the task of medication administration to unlicensed assistive personnel, the licensee shall ensure the delegation is in accordance with Title 58, Chapter 31b, Nurse Practice Act and Section R156-31B-701.

(d) The licensee shall ensure medications are administered according to the prescribing order.

(e) The delegating authority shall provide and document supervision, evaluation, and training of unlicensed assistive personnel assisting with medication administration.

(f) The delegating authority or another registered nurse shall be readily available either in~~[-]~~person or by telecommunication.

(8) A resident may independently administer their own personal injections if they have been assessed to be independent in that process. This may be done in conjunction with the administration of medication in methods Subsections R432-270-19(3) through (6).

(9) Home health or hospice agency staff may provide medication administration to a facility resident[s] exclusively, or in ~~[conjunction]~~accordance with Subsections R432-270-19(2) through (9).

(10) The licensee shall ensure a licensed health care professional or licensed pharmacist reviews resident medications at least every six months.

(11) The licensee shall ensure that medication records include the~~[-following]~~:

~~(a) [the resident's name;~~

~~(b) the name of the prescribing practitioner;~~

~~(c)]medication name, including prescribed dosage;~~

~~[-(d) the time, dose, and dates administered;~~

~~(e) the] (b) method of administration;~~

~~(c) name of the prescribing practitioner;~~

~~(d) review date;~~

~~(e) resident's name;~~

(f) signatures of personnel administering the medication; and

(g) ~~[the review date.]~~time, dose, and dates administered.

(12)(a) The licensee shall ensure that a licensed health care professional or licensed pharmacist documents any change in the dosage or schedule of medication in the medication record.

(b) When the facility staff documents ~~[changes in the]~~medication changes, the licensed health care professional ~~[shall]~~must co-sign within 72 hours.

(c) The licensee shall ensure that the licensed health care professional notifies unlicensed assistive personnel who administer medications of the medication change.

(13) The licensee shall have access to a reference for possible reactions and precautions for prescribed medications in the facility.

(14) The licensee shall ensure the licensed health care professional is notified when medication errors occur.

(15) The licensee shall ensure that medication error incident reports are completed if a medication error occurs or is identified.

(16) The licensee shall incorporate medication errors into the facility quality improvement process.

(17) The licensee shall ensure that medications stored in a central storage area are:

- ~~_____ (a) locked to prevent unauthorized access; and~~
~~_____ (b) (a) available for the resident to have timely access to the medication; and~~
~~_____ (b) locked to prevent unauthorized access.~~

(18) The licensee shall ensure medications that require refrigeration are stored separately from food items and at temperatures between 36 - 46 degrees Fahrenheit.

(19) The licensee shall ensure policies governing the following are developed and implemented:

- ~~_____ (a) destruction and disposal of unused, outdated, or recalled medications; and~~
~~_____ (b) security and disposal of controlled substances by the licensee or facility staff that are consistent with the Code of Federal Regulations, Title 21, Chapter II, Part [4307; and]1317 (2014).~~
~~_____ (b) destruction and disposal of unused, outdated, or recalled medications.~~

] (20) The licensee shall ensure the return of resident's medication to the resident or to the resident's responsible person is documented upon discharge.

R432-270-20. Management of Resident Funds.

~~(1) Residents have]~~(a) Each resident has the right to manage and control their financial affairs.

~~_____ (b) The licensee may not require a resident to deposit their personal funds or valuables with the facility.~~

(2) The licensee is not required to handle a resident's cash resources or valuables. [-]However, upon written authorization by the resident or the resident's responsible person, the facility may hold, safeguard, manage, and account for the resident's personal funds or valuables deposited with the facility, in accordance with this section.

(3) The licensee shall establish and maintain, on the resident's behalf, a system that ensures a full, complete, and separate accounting according to generally accepted accounting principles of each resident's personal funds entrusted to the facility. The system shall:

~~_____ (a) preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident, and preclude facility personnel from using a resident's funds or valuables as their own;~~

~~_____ (b) separate a resident's funds and valuables intact and free from any liability that the licensee incurs in the use of its own or the facility's funds and valuables;~~

~~_____ (c) maintains a separate account for resident funds for each facility and does not commingle such funds with resident funds from another facility;~~

~~_____ (d) (a) for records of a resident's funds that are maintained as a drawing account, include a control account for receipts and expenditures and an account for each resident and supporting receipts filed in chronological order;~~

~~_____ (e) keep each account with columns for debits, credits, and balance; and~~

~~_____ (f) (b) include a copy of the receipt that it furnished to the resident for funds received and other valuables entrusted to the licensee for safekeeping[-];~~

~~_____ (c) preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident, and preclude facility personnel from using a resident's funds or valuables as their own;~~

~~_____ (d) maintains a separate account for resident funds for each facility and does not commingle such funds with resident funds from another facility;~~

~~_____ (e) separate a resident's funds and valuables intact and free from any liability that the licensee incurs in the use of its own or the facility's funds and valuables; and~~

~~_____ (f) keep each account with columns for debits, credits, and balance.~~

(4) The licensee shall ensure individual financial records are made available on request through quarterly statements to the resident or the resident's legal representative.

(5) The licensee shall purchase a surety bond or otherwise provide assurance satisfactory to [the department]OL that resident personal funds deposited with the facility are secure.

(6) The licensee shall ensure:

~~_____ (a) each resident's share, including interest, has separate accounting in pooled accounts;~~

~~_____ (b) interest earned on a resident's bank account is credited to the resident's account;~~

~~_____ (c) resident funds over \$150 are deposited within five days of receipt in an interest-bearing bank account at a local financial institution separate from any of the facility's operating accounts; and~~

~~_____ (b) interest earned on a resident's bank account is credited to the resident's account;~~

~~_____ (c) each resident's share, including interest, has separate accounting in pooled accounts; and~~

] (d) resident personal funds that do not exceed \$150 are kept in either a non-interest-bearing account, an interest-bearing account, or a petty cash fund.

(7) Upon discharge of a resident with funds or valuables deposited with the facility, the licensee shall ensure the resident's funds are conveyed the same day, and a final accounting of those funds provided to the resident or the resident's legal representative.

(8) Upon discharge of a resident with funds or valuables kept in an interest-bearing account, the licensee shall ensure the funds or valuables are accounted for and made available to the resident or resident's legal representative within three working days.

(9) Within 30 days following the death of a resident, except in a medical examiner case, the licensee shall ensure the resident's valuables and funds entrusted to the facility are conveyed, and a final accounting of those funds, to the individual administering the resident's estate.

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R432-270-21. Records.

(1) The licensee shall ensure accurate and complete records are maintained. ~~[-]The licensee shall safely file and store records and ensure they remain easily accessible to staff and [the department]OL.~~

(2) The licensee shall ensure records are protected against access by unauthorized individuals.

(3) The licensee shall ensure personnel records are maintained for each employee and are retained for at least three years following termination of employment. ~~[-]The licensee shall ensure personnel records include[the following]:~~

- ~~(a) [employee application;~~
- ~~(b) date of employment;~~
- ~~(c) termination date;~~
- ~~(d) reason for leaving;~~
- ~~(e) documentation of CPR and first aid training;~~
- ~~(f) a health inventory;~~
- ~~(g) food handlers permits;~~
- ~~(h)] (b) a TB skin test documentation;~~
- ~~(i) c) documentation of [criminal background screening;]CPR and first aid training;~~
- ~~(j) d) documentation of core competency initial and annual training;~~
- ~~(e) documentation of criminal background screening;~~
- ~~(f) food handlers permits;~~
- ~~(g) the date of employment;~~
- ~~(h) the employee application;~~
- ~~(i) the reason for leaving; and~~
- ~~(j) the termination date.~~

(4) The licensee shall ensure a separate record for each resident is maintained at the facility that includes~~[the following]:~~

- ~~(a) the [resident's name, date of birth, and last address]admission agreement;~~
- ~~(b) the name, address, and telephone number of:~~
 - ~~(i) the individual to be notified if there is an accident or death; and~~
 - ~~(ii) the person who administers and obtains medications[-] if this person is not facility staff;~~
 - ~~(iii) a physician and dentist to be called in an emergency;~~
- ~~(c) the [admission agreement]resident assessment;~~
- ~~(d) the resident [assessment]service plan; and~~
- ~~(e) the [resident service plan]resident's name, date of birth, and last address.~~

~~(6) The licensee shall ensure written incident and injury reports are maintained to document resident death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety, or well-being of residents. The licensee shall ensure the reports are kept on file for at least three years.~~

~~(6) The licensee shall ensure compliance with Rule R380-600 for critical incident reporting and documentation.~~

R432-270-22. Food Services.

(1) The licensee shall ensure:

- ~~(a) residents are provided three meals a day, seven days a week, plus snacks;~~
- ~~(b) (a) a one-week supply of nonperishable food and a three-day supply of perishable food is maintained, as required to prepare the planned menus;~~
- ~~(c) no more than a 14-hour interval occurs between the evening meal and breakfast, unless a nutritious snack is available in the evening; and~~
- ~~(d) (b) each resident is provided three meals a day, seven days a week, plus snacks;~~
- (c) food service complies with the following:
 - (i) food is of good quality and is prepared by methods that ~~[retain]keep~~ nutritive value, flavor, and appearance;
 - (ii) food is palatable, attractively served, and delivered to the resident at the appropriate temperature; and
 - (iii) powdered milk may only be used as a beverage[-] upon the resident's request[-] but may be used in cooking and baking[-];
- ~~(d) no more than a 14-hour interval occurs between the evening meal and breakfast, unless a nutritious snack is available in the evening.~~

(2) The licensee shall ensure adaptive eating equipment and utensils are provided for ~~[residents]a resident~~ as needed.

(3) The licensee shall ensure a different menu is planned and followed for each day of the week and that:

- (a) a certified dietitian approves and signs any menu;
- (b) a cycle menu covers a minimum of three weeks;
- (c) ~~[the current week's menu is posted for resident viewing; and~~
- ~~(d)]any substitution to the menu that [are actually]is served to a resident is recorded and retained for three months for review by [the department.]OL; and~~
- (d) the current week's menu is posted for resident viewing.

- (4) The licensee shall ensure meals are served in a designated dining area suitable for that purpose or in resident rooms upon request by the resident.
- (5) The licensee shall ensure each resident is encouraged to eat their meals in the dining room with other residents.
- (6) The licensee shall ensure any inspection report by the local health department ~~[are]~~is maintained at the facility for review by ~~[the department]~~OL.
- (7) If a resident is admitted requiring a therapeutic or special diet, the licensee shall ensure there is an approved dietary manual for reference when preparing meals. The licensee shall ensure dietitian consultation is provided at least quarterly and documented for any resident requiring a therapeutic diet.
- (8)(a) The licensee shall ensure food service personnel are employed to meet the needs of ~~[residents]~~each resident.
- (b) While on~~[-]~~duty in food service, the cook and other kitchen staff may not be assigned concurrent duties outside the food service area.
- (c) The licensee shall ensure personnel who prepare or serve food have a current food handler's permit.
- (9) The licensee shall ensure compliance with ~~[the]~~Rule R392-100, Food Service Sanitation.
- (10) If food service personnel also work in housekeeping or provide direct resident care, the licensee shall ensure employee hygiene and infection control measures are developed and implemented to maintain a safe, sanitary food service.

R432-270-23. Housekeeping Services.

- (1) The licensee shall ~~[employ]~~hire and keep housekeeping staff to maintain both the exterior and interior of the facility.
- (2) The licensee shall designate a person to direct housekeeping services who shall:
 - ~~_____~~(a) ~~post routine laundry, maintenance, and cleaning schedules for housekeeping staff; and~~
 - ~~_____~~(b) ~~(a) ensure furniture, bedding, linens, and equipment are clean before use by another resident; and~~
 - ~~_____~~(b) ~~post routine laundry, maintenance, and cleaning schedules for housekeeping staff.~~
- (3) The licensee shall ensure control odors by maintaining cleanliness.
- (4) The licensee shall provide a trash container in every occupied room.
- (5) The licensee shall ensure cleaning agents, bleaches, insecticides, or poisonous, dangerous, or flammable materials are stored in a locked area to prevent unauthorized access.
- (6) The licensee shall ensure housekeeping personnel are trained regarding:
 - (a) cleaning procedures;
 - (b) preparing and using cleaning solutions;
 - ~~_____~~(b) cleaning procedures;
 - ~~_____~~(c) [proper use]procedures for disposal of [equipment]waste;
 - (d) proper handling of clean and soiled linen; and
 - (e) [procedures for disposal]proper use of [waste]equipment.
- (7) The licensee shall ensure bathtubs, shower stalls, or ~~[lavatories]~~sinks are not used as storage places.
- (8) The licensee shall ~~[ensure]~~may not use throw or scatter rugs that present a tripping hazard to ~~[residents are not used]~~a resident.

R432-270-24. Laundry Services.

- (1) The licensee shall ensure:
 - (a) at least one washing machine and one clothes dryer are available for resident use;
 - ~~_____~~(b) laundry services are provided to meet the need[s] of [the residents]each resident, including an adequate supply of linens; and
 - ~~_____~~(b)(c) the resident or [the resident's]resident's responsible person is informed in[-]writing of the facility's laundry policy for [residents]the resident's personal clothing[-]and
 - ~~_____~~(c) at least one washing machine and one clothes dryer are made available for resident use].
- (2) The licensee shall ensure food is not stored, prepared, or served in any laundry area.

R432-270-25. Maintenance Services.

- (1) The licensee shall ensure maintenance, including preventive maintenance, is conducted according to a written schedule to ensure that the facility equipment, buildings, fixtures, spaces, and grounds are safe, clean, operable, in good repair, and in compliance with Rule R432-6.
- (2) The licensee shall ensure~~[the maintenance of the following]:~~
 - (a) ~~[fire-rated construction and assemblies are maintained]~~an air filter installed in a heating, ventilation, or air conditioning system is inspected, cleaned, or replaced in accordance with ~~[Rule R710-3, Fire Marshal]~~manufacturer specifications;
 - (b) ~~[entrances, exits, steps, and outside walkways are maintained in a safe condition, free of ice, snow, and other hazards;~~
 - ~~_____~~(e) each electrical system[s], including appliances, cords, equipment call lights, and switches are maintained to guarantee safe functioning;[-]and]
 - ~~_____~~(c) each entrance, exit, step, and outside walkway is maintained in a safe condition and free of ice, snow, and other hazards; and
 - (d) ~~[air filters installed in heating, ventilation, and air conditioning systems must be inspected, cleaned, or replaced]~~fire-rated construction and assemblies are maintained in accordance with ~~[manufacturer specifications.]~~Rule R710-3.
- (3) The licensee shall ensure that a pest control program is conducted in the facility buildings and on the grounds by a licensed pest control contractor or a qualified employee, certified ~~[by this state]~~in Utah, to ensure the absence of vermin and rodents.
- (4) The licensee shall document any maintenance work or pest control that is performed.

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(5)(a) The licensee shall ensure that hot water temperature controls automatically regulate temperatures of hot water delivered to any plumbing fixture[s] used by [residents.]a resident.

~~(b) The licensee shall ensure hot water delivered to public and resident care areas is maintained at temperatures between 105 [-]and 120 degrees Fahrenheit.~~

R432-270-26. Disaster and Emergency Preparedness.

(1) The licensee is responsible for the safety and well-being of ~~[residents in the event of]~~each resident during an emergency or disaster.

(2) The licensee and the administrator are responsible to develop and coordinate plans with state and local emergency disaster authorities to respond to potential emergencies and disasters. ~~[-]The plan shall outline the protection or evacuation plan for each resident including:~~

- ~~(a) [the protection or evacuation of residents;~~
- ~~(b) arrangements for staff response, or providing additional staff, to ensure the safety of any resident with a physical or mental limitation[s]; and~~

~~(e)~~(b) when and how to notify the Silver Alert program for missing and endangered adults and the resident's emergency contacts.

(3) The licensee shall ensure that the facility's emergency and disaster response plan is in~~[-]~~ writing and distributed or made available to facility staff and ~~[residents]~~each resident to ensure prompt and efficient implementation.

(4) ~~[Emergencies]~~An emergency and ~~[disasters include]~~disaster includes:

- ~~(a) [fire]a bomb threat;~~
- ~~(b) [severe weather]a fire;~~
- ~~(c) a missing resident[s];~~
- ~~(d) [death of residents]a mass casualty;~~
- ~~(e) an earthquake;~~
- ~~(f) a windstorm;~~
- ~~(g) an epidemic;~~
- ~~(h) an explosion;~~
- ~~(i) an interruption of public utilities;~~
- ~~(f) explosion;~~
- ~~(g) bomb threat;~~
- ~~(h) earthquake;~~
- ~~(i) windstorm;~~

~~(j) [epidemic; or]severe weather; and~~

~~(k) [mass casualty]the death of a resident.~~

(5) The licensee and the administrator shall review and update the plan as necessary to conform with local emergency plans. ~~[-]~~The licensee shall ensure the plan is available for review by ~~[the department]~~OL.

(6) The licensee shall ensure the emergency and disaster response plan addresses the following:

- ~~(a) the names of the person in charge and persons with decision making authority;~~
- ~~(b) the names of persons who shall be notified in an emergency in order of priority;~~
- ~~(c) the names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police, and other appropriate agencies;~~
- ~~(d) instructions on how to contain a fire and how to use the facility alarm systems;~~
- ~~(e) (a) assignment of personnel to specific tasks during an emergency;~~
- ~~(f) the procedure to evacuate and transport residents and staff to a safe place within the facility or to other prearranged locations;~~
- ~~(g) instructions on how to recruit additional help, supplies, and equipment to meet the residents' needs after an emergency or disaster;~~
- ~~(h) delivery of essential care and services to facility occupants by alternate means;~~
- ~~(i) (b) delivery of essential care and services if additional persons are housed in the facility during an emergency;[-]and~~
- ~~(j) (c) delivery of essential care and services to facility occupants by alternate means;~~
- ~~(d) delivery of essential care and services to facility occupants if personnel are reduced by an emergency[-];~~
- ~~(e) instructions on how to contain a fire and how to use the facility alarm systems;~~
- ~~(f) instructions on how to recruit additional help, supplies, and equipment to meet each resident's needs after an emergency or disaster;~~
- ~~(g) the procedure to evacuate and transport each resident and staff to a safe place within the facility or to other prearranged locations;~~
- ~~(h) the names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police, and other appropriate agencies;~~
- ~~(i) the names of the person in charge and persons with decision-making authority; and~~
- ~~(j) the names of persons who shall be notified in an emergency in order of priority.~~

(7)(a) The licensee shall ~~[ensure]~~maintain safe ambient air temperatures ~~[are maintained]~~ within the facility.

(b) The local fire department shall approve the facility's emergency heating.

~~(c) Ambient air temperatures of 58 degrees Fahrenheit or below may constitute an imminent danger to the health and safety of the residents in the facility.]~~(c) The person in charge shall take immediate action in the best interests of [the residents]each resident to mitigate imminent danger to resident health and safety when the ambient air temperatures reach 58 degrees Fahrenheit or below.

(d) The licensee shall have, and be ~~[capable of implementing,]~~able to implement, any contingency plan[s] regarding excessively high ambient air temperatures within the facility that may exacerbate the medical condition of ~~[residents]~~a resident.

(8)(a) The licensee shall provide each personnel and resident[s] with instruction and training [~~in accordance with~~]per the plans regarding how to respond appropriately in an emergency.

(b) The licensee shall:

(~~i~~) annually review the procedures with each existing staff and resident[s] and carry out unannounced drills using those procedures;

(~~ii~~) hold simulated disaster drills semi-annually;

(~~iii~~) hold simulated fire drills quarterly on each shift for each staff and resident[s] in accordance with Rule R710-3; and

(~~iv~~) document drills, including:

(A) ~~the date~~;

(B) ~~a list of participants~~;

(C) ~~any problems encountered~~; and

(D) the ability of each resident to evacuate.

(9)(a) The licensee shall ensure that the administrator is in charge during an emergency.

(b) If ~~the administrator is not on~~ ~~the premises, the licensee shall ensure~~ ~~site~~, the administrator ~~makes~~ shall make every effort to report to the facility, relieve subordinates, and take charge.

(10) The licensee shall provide in-house equipment and supplies required in an emergency [~~including~~]that includes:

(a) ~~a first aid kit~~;

(b) ~~an emergency radio~~;

(c) ~~emergency lighting~~;

[~~(b) heating equipment~~;

~~(e) food~~;

] ~~(d) potable water~~;

~~(e) extra blankets~~;

~~(e) food~~;

(f) ~~first aid kit~~; ~~heating equipment~~; and

(g) ~~radio~~ potable water.

(11) The licensee shall ensure the following information is posted in public locations throughout the facility:

[~~(a)~~ (a) ~~evacuation routes, location of fire alarm boxes, and fire extinguishers~~; and

(b) the name of the person in charge and names and telephone numbers of emergency medical personnel, agencies, and appropriate communication and emergency transport systems~~;~~ and].

[~~(b) evacuation routes, location of fire alarm boxes, and fire extinguishers~~.

]

R432-270-27. First Aid.

(1) The licensee shall ensure that there is always one staff person on~~[-]~~duty [~~at all times,~~]who has:

(a) [~~training in basic first aid~~]CPR;

(b) training in [~~the Heimlich maneuver~~]basic first aid;

(c) [~~certification in cardiopulmonary resuscitation~~]; and

~~(d) training in emergency procedures to ensure each resident receives prompt first aid as needed; and~~

~~(d) training in the Heimlich maneuver.~~

(2) The licensee shall ensure there is a:

[~~(a) first aid kit available at a specified location in the facility~~;

~~(b) (a) current edition of a basic first aid manual approved by the American Red Cross, the American Medical Association, or a state or federal health agency;~~ ~~and~~

(~~e~~) ~~b~~ clean-up kit for [~~blood borne~~]bloodborne pathogens; and

~~(c) first aid kit available at a specified location in the facility.~~

R432-270-28. Pets.

(1) The licensee may allow [~~residents~~]a resident to keep household pets such as dogs, cats, birds, fish, and hamsters if permitted by local ordinance and by facility policy.

(2) The licensee shall ensure [~~pets are~~]any pet is kept clean and disease-free.

(3) The licensee shall ensure [~~pets'~~]any pet's environment is kept clean.

(4) The licensee shall ensure any small pet[s], such as [~~birds and hamsters, are~~]a bird or hamster, is kept in an appropriate enclosure[s].

(5) The licensee may not permit [~~pets~~]a pet that displays aggressive behavior in the facility.

(6) The licensee shall ensure that [~~pets~~]any pet that [~~are~~]is kept at the facility or [~~are~~]is a frequent [~~visitors have~~]visitor has current vaccinations.

(7) Upon approval of the administrator, a family member[s] may bring [~~residents'~~]a resident's pets to visit.

(8) Each licensee that permits birds shall have procedures that prevent the transmission of psittacosis. [~~-~~]The licensee shall ensure that procedures involve the minimum handling and placing of droppings into a closed plastic bag for disposal.

(9) The licensee may not permit pets in central food preparation, storage, or dining areas, or in any area where their presence would create a significant health or safety risk to others.

R432-270-29. Respite Services.

(1) Assisted living licensees may offer respite services and are not required to obtain any additional license from the ~~[Utah Department of Health and Human Services]~~OL.

(2) The purpose of respite is to provide intermittent, time-limited care to give primary caretakers relief from the demands of caring for a person. Respite services may also be provided for emergency shelter placement of vulnerable adults requiring protection by Adult Protective Services.

(3) The licensee may provide respite services at an hourly rate or daily rate, but may not exceed 14 days for any single respite stay. Stays that exceed 14 days shall be considered a non-respite assisted living facility admission.

(4) The licensee shall coordinate the delivery of respite services with the recipient of services, case manager, if one exists, and the family member or primary caretaker.

(5) The licensee shall ensure the person's response to the respite placement is documented and coordinated with each provider agency to ensure an uninterrupted service delivery program.

(6) The licensee shall ensure a service agreement is completed to serve as the plan of care. ~~[-]~~The licensee shall ensure the service agreement identifies the prescribed medications, physician treatment orders, need for assistance for ~~[activities of daily living]~~ADLs and diet orders.

(7)(a) The licensee ~~[shall]~~must ensure ~~[there are]~~written policies and procedures are approved by ~~[the department]~~OL before providing respite care.

(b) The licensee shall make policies and procedures available to staff regarding ~~[the]~~resident respite care ~~[for residents]~~that include:

~~[(a)]~~ (i) behavior management interventions;

~~[(ii)]~~ handling personal funds;

~~[(iii)]~~ medication administration;

~~[(b)iv]~~ notification of ~~[a-]~~responsible ~~[party in the case of]~~person during an emergency;

~~[(e)]~~ (v) philosophy of respite services;

~~[(vi)]~~ post-service summary;

~~[(vii)]~~ service agreement and admission criteria; and

~~[(d)]~~ behavior management interventions;

~~[(e)]~~ philosophy of respite services;

~~[(f)]~~ post service summary;

~~[(g)]~~ (viii) training ~~[and in service requirement]~~requirements for employees~~[-and]~~.

~~[(h)]~~ handling personal funds.

~~[(Persons)]~~The licensee shall provide a copy of the resident rights document upon admission to a person receiving respite services~~shall be provided a copy of the Resident Rights documents upon admission].~~

(9) The licensee shall ensure a record for each person receiving respite services is maintained that includes any:

~~[(a)]~~ accident and injury reports;

~~[(b)]~~ a post-service summary;

~~[(c)]~~ a service agreement;

~~[(b)d]~~ demographic information and resident identification data;

~~[(e)e]~~ nursing notes;

~~[(d)f]~~ physician treatment orders; and

~~[(e)g]~~ records made by staff regarding daily care of the person ~~[in]~~receiving the respite service~~[-]~~;

~~[(f)]~~ accident and injury reports; and

~~[(g)]~~ a post service summary].

(10) If a person has an advanced directive, the licensee shall ensure a copy is maintained in the respite record and inform staff of the advanced directive.

R432-270-30. Adult Day Care Services.

~~(1) Type I and type II]~~(a) An assisted living ~~[licensees-]~~facility licensee may offer adult day care services and are not required to obtain a separate license from ~~[Utah Department of Health and Human Services-]~~OL.

~~[(b)]~~ If the licensee provides adult day care services, ~~[they]~~the licensee shall submit policies and procedures for ~~[department]~~OL approval.

(2) The licensee shall ensure that a qualified director is designated by the governing board to be responsible for the day-to-day program operation.

(3)(a) The licensee shall ensure that the director has written records on-site for each resident and staff person~~[-to include the following-]~~ that include demographic information and an emergency contact, including a name, address, and telephone number.

~~[(a)]~~ demographic information;

~~[(b)]~~ [an emergency contact with name, address, and telephone number;

~~[(c)]~~ The licensee shall ensure resident health records, ~~[including the following]~~include a:

~~[(i)]~~ [record of medication including dosage and administration;

~~[(ii)]~~ a current health assessment~~[-]~~ signed by a licensed practitioner~~[-and]~~

~~[(iii)]~~ level of care assessment;

~~[(d)]~~ (iii) record of medication, including dosage and administration; and

~~[(iv)]~~ signed resident agreement and service plan~~[-and]~~.

- ~~_____~~ (e) The licensee shall ensure the employment file for each staff person ~~[that]~~ includes a:
- ~~_____~~ (i) ~~health history;~~
- ~~_____~~ (ii) (a) background ~~[clearance]~~ check consent and release form;
- ~~_____~~ (iii) (b) ~~description of health history;~~
- ~~_____~~ (c) ~~verification of orientation completion; and~~
- ~~_____~~ (iv) ~~in service]~~ (d) ~~verification of training requirements.~~
- (4) The licensee shall ensure there is a written eligibility, admission, and discharge policy to include the ~~[following]~~:
- (a) intake process;
- (b) notification of responsible ~~[party]~~ person;
- (c) reasons for admission refusal that includes a written, signed statement;
- (d) ~~reasons for discharge or dismissal; and~~
- ~~_____~~ (e) ~~resident rights notification[; and].~~
- ~~_____~~ (e) ~~reason for discharge or dismissal.~~
-] (5) ~~[Before a]~~ The licensee ~~[admits a resident,]~~ shall ensure a written assessment ~~[shall be]~~ is completed ~~before a resident is admitted~~ to evaluate ~~the resident's current health and medical history, [immunizations,] immunization status, legal status, and any social and psychological factors.~~
- (6) The licensee shall ensure that the director or designee ~~[-develops], resident, and resident's responsible person develop, complete, and sign~~ a written resident agreement ~~[-with the resident, the responsible party and the director or designee,] that [is completed and signed by each party and include the following]~~ includes the:
- (a) ~~arrangements regarding:~~
- ~~_____~~ (i) ~~absenteeism;~~
- ~~_____~~ (ii) ~~gifts;~~
- ~~_____~~ (iii) ~~mail;~~
- ~~_____~~ (iv) ~~telephone calls;~~
- ~~_____~~ (v) ~~vacations; and~~
- ~~_____~~ (vi) ~~visitation.~~
- ~~_____~~ (b) ~~rules of the program; and~~
- ~~_____~~ (c) ~~services to be provided and cost of each service, including refund policy[; and].~~
- ~~_____~~ (e) ~~arrangements regarding absenteeism, visits, vacations, mail, gifts, and telephone calls.~~
-] (7) (a) The director, or designee, shall develop, implement, and review the individual resident service plan. ~~[-The licensee shall ensure the plan:]~~
- ~~_____~~ (a) (b) The licensee shall ensure the resident service plan:
- ~~_____~~ (i) includes the specification of daily activities and services;
- ~~_____~~ (ii) is developed within three working days of admission; and
- ~~_____~~ (iii) is evaluated semi-annually.
- (8) The licensee shall ~~ensure that written]~~ document and report each critical incident ~~[and injury reports document the following:]~~
- ~~_____~~ (a) ~~resident death;~~
- ~~_____~~ (b) ~~injuries;~~
- ~~_____~~ (c) ~~elopement;~~
- ~~_____~~ (d) ~~fights or physical confrontations;~~
- ~~_____~~ (e) ~~situations that require the use of passive physical restraint;~~
- ~~_____~~ (f) ~~suspected abuse or neglect; and~~
- ~~_____~~ (g) ~~other situations or circumstances affecting the health, safety, or well-being of residents while-] in [care.]~~ accordance with Rule R380-600.
- (9) The licensee shall ensure that the director and responsible ~~[party]~~ person reviews each injury report and ensures that each report is kept on file.
- (10) The licensee shall ensure a daily activity schedule is provided, posted, and implemented as designed.
- (11) The licensee shall ensure ~~[residents are provided direct supervision at all times]~~ each resident is always directly supervised and encouraged to participate in activities.
- (12) (a) The licensee shall ensure a minimum of 50 square feet of indoor floor space is provided per resident designated for adult day care during program operational hours.
- (b) ~~[Hallways]~~ The licensee may not include any hallway, office, storage, ~~[kitchens, and bathrooms may not be included]~~ kitchen, or bathroom in the 50 square foot floor space calculation.
- (c) The licensee shall ensure indoor and outdoor areas are maintained in a clean, secure, and safe condition.
- (d) The licensee shall ensure at least one bathroom designated for resident use is provided during business hours. ~~[-For licensees]~~
- ~~_____~~ (e) The licensee serving more than ten residents ~~[-the licensee]~~ shall ensure there are separate male and female bathrooms designated for resident use.
- (13) The licensee shall ensure;
- ~~_____~~ (a) ~~continual staff supervision is provided when residents are present;~~
- ~~_____~~ (b) ~~a staff to resident ratio of one staff for every eight residents is maintained; and~~
- ~~_____~~ (a) a ratio of one staff for every six residents is maintained when one-half or more of the residents are diagnosed by a physician's assessment with Alzheimer's, or related dementia ~~[-];~~

NOTICES OF PROPOSED RULES

(b) a staff to resident ratio of one staff for every eight residents is maintained; and

(c) continual staff supervision is provided when a resident is present.

R432-270-31. Penalties.

Any person who violates this rule may be subject to the penalties [enumerated in Sections 26B-2-208]in Rule R380-600 and [~~26B-2-216~~]Title 26B, Chapter 2, Part 7, Penalties and [~~Section R432-3-8~~]Investigations.

KEY: health care facilities

Date of Last Change: [~~November 9, 2023~~]2024

Notice of Continuation: February 7, 2024

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

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R432-750

Filing ID: 56921

Agency Information

1. Title catchline:	Health and Human Services, Health Care Facility Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
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:
R432-750. Hospice Rule
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to add and update rule citations to comply with SB229 that standardizes the enforcement authority for the Division of Licensing and Background Checks (DLBC) from the 2024 General Session.
4. Summary of the new rule or change:
This amendment adds and updates rule citations to reflect recent amendments in Rules R432-100 and R380-600, updates Section R432-750-38 with new penalty language introduced in SB229 in the 2024 General Session, and makes stylistic changes to conform 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 proposed amendment will not impact the current process for licensure and re-licensure inspections. No change to the state budget is expected because no new processes or requirements are introduced.
B) Local governments:
This proposed rule amendment modifies and replaces outdated language and aligns terms with current the Rulewriting Manual for Utah. These facilities are regulated by the Department of Health and Human Services and not local governments. There is no anticipated impact to local business licensing or any other item with which local government is involved.

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

No impact to small business is expected because no new processes or requirements are introduced. This amendment only adds and updates rule citations and makes stylistic changes to comply with the Rulewriting Manual of Utah.

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

No impact to non-small business is expected because no new processes or requirements are introduced. This amendment only adds and updates rule citations and makes stylistic changes to comply with the Rulewriting Manual of Utah.

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 impact to persons other than small business, non-small business, state or local government entities is expected because no new processes or requirements are introduced. This amendment only adds and updates rule citations and makes stylistic changes to comply with the Rulewriting Manual of Utah.

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 adds and updates rule citations and makes stylistic changes to comply with the Rulewriting Manual of Utah.

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

Regulatory Impact Table			
Fiscal Cost	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	11/01/2024
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R432. Health~~[Family]~~ and Human Services, Health ~~[and Preparedness]~~, Care Facility Licensing.

R432-750. Hospice Rule.

R432-750-1. Legal Authority.

This rule is authorized by ~~[Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act]~~ Section 26B-2-202.

R432-750-2. Purpose.

(1) A hospice licensee provides support and care for ~~[persons]~~ individuals with a limited life expectancy so that they might live as fully and comfortably as possible.

(2) A hospice licensee offers services that:

- ~~[(a)]~~ (a) are available in both the home and an inpatient setting;
- ~~[(b)]~~ (b) are offered through an interdisciplinary team of professionals and volunteers;
- ~~[(c)]~~ (c) neither hastens nor postpones death;
- ~~[(d)]~~ (d) recognize dying as a normal process resulting from disease or injury;

~~[(b)]~~ (b) neither hastens nor postpones death;

~~[(e)]~~ (e) prepares ~~[patients]~~ a patient and famil~~[ies]~~y to attain a degree of mental and spiritual preparation for death that is satisfactory to them~~[s]~~ through appropriate care and the promotion of a caring community sensitive to their needs; and

- ~~[(d)]~~ (d) provide~~[s]~~ provides physical, psychosocial, spiritual, and bereavement care for a dying ~~[persons]~~ individual and their ~~[families]~~ family;
- ~~[(e)]~~ (e) are offered through an interdisciplinary team of professionals and volunteers; and
- ~~[(f)]~~ (f) are available in both the home and an inpatient setting~~[family]~~.

(3) This rule applies to a program advertising or presenting to be a hospice or hospice program of care, as defined in Section ~~[26-24]~~ 26B-2-201, that provides, directly or by contract, hospice services to the terminally ill.

R432-750-3. Definitions.

~~[(1)]~~ (1) Section R432-1-3 additionally applies.

~~[(2)]~~ (2) Terms in this rule are defined in Rules R432-1 and R380-600. Additionally:

- ~~[(1)]~~ (1) "Appropriate" means especially suitable, compatible, or fitting.
- ~~[(3)]~~ (2) "Bereavement" means the period, usually occurring within the first year after the loss, when a person or group of people experiences, responds emotionally to, and adjusts to the loss by death of another person.

~~[(4)]~~ (3) "Care" means to perceive and respond to the needs of another.

~~[(5)]~~ (4) "Certification in ~~[Cardiopulmonary Resuscitation]~~ (CPR) cardiopulmonary resuscitation" refers to certification issued after completion of an in-person course, to include skills testing and evaluation on-site with a licensed instructor.

~~[(6)]~~ (5) "Department" means the Department of Health and Human Services

~~[(7)]~~ (6) "Family" means a group of individuals who:

(a) ~~[live in the same home];~~

(b) are of common ancestry; ~~[or]~~

(c) have a personal commitment to one another~~[s]~~; or

~~[(8)]~~ (7) (c) live in the same home.

~~[(6)]~~ (6) "Grief" means the response to loss that often occurs in stages of varying length~~[Stages]~~ that are differentiated by changes in feeling, thought, and behavior.

~~[(9)]~~ (8) "Hospice" (7) "Hospice administrator" means the person the governing body appoints in writing that is accountable and responsible for implementing the policies and programs approved by the governing body.

~~[(8)]~~ (8) "Hospice agency" means an entity that is primarily engaged in providing care to terminally ill individuals and their families and includes institutionally based hospice programs, freestanding public and proprietary hospice agencies, and any subdivision of an organization, public agency, hospital, or nursing home licensed to provide hospice services.

~~[(10)]~~ (9) "Hospice Administrator" means a person who the governing body appoints in writing by the governing body of the hospice organization and who shall be accountable and responsible for implementing the policies and programs approved by the governing body.

~~[(11)]~~ (9) (a) "Hospice care" means the care given to the terminally ill and their family that occurs in a home or in a health facility and includes medical, palliative, psychosocial, spiritual, bereavement, supportive care, and treatment.

~~(12) "Hospice Inpatient Facility]"~~ (b) Hospice care includes responding to the scheduled and unscheduled needs of the patient and family 24 hours a day.

(10) "Hospice inpatient facility" means a freestanding licensed hospice facility or designated hospice licensed hospice unit in an existing health care facility.

~~(13)~~ (11) "Interdisciplinary [T]team" means a team composed of an attending physician, medical director, nurse, social worker, pastoral care provider, volunteer, patient, patient's family, and any other professionals as indicated.

(12) "OL" means the Office of Licensing in the Division of Licensing and Background Checks under the Department of Health and Human Services.

(13) "Palliative care" means the care given to the terminally ill, focusing on the relief of distressing symptoms.

(14) "Palliative [T]treatment" means treatment and comfort measures directed toward relief of symptoms and pain management rather than treatment to cure.

(15) "[Palliative Care" means the care given to the terminally ill, focusing on relief of distressing symptoms.

~~(16) "Pastoral [Care Provider]care provider"~~ means an individual who has experience in pastoral duties and is capable of providing for the hospice patient and patient family's spiritual needs, and is an individual who:

(a) has received a degree from an accredited theological school;

(b) by ordination or by ecclesiastical endorsement from the individual's denomination, has been approved to function in a pastoral capacity; or

(c) has received certification in Clinical Pastoral Education that meets the requirements for the College of Chaplains.

~~(17)~~ (16) "Primary [Care Giver]care giver" means the family member or other person designated by the family who assumes the overall responsibility for the care of the patient in the home.

~~(18)~~ (17) "Spiritual" means the patient and the patient's family beliefs and practices as they relate to the meaning of their life, death, and their connection to humanity that may or may not be of a religious nature.

~~(19)~~ (18) "Terminal" means a state of disease characterized by a progressive deterioration with impairment of function that, without aggressive intervention, survival is anticipated to be six months or less.

~~(20)~~ (19) "Volunteer" means an individual who has received appropriate orientation and training consistent with [acceptable standards of] hospice philosophy and practice and who contributes time and talent to the hospice program without economic remuneration.

R432-750-4. Governing Body and Administration.

(1) The licensee shall ensure that the hospice agency is organized under a governing body that assumes full legal responsibility for the conduct and operations of the hospice agency.

(2) The licensee shall develop an organization chart that shows the administrative structure of the hospice agency.

(3) The governing body [is responsible to] shall:

(a) [comply with any federal regulations, state rules, and local laws;

~~(b) adopt written policies and procedures that describe functions or services of the hospice and protect patient rights;~~

~~(c) adopt a [statement]policy that [there will be no]prohibits discrimination because of race, color, [sex,]religion, ancestry, disability status, sexual orientation, gender, or national origin;~~

~~(b) adopt written policies and procedures that describe functions or services of the hospice agency and protect patient rights;~~

~~(c) appoint by name and in writing, a qualified hospice administrator who shall oversee the hospice agency's overall functions;~~

~~(d) comply with any laws, rules and regulations;~~

~~(e) develop and implement bylaws that [shall]include[at least]:~~

~~(i) a [statement]description of [purpose]functions and duties of the governing body officers and committees;~~

~~(ii) a statement of [qualifications for membership and methods to select members of the governing board]purpose;~~

~~(iii) an outline of the establishment, selection, and term of office for committee members and officers;~~

~~(iv) a [description of functions and duties of the governing body officers and committees;~~

~~(v) a statement of the authority and responsibility delegated to the hospice administrator; and~~

~~(vi) a]policy statement relating to any conflict of interest of members of the governing body or employees who influence the hospice agency decisions;~~

~~(e) meet at least annually as stated in the bylaws;~~

~~(f) appoint by name and in writing, a qualified] (v) a statement of qualifications for membership and methods to select members of the governing board; and~~

~~(vi) a statement of the authority and responsibility delegated to the hospice administrator[who is responsible for the agency's overall functions];~~

~~(g) notify the department] (f) ensure compliance with Rule R380-600 for program changes to include notifying the office in writing 30 days before any proposed change in the hospice administrator, identifying the name of the new hospice administrator, and the effective date of the change;~~

~~(h) (g) establish a system of financial management and accountability.~~

~~(h) meet at least annually;~~

~~(i) provide resources and equipment to provide a safe working environment for personnel; and~~

~~(j) review the written annual evaluation report from the hospice administrator and document recommendations as necessary[;].~~

~~(i) provide resources and equipment to provide a safe working environment for personnel; and~~

~~(j) establish a system of financial management and accountability.~~

(4) The hospice administrator [is responsible for] shall oversee the overall management of the hospice agency and shall:

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~~_____ (a) designate in writing the name and title of a qualified person who shall act as hospice administrator in the temporary absence of the hospice administrator. This designee shall have sufficient power, authority, and freedom to act in the best interests of patient safety and well-being.~~

~~_____ (b) complete, submit, file, and make available any records, reports, and documentation required by the department;~~

~~_____ (c) review agency policies and procedures at least annually and recommend necessary changes to the governing body;~~

~~_____ (d) implement agency policies and procedures;~~

~~_____ (e) organize and coordinate functions of the agency by delegating duties and establishing a formal means of staff accountability;~~

~~(f) _____ (a) appoint the following, by name and in writing:~~

(i) a physician or registered nurse to provide general supervision, coordination, and direction for professional services of the hospice agency;

(ii) a registered nurse to be the director of nursing services;

(iii) a person responsible for maintaining a clinical record system on any patients;

(iii) the members and their terms of membership in the interdisciplinary quality assurance committee; and

(iv) other committees as deemed necessary, describe committee functions and duties, and outline the selection, term of office, and responsibilities of committee members; ~~and~~

~~(g) maintain current~~ b) complete, submit, file, and make available any records, reports, and documentation required by OL;

~~_____ (c) conduct an annual evaluation of the hospice agency's overall function and submit a written [designations]report of the findings~~

to the governing body;

~~_____ (d) develop a staff communication system that:~~

~~_____ (i) coordinates implementation of plans of treatment;~~

~~_____ (ii) coordinates interdisciplinary team services;~~

~~_____ (iii) promotes an orderly flow of information within the organization; and~~

~~_____ (iv) utilizes services or [letters of appointment for the agency]resources to meet patient needs;~~

~~_____ (h) _____ (e) designate in writing the name and position title of a qualified person, who has enough power, authority, and freedom to act in the best interest of patient safety and well-being, as hospice administrator in the temporary absence of the hospice administrator;~~

~~_____ (f) employ or contract with competent personnel whose qualifications are commensurate with job responsibilities and authority, [and~~

~~]who have the appropriate license or certificate of completion;~~

~~_____ (i) secure contracts for services not directly provided by the hospice;~~

~~_____ (j) develop a staff communication system that:~~

~~_____ (i) coordinates interdisciplinary team services;~~

~~_____ (ii) coordinates implementation of plans of treatment;~~

~~_____ (iii) utilizes services or resources to meet patient needs; and~~

~~_____ (iv) promotes an orderly flow of information within the organization;~~

~~_____ (k) implement a program of budgeting and accounting;~~

~~_____ (l) _____ (g) establish, when appropriate, a billing system that itemizes services provided and charges submitted to the payment source; [and~~

~~_____ (m) conduct an annual evaluation] _____ (h) implement a program of [the agency's overall function]budgeting and [submit a~~

~~]accounting;~~

~~_____ (i) implement hospice agency policies and procedures;~~

~~_____ (j) maintain current written [report]designations or letters of appointment for the hospice agency;~~

~~_____ (k) organize and coordinate functions of the [findings]hospice agency by delegating duties and establishing a formal system of staff~~

~~accountability;~~

~~_____ (l) review hospice agency policies and procedures at least annually and recommend necessary changes to the governing body[-]; and~~

~~_____ (m) secure contracts for services not directly provided by the hospice agency.~~

(5) The licensee shall ensure the hospice administrator or designee ~~[shall be]~~is available during the ~~[-agency's]~~ hours of operation.

R432-750-5. Personnel.

(1) The hospice administrator shall maintain qualified, competent personnel ~~[-who are competent]~~ to perform their respective duties, services, and functions.

(2) The licensee shall develop and implement written policies and procedures that address the ~~[-following]~~:

~~_____ (a) _____ (a) contents of personnel files of employed and volunteer staff;~~

~~_____ (b) criteria for, and frequency of, performance evaluations;~~

~~_____ (c) frequency and documentation of in-service training;~~

~~_____ (d) job descriptions, qualifications, and validation of licensure or certificates of completion as appropriate for each position;~~

~~_____ (b) orientation for direct and contract employees, and volunteers;~~

~~_____ (c) criteria for, and frequency of, performance evaluations;~~

~~_____ (d) work schedules;~~

] (e) method and period of staff payment;

(f) orientation for direct and contract employees, and volunteers;

~~_____ (g) staff benefits, including sick leave, vacation, and insurance; and~~

~~_____ (g) frequency and documentation of in-service training; and~~

] (h) ~~[contents of personnel files of employed and volunteer]~~ staff work schedules.

(3) The licensee shall require that each employee provide proof of registration, certification, or licensure as required by the Utah Department of Commerce within 45 days of hire.

(4)(a) The licensee shall establish and implement a policy and procedure for health screening of any hospice agency personnel.

~~(a)~~(b) The licensee shall ensure that an employee placement health evaluation is completed when an employee is hired. ~~—The evaluation shall include at least a health inventory that outlines the employee's history of:~~

~~(c) The evaluation shall include at least a health inventory that outlines the employee's history of any:~~

~~(i) [conditions]condition that may prevent the employee from performing assigned duties satisfactorily; and~~

~~(ii) condition that predispose the employee to acquiring or transmitting an infectious [diseases; and]disease.~~

~~—(ii) conditions that may prevent the employee from performing certain assigned duties satisfactorily.~~

~~(b) Employee health screening and immunizations.]~~ (d) The licensee shall develop components of personnel health programs ~~[shall be developed]for employee health screening and immunizations in accordance with Rule R386-702[-Communicable Disease].~~

~~(e)~~(e) Employee skin testing by the Mantoux Method or other FDA[-]-approved ~~[in vitro]invitro~~ serologic test and follow[-]-up for tuberculosis shall ~~[be done in accordance]comply~~ with Rule R388-804[-, Special Measures for the Control of Tuberculosis].

~~(d)~~(f) The licensee shall ensure that ~~[any employees are]each employee is~~ skin-tested for tuberculosis within two weeks of:

(i) development of symptoms of tuberculosis;

(ii) initial hiring; and

(iii) suspected exposure to a person with active tuberculosis[; or

~~—(iii) development of symptoms of tubereulosis].~~

~~(e) Skin testing shall be exempted for any employees]~~ (g) Each employee with a known positive reaction to skin tests is exempt from skin testing.

~~(f)~~(h) The ~~[facility]licensee~~ shall report any infections and communicable diseases reportable by law to the local health department in accordance with Section R386-702-3.

(5) The licensee shall document that ~~[any employees, volunteers]each employee, volunteer,~~ and contract personnel ~~[are]is~~ oriented to the hospice agency and the job that they are hired[-] to perform. Orientation shall include:

(a) ~~[the hospice concept and philosophy of care;~~

~~(b) the functions of agency employees and the relationships between various positions or services;~~

~~(c) job descriptions;~~

~~(d) duties that persons are]each duty for an individual who is trained, [hold certificates]holds a certificate, or [are]is licensed;~~

~~(e)~~(b) ethics, confidentiality, and patient rights training;

~~(f)~~(c) information about other community agencies, including emergency medical services;

~~—(g) (d) job descriptions training;~~

~~(e) opportunities for continuing education appropriate to the patient population served;~~

~~(h) policies]f) the policy~~ related to volunteer documentation, charting, hours, and emergencies;~~[-and]~~

~~(i)~~(g) reporting requirements as outlined in Rule R380-600 including reporting when observing or suspecting abuse, neglect, and exploitation pursuant to Section 26B-6-205;[62A-3-305.]

~~(6)–] (h) the functions of each hospice agency employee and the relationships between various positions or services; and~~

~~(i) the hospice agency concept and philosophy of care.~~

(6)(a) The licensee shall provide and document in-service training and continuing education for staff at least annually.

~~(a)~~(b) Members of the hospice agency interdisciplinary team shall have access to in-service training and continuing education appropriate to their responsibilities and to the maintenance of skills necessary for the care of the patient and family.

~~(b)~~(c) The training programs shall include the introduction and review of effective physical and psychosocial assessment and symptom management.

~~(e)~~(d) The licensee shall train personnel in appropriate Centers for Disease Control[(-CDC)] infectious disease protocols.

(7) The hospice administrator shall appoint a person to coordinate the activities of the interdisciplinary team~~[-This individual shall] and to:~~

(a) annually review and make recommendations, where appropriate, of hospice agency policies covering admissions and discharge, medical supervision, care plans, clinical records, and personnel qualifications;

(b) assure that ongoing assessments of the patient and family needs and implementation of the interdisciplinary team care plans are accomplished;

~~—(c) schedule adequate quality and quantity of any levels of hospice care; and~~

~~(d) (c) assure that the team meets regularly to develop and maintain appropriate plans of care and to determine that staff will be assigned to each case[-]; and~~

~~(d) schedule adequate quality and quantity of any level of hospice care.~~

(8) The licensee shall provide access to individual or group support for interdisciplinary team members to assist with stress or grief management related to providing hospice care.

R432-750-6. Contracts.

(1) The hospice administrator shall secure a legally binding written contract for the provision of arranged patient services.

(2) The licensee shall make the contract or agreement ~~[shall be]available for review by the [department]OL and [shall include]ensure the contract or agreement includes:~~

(a) ~~[the effective and expiration dates]a copy of the [contract]professional license of any contracted personnel;~~

(b) a description of goods or services provided by the contractor to the hospice agency;

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- ~~_____~~(e) (c) a description of the contractor's role in the development of plans of treatment and the process to keep hospice agency staff informed about the patient's needs or condition;
- ~~_____~~(d) a statement that contract personnel shall perform according to hospice agency policies and procedures and shall conform to standards required by laws, rules, and regulations;
- ~~_____~~(e) the effective and expiration dates of the contract;
- ~~_____~~(f) the financial terms of the contract, including methods to determine charges, reimbursement, and the responsibility of contract personnel in the billing procedure;
- ~~_____~~(~~d~~)g the method of supervision of contract personnel and the manner ~~that~~in which services will be controlled, coordinated, and evaluated by the hospice agency;
- ~~_____~~(e) a statement that contract personnel shall perform according to agency policies] and[procedures, and shall conform to standards required by laws, rules, and regulations;]
- ~~_____~~(f) a description of]h the [contractor's role in the development of plans of treatment, and how to keep agency staff informed about the patient's needs or condition;
- ~~_____~~(g) terms of termination of the contract[; and
- ~~_____~~(h) a photocopy of the professional license of any contracted personnel].

R432-750-7. Acceptance and Termination.

- (1) The licensee shall develop written acceptance and termination policies and make these policies available to the public upon request.
- (2) The licensee shall make available to the public, upon request, information regarding the various services provided by the hospice agency and the cost of the services.
- (3) The licensee shall accept a patient for treatment if there is a reasonable expectation that the patient's needs can be met by the hospice agency regardless of the ability to pay for the services.~~[-]~~ The licensee shall base the acceptance determination on the following:
 - (a) the patient, family or responsible person agrees that hospice care is appropriate and completes a signed informed consent document requesting hospice services~~[-If], or if~~ no primary care person is available, the licensee shall complete an evaluation to determine the patient's eligibility for service;
 - (b) the patient's attending physician shall order hospice care; and
 - (c) the licensee determines that the patient's place of residence is adaptable and safe for the provision of hospice services.
 - (4) The licensee may ~~terminate~~end services to a patient if any of the following circumstances occur:
 - ~~_____~~(a) the [patient is determined to no longer be terminal;
 - ~~_____~~(b) the]family situation changes that affects the delivery of services;
 - ~~_____~~(b) the licensee can no longer provide quality care in the existing environment due to the safety of staff, patient, or family;
 - ~~_____~~(c) the patient is no longer terminal;
 - ~~_____~~(d) the patient moves from the geographic area served by the hospice agency;
 - ~~_____~~(e) the patient or family is uncooperative in efforts to attain treatment objectives;
 - ~~_____~~(~~d~~)f the patient [moves from the geographic area served by the]or family requests that hospice agency[;] services be discontinued;
- or
 - (~~e~~)g the physician [fails to]does not renew orders, or the patient changes their physician, and the licensee cannot obtain orders [for continuation of]to continue services from the new physician[;].
 - ~~_____~~(f) the licensee can no longer provide quality care in the existing environment due to safety of staff, patient, or family; or
 - ~~_____~~(g) the patient or family requests that agency services be discontinued.
- (5) Upon transfer from a home program to an inpatient ~~[unit]facility~~, or the reverse, the transferring program staff shall forward the plan of care [shall be forwarded-]to the receiving program.

R432-750-8. Patient[s] Rights.

- (1)(a) The licensee shall establish and make available, written patient rights ~~[that shall be available-]~~to the patient before or at admission and to the responsible ~~[party]individual~~, next of kin, sponsoring agency, representative payee, and the public upon request.
- ~~_____~~(b) The licensee may determine how patient rights information is distributed in the hospice agency policy.
- (2) The licensee shall ensure that each patient receiving care has the right to:
 - ~~_____~~(a) receive information regarding patient rights and responsibilities;
 - ~~_____~~(b) receive information regarding services that the patient or a third party payer may be responsible for and to receive information on any change in charges;
 - ~~_____~~(e) (a) be informed of personal health conditions, unless medically contraindicated and documented in the clinical record[-];
 - ~~_____~~(~~d~~)b be [given the opportunity to participate in the planning]treated with consideration, respect, and full recognition, of [the hospice services]dignity and individuality, including [referral to health care institutions or other agencies;
 - ~~_____~~(e) to refuse to participate in experimental research;
 - ~~_____~~(f) refuse]privacy in treatment [to the extent permitted by law and to be informed of the medical consequences, if refused]and in care for personal needs;
 - ~~_____~~(~~g~~) be assured]c confidential treatment of personal and medical records and to approve or refuse the release of records to any individual outside the hospice agency, except in the case of transfer to another agency or health facility, or as required by law or third-party payment contract;

- ~~_____ (h) be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs;~~
~~_____] _____ (d) discontinue hospice care at any time they choose;~~
~~_____ (e) participate in the planning of the hospice services, including referral to health care institutions or other agencies;~~
~~_____ (f) receive information about advanced directives;~~
~~_____ (g) receive information regarding patient rights and responsibilities;~~
~~_____ (h) receive information regarding services that the patient or a third-party payer may be responsible for and receive information on any change in charges;~~
~~_____ (i) receive information [about] regarding the hospice services required to assist in the course of treatment;~~
~~_____ [_____] _____ (j) receive proper identification by the individual providing hospice services;~~
~~_____ (k) refuse to participate in experimental research;~~
~~_____ (l) refuse treatment to the extent permitted by law and to be [assured the] informed of the medical consequences if refused; and~~
~~_____ (m) treatment by personnel who provide care and are qualified through education and experience to carry out the services that they are responsible[;] for providing.~~
~~_____ (k) receive proper identification by the individual providing hospice services;~~
~~_____ (l) discontinue hospice care at any time they choose; and~~
~~_____ (m) receive information about advanced directives.~~
~~_____]~~

R432-750-9. Patient Records.

- (1)(a) The hospice administrator shall develop and implement record[-]keeping policies and procedures that address the use of patient records by authorized staff, content, confidentiality, retention, and storage.
- ~~_____ (a) [b] The licensee shall ensure that records are organized in a uniform medical record format.~~
~~_____ (b) [c] The licensee shall maintain an identification system to facilitate the location of each patient's current or closed record.~~
~~_____ (c) [d] The licensee shall maintain an accurate, current record for each patient receiving service.~~
~~_____ (d) [e] Each licensee who has a patient contact or provides a service shall [i] ensure that a clinical note entry of that contact or service is made in the patient's record.~~
~~_____ (e) [f] Any [entries] person making the entry shall [be dated] date and [authenticated] authenticate the entry with the person's signature and job title [of the person making the entry].~~
~~_____ (f) [g] The licensee shall document each service provided and the outcome of each service in the individual patient record.~~
- (2)(a) The licensee shall ensure that signed and dated physician's orders are incorporated into the plan of care and renewed at least every 90 days.
- ~~_____ (b) A copy of the order is acceptable as long as the original order is available on request.~~
(3) The licensee shall ensure that each patient record ~~[shall contain at least]~~ contains the following information:
- ~~_____ (a) demographic information that includes:~~
~~_____ (i) patient name;~~
~~_____ (ii) patient address;~~
~~_____ (iii) age;~~
~~_____ (iv) patient date of birth;~~
~~_____ (v) name and address of nearest relative or responsible person;~~
~~_____ (vi) name and telephone number of the physician with primary responsibility for patient care; and~~
~~_____ (vii) name and telephone number of the person or family member who, in addition to agency staff, provides care in the place of residence;~~
~~_____ (b) diagnosis;~~
~~_____ (c) pertinent medical and surgical history if available;~~
~~_____ (d) a written and signed informed consent to receive hospice services;~~
~~_____ (e) orders by the attending physician for hospice services;~~
~~_____ (f) medications and treatments as applicable;~~
~~_____ (g) a written plan of care; and~~
~~_____ (h) _____ (a) a signed, dated patient assessment that includes the following:~~
~~_____ (i) a description of the patient's functional limitations;~~
~~_____ (ii) a physical assessment noting chronic or acute pain and other physical symptoms and their management;~~
~~_____ (iii) a psychosocial assessment of the patient and family;~~
~~_____ (iv) a spiritual assessment; and~~
~~_____ (v) a written summary report of hospice services provided that is additionally sent to the patient's attending physician at least every 90 days[-];~~
~~_____ (b) a written and signed informed consent to receive hospice services;~~
~~_____ (c) a written plan of care;~~
~~_____ (d) contact information of:~~
~~_____ (i) the name and address of the nearest relative or responsible person;~~
~~_____ (ii) the name and telephone number of the person or family member who, in addition to hospice agency staff, provides care in the place of residence; and~~
~~_____ (iii) the name and telephone number of the physician with primary responsibility for patient care;~~

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- ~~_____~~ (e) demographic information that includes the patient's age, name, address, patient date of birth;
- ~~_____~~ (f) diagnosis;
- ~~_____~~ (g) medications and treatments as applicable;
- ~~_____~~ (h) pertinent medical and surgical history if available; and
- ~~_____~~ (i) orders by the attending physician for hospice services.
- ~~_____~~ (4)(a) The person[~~who is~~] assigned to supervise or coordinate care for a patient shall complete a discharge summary when services to the patient are terminated.
- ~~_____~~ (b) The discharge summary shall include the reason for discharge and the name of the facility or agency if the patient is referred or transferred.
- ~~_____~~ (5) The licensee shall[~~safeguard clinical record information against loss, destruction, and unauthorized use.~~];
- ~~_____~~ [~~_____~~ (a) The licensee shall ensure that written procedures govern the use and removal of records and conditions for release of patient information.
- ~~_____~~ (b) A] (a) ensure that written consent is required for the release of patient information and photographing recorded information[-];
- ~~_____~~ (b) ensure that written procedures govern the use and removal of records and conditions for the release of patient information;
- ~~_____~~ (c) [~~When a patient is transferred to another facility or agency, the licensee shall~~]safeguard clinical record information against loss, destruction, and unauthorized use; and
- ~~_____~~ (d) send a copy of the record to the new facility or [abstract to that service]agency when a patient is transferred.
- ~~_____~~ (6)(a) The licensee shall provide an accessible area for filing and safe storage of medical records.
- ~~_____~~ (a)[b] The licensee shall ensure that each patient record is retained for at least seven years after the last date of patient care.
- ~~_____~~ (b)[c] The licensee shall transfer any patient records to a new owner upon a change of hospice agency ownership.

R432-750-10. Quality Assurance.

- (1) The governing body shall evaluate the quality, appropriateness, and scope of services provided by the licensee at least annually to determine if the licensee has met its objectives.
- (2) An interdisciplinary quality assurance committee shall[~~evaluate patient services at least quarterly and maintain a written report of findings. Recommendations from each meeting shall be submitted to the hospice administrator and shall be maintained for review by the department.~~];
- ~~_____~~ [~~_____~~ (a) The] (a) evaluate patient services at least quarterly and maintain a written report of findings; and
- ~~_____~~ (b) submit written recommendations to the hospice administrator.
- ~~_____~~ (3) The hospice administrator shall appoint the members of the quality assurance committee for a given term of membership.
- ~~_____~~ (b)[4] The quality assurance committee shall include a minimum of three individuals who represent three different [~~health care~~]healthcare services.

R432-750-11. Hospice Services.

- ~~_____~~ (1)[~~A hospice~~](a) The licensee shall ensure that a unit of care includes the patient and the patient's family.
- ~~_____~~ (b) The licensee shall ensure that the patient, family, or other primary care [~~person~~]individual participates in the development and implementation of the interdisciplinary care plan according to their ability.
- ~~_____~~ [~~_____~~ (2) Hospice care includes responding to the scheduled and unscheduled needs of the patient and family 24 hours per day.]_____ (2) The licensee shall ensure that written policies and procedures include:
- ~~_____~~ (a) a clearly defined and integrated administrative structure between in-home care and inpatient services;
- ~~_____~~ (b) a procedure for accepting referrals;
- ~~_____~~ (b)[c] a procedure for completing an initial assessment and developing the interdisciplinary care plan;
- ~~_____~~ [~~_____~~ (e)] (d) a procedure for coordination of the care plan between in-home hospice and inpatient hospice care;
- ~~_____~~ (e) a procedure for providing for and documenting that the interdisciplinary team meets regularly to evaluate care and includes inpatient and in-home care staff;
- ~~_____~~ [~~_____~~ (d) a requirement that the care plan to be available to team members for in-home and inpatient services;
- ~~_____~~ (e) a process] (f) a procedure for the appropriate transfer of care from hospice in-home care to hospice inpatient care and vice-versa where available; and
- ~~_____~~ (f)[g] a [~~clearly defined and integrated administrative structure between~~]requirement that the care plan is available to each team member for in-home [~~care~~]and inpatient services[~~;~~and].
- ~~_____~~ [~~_____~~ (g) coordination of the care plan between in-home hospice and inpatient hospice care.
- ~~_____~~ (3) Hospice care shall be provided by the interdisciplinary team.
- ~~_____~~]_____ (3) The licensee:
- ~~_____~~ (a) [~~The interdisciplinary team~~]may include ancillary staff when appropriate[-];
- ~~_____~~ (b) [~~The interdisciplinary team~~] shall meet at least twice a month to develop and maintain an appropriate plan of care[-]; and
- ~~_____~~ (c) shall provide hospice care.
- ~~_____~~ (4) [~~A care plan for each patient shall be signed by the~~]The attending physician [~~and include the following~~]shall sign each patient's care plan and ensure it includes:
- ~~_____~~ (a) [~~the name~~]a description of [~~patient~~]each service provided, at what interval, and by whom;
- ~~_____~~ (b) any pertinent diagnos[~~e~~]is;
- ~~_____~~ (c) [~~objectives, interventions~~]each objective, intervention, and goal[s] of treatment, based upon needs identified in a comprehensive patient assessment;

- (d) ~~services to be provided, at what intervals and by whom; and~~
- ~~(e)]the date the plan was initiated[-and];~~
- ~~(e) the dates of subsequent reviews[-]; and~~
- ~~(f) the name of patient.~~

(5)(a) A hospice nurse may not give any medication or treatment requiring an order except ~~[on order of a person lawfully]~~when ordered by an individual legally authorized to ~~[give such an]~~issue the order.

- ~~(b) The hospice nurse shall ensure an initial order[-~~
- ~~(a) Initial orders]~~ and subsequent changes in ~~[orders]~~the order for the administration of ~~[medications shall be]~~medication is signed by the person lawfully authorized to give ~~[such orders]~~the order and incorporated in the patient's record~~[-maintained by the licensee].~~
- ~~[(b) Telephone orders]~~ (c) The licensee shall ensure that only ~~[be received by]~~licensed personnel~~[-who shall record them immediately in the patient's medical record. Telephone orders shall be]~~ may receive a telephone order and each telephone order is:

~~(i) countersigned by the initiator within 15 days of the date of issue[-]; and~~

~~(e) Orders]~~ (ii) recorded immediately in the patient's medical record.

~~(d) The licensee shall ensure an order~~ for therapy services ~~[shall include]~~includes the specific procedures to be used and the frequency and duration of the services.

~~[(d)]e~~ The attending physician shall review, sign, and date orders at least every 90 days.

~~[(e)]f~~ Only ~~[those]~~licensed hospice agency employees ~~[licensed to do so]~~may administer medications to patients.

~~[(f) Medications]~~ (g) A hospice agency employee shall administer medications and treatments ~~[that are administered by hospice employees, shall be administered]~~as prescribed and recorded in the patient's record.

R432-750-12. Physician Services.

(1) ~~[Each]~~The licensee shall ensure each patient admitted for hospice services~~[-shall be]~~, is under the care of a licensed physician, who ~~[shall provide]~~provides the~~[-following]~~:

- ~~(a) [approval for hospice care;~~
- ~~(b)]admitting diagnosis and prognosis;~~
- ~~(b) approval for hospice care;~~
- ~~(c) current medical findings;~~
- ~~(d) [medications and treatment orders; and~~
- ~~(e)]pertinent orders regarding the patient's terminal condition[-]; and~~
- ~~(e) medications and treatment orders.~~

(2) The hospice administrator shall appoint in writing a ~~[licensed physician to be the]~~medical director~~[-The medical director shall be knowledgeable about the psychosocial and medical aspects of hospice care, on the basis of training and experience. The medical director]~~ who shall:

- ~~(a) act as a liaison with physicians in the community;~~
- ~~(b) act as a medical resource to the interdisciplinary team;~~
- ~~[(b)]c~~ coordinate services with each attending physician to ensure continuity in the services provided ~~[in the event]~~if the attending physician cannot ~~[re]~~maintain responsibility for patient care; and
- ~~[(c) act as liaison with physicians in the community.~~
- ~~]~~ (d) demonstrate understanding of hospice's psychosocial and medical aspects based on training and experience.

R432-750-13. Nursing Services.

(1) A registered nurse shall provide or direct nursing services.

(2) Registered nursing personnel shall~~[-perform the following tasks]~~:

- ~~[(a) make the initial nursing evaluation visit;~~
- ~~(b) re-evaluate the patient's nursing needs as required;~~
- ~~(c) initiate the plan of care and necessary revisions;~~
- ~~(d) provide directly, or by contract, skilled nursing care;~~
- ~~(e) (a) assign, supervise, and teach other nursing personnel and primary care [persons]individuals;~~
- ~~[(f)]b~~ coordinate any services provided ~~[with]~~to members of the interdisciplinary team;
- ~~[(g)]c~~ inform the physician and other personnel of changes in the patient's condition and needs;
- ~~[(h) prepare clinical progress notes; and~~
- ~~(i) (d) initiate the plan of care and necessary revisions;~~
- ~~(e) make the initial nursing evaluation visit;~~
- ~~(f) participate in in-service training programs;~~
- ~~(g) prepare clinical progress notes;~~
- ~~(h) provide directly, or by contract, skilled nursing care; and~~
- ~~(i) re-evaluate the patient's nursing needs as required.~~

R432-750-14. Medical Social Work Services.

(1) The licensee shall provide social work services by a social worker who has received a degree from an accredited school of social work and is licensed under Title 58, Chapter 60, the Mental Health Professional Practice Act~~[-Title 58, Chapter 60]~~.

(2) The social worker shall participate in in-service training to meet the care needs of the patient and family.

R432-750-15. Professional Counseling Services.

(1) The licensee shall provide counseling services to patients either directly or by contract. [-]These services may include dietary and other counseling services deemed appropriate to meet the patient's and family's needs.

(2) The licensee shall ensure that individuals who provide counseling services, whether employed or contracted by the licensee, are licensed, certified, registered, or qualified [~~as to~~]through education, training, or experience according to law.

R432-750-16. Pastoral Care Services.

(1) The licensee shall provide pastoral services through a qualified staff person who has a working relationship with local clergy or spiritual counselors.

(2) The licensee shall ensure that pastoral services include~~[- the following]:~~

- ~~[(a) spiritual counseling consistent with patient and family belief systems;~~
- ~~[(b) (a) communication with and support of clergy or spiritual counselors in the community as appropriate;[-and]~~
- ~~[(e)b] consultation and education to patients and families and interdisciplinary team members as requested[-]; and~~
- (c) spiritual counseling consistent with patient and family belief systems.

R432-750-17. Volunteer Services.

(1) Hospice agency volunteers may provide a variety of services as defined by the policies of each program and under the supervision of a designated and qualified hospice agency staff member.

(2) The licensee shall ensure that [~~volunteers receive~~]each volunteer receives a minimum of 12 hours of documented orientation and training that includes~~[- the following]:~~

- ~~[(a) [the hospice services, goals,]care and [philosophy of care]comfort measures;~~
- ~~[(b) [the physiological aspects]communication skills;~~
- ~~[(c) concepts of [terminal disease]death and dying;~~
- ~~[(e)] (d) confidentiality;~~
- ~~[(e) family dynamics, coping mechanisms, psychosocial and spiritual issues surrounding the terminal disease, death, and bereavement;~~
- ~~[(d) communication skills;~~
- ~~[(e) concepts of death and dying;~~
- ~~[(f) [care]infection control and [comfort measures]safety;~~
- ~~[(g) [confidentiality];~~
- ~~[(h)]patient's and family's rights;~~
- ~~[(i) procedures to be followed in an emergency;~~
- ~~[(j)] (h) procedures to follow [at the time of]in an emergency;~~
- ~~[(i) procedures to follow when a patient [death]dies;~~
- ~~[(j) the hospice agency services, goals, and philosophy of care;~~
- ~~[(k) [infection control and safety]the physiological aspects of terminal disease;~~
- ~~[(l) [stress management; and~~
- ~~[(m)]the volunteer's role and documentation requirements[-]; and~~
- (m) stress management.

(3) The licensee shall maintain records of hours of services and activities provided by [~~volunteers~~]each volunteer.

(4) The licensee shall have on file[-] a copy of the certification, registration, or license of [~~any~~]each volunteer providing professional services.

R432-750-18. Bereavement Services.

(1) The licensee shall ensure that bereavement services address the family needs following the death of the patient~~[-This includes] include:~~

- (a) assurance that each volunteer and staff member who provides bereavement services receives bereavement training;
- (b) making bereavement services available, as needed, to supervi[~~v~~]sors for at least one year; and
- ~~[(b)c] supervised bereavement services[- by a person], an individual possessing [at least]a degree or documented training in a field that addresses psycho[s]o[e]gical needs, counseling, and bereavement services[-; and~~
- ~~[(c) any volunteers and staff who provide bereavement services shall receive bereavement training].~~

(2) The licensee shall ensure that bereavement services include the following:

- ~~[(a) survivor contact, as needed and documented, following a patient's death;~~
- ~~[(b) an interchange of information between the team members regarding bereavement activities; and~~
- ~~[(e)] (a) a process for the assessment of possible pathological grief reactions and, as appropriate, referral for intervention[-];~~
- ~~[(b) an interchange of information between the team members regarding bereavement activities; and~~
- (c) survivor contact, as needed and documented, following a patient's death.

R432-750-19. Other Services.

(1) Other services offered by the licensee may include:

- (a) [physical therapy]a certified nursing aide;
- (b) occupational therapy;
- (c) physical therapy; and

~~_____ (d) speech therapy[~~and~~].~~

~~_____ (d) certified nursing aide.~~

~~_____] (2) [Any services]A physician shall order each service provided directly by the licensee or through contract and the licensee shall be ordered by a physician and ensure each service is documented in the clinical record.~~

R432-750-20. Freestanding Hospice Inpatient Facilities.

~~_____ Freestanding]_____ A freestanding hospice inpatient [hospice licensees]facility licensee shall additionally meet the Construction and Physical Environment requirements of Rules R432-4, R432-5, and R432-12, depending on facility size and type of patient admitted.~~

R432-750-21. Hospice Inpatient Facilities.

~~_____ Inpatient]A hospice [licensees]inpatient facility licensee shall additionally meet the requirements of Sections R432-750-23 through R432-750-[38]37.~~

R432-750-22. Hospice Inpatient Facility Staffing Requirements.

~~_____ (1) [An inpatient]A hospice inpatient facility licensee shall provide competent hospice[-]trained nursing staff 24 hours [per]a day to meet the needs of a patient in accordance with the patient's plan of care.[Nursing services shall provide treatments, medications, and diet as prescribed.]~~

~~_____ (2) [A]The licensee shall ensure a hospice[-]trained registered nurse [shall be]is on duty 24 hours [per]a day to provide direct patient care and supervision of any nursing services.~~

~~_____ (3) Nursing services shall include treatments, medications, and diet as prescribed.~~

R432-750-23. Infection Control.

~~_____ (1) The licensee shall develop and implement an infection control program to protect patients, family, and hospice personnel from community[-]associated infections.~~

~~_____ (2) The hospice administrator and medical director shall develop written policies and procedures governing the infection control program.~~

~~_____ (3) The licensee shall ensure that each employee wears clean garments or protective clothing [at all times,]and practices good personal hygiene and cleanliness.~~

~~_____ (4) The licensee shall develop and implement a system to investigate, report, evaluate, and maintain records of infections among patients and personnel.~~

~~_____ (5) The licensee shall comply with Occupational Safety and Health Administration, [OSHA, Blood Borne Pathogen Standards,]29 CFR 1910.1030[-](2001[-]).~~

R432-750-24. Pharmaceutical Services.

~~_____ (1) The licensee shall establish and implement written policies and procedures to govern the procurement, storage, administration, and disposal of any drugs and biologicals in accordance with federal and state laws.~~

~~_____ (2)(a) A licensed pharmacist shall supervise pharmaceutical services.~~

~~_____ (b) The [pharmacist's duties]licensee shall [include]ensure the [following:~~

~~_____ (a) advise]pharmacist advises the hospice and hospice interdisciplinary team [on any matters pertaining to the following]regarding: [procurement, storage, administration, disposal,]counseling staff on appropriate and [record keeping of]new drugs[- and biologicals];~~

~~_____ (ii) interactions of drugs; and~~

~~_____ (iii) [counseling staff on appropriate]procurement, storage, administration, disposal, and [new]record-keeping of drugs[;~~

~~_____ (b) inspect each drug storage area at least monthly;] and biologicals.~~

~~_____ (c) [conduct]The licensee shall ensure the pharmacist conducts patient drug regimen[§] reviews at least monthly, or more often if necessary, and make recommendations to physicians and hospice staff.~~

~~_____ (d) The licensee shall ensure the pharmacist inspects each drug storage area at least monthly.~~

~~_____ (3) The licensee shall;~~

~~_____ (a) establish and implement written policies and procedures for drug control and accountability[- Records of receipt];~~

~~_____ (b) maintain receipts and disposition of each controlled drug [shall be maintained]for accurate reconciliation[-]; and~~

~~_____ (c) keep these records for accurate reconciliation.~~

~~_____ (4) The licensee shall ensure that pharmaceutical service [shall ensure that]drugs and biologicals are labeled based on currently accepted professional principles[;] and include the appropriate accessory and cautionary instructions[-, as well as] and the expiration date when applicable.~~

~~_____ (5) The licensee shall provide secure storage for medications[- Medications] and ensure medications that require refrigeration [shall be]are maintained between 36 and 46 degrees Fahrenheit[-(F)].~~

~~_____ (6)(a) The licensee shall provide separately locked compartments for the storage of controlled drugs as well as other drugs subject to abuse.[- Only authorized personnel, in accordance with]~~

~~_____ (b) Per state and federal laws, only authorized personnel shall have access to the locked medication compartments.~~

~~_____ (7)[- Controlled])(a) The pharmacist and a registered nurse shall dispose of any controlled drugs no longer needed by the patient[shall be disposed of by the pharmacist and a registered nurse. The hospice].~~

~~_____ (b) The licensee shall maintain written documentation of the disposal.~~

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(8) ~~Am-1~~(a) A hospice inpatient ~~hospice~~facility licensee shall maintain an emergency drug kit appropriate to the needs of the facility, assembled in consultation with the pharmacist, and readily available for use~~[-The pharmacist shall check and restock the kit at least monthly].~~

(b) The pharmacist shall check and restock the emergency drug kit at least monthly.

R432-750-25. Hospice Inpatient ~~Hospice~~Facility Patient's Rights.

(1) In addition to Section R432-750-9, the licensee shall honor each patient's right to:

~~(a)~~ (a) be free of chemical and physical restraints for discipline or staff convenience;

(b) be free of mental and physical abuse;

(c) exercise their rights as a patient of the facility and as a citizen or resident of the United States;

~~(b)~~ (b) be free of mental and physical abuse;

~~(c)~~ (c) be free of chemical and physical restraints for discipline or staff convenience;

(d) have family members remain with the patient through the night;

(e) ~~receive visitors, including small children, at any hour;~~

~~(f)~~ (f) privacy for ~~have~~ the family ~~following a~~ or the responsible person, informed by the hospice inpatient facility licensee of significant changes in the patient's ~~death~~condition or needs;

~~(g)~~ (g) keep personal possessions and clothing as space permits;

~~(h)~~ (h) leave the facility at any time and not be locked into any room, building, or on the facility premises during the day or night, except that the hospice inpatient facility licensee may lock doors at night for the protection of patients;

(i) manage and control personal cash resources;

(j) participate in religious and social activities of the patient's choice;

(k) privacy during visits with family, friends, clergy, social workers, and advocacy representatives;

~~(i)~~ (i) send and receive mail unopened and have access to telephones to make and receive confidential calls;

~~(j)~~ (j) have family or the responsible person informed by the inpatient hospice of significant changes in the patient's condition or needs;

~~(k)~~ (k) participate in religious and social activities of the patient's choice;

~~(l)~~ (l) manage and control personal cash resources;

~~(m)~~ (m) (k) privacy for the family following a patient's death;

(n) receive palliative treatment rather than treatment aimed at intervention for cure or prolongation of life;

(o) receive visitors, including small children, at any hour;

(p) refuse nutrition, fluids, medications, and treatments; and

~~(o)~~ (o) leave the facility at any time and not be locked into any room, building, or on the facility premises during the day or night except that the inpatient hospice may lock doors at night for the protection of patients.

(q) send and receive mail unopened and have access to telephones to make and receive confidential calls.

(2) The licensee shall post patient rights in a public area of the facility.

(3) ~~Restraints~~The licensee shall ensure restraints ordered to treat a medical condition~~[-shall]~~ comply with the requirements of Rule

R432-150.

R432-750-26. Report of Death.

(1) The licensee shall have a written plan to follow ~~at the time of~~when a ~~of patient's death~~patient dies that ~~shall include~~includes:

(a) ~~recording~~an authorization and release of the ~~time of death~~body to the funeral home;

(b) documentation of the death;

(c) the notification of the attending physician responsible for signing the death certificate;

(d) the notification of the next of kin or legal guardian; and

(e) ~~authorization and release of~~the ~~body to~~recording the ~~funeral home~~time of death.

(2) The licensee shall notify the ~~department~~OL of any death resulting from injury, accident, or other possible unnatural cause.

R432-750-27. First Aid.

(1) The licensee shall ensure that at least one staff person is on duty 24 hours ~~per~~a day who is certified in cardiopulmonary resuscitation and has training in basic first aid, the Heimlich maneuver, and emergency procedures.

(2) ~~Each~~The licensee, except those attached to a medical unit, shall ensure that a first aid kit is available at a designated location in the facility.

(3) ~~Each~~The licensee shall have~~[-a current edition of]~~ a basic first aid manual approved by the American Red Cross, the American Medical Association, or a state, or federal health agency.

R432-750-28. Safeguards for Patients Funds and Valuables.

(1) The licensee shall safeguard patient cash resources, personal property, and valuables that have been entrusted to the licensee or hospice staff.

~~(2) A~~(a) The licensee ~~is not required to~~may handle the patient's cash resources or valuables.~~[- However, if]~~

(b) If the licensee accepts a patient's cash resources or valuables, ~~then~~the licensee shall safeguard the patient's cash resources in accordance with the following:

~~(a)~~ (a) no licensee or hospice staff member may use patient funds or valuables as their own or mingle them with own;

- ~~(b) patient funds and valuables shall be separated, intact, and free from any liability that the licensee incurs in the use of their own or the institution's funds and valuables;~~
- ~~(c) the licensee shall maintain accurate records of patient funds and valuables entrusted to the licensee;~~
- ~~(d) records of patient funds that are maintained as a drawing account shall include a control account for any receipts and expenditures, and an account for each patient and supporting receipts filed in chronological order;~~
- ~~(e) each account shall be kept current with columns for debits, credits, and balance;~~
- ~~(f) records of patient funds and other valuables entrusted to the licensee for safekeeping shall include a copy of the receipt furnished for funds received; and~~
- ~~(g) (i) any money entrusted with the facility in a patient account over \$150 [shall be]is deposited in an interest-bearing account in a local financial institution within five days of receipt[-];~~
- ~~(ii) each account is current with columns for debits, credits, and balance;~~
- ~~(iii) each record of patient funds, and other valuables entrusted to the licensee for safekeeping, shall include a copy of the receipt furnished for funds received;~~
- ~~(iv) each record of patient funds that is maintained as a drawing account shall include a control account for each receipt and expenditure, an account for each patient, and supporting receipts filed in chronological order;~~
- ~~(v) the licensee or staff member may not use patient funds or valuables as their own or mingle them with own;~~
- ~~(vi) the licensee shall ensure patient funds and valuables are separate, intact, and free from any liability that the licensee incurs in the use of the patient's funds or the institution's funds and valuables; and~~
- ~~(vii) the licensee shall maintain accurate records of patient funds and valuables entrusted to the licensee.~~
- ~~(3) [Each]The licensee shall maintain a separate account for patient funds specific to that hospice inpatient [hospice]facility and [shall]may not commingle with patient funds from another hospice inpatient [hospice]facility.~~
- ~~(4) [Upon] (a) The licensee shall return any money and valuables entrusted to the license on the day of discharge[-, a patient's money and valuables, that have been entrusted to the licensee, shall be returned to the patient that day. Money and valuables kept].~~
- ~~(b) The licensee shall make any money and valuables maintained in an interest-bearing account [shall be-]available to the patient within three working days.~~
- ~~(5) [Within]The licensee shall surrender the patient's money and valuables entrusted to the licensee to the responsible individuals or the hospice administrator of the estate within 30 days following the death of a patient, except in a case under investigation by the medical examiner[-, case, the patient's money and valuables entrusted to the licensee shall be surrendered to the responsible persons, or to the administrator of the estate].~~

R432-750-29. Emergency and Disaster.

- (1) The licensee is responsible for the safety and well-being of patients in the event of an emergency or disaster.
- (2)(a) The licensee and the hospice administrator ~~[are responsible to]~~shall develop plans coordinated with the state and local emergency disaster authorities to respond to potential emergencies and disasters.
- (a)(b) The plan shall outline the protection or evacuation of any patients and include arrangements for staff response, or provisions of additional staff to ensure the safety of any patient with physical or mental limitations.
- (b)(c) Emergencies and disasters as referred to in this section include fire, severe weather, missing patients, interruption of public utilities, explosion, bomb threat, earthquake, flood, windstorm, epidemic, or mass casualty.
- ~~[- (e) The-] (d) To assure prompt and efficient implementation, the licensee shall distribute and make available, the emergency and disaster response plan [shall be in writing and distributed or made available-]to any facility staff and patients[- to assure prompt and efficient implementation].~~
- (d)(e) The licensee and the hospice administrator shall review and update the plan as necessary to conform with local emergency plans.
- (f) The ~~[plan]~~licensee shall ~~[be-]make the plan~~ available for review by the ~~[department]~~OL.
- (3) The licensee's emergency and disaster response plans shall address the following:
- (a) the ~~[names]~~assignment of ~~[the person in charge and any person with decision-making authority;~~
- ~~(b) the name of any person]personnel to [be notified in]specific tasks during an emergency[- in order of priority];~~
- ~~[- (e) (b) delivery of essential care and services to facility occupants by alternate means;~~
- ~~(c) delivery of essential care and services to facility occupants when additional individuals are housed in the hospice during an emergency;~~
- ~~(d) delivery of essential care and services to facility occupants when personnel are reduced by an emergency;~~
- ~~(e) instructions on how to contain a fire and how to use the facility alarm systems;~~
- ~~(f) instructions on how to recruit additional help, supplies, and equipment to meet patient needs after an emergency or disaster;~~
- ~~(g) maintenance of safe ambient air temperatures within the facility including;~~
- ~~(i) the emergency heating is approved by the local fire department;~~
- ~~(ii) the individual in charge shall take immediate action in the best interest of patients when the ambient air temperatures reach 58 degrees Fahrenheit or below, as it may constitute an imminent danger to the health and safety of the patients in the hospice; and~~
- ~~(iii) the licensee shall have and implement a contingency plan regarding excessively high ambient air temperatures within the hospice that may exacerbate the medical condition of patients;~~
- ~~(h) the name and telephone number of emergency medical personnel, fire department, paramedics, ambulance service, police, and other appropriate agencies;~~
- ~~(d) instructions on how to contain a fire and how to use]i) the [facility alarm systems;~~

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- ~~(e) assignment]name of [personnel to specific tasks during]any individual to notify in an emergency in order of priority;~~
- ~~[(f) (j) the name of the individual in charge and any individual with decision-making authority; and~~
- ~~(k) the procedure to evacuate and transport patients and staff to a safe place within the hospice or to other prearranged locations[;].~~
- ~~(g) instructions on how to recruit additional help, supplies, and equipment to meet patient needs after an emergency or disaster;~~
- ~~(h) delivery of essential care and services to facility occupants by alternate means;~~
- ~~(i) delivery of essential care and services to facility occupants when additional individuals are housed in the hospice during an emergency;~~
- ~~(j) delivery of essential care and services to facility occupants when personnel are reduced by an emergency; and~~
- ~~(k) maintenance of safe ambient air temperatures within the facility.~~
- ~~(i) Emergency heating shall have approval of the local fire department.~~
- ~~(ii) Ambient air temperatures of 58 degrees F. or below may constitute an imminent danger to the health and safety of the patients in the hospice. The person in charge shall take immediate action in the best interests of the patients; and~~
- ~~(iii) The licensee shall have, and be capable of implementing, contingency plans regarding excessively high ambient air temperatures within the hospice that may exacerbate the medical condition of patients.~~
- ~~(4) Personnel and patients shall] (4) The licensee shall ensure personnel and patients receive instruction and training in accordance with the plans to respond appropriately in an emergency[- The] and the licensee shall:~~
 - ~~(a) annually review the procedures with existing staff and patients;~~
 - ~~(b) [hold simulated disaster drills semi-annually; and~~
 - ~~(e) document any drills, including the date, participants, problems encountered, and the ability of each patient to evacuate[-]; and~~
 - ~~(c) hold simulated disaster drills semi-annually.~~
- ~~(5)(a) The licensee shall ensure the hospice administrator [shall be]is in charge during an emergency.~~
- ~~(b) If not on the premises, the hospice administrator shall make every effort to report to the hospice, relieve subordinates, and take charge.~~
- ~~(6) Each hospice inpatient [hospice]facility licensee shall provide in-house any equipment and supplies required in an emergency including emergency lighting, heating equipment, food, potable water, extra blankets, a first aid kit, and a radio.~~
- ~~(7) The licensee shall post the following information in appropriate locations throughout the facility to include:~~
 - ~~(a) evacuation routes, location of fire alarm boxes, and fire extinguishers;~~
 - ~~(b) the name of the [person]individual in charge; and~~
 - ~~(c) the names and telephone numbers of emergency medical personnel, agencies, and appropriate communication and emergency transport systems[- and].~~
 - ~~[(b) evacuation routes, location of fire alarm boxes, and fire extinguishers.~~
- ~~(8) The licensee shall post emergency telephone numbers at each nursing station.~~
- ~~(9) Fire drills and fire drill documentation shall [be in accordance]comply with Rule R710-4[- State of Utah Fire Prevention Board].~~

R432-750-30. Food Service.

- ~~(1) The licensee may provide dietary services directly, or through a written agreement with a food service provider.~~
- ~~(2) The licensee's food service shall comply with [the]Rule R392-100[- Utah Department of Health Food Service Sanitation Rule].~~
- ~~(3) The licensee shall maintain, for [department]OL review, any inspection reports by the local health department.~~
- ~~(4) If the licensee accepts patients requiring therapeutic or special diets, the hospice shall have an approved dietary manual for reference when preparing meals.~~
- ~~(5) [Dietary]The licensee shall ensure dietary staff[- shall] receive a minimum of four hours of documented in-service training each year.~~
- ~~(6) The licensee shall employ or contract with a certified dietitian to provide documented quarterly consultation if serving patients requiring therapeutic diets[- are admitted].~~
- ~~(7) The licensee shall ensure that enough food service personnel are on duty to meet the needs of patients.~~
- ~~(8) The cook and other kitchen staff [shall]may not perform concurrent duties outside the food service area[-] while performing food service duties.~~
- ~~(9) [Any]The licensee shall ensure any person that prepares or serves food [shall have]has a current food handler's permit.~~

R432-750-31. Nutrition and Menu Planning.

- ~~(1) The licensee shall provide at least three meals [or their equivalent-]daily.~~
- ~~(2) [Meals]The licensee shall [be]ensure meals are served with no more than a 14-hour interval between the evening meal and breakfast[-] unless a substantial snack is available in the evening.~~
- ~~(3) The licensee shall [h]ma[+]ke between[-]meal snacks of nourishing quality available on a 24-hour basis.~~
- ~~(4) [A]The licensee shall provide and plan a different menu[- shall be planned for and available for] each day of the week.~~
- ~~(5) The licensee shall ensure that patients' favorite foods are included in their diets when possible.~~
- ~~(6) The licensee shall maintain at least a one-week supply of non-perishable food and a three-day supply of perishable food.~~
- ~~(7) The licensee shall ensure that any food is nutritious, of good quality, and appealing to the patient.~~

R432-750-32. Pets in the Facility.

- ~~(1) [A]The licensee may [permit]allow patients to keep household pets such as dogs, cats, birds, fish, and hamsters if permitted by local ordinances.~~

- (2) The licensee shall ensure that:
- (a) ~~[pets are]~~each pet is clean and disease-free;
- (b) ~~[the pet environment is kept clean;~~
- ~~(c) small pets are kept in appropriate enclosures;~~
- ~~(d) pets]~~each pet that [are]is not confined [are]is under leash control[;] or voice control[;]~~[-and]~~
- ~~(e) pets]~~each pet that [are kept]resides at the facility ha[ve]s documented current vaccinations[-];
- ~~(d) the pet environment is clean; and~~
- ~~(e) each small pet is in an appropriate enclosure.~~
- (3)(a) Upon approval of the hospice administrator, a family member may bring a patient's pets to visit.
- ~~(b) The hospice administrator shall ensure that the visiting pets have current vaccinations.~~
- (4)(a) A licensee that allows birds shall have procedures that prevent the transmission of psittacosis.
- ~~(b) Procedures shall ensure minimal handling of droppings and placing of droppings into a closed plastic bag for disposal.~~
- (5) Pets ~~[shall]may~~ not be permitted in food preparation, storage, or central dining areas, or in any area where their presence would create a significant health or safety risk to others.

R432-750-33. Laundry Services.

- (1) The licensee shall provide laundry services to meet the needs of the patients.
- (2) If the licensee contracts for laundry services, the licensee shall obtain a signed, dated agreement ~~[from the contracted laundry service that details]~~detailing any services provided[-].
- (3) Each licensee that provides in-house laundry services shall ~~[meet the following requirements]~~ensure:
- ~~(a) maintain a supply of clean linen to meet the needs of the patients;~~
- ~~(b) (a) clean bed linens are changed as often as necessary, but no less than twice each week;~~
- ~~(c) soiled linen and clothing is stored separate from clean linen and not allowed to accumulate in the facility;~~
- ~~(d) (b) laundry equipment is in good repair;~~
- ~~(e) the laundry area is separate and apart from any room where food is stored, prepared, or served; and~~
- ~~(f) (c) a supply of clean linen is maintained to meet the needs of the patients;~~
- (d) personnel handle, store, process, and transport linens in a manner to minimize contamination by air-borne particles and to prevent the spread of infection[-];
- ~~(e) soiled linen and clothing are stored separate from clean linen and not allowed to accumulate in the facility; and~~
- ~~(f) the laundry area is separate and apart from any room where food is stored, prepared, or served.~~

R432-750-34. Maintenance Services.

- (1) The licensee shall provide maintenance services to ensure that equipment, buildings, furnishings, fixtures, spaces, and grounds are safe, clean, operable, and in good repair.
- (2)(a) The licensee shall conduct a pest control program through a licensed pest control contractor or a qualified employee to ensure the absence of ~~[vermin and rodents. Documentation of the pest control program shall be maintained for department review]~~rodents.
- ~~(b) The licensee shall maintain, for OL review, documentation of the pest control program.~~
- (3) The licensee shall maintain entrances, exits, steps, and outside walkways in a safe condition with regard to ice, snow, and other hazards.

R432-750-35. Waste Storage and Disposal.

The licensee shall provide facilities and equipment for the sanitary storage and treatment or disposal of any categories of waste, including hazardous and infectious wastes, if applicable, using techniques acceptable to the Department of Environmental Quality and the local health authority.

R432-750-36. Water Supply.

- (1) The licensee shall ensure that hot water provided to patient tubs, showers, whirlpools, and hand washing facilities is regulated for safe use within a temperature range of 105 to 120 degrees ~~[F]~~Fahrenheit.
- (2) Thermostatically controlled automatic mixing valves may be used to maintain hot water at the required temperatures.

R432-750-37. Housekeeping Services.

- (1) The licensee shall provide housekeeping services to maintain a clean, sanitary, and healthful environment.
- (2) If the licensee contracts for housekeeping services with an outside entity, the licensee shall obtain a signed and dated agreement that details the services provided.
- (3)(a) The licensee shall provide safe and secure storage of cleaners and chemicals.~~[-In areas with potential access by children or confused/disoriented patients; cleaners, and]~~
- ~~(b) The licensee shall lock chemicals [shall be locked]in a secure area to prevent unauthorized access[-] or potential access by children or disoriented patients.~~
- (4) Personnel engaged in housekeeping or laundry services ~~[shall]may~~ not be concurrently engaged in food service or patient care.
- (5) The licensee shall establish and implement policies and procedures to govern the transition of housekeeping personnel to food service or direct patient care duties.

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R432-750-38. Penalties.

Any person who violates ~~[any provision of]~~ this rule may be subject to the penalties ~~[enumerated in Sections 26-21-11] in Rule R380-600 and [R432-3-] Title 26B, Chapter 2, Part 7, Penalties and [be punished for violation of a class A misdemeanor as provided in Section 26-21-16]~~ Investigations.

KEY: health care facilities

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

Notice of Continuation: August 13, 2021

Authorizing, and Implemented or Interpreted Law: ~~[26-21-5; 26-21-6]~~ 26B-2-202; 26B-2-204

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number: R436-3 **Filing ID:** 56924

Agency Information

1. Title catchline:	Health and Human Services, Data, Systems and Evaluation, Vital Records and Statistics	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 142012	
City, state and zip:	Salt Lake City, UT 84114-1012	
Contact persons:		
Name:	Phone:	Email:
Linda S. Winger	801-538-6262	lindaw@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:
R436-3. Amendments and Corrections to Vital Records
3. Purpose of the new rule or reason for the change:
Following the recodification of the Department of Health and Human Services statute and SB93 in the 2023 General Session, this filing updates citations and provisions to align with statute.
4. Summary of the new rule or change:
This amendment updates statute citations and removes language that previously allowed minor name changes that would not change the pronunciation of the name by affidavit. It updates requirements for name changes for people after they turn a year old and additionally makes style and formatting changes in accordance 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 rule change is not anticipated to have a fiscal impact on the Department of Health and Human Services, as it updates citations and language. This filing does not add, remove, or modify any existing requirements or restrictions for the department.
B) Local governments:
This rule change is not anticipated to have a fiscal impact on local governments because the work of the local government vital records office will remain the same. This filing does not add, remove, or modify any existing requirements or restrictions for local governments.

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

This rule change is not anticipated to have a fiscal impact on small businesses because the proposed change applies to a government process unrelated to small businesses.

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

This rule change is not anticipated to have a fiscal impact on non-small businesses because the proposed change applies to a government process unrelated to non-small businesses.

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

This rule change is not anticipated to have a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because in the 2023 General Session, SB93 amended Subsection 26B-8-107(1)(d) to restrict name changes to within 1 year of birth. Prior to that time, the Office of Vital Records and Statistics had a policy that a child's name could be changed through the affidavit process until the child was 6 years old. A court order is now required to change an individual's name after they are 1 year old. To change a name between ages 1 to 6, there is a \$380 fee. This fee, already in place, is not anticipated to change as a result of this filing.

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

This filing is not anticipated to have a compliance cost for affected persons. The fee for a name change was charged prior to this filing, and no additional fee or compliance cost will need to be paid as a result of this filing.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-8-107		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	11/01/2024
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R436. Health and Human Services, ~~Center for Health~~ Data, Systems and Evaluation, Vital Records and Statistics.

R436-3. Amendments and Corrections to Vital Records.

R436-3-1. Purpose and Authority.

- (1) This rule sets forth the process for correcting and amending vital records.
- (2) Authority for this rule is found in Section ~~[26-2-7]~~26B-8-107.

R436-3-2. Definitions.

- (1)~~(a)~~ "Amendment to a vital record" means a change made to a ~~[legal information-]field~~ that appears on the printed birth certificate or a change made a year or more after the event.
- ~~(b)~~ Documentary evidence supporting the amendment may be required.
- (2)~~(a)~~ "Correction to a vital record" means a change made to a ~~[non-legal information-]field[s]~~ that does not appear on the printed birth certificate, such as birth weight~~[,]~~ or residence, or a change to information that was entered incorrectly.
- ~~(b)~~ Corrections must occur within one year of the event or ~~[prior to]~~before the issuance of a certificate.
- ~~(c)~~ Documentary evidence supporting the correction may be required.
- (3)~~(a)~~ "Court order" means an order from a court of competent jurisdiction; and
- ~~(b)~~ includes a civil petition invoking the jurisdiction of a court of record.
- ~~(3)4~~ "Delayed Certificate of Birth" means the certificate from a Delayed Birth Registration as defined in Section ~~[26-2-8]~~26B-8-108.
- ~~(4)5~~ "Department" means the Department of Health and Human Services.
- ~~(5)~~ "Legal Field" means those fields that appear on the printed birth certificate.
- ~~(6)~~ "Non-legal field" means those fields that do not appear on the printed birth certificate.

R436-3-3. Role of the State Registrar.

- (1) The State Registrar will determine if a change to a certificate item may be corrected or if an amendment is required.
- (2)~~(a)~~ The State Registrar may initiate a correction to a record if the State Registrar becomes aware of incorrect information on a record.
- ~~(b)~~ The State Registrar may contact any facility or individual responsible for the original submission of data to assist in the collection of evidence of the error and correct information.
- (3)~~(a)~~ The State Registrar may require documentary evidence as outlined in Section R436-3-5 to substantiate any requested correction or amendment.
- ~~(b)~~ When there is reason to doubt the validity or adequacy of the documentary evidence, the change may be rejected and the applicant advised of the reasons for this action.
- (4) When the State Registrar makes a correction~~[is made by the State Registrar]~~, a notation recording the source of the corrected information, the date the change was made and the identity of the authorized individual making the change shall be made on the record in such a way as to not become a part of any certificate issued. The previous information shall be preserved in the electronic or paper record for tracking and audit purposes.
- (5) When an ~~[A]~~amendment is made, a notation showing the record was amended shall be printed on the face of the certificate of record. ~~[.]~~The exact changes made or specifics of the amendment may be printed on further pages ~~[two-]~~of the certificate, labeled with page numbers. ~~[and]~~For example, if there are two pages, the pages shall be numbered Page 1 of 2 and Page 2 of 2 to show that there is an additional page with amendments.

R436-3-4. Amend a Record.

- ~~(1) All~~ Any amendment[s] to a vital record[s] shall be requested by submitting a notarized affidavit asserting that the error exists signed by the person so asserting and one other credible person having knowledge of the facts. ~~[.]~~The affidavit will set forth:
 - ~~(a)1~~ 1 information to identify the record;
 - ~~(b)2~~ 2 the items to be amended;
 - ~~(c)3~~ 3 the incorrect information as it appears; and
 - ~~(d)4~~ 4 the correct information as it should appear.

R436-3-5. Documentary Evidence Required for Corrections or Amendments.

(1) With the exception of corrections initiated by the State Registrar, as outlined in Section R436-3-2, or an amendment to the medical certification, one or more items of documentary evidence may be required that support the alleged facts.

(2) Each document presented must contain sufficient information to clearly show that they pertain to the registrant on the record for which the amendment or correction has been requested.

(3) ~~The~~ Each document[s] must clearly establish the facts pertaining to the amendment sought.

(4) An acceptable document[s] includes:

(a) a certified copy of a marriage record;

(b) an insurance policy naming the married couple;

(c) the most recent joint tax return of the married couple;

(d) a certified copy of the live birth record of the registrant's child;

(e) Social Security records;

(f) a passport or visa[s];

(g) military records;

(h) federal government census records;

(i) government agency records for benefit establishment such as social services, Medicaid, clinical services, or similar services;

(j) a copy of official records prepared by state or federal agencies that have maintained case files on the individual applying;

(k) any court order[s] clearly establishing the facts to be amended;

(l) any medical record[s] pertaining to the vital event;

(m) any medical treatment record[s] which may include official medical history, patient information sheet or immunization records that list birth information and show dates the patient was seen;

(n) the original voter registration;

(o) a tax record[s] such as a W-2 form; or

(p) any other document[s] deemed to be considered valid and adequate by the State Registrar to support the requested change.

(5) Only one document of each type listed in Subsections (4)(a) through (p) ~~above~~ may be used in cases where more than one document is required to support the facts.

(6) Documents presented must be from independent sources.

(7) Family documents, such as records from bibles or personal genealogical records, are not acceptable.

(8) Documents must be in the form of the original record or a certified copy or excerpt from the original custodian of the record.

(9) If a vital record was issued with information that was entered incorrectly, a corrected version of the vital record, as outlined in Section R436-3-2, may be issued for no additional fee if the incorrect vital record is returned to the Department.

R436-3-6. Amend or Correct a Live Birth Record, Stillbirth, or Fetal Death Record.

(1) Stillbirth and fetal death records may be amended or corrected after registration.

(2) Live birth records ~~shall~~ may not be amended or corrected after death except that omission of a child's name may be amended after death within one year of birth.

(3) ~~(a) [Application may be made by:]~~ The following persons may apply:

~~(a) the licensed facility, licensed provider, or health care provider responsible for submitting the report of live birth within one year of the date of the birth;~~

~~(b)(i) the registrant, if 18 years of age or over, or person who has the status of emancipated minor;~~

~~(ii) the parents, if the registrant is under 18;~~

~~(iii) the legal guardian[-]; or[s]~~

~~(iv) the legal representative acting on behalf of the registrant.~~

~~(b) The licensed facility, licensed provider, or health care provider responsible for submitting the report of live birth within one year of the date of the birth may also apply.~~

(4) Until one year from the date of birth, the child's name may be changed or added upon receipt of an affidavit signed by both the parents named on the record or the legal guardian of the registrant.

(5) A court order is ~~needed~~ required to change or amend the child's name after ~~six~~ one year[s] from the date of birth.

(6) A court order is required for a change to the sex or gender.

(7) A court order is required for any change to a Delayed Birth Certificate.

~~(8) Minor name spelling changes which do not change the pronunciation of the name may be made by affidavit. One proof from the acceptable documentary evidence listed in Section R436-3-4 is required.~~

~~(9) 8~~ The date of birth may be corrected by the facility of birth or the midwife attending the birth.

~~(10) 9~~ If the facility of birth or midwife cannot make the correction to the date of birth, the correction may be made ~~providing~~ if the following conditions are met:

(a) two supporting documents are submitted demonstrating the registrant has consistently used the date from childhood[-] and a[-A] least one of these documents must have been created within seven years of the alleged date of birth; and

(b) the corrected date of birth is before the date the birth record was registered.

~~(10) 11~~ An amendment[s] to parent information for a child[ren] under age 18 requires ~~the following~~ that:

(a) the parent whose information is being changed must sign the amendment request form;

~~(b) if the parent is deceased, a death certificate is provided [will be required] and another immediate family member of that parent [may] sign the amendment request form;~~

NOTICES OF PROPOSED RULES

(c) if the parents are married and the amendment request is to add the father, a marriage certificate [~~must be~~]is provided and both parents [~~must~~]sign the form; or

(d) if the parents are not married, a voluntary declaration of paternity or court order establishing paternity must be submitted for the father to be added to the child's birth certificate.

(1)[2] An amendment[s] for a registrant[s] over age 18 requires [the following]that:

(a) the registrant, or legal guardian, [~~must~~]sign as one of the witnesses on the amendment request form; and

(b) the second witness [~~must be~~]is an immediate family member to the registrant.

(12[3]) If only one parent is listed, the second witness [MUST]shall be an immediate family member of the listed parent.

(13[4]) For live birth records, the documents submitted must have been established before the registrants' 18th[th] birthday or at least ten years [~~prior to~~]before the date of the application for the amendment or correction. [-]The State Registrar may make exceptions for other documents such as court orders, passports, or other evidence that clearly support the facts of live birth.

R436-3-7. Amend or Correct a Death Record.

(1) [~~Amendments by~~]Funeral home directors may make an amendment[~~be made~~] through the electronic death registration system for up to one year after the death.

(2) The following persons may apply to amend or correct personal information on a death record:

(a) the informant listed on the death record and an immediate family member of the decedent;

(b) two immediate family members; or

(c) the funeral director or person acting as such who submitted the information for the death certificate.

(3) The following persons may apply to amend or correct the marital status on a death record[~~, the following persons may apply~~]:

(a) the spouse with a marriage certificate and the informant listed on the death record;

(b) the spouse with a marriage certificate and a witness with personal knowledge of the marriage;

(c) two family members with the marriage certificate or acceptable evidence of marriage;

(d) a family member with evidence of divorce, dissolution, death, or annulment before the death of the decedent; or

(e) a common-law spouse with a [~~n order from a court of competent jurisdiction~~] court order issued in a legal action indicating that the person was in a common-law marriage with the decedent at the time of the decedent's death.

(4) Other changes to marital status and recorded surviving spouse [~~will~~]may be made only upon [~~the finding of a court of competent jurisdiction in an~~]a court order that determines the marital status of the decedent and identifies the surviving spouse.

(5) If there is conflict, the State Registrar may elect to require a court order before a change is made to the marital status.

(6) In the case of conflicting requests with no clear documentary evidence, informants who are in concurrence with one other witness with personal knowledge of the facts will be considered in the following order of precedence:

(a) a surviving spouse;

(b) a child, if 18 years or older, otherwise the legal guardian of the child;

(c) a parent;

(d) a grandparent;

(e) a sibling;

(f) an uncle or aunt;

(g) a nephew or niece; and

(h) a cousin.

(7) The cause of death on a death record may only be amended upon receipt of a signed statement or approved electronic notification from the medical certifier or medical examiner who originally certified the cause of death. [-]In the absence or inability of that physician, the following individuals may request the change:

(a) the authorized medical associate of the original certifier;

(b) the chief medical officer of the institution in which death occurred; or

(c) a medical examiner who assumes jurisdiction of the case provided such an individual has access to the medical history of the case.

(8) The funeral director may correct the date and time of death[~~may be corrected by the funeral director~~].

R436-3-8. Amendment of the Same Item More Than Once.

Once an item is amended through a signed affidavit, that item [~~shall~~]may not be amended again, except upon receipt of a court order.

KEY: vital statistics, amendments, fathers, mothers

Date of Last Change: 2024[~~March 16, 2022~~]

Notice of Continuation: March 20, 2023

Authorizing, and Implemented or Interpreted Law: [26-2-7]26B-8-107; 78B-15-302

NOTICE OF SUBSTANTIVE CHANGE**TYPE OF FILING:** Repeal**Rule or Section Number:****R501-3****Filing ID: 56912****Agency Information**

1. Title catchline:	Health and Human Services, Human Services Program Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
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:
R501-3. Inspection and Emergency Enforcement
3. Purpose of the new rule or reason for the change:
SB229 from the 2024 General Session standardized the office's authority in Section 26B-2-700, and as a result, the content of Rule R501-3 in its entirety has been moved to Rule R380-600. This repeal eliminates this stand-alone rule for human services, as provisions for enforcement for all licensed entities served under the Division of Licensing and Background Checks (DLBC) will be housed in Rule R380-600, and keeping Rule R501-3 would be repetitive and redundant.
4. Summary of the new rule or change:
Rule R501-3 is being repealed in its entirety, as its content is being moved into Rule R380-600.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated fiscal impact to the state budget, as this repeal will not change the current process for licensure and re-licensure inspections. Each entity under DLBC has previously had administrative rule authority to take emergency actions, and an amendment filing for Rule R380-600 places all authority to do so into one centralized rule, rendering Rule R501-3 unnecessary.
B) Local governments:
This proposed repeal is not anticipated to have a fiscal impact to local governments, as local governments do not regulate DLBC licensed facilities. This repeal does not add, remove, or modify requirements for local business licensing or any other process with which local government is involved, as all the requirements previously in this rule are being moved to Rule R380-600.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated fiscal impact to small businesses as a result of this repeal, as all the requirements previously in this rule are being moved to Rule R380-600.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no anticipated fiscal impact to non-small businesses as a result of this repeal, as all the requirements previously in this rule are being moved to Rule R380-600.

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 fiscal impact to other persons as a result of the repeal of this rule, as all the requirements previously in this rule are being moved to Rule R380-600.

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

There is no anticipated compliance cost for affected persons as a result of this repeal, as all the requirements previously in this rule are being moved to Rule R380-600.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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-2-104

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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	10/30/2024
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R501. Health and Human Services, Human Services Program Licensing.

~~**R501-3. Inspection and Emergency Enforcement.**~~

~~**R501-3-1. Authority and Purpose.**~~

- ~~_____ (1) Section 26B-2-104 authorizes this rule.~~
- ~~_____ (2) This rule establishes the standard for an emergency agency action taken by the office following a serious injury or death in a human services program.~~

~~**R501-3-2. Scope.**~~

~~_____ Each human services program licensee is subject to this rule.~~

~~**R501-3-3. Definitions.**~~

- ~~_____ The terms used in Title R501 are defined in Section 26B-2-101 and Section R501-1-3. In addition, the following terms are defined:~~
- ~~_____ (1) "Notice of Emergency Agency Action (NEAA)" means the notice issued by the office which places a human services program license on immediate conditional status.~~
 - ~~_____ (2) "Serious Injury" means significant disfigurement or loss or impairment of function of a bodily member, organ, or mental faculty.~~

~~**R501-3-4. Notice of Emergency Agency Actions.**~~

- ~~_____ (1) A human services program licensee that experiences a serious injury or death shall report the critical incident to the office in accordance with Subsection R501-1-11(2).~~
- ~~_____ (2) The office shall make the determination of whether or not to issue an NEAA with consideration of:~~
 - ~~_____ (a) any known facts of the event;~~
 - ~~_____ (b) the human services program licensee's adherence to licensing rules leading up to and during the critical incident; and~~
 - ~~_____ (c) the immediate health and safety of the remaining clients.~~
- ~~_____ (3) The known facts of the event are deemed proof of conduct adverse to the standards required to provide services and promote public trust in accordance with Section 26B-2-112.~~
- ~~_____ (4)(a) If the office determines that an NEAA is necessary for the protection of clients, it may place emergency conditions on the license to include restricting new admissions and increased monitoring of human services program operations.~~
- ~~_____ (b) An NEAA shall expire 30 days after the date of issuance.~~
- ~~_____ (c) The office may dismiss the NEAA at any time before the 30-day expiration.~~
- ~~_____ (d) Issuance of an NEAA does not prevent the office from issuing a subsequent notice of agency action or any other sanction.~~
- ~~_____ (5) The human services program licensee may appeal an NEAA by filing a written request for an administrative hearing with the office within five business days of receipt of the NEAA.~~
- ~~_____ (6) NEAA conditions are immediately in effect and the human services program licensee shall adhere to any listed conditions unless reversed by a hearing with the department or under written authorization from the office.~~

~~**R501-3-5. Compliance.**~~

~~_____ A human services program licensee found in noncompliance with any part of this rule may be subject to a civil money penalty or other sanctions as authorized by Section 26B-2-104 and as outlined in Section R501-1-12.~~

KEY: licensing, human services

Date of Last Change: November 1, 2023

Authorizing, and Implemented or Interpreted Law: 26B-2-104]

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R501-12

Filing ID: 56882

Agency Information

1. Title catchline:	Health and Human Services, Human Services Program Licensing
Building:	Multi-Agency State Office Building
Street address:	195 N. 1950 W.
City, state:	Salt Lake City, UT
Mailing 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	mariahmoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R501-12. Foster Care Services
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to cite or remove content that is reflected in the Division of Licensing and Background Checks (DLBC) enforcement rule, Rule R380-600, add content to comply with HB451 and SB229 from the 2024 General Session, and update terminology to comply with the Rulewriting Manual for Utah and current practices within Department of Health of Human Services and DLBC.
4. Summary of the new rule or change:
HB451 introduced "short-term relief provider" and "three-year licenses" for foster parent licensees with no findings of noncompliance for any two consecutive years of licensure. Section R501-12-5 has been created to address three-year licenses and Section R501-12-6 has been created to address short-term relief providers. SB229 consolidated enforcement statutes for health and human services licensing entities under DLBC and placed them in Section 26B-2-700, that is referenced in Section R501-12-17 along with the DLBC enforcement rule, Rule R380-600. "Kinship connection" is redefined to "preserving connection" at the request of the Division of Child and Family Services (DCFS) to permit specifically identified individuals to continue connection with a foster child even if they are unrelated. The minimum age for background checks for residents of a foster home was updated from age 18 to age 12. This is already a statutory requirement in practice for foster care background checks. This filing updates the rule to reflect the statutory requirement from Section 26B-2-120. "Reside" was redefined from 30 days to 14 days to align with the background check requirement threshold across other license categories under DLBC. Additionally, this filing makes style and formatting changes to comply 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:
The Office of Licensing (OL) will continue to license and inspect licensees, and it is anticipated that about 192 licensees qualify for 3-year licenses in FY2025. As a result, OL will not be doing annual renewals for those licensees until 2027. OL does not collect licensing fees or fines for foster parents, and the average cost of conducting a foster care renewal is calculated at an average of \$380 per renewal, resulting in a savings to the state budget of \$72,960 over each of the next 3 years. DCFS is tasked with reporting safety concerns in foster homes and will be the only entity entering those foster homes in the 3-year licensing period. OL has a streamlined reporting mechanism to assist DCFS caseworkers with reporting concerns to OL. The Office of Background Processing (OBP) will process background checks for any visitor or resident in a foster home for 14 cumulative days per year instead of 30 days per year. OL cannot estimate how many new checks will be needed to accommodate this new requirement, since the visitors and residents of foster homes are fluid and not predictable. As this is inestimable, it is not reflected in the regulatory impact summary table.
B) Local governments:
Local governments do not have any interaction with the regulatory requirements of DLBC-licensed foster parents, therefore this rule change will have no cost or savings impact on local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
Foster parents are not considered small business, as they provide care for up to four foster children at a time in their own homes. They are considered affected persons. This filing does not apply to or have a fiscal impact on small businesses.

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

Foster parents are not considered non-small business, as they provide care for up to four foster children at a time in their own homes. They are considered affected persons. This filing does not apply to or have a fiscal impact on 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**):

Affected persons would be foster parents who meet the requirements to be licensed for 3 years. As the licensee is expected to continue to comply with licensing rules during the 3-year license period, and there are no licensing or certification fees for foster parents, there will be no new costs or savings to maintain the original compliance requirements.

Affected persons also are visitors and residents in foster homes and providers of short-term relief care who will be subject to background checks through OBP. Until it is known how many of these providers will request background checks, OBP is prepared to absorb the costs of background processing until data can be collected to demonstrate costs. OBP is unable to provide an estimate on the number of providers requesting background checks, as this is a new process.

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

If affected persons are responsible for their own background check fees, the average cost for each background check would be \$15 for fingerprinting and \$53.25 for processing. Again, OBP will initially cover these costs, so it is currently unknown when or if this will apply to 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
State Government	\$72,960	\$72,960	\$72,960
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$72,960	\$72,960	\$72,960
Net Fiscal Benefits	\$72,960	\$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-2-104		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	10/27/2024
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R501. Health and Human Services, ~~Administration, Administrative Services,~~ Human Services Program Licensing.

R501-12. Foster Care Services.

R501-12-1. Authority and Purpose.

(1) This rule is authorized by Section 26B-2-104.

~~R501-12-2. Purpose Statement.~~

~~(1) (a) This rule establishes standards for the licensure of foster parents for children in the custody of [DHHS, inclusive of its divisions] the Department of Health and Human Services.~~

~~(2) (b) This rule establishes standards for child[-]-placing foster care agencies to utilize in the certification of foster parents to provide [care for] foster [children] care.~~

~~(3) (c) This rule establishes compliance standards for licensed and certified foster parents.~~

~~(d) This rule supplements Rules R501-1, R380-80, and R380-600 that apply to foster care services.~~

R501-12-~~3~~2. Definitions.

Terms used in this rule are defined in Rules R380-600 and R501-1. Additionally:

(1) "Agency" means ~~the owners, directors~~ any owner, director, manager, and ~~managers~~ staff of a child[-]-placing foster care agency licensed by ~~the DHHS Office of Licensing~~ OL to certify foster parents.

(2) "Child" ~~is defined in Section 26B-2-104~~ means an individual under 18 years old.

(3) "Child ~~[C]~~care" is defined in Section 26B-2-401.

~~(4) (a) "Certified" means a family [recruited] approved by a child[-]-placing foster care agency who meets [all the requirements of Rule R501-12] each requirement in this rule and is issued a certification that [would equal] is equivalent to a foster care license [if] issued by [the office.] OL.~~

~~(b) A certified family under this rule does not mean a home certified by [the office] OL for providing unlicensed services to a Division of Services for People with Disabilities client.~~

(5) "Custodial ~~[A]~~agency" means the agency or entity that maintains legal custody of the foster child.

(6) "DCFS" means the ~~[DHHS]~~ Division of Child and Family Services under the department.

~~(7) "Department" means the Utah Department of Health and Human Services [~~DHHS~~], including all divisions, offices and institutions.~~

(8) "Direct ~~[A]~~access" is defined in Section 26B-2-101.

(9) "Eligible" means an OBP background check determination of direct access qualified in accordance with Section 26B-2-120.

~~(10) "Foster ~~[C]~~care" means the temporary provision of family[-]-based care for a foster child by a foster parent.~~

~~(11) "Foster ~~[C]~~child" means a person under 21 years of age who remains subject to the continuing jurisdiction of the juvenile court or whose placement in the home was facilitated by a custodial agency or division of the [Department of Health and Human Services] department.~~

~~(12) "Foster ~~[P]~~parent" means a substitute parent licensed by [the DHHS Office of Licensing or certified by a licensed child placing foster agency] OL and includes the spouse of the primary applicant. [A foster parent includes a proctor parent, professional parent, resource family, or kinship caregiver.]~~

~~(13) "General, common use, household items" means:~~

~~(a) [oral hygiene products] air fresheners and deodorizers;~~

~~(b) [hair and cosmetic products] cleaning wipes;~~

~~(c) cutlery;~~

~~(d) facial and skin hygiene products;~~

~~(d) cutlery;~~

~~(e) hair and cosmetic products;~~

~~(f) laundry and dish detergent, excluding concentrated pods;~~

~~(f) cleaning wipes;~~

~~(g) [rubbing alcohol] laundry stain remover;~~

~~(h) nail polish remover;~~

- (i) ~~[laundry stain remover]~~oral hygiene products;
- (j) propane attached to a grill;
- (k) ~~[air fresheners and deodorizers]~~rubbing alcohol; and
- (l) spray furniture polish.
- (~~13~~)14) "Hazardous ~~[M]~~material" means any substance that if ingested, inhaled, ignited, used, or touched may cause significant injury, illness, or death. These substances include:
- (a) ~~[pesticides]~~ammonia, including ammonia-based cleansers;
- (b) ~~[gasoline]~~automotive fluids;
- (c) bleach, including bleach-based cleansers;
- (d) ~~[compressed air];~~
- ~~_____~~ (e) ammonia, including ammonia-based cleansers;
- ~~_____~~ (f) chemical drain openers;
- ~~_____~~ (e) cleaning aerosols;
- ~~_____~~ (f) compressed air;
- ~~_____~~ (g) concentrated detergent capsules;
- ~~_____~~ (h) gasoline;
- ~~_____~~ (i) hair relaxers or permanents;
- ~~_____~~ (h) kerosene;
- ~~_____~~ (i) spray paint;
- ~~_____~~ (j) (k) lighter fluid;
- ~~_____~~ (l) lighters;
- ~~_____~~ (m) matches;
- ~~_____~~ (n) medications;
- ~~_____~~ (o) oven cleaners;
- ~~_____~~ (p) paint thinner;
- ~~_____~~ (k) automotive fluids;
- ~~_____~~ (l) (q) pesticides;
- ~~_____~~ (r) spray paint; and
- ~~_____~~ (s) toxic glues~~[-excluding non-toxic glues;]~~;
- ~~_____~~ (m) oven cleaners;
- ~~_____~~ (n) matches, lighters, lighter fluid;
- ~~_____~~ (o) cleaning aerosols;
- ~~_____~~ (p) medications; and
- ~~_____~~ (q) concentrated detergent capsules.
- (14)15) "Home ~~[S]~~study" means a written assessment of an applicant's ability to:
- ~~_____~~ (a) actively engage in achieving the custodial agency's identified outcomes for a foster child;
- ~~_____~~ (b) comply with applicable statutes and ~~[administrative]~~rules related to providing foster care; and
- ~~_____~~ (b) meet the physical and emotional needs of a foster child~~[-and~~
- ~~_____~~ (c) actively engage in achieving the custodial agency's identified outcomes for a foster child].
- (~~15~~)16) "Human ~~[Services Program]~~services program" is defined in Section 26B-2-101.
- ~~_____~~ (16) " (17) "Immediate family member" is defined in Subsection 80-3-102(5).
- ~~_____~~ (18) "Incidental ~~[C]~~care" is defined in Section 26B-2-120.
- ~~_____~~ (17) "Kinship Connection" means relationships to foster children with the purpose of maintaining or strengthening familial relationships and connections with other individuals that are approved in writing in the DHHS client record.
- ~~_____~~ (~~18~~) (19) "Material change" is defined in Subsection 26B-2-107(1) and includes the following changes that may affect a foster child's well-being:
- ~~_____~~ (a) a critical incident as defined in Rule R380-600;
- ~~_____~~ (b) a youth turning 18 years old, who resides in the home, except a foster child; and
- ~~_____~~ (c) an upcoming adoption.
- (20) "Medication" means any over-the-counter or prescription drug, vitamin, or supplement in any form.
- (~~19~~) "Office"21) "OBP" means the ~~[o]~~Office of ~~[licensing]~~Background Processing within the Division of Licensing and Background Checks under ~~[DHHS]~~the department.
- ~~_____~~ (~~20~~) (22) "OL" means the Office of Licensing within the Division of Licensing and Background Checks under the department.
- ~~_____~~ (23) "OL or the agency" means OL when the foster parent is licensed by OL or the agency when the foster parent is certified by a child-placing foster agency.
- ~~_____~~ (24) "Poverty ~~[G]~~guidelines" means the~~[-current]~~ US Department of Health and Human Services listing of poverty levels as determined by the number of members of a family.
- (~~24~~)25) "Preserving connection" means an individual with a relationship to a foster child that is identified with the purpose of maintaining or strengthening that relationship and connection, as approved in writing in the department client record.
- ~~_____~~ (26) "Provider" means an OL-licensed foster parent or the agency responsible for certifying its own foster parents.
- ~~_____~~ (27) "Relative" is as defined in Subsection 80-3-102(6).

NOTICES OF PROPOSED RULES

~~(28) "Reside" means visiting or living in the foster home for any cumulative [30]14 days of the past 12 months. [Reside is further defined in Rule R501-14 as it applies to background clearances only.]~~

~~(22)29(a) "Respite [C]care" means the short[-]term provision of family[-]based care for a foster child by a foster parent to provide relief to another parent. [Respite care does not include kinship connections, if identified individuals are specifically named, along with any contact allowances or parameters in the DHHS client record.]~~

~~(23)b) Respite care does not include preserving connection, if the identified individual is specifically named, along with any contact allowances or parameters in the department client record.~~

~~(30) "Reasonable [F]temperature" means between 65 and 82 degrees Fahrenheit.~~

~~[24] (31) "Short-term relief care provider" is defined in Section 26B-2-101.~~

~~(32) "Siblings" means children with a common parent or grandparent, regardless of whether their legal relationship has been severed, including biological siblings, half-siblings, step-siblings, adopted siblings, and cousins.~~

~~(25)33) "Sick" means to have a fever, to be experiencing ongoing or severe diarrhea, unexplained lethargy, respiratory distress, ongoing or severe vomiting, or pain or other symptoms that are ongoing or severe enough to impair a child's ability to participate in normal activity.~~

~~(26) "The Provider" means a foster parent or agency.~~

R501-12-43. Initial Application, Renewal, and Reapplication Process.

(1) An individual or legally married couple age 18 or over may apply for licensure or certification to be a foster parent.

~~(2)(a) The [provider shall apply] foster parent applicant for licensure [or certification] shall apply by [fully] completing a form in the [approved] online provider portal.~~

~~(b) The foster parent applicant for certification shall complete the initial [license] application template form [-that is] found on the [office]OL website and submit that application form to the child-placing foster care agency from which they wish to receive certification.~~

~~(3) [The office]OL or the agency may consider poverty guidelines when evaluating the dependence of [a]the foster parent on foster payments for their own expenses.~~

~~(4) [The office]OL or the agency may require supporting documentation of household income and expenses to verify the foster parent or foster parent applicant is financially stable and will not be dependent on foster care reimbursement.~~

~~(5) The foster parent applicant shall provide verification of successful completion of DCFS or agency approved pre-service training within the past 24 months.~~

~~(6) The foster parent applicant shall provide verification of current cardiopulmonary resuscitation (CPR) and first aid training. [Accepted training includes [Heart Savers, American Red Cross, and American Heart Association Friends and Family];~~

~~(a) Family and Friends CPR, provided through the American Heart Association;~~

~~(b) Heartsaver, provided through the American Heart Association; and~~

~~(c) courses provided through the American Red Cross.~~

~~(7) The foster parent applicant shall authorize a licensed health care professional to complete a physical exam within the previous 12 months and send a signed medical reference report directly to OL or the [office or] agency. [-] A medical reference report shall assess the current ability of the individual to be a foster parent.~~

~~(8)(a)(i) If required by OL or the [office or] agency to assess mental health status, the foster parent or foster parent applicant shall complete a professional mental health examination.~~

~~(a) [The office]ii) OL or the agency shall determine the type of professional mental health examination required based on the nature of the presenting concerns.~~

~~(b) [The office]OL or the agency administration shall collaborate with a clinical professional to make the determination of need and type of examination required.~~

~~(c) The foster parent or foster parent applicant shall authorize the release of examination information to OL or the [office or] agency, including a signed report that assesses the ability of the individual to parent a vulnerable foster child [ren] full time as a foster parent.~~

~~(d) The foster parent or foster parent applicant shall pay for any requested medical or mental health examination[s].~~

~~(e) [The office]OL or the agency may, in the exercise of their professional [judgment]assessment, deny, suspend, place conditions on, or revoke an application, certification, or license if a medical reference report or other examination reveals reasonable concerns regarding an applicant's ability to provide foster care services, or if the required examination is not completed and provided to OL or the [office or] agency.~~

~~(9) [At the time of] (a) Upon initial application, or as requested thereafter, the foster parent applicant shall submit the name[s], mailing address, email address[es], and phone number[s] of no more than four individuals as referents, who [will be contacted by the office]OL or the agency [and asked] shall contact to provide a reference letter.~~

~~(b) If there is more than one individual listed on the foster parent application, the referent[s] may address [both individuals]each individual in the same reference.~~

~~(a)c) The foster parent applicant shall select referents who are knowledgeable regarding the ability of the applicant to provide a safe environment and to nurture foster children.~~

~~(b)d) The foster parent applicant shall select one referent that is a relative of the applicant and three non-relatives.~~

~~(e) [The]e) OL or the agency [or office] shall only consider the four original [reference individuals]referents submitted.~~

~~(d)f) A minimum of three out of the four individuals, including one relative and two non-relatives, shall submit reference letters directly to OL or the [office or] agency. [-] Except as provided in Subsection R501-12-15(3), OL or the [office or] agency shall require a minimum of three reference letters received that are acceptable to [the office]OL or the agency.~~

(~~e~~) ~~The office~~ g OL or the agency may, in the exercise of their professional ~~judgment~~ assessment, deny an application if a reference reveals reasonable concern~~s~~ regarding an applicant's ability to provide foster care services.

(10)~~(a)~~ The foster parent applicant and each person ~~18~~ 12 years of age or older residing in the home shall submit a background ~~screening~~ check application as part of the initial application.

(~~a~~)b A background ~~screening~~ check application is also required for any new individual over the age of ~~18~~ 12 who moves into the home.

(~~b~~) ~~The office~~ c OL or the agency may not license or certify a foster parent unless the background ~~screening~~ check of each person ~~18~~ 12 years of age or older that resides in the home is deemed eligible by ~~the office~~ OBP in compliance with Section 26B-2-120 and Rule R501-14.

(~~e~~)d The foster parent may not permit any person without an ~~office-approved~~ eligible background ~~clearance~~ check to have unsupervised direct access to a foster child unless:

(i) the person is a provider of incidental care; or

(ii) the person's access is driven by child-centered normalcy needs that are guided by reasonable and prudent parenting as described in Section ~~26B-1-238~~ 80-2-308, and is not a foster parent-centered delegation of parental responsibility.

(~~d~~)e The foster parent shall immediately notify ~~the office or agency~~ OBP if any person in the home is charged with, or under investigation for, any criminal offense~~s~~ or allegation of abuse, neglect, or exploitation of any child or vulnerable adult.

(~~e~~)f A pending Child Protective Services, Adult Protective Services or ~~Law Enforcement~~ law enforcement investigation of any person in the home may result in a conditional or suspended license or certification ~~suspension~~ until resolved to the satisfaction of ~~the Office~~ OL.

(~~f~~)g In accordance with Section 80-2-1001, ~~the office~~ OBP shall review and evaluate information from the ~~Division of Child and Family Services Management Information System~~ DCFS management information system for licensing and monitoring individuals who reside in the foster home. ~~When, in the professional judgment assessment of the Office OL, a supported or substantiated finding against any individual who resides in the foster home may pose a risk of harm to a foster child, the office OL may issue a safety plan, place parameters on the license, or issue a notice of agency action to the foster parent or agency.~~

(11) After completing the required background checks, OL or the ~~office or~~ agency ~~shall~~ must conduct a home study before any placement is made in the home.

(a) If the home study is being conducted for adoptive purposes, an adoption service provider, as defined in Section 78B-6-103, shall complete the home study.

(b) If the home study is not being conducted for adoptive purposes, the home study may be conducted by an individual who:

(i) is an adoption service provider; or

(ii) is employed or contracted to conduct a home study for an agency licensed by ~~the department~~ OL and who has participated in the recruiting, hiring, training, and supervising of proctor foster homes for at least a year.

(c) ~~The office~~ OL or the agency ~~shall fully~~ must complete the home study document on the ~~office~~ OL-approved home study document template, that is found on the ~~office~~ OL website, before an applicant is licensed or certified to take foster placements.

(12)~~(A)~~(a) The foster parent who wishes to remain licensed or certified to provide foster care services ~~shall~~ must submit a renewal application ~~as requested by the office~~ before the license or certification expiration.

(~~a~~)b Each applicant requesting a license or certification renewal shall ~~fully~~ complete the renewal application form ~~that is found~~ located on the ~~office~~ OL website.

(~~b~~) ~~The office~~ c OL or the agency may require supporting documentation of household income and expenses to verify the foster parent will not be dependent on foster care reimbursement.

(~~e~~) ~~The office~~ d OL or the agency shall update the home study in ~~[-]~~ writing annually after a home visit and safety inspection as a means to assess the family's experience over the past year as a foster family to include:

(i) any changes to required home study information;

(ii) interviews with any members of the home; and

(iii) references or other requested information needed to update the home study.

(13) A previously licensed or certified foster parent is subject to the same requirements as an initial application, with the following additional requirements~~s~~:

(a) each applicant shall disclose previous foster care licenses and certifications, including those outside of Utah;

(b) each previously licensed applicant shall request a written reference from the custodial agency where they last held a foster care license to be sent directly to OL or the ~~office or~~ agency;

(c) each previously certified applicant shall request a written reference letter from the last agency where they were certified, and each agency they have been certified by within the past three years, to be sent directly to OL or the ~~office or~~ agency; and

(d) each applicant shall sign a release of information for any agency where the foster parent previously provided certified or licensed foster care.

(14)(a) Reapplication of previously licensed or certified applicants may utilize an update of the previous home study ~~as long as~~ if the home study was created by the same agency currently relicensing or recertifying the home.

(~~a~~) ~~The office~~ b OL or the agency may add an update to the existing home study from another agency if the agency provides it directly and it is completed on an ~~office~~ OL-approved home study addendum template found on the ~~office~~ OL website that addresses and updates general foster parent requirements. ~~The update may reference applicable portions of the original study as an attachment.~~

~~(b) The department~~ (c) OL or the agency may request new reference letters or additional information if needed to update the home study.

(~~e~~)d The reference letter requirement is waived if 12 months or less have passed since the lapse of any license or certification.

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(~~d~~)e) A personal health statement is still required, but a physician's statement is waived if 12 months or less have passed since lapse of any license or certification.

(~~e~~)f) Initial training requirements are waived, as long as there is not a change of the licensing or certifying agency if 24 months or less have passed since lapse of any license or certification.~~[A change in agency shall require new initial training.]~~

(g) A change in agency shall require new initial training.

~~(15)~~~~The office~~)(a) OL or the agency shall base the decision to approve or deny the applicant to provide foster services on the facts, health and safety factors, and the professional [judgment]assessment of OL or the~~[-office or]~~ agency.

~~(a)~~~~The office~~)b) OL or the agency may not deny a person a foster care license or certification on a basis that violates any applicable federal or state anti-discrimination law.

~~(b)~~c) The approval of a license or certification is not a guarantee that a foster child will be placed or retained in the foster parent's home.

(~~e~~)d) Except for a kinship ~~[parents]parent or short-term relief care provider~~, a foster parent may not be licensed or certified to provide foster or respite care services in the same home where they provide child care for five or more children or another licensed or certified [DHHS]department program.

(~~d~~)e) To promote health and safety, OL or the~~[-office or]~~ agency may issue a license or certification that includes additional restrictions unique to the circumstances of the license.

(~~e~~)f) If a license or certification is denied, an applicant may not reapply for a minimum of 90 days from the date of denial.

R501-12-4. Three-Year Licenses.

(1)(a) This section supersedes Subsections R380-600-3(16), (18), and (19) in accordance with Subsection 26B-2-105(5)(d).

(b) This section does not apply to a child-placing foster care agency or foster homes certified under a child-placing foster care license.

(2)(a) A foster parent who has remained continually licensed by OL for any two or more consecutive years, with no penalties or notations of noncompliance during that period, shall receive a renewal license that expires three years following the renewal license start date.

(b) A foster parent with a three-year license remains subject to:

(i) ongoing background checks and approvals and denials, as outlined in Section 26B-2-120; and

(ii) the requirement to submit annual update information to ensure OL has accurate information regarding the home and family members.

(c) In accordance with Subsection 26B-2-107(3), an announced or unannounced on-site inspection may not be conducted by OL for any foster parent with a three-year license, unless:

(i) the office is made aware of any safety concerns in the home requiring an on-site visit from OL;

(ii) the licensee has not had any placements for more than 12 consecutive months and seeks to take a new placement; or

(iii) as necessary to monitor a material change.

(3) If the foster parent with a three-year license receives a new notation of noncompliance, OL shall revert to the annual license requirements that maintains the same expiration day and month for a one-year license.

(4) The foster parent may not allow any person without an OBP eligible background check to have unsupervised direct access to a foster child unless:

(i) the person is a provider of incidental care;

(ii) the person is identified in the foster child's department record as an individual for preserving connection;

(iii) the person is a resident living in the home of a short-term relief care provider that maintains supervision of the resident in the presence of a foster child; or

(iv) the person's access is driven by child-centered normalcy needs that are guided by reasonable and prudent parenting as described in Section 80-2-308 and is not a foster parent delegation of parental responsibility.

(5) The foster parent who selects short-term care for a foster child as a delegation of parental responsibility and not for respite care, incidental care, preserving connection or short-term relief care must ensure the caregiver has an eligible OBP background check and the child's caseworker approves the caregiver in-writing before allowing unsupervised direct access to the foster child.

R501-12-5. Short-Term Relief Care.

(1) This section does not apply to a child-placing foster care agency or foster homes certified under their license, unless the agency maintains a department contract for placement of DCFS foster children.

(2) The foster parent may use a short-term relief provider if:

(a) DCFS approves the immediate family member or relative of the foster parent in-writing for caring for the foster child for less than six consecutive nights;

(b) the immediate family member or relative of the foster parent has an eligible OBP background check; and

(c) the immediate family member or relative of the foster parent, is not a relative of the foster child, unless approved by DCFS for a licensed kinship foster parent or an individual identified for preserving connection.

R501-12-6. Foster Parent Requirements.

(1) The foster parent shall~~[comply with the following]~~:

(a) be in good health and emotionally stable;

(b) be able to provide for the physical, social, mental health, and emotional needs of the foster child;

(c) be a responsible person who is 18 years of age or older;

(d) be able to communicate with the foster child, [DHHS]the department, health care providers and other service providers;

- (e) have at least one functionally literate applicant in the home able to read medication labels and other critical information;
- (f) provide documentation of legal residential status in accordance with ~~[the Code of Federal Regulations Title 63, Chapter 99a, Parts 104 and 162]~~ 8 U.S.C. Sec. 1642;
- (g) have the ability to help the foster child thrive;
- ~~[(h) not be dependent on]~~ (h) demonstrate financial responsibility without dependence on the foster care reimbursement for their own expenses, outside of those expenses directly associated with providing foster care services;
- (i) provide updated medical, social, financial, or other family information when requested by OL or the ~~[office of]~~ agency;
- (j) follow federal, state and local laws and ordinances;
- (k) demonstrate safe parenting practices by not engag[e]ing in conduct that poses a substantial risk of harm to any person or that is illegal or grounds for denying a license under Section 26B-2-[112]703; and
- (l) cooperate with the custodial agency goals and requirements regarding permanency[and], reunification, education, health care, and any other services required by the child's treatment plan or involved professionals.
- (2)(a) A ~~[DHHS]department~~ employee may not be licensed or certified as a foster parent for children in the custody of their respective ~~[division]custodial agency~~, unless they qualify as a relative to the child in accordance with Subsection 80-2a-101(5). ~~[An employee may provide foster services for children in the custody of a different division only with the prior written approval of both divisions' directors in accordance with DHHS conflict of interest policy.]~~
- (b) An employee may provide foster services for children in the custody of a different custodial agency only with the written approval of both custodial agency directors in accordance with department conflict of interest policy.
- (3) The foster parent shall cooperate with department, the ~~[office,]~~agency, if applicable, courts, and law enforcement officials.
- (4) The foster parent shall read, acknowledge, and comply with the department provider code of conduct, as outlined in Rule R380-80.
- (a) The foster parent may not abuse, neglect, or maltreat a foster child through any act or omission.
- (b) The foster parent may not encourage or fail to deter the acts or omissions of another that abuse, neglect, or maltreat a foster child.
- (5) No more than two children under the age of two, including children who are members of the household and foster children, shall reside in a foster home.
- (6) No more than two non-ambulatory children, including children who are members of the household and foster children, shall reside in a foster home.
- (7) ~~[No]~~A foster parent may not have more than [four]the numerical limit of foster children [shall reside-]in a [licensed-]foster home [and no more than three foster children shall reside-]in [a certified foster home unless:
- ~~(a) placing a foster child or sibling group in a home where they previously resided;~~
- ~~(b) placing a foster child where a sibling currently resides;~~
- ~~(c) placing a sibling group in a home that:~~
- ~~(i) has no other foster placements; or~~
- ~~(ii) has only one other foster placement]accordance with Section 26B-2-128.~~
- (8) The foster parent shall utilize reasonable and prudent judgment in selecting an incidental caregiver for a foster child and incidental care may only be utilized by a ~~[DHHS]department~~ licensed foster parent, not a foster parent certified by a licensed child[-]placing foster care agency.
- (9)(a) The foster parent may provide respite care in their home as long as they remain in compliance with licensing rules in regard to each child placed for foster and respite care.
- ~~(b) The foster parent may provide respite care when the additional foster children exceed their licensed capacity only [as follows]if:~~
- ~~(a)i) there are no licensing sanctions currently imposed, including corrective action plans or conditional licenses; and~~
- ~~(b-ii) the total number of foster and respite children in a home [at one time may]does not exceed six unless all except one or two of the children are part of a single sibling group.~~
- (10)(a) Respite care, child care, incidental care, emergency care, or other temporary care for a foster child may be allowed in a licensed or unlicensed setting, with or without background ~~[clearances]checks~~ if the child's ~~[DHHS]the department~~ client record identifies, by name, the ~~[kinship connections to be maintained]individual's role in preserving connection.~~
- ~~(a)b) The [DHHS]department custodial agency shall set parameters and oversee the safety aspects of a [kinship]setting identified for preserving connection.~~
- ~~(b)c) Unlicensed kinship respite caregivers, identified by [DHHS, are still]department, remain subject to licensure background [screening]check requirements and a custodial agency walk-through of the home for safety approval.~~
- ~~(e)d) A licensed child[-]placing foster care agency, except a [DHHS]department custodial agency, may not utilize an unlicensed caregiver for care of any foster child, unless specifically outlined in the custodial agency client record and authorized by the child's case worker.~~
- (11) The foster parent or the agency shall report the following major changes or events to ~~[the office or agency-]OL~~ within one business day[:];
- (a) the death or serious illness of a member of the foster parent's household;
- (b) change in marital status;
- (c) loss of employment;
- (d) change in household composition, [such as]including the birth or adoption of a child, or the addition of household members[:] or tenants;
- (e) allegations of abuse or neglect of any child or vulnerable adult against any member of the foster parent's household; ~~[or]~~
- (f) any material change; and
- ~~(g) anything defined as a "critical incident" in Rule [R501-1]R380-600.~~

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(12) OL or the ~~office or~~ agency shall evaluate major changes to determine necessary actions that may include an update to the home study, implementation of a safety plan, amendments to the license certification, request for new references or examinations, or agency action.

(13)(a) The foster parent shall report any potential change in address in advance to OL or the ~~office or~~ agency.

(~~a~~)b) A license or certification is site-specific.

(~~b~~)c) An adjoining dwelling with a separate address that is not accessible from the foster home is not considered part of the foster home site.

(~~e~~)d) A foster child may not be moved into a home that is not licensed or certified to provide foster care except as allowed in Subsection ~~R501-16(2)~~R380-600-4(4)(d) for relocation of a license.

(~~d~~)e) The foster parent shall reside at the license location when a foster child is placed in their care.

(~~e~~)f) In the event of a separation or divorce ~~the office~~;

i) OL or the agency shall remove ~~a~~the foster parent who no longer resides at the licensed or certified location from the license or certificate and that foster parent shall apply for ~~a separate initial license~~ and meet licensing or certification requirements in the new residence to become licensed or certified at the new location ~~and~~

(~~i~~)~~The~~ii) the foster parent remaining in the home shall demonstrate the ability to continue to meet the financial and other foster care licensure or certification requirements and OL or the ~~office or~~ agency shall complete an update to the home study.

(14) The foster parent shall offer nutritious, balanced meals that meet each foster child's individual needs.

(15~~-A~~)(a) The foster parent with a foster placement in the home shall continually comply with Rule R501-12~~and a~~.

b) The foster parent with no placements in the home ~~shall~~must demonstrate ability to comply upon request and ensure compliance before any new placement is made.

R501-12-~~6~~7. Physical Aspects of Home.

(1) The provider shall ensure the following regarding the foster home environment:

(a) each indoor and outdoor area[s] of the home ~~are~~is maintained to ensure a safe physical environment;

(b) the home is free from health and fire hazards;

(c) the home has a working smoke detector and a working carbon monoxide detector on each separated level and at least one of each shall be ~~in~~close~~proximity~~ to sleeping areas;

(d) the home has at least one fire extinguisher meeting the rating requirements of 2A:10BC, that is fully charged and readily accessible to the main living area;

(e) the home has at least one toilet, sink and tub or shower; and

(f) each bathroom has a lock sufficient to ~~preserve~~maintain the privacy of the occupant.

(2) The provider shall ensure each bedroom ~~spaces comply~~space complies with the following:

(a) children of the opposite genders do not share a bedroom unless~~;~~:

(i) each child sharing the room is under two years of age;

(ii) the ~~DHHS~~department client record identifies gender-specific rationale; or

(iii) there is written caseworker approval for the bedroom assignment;

(b) the foster parent's bedroom is only shared with a foster child under the age of two years and the foster parent may not bed-share with a foster child;

(c) the foster parent's bedroom is not considered in calculating the allowable bedroom space for a foster child;

(d) a foster child may not share a bedroom with other adults in the home;

(e) a foster child has an individual bed or crib, mattress, and linens that meet the child's needs;

(f) a weighted ~~blankets are~~blanket is only used for a foster child~~ren~~ if therapeutically recommended in~~[-]~~writing or approved in~~[-]~~writing by the child's caseworker;

(g) there is a minimum of 40 square feet per child, excluding adjoining bathrooms and storage space;

(h) no more than four children are housed in a single bedroom that houses at least one foster child;

(i) a bedroom used for a foster child is comparable to other similarly utilized bedrooms in the home, including access, location, space, finishings, and furnishings;

(j) a bedroom used by a foster child on the ground floor shall have a minimum of one screened window that opens that may be used to evacuate the room ~~in case of~~if there is a fire;

(k) a bedroom used by a foster child that is not on the ground floor shall have a source of natural light and a minimum of two exits, at least one of which shall exit directly to outside the home that may be used to evacuate the room ~~in case of~~if there is a fire; and

(l) closet or dresser space is provided within the bedroom for the foster child's personal possessions and for a reasonable degree of privacy.

(3) The provider shall ensure:

(a) there is space or access to common areas for recreational activities;

(b) there is adequate lighting, ventilation and the home is maintained at a reasonable temperature when occupied by a foster child in consideration of the age and needs of the foster child and other residents;

(c) there is a properly operating kitchen with working refrigerator, cooking appliances, adequate supply of safe drinking water and functional indoor plumbing;

(d) ~~hazards~~each hazard on the property ~~are~~is abated and mitigated through the use of protective hardware, ~~fences, banisters, railings, grates~~fencing, banister, railing, grate, natural barrier[s], or other licenser approved method[s] to ~~include~~secure any:

(i) fall hazard[s] of 3 feet or greater including a steep ~~grades, cliffs~~grade, cliff, open pit[s], window ~~wells, stairwells~~well, stairwell, elevated ~~porches,~~porch, and retaining wall[s];

- (ii) drowning hazard[s] including a swimming pool[s], hot tub[s], water [~~features, ponds or streams~~]feature, pond and stream;
- (iii) burn hazard[s] including fireplaces, candles, radiators, water temperature;
- (iv) unstable heavy [~~items to include televisions, bookshelves; and~~]item, including a television and bookshelf;
- (v) high voltage [~~boosters, or~~]booster; and
- (vi) dangerous traffic condition[s];

(e) ~~the~~ home and its contents are maintained in a clean and safe condition and food, clothing, supplies, furniture, and equipment are of sufficient quantity, variety, and quality to meet the foster child's needs;

(f) the home is free from rodent and insect infestation;

(g) there are at least two exits adequately sized for emergency personnel on each accessible floor of the home and a multiple-level [~~homes have~~]home has a functional, automatic fire suppression system[s] or an escape ladder, stairway, or other exterior egress to ground level accessible from each of the upper levels;

(h) the foster parent [~~has and~~] uses child safety devices appropriate to the needs of the foster child, including safety gates, and electrical outlet covers;

(i) the home address is clearly visible and location is accessible;

(j) the water and sewage disposal system, other than a public system, is approved by the appropriate authorities;

(k) there is trash and recycling disposal;

(l) any swimming pool is secured to prevent unsupervised access and complies with applicable community ordinances; and

(m) any hot tub [~~and~~]or spa has a locked cover.

R501-12-[7]8. Safety.

(1) The foster parent and their guests may not smoke any substance in the foster home or vehicle when a foster child is present or residing in the home and shall ensure that s[s]moking materials are inaccessible to foster children.

(2) The foster parent shall provide training to children regarding response to fire warnings and other instructions for life safety upon the initial placement of a foster child and annually thereafter. This includes an evacuation plan that also anticipates the evacuation of a foster child who is non-ambulatory or who has a disability.

(3)(a) The foster parent shall have a phone that can make outgoing calls and is recognizable to the 911 system on-site during any time that a foster child is present [~~and~~].

(b) The foster parent shall post telephone numbers for emergency assistance, poison control, the emergency evacuation plan and the address of the home in a central location [~~is~~]accessible to the foster child.

(4) The foster parent shall have a fully supplied first aid kit as recommended by the American Red Cross.

(5) The foster parent shall inform OL or the [~~office or~~]agency if they [~~possess~~]have or use a firearm or other weapon.

(6) [~~A~~]The foster parent shall ensure that [~~firearms,~~]any ammunition [~~and~~], firearm, or other [~~weapons are~~]weapon is inaccessible to a foster child [~~ren~~].

(7) The foster parent may not provide a weapon to a foster child or permit a foster child to [~~possess~~]have a weapon except as outlined in Sections 76-10-509.4 through 76-10-509.7.

(a) The foster parent does not have the authority of a parent or guardian to provide a dangerous weapon to a minor under Sections 76-10-509.4 through 76-10-509.7.

(b) The [~~provider~~]foster parent shall ensure the following regarding [~~firearms~~]any firearm in the foster home:

(i) [~~firearms are~~]a firearm is only stored together with ammunition in a locked container commercially manufactured for the secure storage of [~~firearms~~]a firearm;

(ii) [~~firearms~~]a firearm not stored in a locked container commercially manufactured for the secure storage of firearms [~~are~~]is unloaded and securely locked [~~Ammunition~~], and ammunition for [~~these firearms~~]the firearm is kept securely locked in a separate location;

(iii) the locked storage for [~~firearms~~]a firearm and ammunition is not accessible through the same key[s] or combination[s];

(~~iv~~) [~~keys~~]iv) the key and [~~combinations utilized~~]combination used to open locked storage for [~~firearms~~]a firearm and ammunition [~~are~~]is not [~~be~~]accessible to a foster child; and

(~~vi~~) [~~firearms are~~]v) a firearm is stored in a display case[s] only if it is unloaded and made inoperable through the effective use of a trigger lock[s], bolts removed, or another disabling method[s].

(8) Subsection R501-12-[7]9(6) does not restrict an individual's rights regarding concealed weapons permits pursuant to Section 53-5-704.

(9) The foster parent who has alcoholic beverages in their home may not consume in excess and shall ensure that the beverages are closely monitored and inaccessible to foster children.

(10) The [~~provider~~]foster parent shall ensure hazardous materials remain locked when not in active use, and closely monitored while in active use, and shall ensure compliance with the following:

(a) hazardous materials are stored in the manufacturer's original packaging together with the manufacturer's directions and warnings, or a container that complies with the manufacturer's directions and warnings and is clearly labeled with the contents, manufacturer's directions and warnings;

(b) flammable substances, including gasoline and kerosene, are locked in a ventilated storage area separate from living areas, this requirement does not include substances contained within the storage tanks of equipment, including automobiles, lawnmowers, ATV[s], boats and snow blowers; and

(c) general, common use, household items are stored responsibly in consideration of the age, behavior, history, and cognitive and physical ability of each foster child in the home, and in consultation with the caseworker and child and family team regarding individual restrictions.

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(11) The foster parent shall comply with local laws and ordinances regarding the care and number of animals on their property.

(12) The foster parent shall ensure that the foster child has the safety equipment, supervision, and training necessary for the foster child to safely participate in an activity that has an inherent risk of bodily harm, injury, or death.

(a) These activities include participation in rock climbing, swimming, hunting, target practice, camping, hiking, use of recreational vehicles, and sports.

(b) The foster parent shall take every precaution in allowing a foster child to participate in the respective activity as safely as possible to include:

(i) wearing Department of Transportation or Snell-approved helmets when riding off-highway vehicles (OHVs);

(ii) completing OHV education;

(iii) completing personal watercraft or boating education;

(iv) wearing Coast Guard-approved lifejackets; and

(v) completing hunter's education.

(c) The foster parent shall follow any applicable statute pertaining to minors operating OHVs, personal watercraft, boats, and firearms.

(13) The foster parent shall comply with any written safety plan or license parameter required by OL or the [office or] agency, that establishes additional safety requirements to protect the foster child from hazardous conditions on the foster parent's property. A safety plan may not waive any applicable requirement of Rule R501-12.

(14) The foster parent shall provide verification of compliance with the [~~Utah Department of Health and Human Services~~] department-recommended immunization schedules for each individual residing in the home who is not a foster child. The foster parent may only be licensed or certified for placements of foster children who are over the age of 2 months and are currently immunized if vaccination compliance of [~~residents~~] each resident in the home cannot be verified.

(a) The foster parent [~~shall~~] must disclose if any individual residing in the home is not in compliance with the [~~Utah Department of Health and Human Services~~] department-recommended immunization schedules to the child[-]placing foster care agency before accepting a placement.

(b) [~~Newborn infants~~] A newborn infant shall reach the required age and receive their first dose of required vaccinations to be considered appropriately immunized for their age.

(15) The foster parent may not accept the placement of a foster child into their home outside any license conditions or parameters.

R501-12-~~8~~9. Emergency Plans.

(1) The foster parent shall have a written plan of action for emergencies and disaster to include [~~the following~~]:

(a) evacuation with a pre-arranged site for relocation;

(b) transportation and relocation of foster children when necessary;

(c) supervision of foster children after evacuation or relocation; and

(d) notification of appropriate authorities.

(2) The [~~F~~] foster parent or agency shall immediately report any serious illness, injury, or death of a foster child to the appropriate [~~division or Agency~~] custodial agency and [~~the Office~~] OL.

R501-12-~~9~~10. Infectious Disease.

In the event of an infectious or communicable disease outbreak, the foster parent shall follow specific instructions given by the local health department.

R501-12-~~10~~11. Medication and Medical Emergencies.

(1) The foster parent shall ensure the following regarding medications and medical emergencies:

(a) prescribed medication is administered according to the written directions of the foster child's health provider;

(b) the foster child [~~actually~~] consumes the medication;

(c) any severe or unexpected side effects or reactions are immediately reported to the foster child's health provider;

(d) medication is only given to the foster child for whom it was prescribed;

(e) medication is not discontinued without the approval of the foster child's health provider;

(f) non-prescription medication [~~are~~] is administered by [~~a~~] the foster parent according to manufacturer's instructions unless otherwise directed by the foster child's health provider;

(g) medication [~~are~~] is not administered or carried by the foster child, unless approved in[-]writing by the foster child's health provider;

(h) medication is not used for behavior management or restraint unless prescribed in[-]writing by the foster child's health provider and after notification to the division or caseworker;

(i) medication remains locked at times it is not in immediate, active use;

(j) medication[s] in active use [~~are~~] is not left unattended and the foster parent may not abuse or misuse prescription or non-prescription drugs or medications;

(k) the foster parent may carry a [~~single~~] necessary dose of medication for active use, if a foster child requires immediate access to their medication for asthma, allergies, diabetes or other condition requiring urgent administration of the medication;

(l) medication remains in the original pharmacy or manufacturer's packaging;

(m) the foster parent may not repackage medications or divide doses into alternative containers;

(n) the foster parent partners with the pharmacy regarding any needed divisions of medication;

- (o) the foster parent promptly takes a foster child who has a medical emergency, who is sick, or who is injured, for an assessment by a medical practitioner; and
 - (p) the foster parent complies with the treatment orders of the foster child's health provider.
- (2) The foster parent shall transfer any unused medication[s] to the caseworker or agency when a foster child is no longer placed in the foster parent's home.
- (3) The foster parent shall have a written plan for medical emergencies, including arrangements for medical transportation, treatment, and care.

R501-12-~~11~~12. Transportation.

- (1) The provider shall ensure a driver of a vehicle carrying a foster child has a valid, current driver's license~~[-and]~~, valid, current vehicle insurance, and compl~~y~~ies with traffic ~~[regulations]~~law.
- (2) The provider shall ensure transport of a foster child is provided in an enclosed, registered vehicle that has functional seatbelts.
 - (a) The provider shall ensure foster children properly utilize seatbelts and other safety equipment, including age and size appropriate car or booster seats.
 - (b) Recreational vehicles, including motorcycles, may not be used for transportation.
- (3) The provider shall ensure emergency contact information, including caseworker and agency information is accessible to any passenger in each vehicle used to transport foster children.
- (4) The foster parent shall equip each vehicle with a first aid kit.

R501-12-~~12~~13. Behavior Management.

- (1) The foster parent shall provide supervision appropriate to the age and needs of each foster child.
- (2) The foster parent may not use, nor permit the use of corporal punishment including:
 - ~~_____~~(a) physical, mechanical, or chemical restraint[s];
 - ~~_____~~(b) physical force[s];
 - ~~_____~~(c) infliction of bodily harm or pain[s];
 - ~~_____~~(d) deprivation of meals, rest, or visits with family~~[-or]~~; and
 - ~~_____~~(e) humiliating or frightening methods to discipline, coerce, punish, or retaliate against a foster child.
- (3) The foster parent shall only use a behavior management technique[s] appropriate for the foster child's age, behavior, needs, developmental level, and past experiences.
- (4) The foster parent shall use the least restrictive method of behavior management available to control a situation.
- (5) The foster parent shall only use behavior management techniques that are positive, consistent, and that promote self-control, self-esteem, and independence.
- (6) The foster parent may not use physical work assignments or activities that inflict pain as a behavior management technique[s]. A physical work assignment or activity that results in minor sore muscles does not violate this subsection.
- (7) The foster parent may not abuse, threaten, ridicule, intimidate, or degrade a foster child.
- (8) The foster parent may not deny a child medical care, nutrition, hydration, clothing, bedding, sleep, or toilet and bathing facilities.
- (9)~~(a)~~ Physical restraint of a foster child in the custody of a ~~[DHHS]~~department division is prohibited, unless expressly indicated in the child's ~~[DHHS]~~department client record and the foster parent is appropriately trained and authorized by the department for its use.
- ~~(10)~~~~(b)~~ Physical restraint of a foster child who is not in ~~[DHHS]~~department division custody may only be performed by an individual with verified, documented training in accordance with the nonviolent strategies of a state, regional, or nationally recognized behavior management program.
 - ~~(a)~~~~(c)~~ Gently hugging, holding, or guiding a foster child is not considered a restraint.
 - ~~(b)~~~~(d)~~ The foster parent shall only perform self-defense as long as it is without aggression, retaliation, or unnecessary force and is reported to the caseworker, the agency if applicable, and ~~[office]~~OL within one business day.

R501-12-~~13~~14. Foster Child's Rights in Foster Care.

- ~~(1)~~—The foster parent may not violate a foster child's right to:
 - ~~(a)~~1 eat nutritious meals with the family;
 - ~~(b)~~2 eat the same food as the family, except when the foster child is provided with alternative food ordered by the foster child's physician;
 - ~~(e)~~3 participate in family and school activities;
 - ~~(d)~~4 privacy, including maintaining the confidentiality of information about the foster child and not retaining copies of the foster child's records once the foster child is no longer placed in the home;
 - ~~(e)~~5 be informed of the foster child's responsibilities, including household tasks, privileges, and rules of conduct;
 - ~~(f)~~6 be protected from discrimination;
 - ~~(g)~~7 be protected from harm or acts of violence, including protection from physical, verbal, sexual, or emotional abuse, neglect, maltreatment, exploitation including source funding, or inhumane treatment;
 - ~~(h)~~8 be treated with courtesy and dignity, including reasonable personal privacy and self-expression and not provided temporary items including garbage bags for collecting or transporting belongings;
 - ~~(i)~~9 communicate with and visit the foster child's family, attorney, physician, and clergy, except as restricted by court order;
 - ~~(j)~~10 have clean clothes and personal hygiene needs met;
 - ~~(k)~~11 participate in their own cultural traditions;

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(~~h~~12) receive prompt medical care when sick or injured; and

(~~m~~13) be free from media content that is likely harmful considering the foster child's age, behavior, needs, developmental level, and past experiences.

R501-12-~~14~~15. Additional Child[-]Placing Foster Care Agency Considerations.

(1) The agency shall comply with:

~~(a) this rule;~~

~~(b) Rule ~~R501-1~~ regarding incident reporting, ~~R380-600~~;~~

~~(c) Rule R501-14[regarding background screenings]; and~~

~~(d) Section 80-2-~~7~~2 regarding the Interstate Compact for the Placement of Children (ICPC) for agencies taking placements from out-of-state.~~

(2) The agency shall ensure certified foster parent compliance with this rule.

(3) The agency shall recruit, train, certify, and supervise foster parents.

~~(3)4~~ (4) The agency may not certify a home that is licensed or certified or applying to be licensed or certified with any other agency.

~~(4)5~~ (5) The agency may not certify agency owners, directors, managers, and members of the governing body to provide foster care services for foster children placed with or by any child[-]placing foster care agency.

~~(5)6~~ (6) The agency shall:

~~(a) verify completion of~~ must complete the [foster parent's training requirements]following before issuing an initial or renewal certification [and]or before [p]ma[e]king a [foster child]placement in the foster home[;];

~~(a) verify completion of the foster parent's training requirements;~~

(b) in addition to the foster parent training requirements of [Rule R501-12]this rule, train each foster parent regarding the agency's policies and procedures and safe practices[before placing a foster child in the home];

(c) provide [the]department with identifying information of certified foster homes [via]through the [DCFS]OL provider [website if contracted]portal; and

~~(d) certify foster parent for a specific time period that does not exceed one year and make documentation of certification dates available to [take DCFS placements, or directly to the licensor as requested of a private agency;]OL upon request.~~

~~(d)~~ (7) The agency shall:

~~(a) maintain documentation of the initial and annual home studies and any updates and provide to [the department]OL upon request;~~

~~(e)b~~ (b) have a written agreement with the foster parents that includes:

(i) the expectations and responsibilities of the agency, staff, foster parents and limitations of authority;

(ii) the services to be provided to and by the foster parent;

(iii) the requirements to provide medical, remedial, treatment, and other specialized services to a foster child;

(iv) the financial arrangements for a foster child placed in the home;

(v) the authority foster parents can and cannot exercise over a foster child placed in the home; and

(vi) actions that require staff or [DHHS]department authorizations;

~~(f)c~~ (c) monitor and keep detailed documentation regarding foster parents' compliance with Rule R501-12;

~~(g)d~~ (d) document each announced and unannounced visit to the foster home, including an initial safety inspection and a minimum of one unannounced safety inspection annually;

~~(h)e~~ (e) document each safety inspection completed by the agency on the [office]OL-provided home inspection checklist, or a similar form that contains [all of]the [office]OL-provided form contents;

~~(i)f~~ (f) coordinate with [the office]OL when checklist items are not compliant or other noncompliance is noted to determine how to proceed;

~~(j)g~~ (g) document a[e]ctions on foster parent certifications in the foster parent file to include any request for remediation with assigned time frames, request corrective action plan from the foster parent, or any action to suspend certification or revoke certification;

~~(k)h~~ (h) escalate the level of agency action taken toward foster parent certification when there are multiple notations of noncompliance with the same rule;

~~(l)i~~ (i) maintain completed checklists and compliance monitoring documentation in each foster parent file;

~~(m)j~~ (j) investigate complaints and alleged violations of Rules R501-12, R501-14, and R501-1. The agency shall provide documentation to [the office]OL of any investigations into complaints and alleged violations of licensing rules;

~~(n)k~~ (k) provide written notification to each foster parent that informs the foster parent of the rights and responsibilities assumed by the foster parent who signs as the responsible adult for a foster child to receive a driver license, as described in Section 53-3-21 and maintain documentation in the foster parent's file, signed, and dated by the foster parent, acknowledging receipt of a copy of this written notification;

~~(o)l~~ (l) have and comply with written policies and procedures regarding the denial, suspension, and revocation of a foster parent's certification to provide foster care services, that includes written notification of the foster parent's appeal process;

~~(p)m~~ (m) provide documentation and immediate notification to [the office and]OL and the custodial agency of any denial, suspension, revocation or other agency-initiated termination of a foster parent's certification;

~~(q)n~~ (n) not grant or permit any variance to Rule R501-12 or any other regulation without the prior written consent of the director or director's designee of [the office]OL;

~~(r) certify foster parent for a specific time period that does not exceed one year before placing any foster child in the home and make documentation of certification dates available to the office upon request;~~

~~(s)~~ (o) provide ongoing supervision of certified foster parents to ensure the quality of care they provide; and

(~~1~~)p) participate with each foster child's legal guardian and the foster parent to obtain, coordinate, and supervise care and services necessary to meet the needs of each foster child in their care.

(~~6~~)8) The agency may not take placement of a foster child whose needs exceed the scope or ability of the program to reasonably manage, and the agency shall:

(a) outline in policies and procedures the behaviors and presenting issues would be reason for discharge or exclusion from the program;

(b) document how the placement of the foster child is appropriate and commensurate with presenting needs and the services that are available to address the child's needs;

(c) conduct or coordinate monthly visits to the foster child in the placement or school;

(d) maintain responsibility for the child's behavior in the program, school and community;

(e) maintain responsibility for transitioning a foster child or 18 to 21[-]year[-]old into safe and appropriate placement upon discharge from the program or in accordance with ICPC disruption plan if the child is from out-of-state; and

(f) ensure in policy and safe practices that sending a child to a homeless shelter, refusal to pick up from detention, or offering one-way plane or bus tickets are not appropriate or responsible program transition actions, unless supported by therapeutic or parental recommendation.

(~~7~~)9) The agency shall:

(~~a~~)a) provide and receive approval from the school district of certified homes with a youth education coordinating form in compliance with the requirements of Section 26B-2-116;

(b) provide accurate and truthful written references for any previously certified home that requests such reference to work with foster children in another licensed agency;

(c) maintain copies of completed foster parent initial and renewal applications and accompanying documents, home study document and any subsequent updates, and any other foster parent documentation in a format easily accessible for [~~office~~]OL review;

(d) follow [~~DHHS~~]department contract requirements and request guidance from the Division of Continuous Quality and Improvement and [~~the office~~]OL in the event of conflicting requirements; and

(e) if serving individuals involved with the Division of Services for People with Disabilities, ensure compliance with the Home and Community Based Services [~~(HCBS)-~~]Settings Final [~~Rule~~]Regulation as identified in [~~the Code of Federal Regulations, Title~~]42[~~, Parts~~]CFR 430 and 431 (2024) that shall prevail in the event of a conflict with any rule under Title R501.

(~~8~~- Failure of)10) If the agency [~~to take action~~]does not act when foster parent noncompliance is alleged or noted, OL may [~~result in~~]take an action on the agency license[~~by the office~~].

R501-12-~~15~~16. Additional DCFS Kinship and Specific Home Licensure Considerations.

(1) An applicant may apply for licensure for the placement of a specific foster child or sibling group.

(2) The minimum age for a kinship or specific applicant is 18 years of age and a kinship applicant is [~~permitted~~]allowed to cohabitate or be legally married.

(3) Only [~~the office~~]OL, an agency contracted by the department, or an approved DCFS kinship home study specialist may conduct a kinship or specific home study.

(4) A minimum of two acceptable reference letters sent in accordance with Subsection R501-12-4(5) are required for a kinship or specific applicant.

(5) The foster parent may not accept a placement until the home study, safety inspection, and background [~~screening approvals, checks~~]are successfully completed, unless the placement is made on an emergency basis as authorized by Section 80-2a-301.

(6) [~~The office~~]OL shall grant a kinship or specific probationary license or initial license upon receipt and approval of a completed kinship or specific packet submitted by DCFS.

(a) A kinship or specific probationary license expires no later than the last day of the fifth month from the issue date if compliance is not met before that time.

(b) The probationary licensee may receive an initial license at any time within the probationary 5 months when compliance with probationary terms is met.

(c) A probationary licensee whose probationary terms are not met before the expiration of that license may either expire or extend [~~in corrective or penalty status~~]with OL-approved documented justification.

(7) A kinship or specific home licensee may not accept placement of any foster child other than the foster child, or relatives to that foster child, as designated on the license or certificate.

(8) If a kinship or specific licensee desires to provide general foster care services, they shall complete the following:

(a) submit written approval from their DCFS kinship support worker to become a general foster parent to [~~the office~~]OL and the DCFS contracted recruitment and training agency to initiate required training[~~;~~];

(b) close the kinship or specific license and submit to the requirements of an initial foster care license to include:

(i) complete initial foster care application; and

(ii) complete foster care pre-service training series with the exception of session [~~#1~~]one, if completed within the last 2 years;

(c) submit to a home study update interview with their licensor to change child-specific content to general foster parent requirements;

and

(d) provide any new reference letters as requested.

(9) If DCFS does not support a license change, no further licensing action will be taken, unless the issue is disputed and overturned by the [~~office~~]OL director.

NOTICES OF PROPOSED RULES

(10) In accordance with Section 26B-2-130 and the Indian Child Welfare Act, [~~United States Code, Title 25 Sections~~]25 U.S.C. Sec. 1901[-] through 1963, DCFS may request reduced requirements for a kinship specific licensee by submitting a variance request outlining the [~~rules~~]requirements to be varied and how the request does not impact the health and safety of the specific foster child or sibling group. [-]This [~~requires prior written approval~~]variance request must be approved in writing by the director of [~~the office~~]OL before it may become effective.

R501-12-~~16~~17. Compliance.

(1) Any active license on the effective date of this rule shall achieve compliance with this rule within 30 days.

(2) Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: licensing, human services, foster care, certified foster care

Date of Last Change: ~~May 31, 2023~~2024

Notice of Continuation: October 3, 2022

Authorizing, and Implemented or Interpreted Law: 26B-2-104

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R501-19	Filing ID: 56869

Agency Information

1. Title catchline:	Health and Human Services, Human Services Program Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
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:	R501-19. Residential Treatment Programs
3. Purpose of the new rule or reason for the change:	The purpose of this filing is to address new terminology and citations introduced by SB229 in the 2024 General Session.
4. Summary of the new rule or change:	This filing introduces and defines the term "emergency safety intervention" as a form of restraint, updates Section R501-19-6 to align with Rule R380-600, and references the new compliance section in statute, Title 26B, Chapter 2, Part 7, Penalties and Investigations. Additionally, this filing makes style and formatting changes to comply 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 proposed amendment is not anticipated to create a cost or savings to the state budget, as programs have always been required to report restraints, and the misuse of restraints, to the Office of Licensing (OL) for investigation as a critical incident. Any initial findings of noncompliance with licensing rules are non-financial and only incur a civil money penalty after multiple citations of noncompliance of the same rule.

The emergency safety intervention remains a reportable restraint technique and now may be a permitted tactic in restraint practices. OL will continue to investigate critical incidents but will no longer issue citations of noncompliance if a restraint can be justified as an emergency safety intervention.

B) Local governments:

This filing addresses processes regulated by OL and not by local governments. Local governments will not see any cost or savings from this amendment because this filing does not apply to local governments.

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

Small businesses that provide residential treatment to youth will continue to be required to report restraints to OL as critical incidents. A properly used restraint in the form of an emergency safety intervention will no longer be considered a misuse of restraint and will no longer incur a citation, penalty, or civil money penalty.

OL cannot estimate how many restraints will be conducted as emergency safety interventions, and further, cannot estimate how many repeated safety interventions would have resulted in a civil money penalty due to the unpredictable and subjective nature of each restraint.

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

Non-small businesses that provide residential treatment to youth will continue to be required to report restraints to OL as critical incidents. A properly used restraint in the form of an emergency safety intervention will no longer be considered a misuse of restraint and will no longer incur a citation, penalty, or civil money penalty.

OL cannot estimate how many restraints will be conducted as emergency safety interventions, and further, cannot estimate how many repeated safety interventions would have resulted in a civil money penalty due to the unpredictable and subjective nature of each restraint.

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

There are no costs or savings to any other persons, as this new distinction only applies to programs offering congregate care to youth in a residential setting licensed by OL.

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

Affected persons will be the owners, operators, and staff of congregate care youth residential programs. OL already requires a nationally or regionally recognized program to train staff regarding restraints and OL already requires the licensee to report restraints as critical incidents through the OL provider portal.

Therefore, there should be no additional costs for compliance with this requirement, as the nationally and regionally recognized programs allow for emergency safety interventions as a level of training in their curricula, but in 2022, Utah legislation identified this highest level as a cruel, unusual, or unnecessary practice until this 2024 bill addressed them as a necessary last resort for ensuring safety.

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	FY2025	FY2026	FY2027
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

NOTICES OF PROPOSED RULES

Fiscal Benefits	FY2025	FY2026	FY2027
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-2-104		
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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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	10/21/2024
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R501. Health and Human Services, [-]Human Services Program Licensing.

R501-19. Residential Treatment Programs.

R501-19-1. ~~Purpose and Authority and Purpose.~~

- (1) This rule is authorized by Section 26B-2-104 and establishes standards for licensed providers to provide residential treatment and intermediate secure care.
- (2) This rule supplements the general provisions required of each human services program outlined in Rules R501-1 and R380-600.

R501-19-2. Definitions.

- (1) The terms used in this rule are defined in ~~Sections~~ Rules R501-1[-3], R380-600, and Section 26B-2-101. Additionally:
- (2)(a) "Emergency safety intervention" is defined in Section 26B-2-101 and is a restraint reserved at the highest level as a last resort to gain immediate safety through methods that in a non-emergency situation would be considered cruel, unusual, or unnecessary.
- (b) An emergency safety intervention is not considered a behavioral compliance method and is only used to ensure immediate safety of a client or staff member.

R501-19-3. Administration.

- (1) Each residential treatment provider shall document local government approval for new program services or increased consumer capacity as described in Section 26B-2-117.
- (2) Each residential treatment provider shall ensure its policies include client privacy accommodation in each bedroom space while assuring client health and safety.
- (3) Each residential treatment provider serving a child shall:
 - (a) provide direct supervision that meets supervision and ratio requirements;
 - (b) ensure two direct care staff are always on duty;
 - (c) maintain a staff-to-client ratio of one staff to every four clients except:
 - (i) as otherwise required by a department contract; or
 - (ii) to reduce ratios to one staff to every 16 clients during client sleeping hours;

- (d) only decrease the number of staff as described in this section if:
 - (i) each client is appropriately supervised to ensure health and safety at the ratio; and
 - (ii) each direct care staff remains awake while on duty;
- (e) increase the staff-to-client ratio as necessary to ensure the health and safety of the current client population;
- (f) only allow direct care staff to perform direct supervision with line of sight check-ins every 15 minutes;
- (g) ensure that any direct care staff member assigned to a client's one-on-one supervision is not counted at the same time in the staffing ratio for any other client, except in an emergency situation;
- (h) only utilize on-site video surveillance to directly supervise a client in time out or seclusion or as an enhancement to minimum supervision ratio requirements;
 - (i) conduct and document physical check-ins every 15-minutes when a client is being monitored by video; and
 - (j) only use video surveillance in a bedroom~~[as follows]~~:
 - (i) with client, parent, or guardian permission;
 - (ii) when there is a documented need;
 - (iii) when the provider monitors cameras or physically checks in at intervals of 15 minutes or less; and
 - (iv) when video surveillance ~~[is in compliance]~~ complies with Rule R539-3 for serving an individual with disabilities.
- (4) Each residential treatment provider serving a child may provide step-down privileges to include unsupervised time and authorized departures from the program if the provider:
 - (a) maintains a staff-to-client ratio of one direct care staff to every four clients;
 - (b) documents in the client record and communicates to each of the client's direct care staff, the individualized justification for the step-down privileges and which privileges are authorized by a clinical professional;
 - (c) obtains written parental or guardian consent before allowing step-down privileges; and
 - (d) provides a policy to each client and parent or guardian that includes:
 - (i) a description of what constitutes authorized departure and unsupervised time;
 - (ii) a description of how each step-down privilege, including authorized departure or unsupervised time, is achieved and rescinded;
 - (iii) a statement that the provider will immediately communicate to each client parent or guardian and direct care staff when the step-down privileges have been rescinded; and
 - (iv) a statement that no step-down client is allowed to perform any direct care staff duties.
- (5) Each residential treatment provider shall make any necessary accommodation to allow a child to continue the child's education with a curriculum approved by the State Board of Education.
- (6) Each residential treatment provider that offers education shall utilize a curriculum that is recognized by an educational accreditation organization, including the State Board of Education or the National School Accreditation Board.
- ~~[7]~~ (7)(a) In addition to the behavior management policy and training requirements listed in Rule R501-1, each residential treatment provider serving youth shall ensure each direct care staff member is trained through a nationally or regionally recognized curriculum and can recognize the difference between a restraint and an emergency safety intervention.
- (b) An emergency safety intervention is subject to each requirement of a restraint for reporting, debriefing, clinical reviews, and training.
- (c) An emergency safety intervention may exceed the limitations of any restraint listed in Rule R501-1 with documented justification explaining why a regular restraint or other less intrusive intervention was not used.
- (8) Each residential treatment provider serving adults may admit a 17-year-old if the provider:
 - (a) obtains written permission from the individual's parent or legal guardian;
 - (b) provides clinical justification;
 - (c) ensures that the individual sleeps in a separate room from adults or a room that the individual shares with adults no more than two years older than the individual;
 - (d) ensures that any adult with direct access to the 17-year-old is directly supervised by a direct care staff; and
 - (e) ensures enhanced safety and supervision measures for treating a minor in an adult setting.
- ~~[8]~~ 2) Each residential treatment provider providing services to a substance use disorder client shall:
 - (a) only admit a substance use disorder client with a level of care that falls within American Society of Addiction Medicine levels 3.1 through 3.5; and
 - (b) obtain any required licenses before providing any service to a substance use disorder client outside of the residential milieu with a level of care described in Subsection (8)(a), unless otherwise outlined in categorical rule.
- ~~[9]~~ 10) Each residential treatment provider that allows a client to participate in food preparation shall ensure the client is trained in safe food handling practices and the provider justifies the client's participation in writing.
- ~~[10]~~ 11) Each residential treatment provider shall provide individual, group, and family counseling or other treatment, including skills development, at least weekly or as outlined in the individual's treatment plan.
- ~~[11]~~ 12) A clinical professional shall oversee any therapeutic services conducted in the therapeutic environment including:
 - ~~[i]~~ a) life skill development;
 - ~~[ii]~~ b) psychoeducation; and
 - ~~[iii]~~ c) social coaching.
- ~~[12]~~ 13) Each residential treatment provider shall document the time and date of each service provided to each client and include the signature of the individual providing the service.
- ~~[13]~~ 14) Each residential treatment provider shall provide indoor space for free and informal client activities.

R501-19-4. Requirements for Intermediate Secure Treatment.

(1)(a) Each intermediate secure treatment provider shall clearly define in policy the responsibilities of the manager described in Section R501-1-15.

(b) The licensee shall ensure the manager described in Subsection R501-1-15(2):

- (i) is at least 25 years of age;
- (ii) has a bachelor's degree or equivalent training in a human service-related field; and
- (iii) has at least three years management experience in a residential or secure treatment setting.

(2)(a) Subsection R501-19-3(3)(c) does not apply to an intermediate secure treatment provider serving youth.

(b) An intermediate secure treatment provider serving youth shall maintain a staff-to-client ratio of one staff to every five clients.

(3) Each intermediate secure treatment provider shall ensure that each direct care staff working in an intermediate secure treatment program is trained to work with a child with behavioral or mental health needs and works under the supervision of a licensed clinical professional.

(4) Each intermediate secure treatment provider shall ensure each direct care staff completes 30 hours of additional training annually regarding:

(a) client record and incident documentation;

~~(b) client rules;~~

~~(c) human relations and communication skills;~~

~~[(b) the special needs of children and families;~~

~~(c) problem solving and guidance;~~

~~(d) client rules and regulations;~~

~~(e) client record and incident documentation;~~

~~(f) (d) maintaining staff, client, and visitor safety in a secure setting;~~

~~(e) problem-solving and guidance;~~

~~(f) the special needs of children and families; and~~

~~(g) universal precautions for blood-borne pathogens.~~

(5) Each intermediate secure treatment provider shall incorporate the use of fixtures and furnishings that help limit self-harm and suicide ~~[to include], including:~~

~~(a) non-exposed fire sprinkler heads;~~

~~(b) plexiglass or safety glass;~~

~~[(b)c] pressure release robe hooks;~~

~~(d) recessed lighting; and~~

~~[(e)c] sealed light fixtures[;]~~

~~(d) non-exposed fire sprinkler heads; and~~

~~(e) pressure release robe hooks].~~

R501-19-5. Specialized Services Required to Serve Clients Under the Division of Services for People ~~[W]with Disabilities~~ ~~[(DSPD)]~~.

(1) Each residential treatment provider serving a Division of Services for People with Disabilities (DSPD) client shall:

~~[(a) (a) apply for any unearned income benefits for which the client is eligible, in conjunction with the support coordinator for DSPD and each client's parent or guardian;~~

~~(b) develop and adhere to policies and procedures governing the daily operation and activity available and applicable to each client and visitor;~~

~~[(b) specify, in policy, the amount of time non-client individuals may stay as overnight guests;~~

~~(c) present each client with an individual plan that addresses appropriate day treatment;~~

~~(d) share a monthly activity schedule with each client;~~

~~(e) maintain a record of income and client service fees;~~

~~[(f) (c) ensure the facility is located within a reasonable distance from [school];a;~~

~~(i) church[;];~~

~~(ii) recreation[;] and other community [facilities;]facility; and~~

~~[(g)iii) school;~~

~~(d) maintain a record of any income and client service fee;~~

~~(e) maintain an accurate record of each fund deposited with the residential facility for client use;~~

~~[(h)f] maintain a list of each deposit and withdrawal;~~

~~[(i)g] maintain a receipt signed by the client and professional staff for any purchase over \$20;~~

~~[(j)h] maintain a record of each client petty cash fund;~~

~~(i) present each client with an individual plan that addresses appropriate day treatment;~~

~~(j) share a monthly activity schedule with each client; and~~

~~[(k) apply for any unearned income benefits the client is entitled to, in conjunction with the support coordinator for DSPD and each client's parent or guardian;~~

~~[(k) specify, in policy, the amount of time any non-client individual may stay as an overnight guest.~~

(2) If there is a conflict between a licensing rule and the settings rule as defined in Rule R501-1, the settings rule shall prevail.

R501-19-6. Compliance.

~~[(1) A residential treatment program provider that is in operation on the effective date of]~~Any person who violates this rule ~~[shall comply with this rule.~~

~~(2) The department]may [issue a penalty enumerated in Section 26B-2-112, Section 26B-2-113, and]~~be subject to the penalties in Rule R380-600 ~~[to any provider who is found in noncompliance with this rule]~~and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: human services, licensing, residential treatment, congregate care

Date of Last Change: ~~[January 22,]~~ 2024

Notice of Continuation: March 30, 2020

Authorizing, and Implemented or Interpreted Law: 26B-2-104~~[et seq.]~~

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal and Reenact

Rule or Section Number:

R523-7

Filing ID: 56926

Agency Information

1. Title catchline:	Health and Human Services, Substance Abuse and Mental Health	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state:	Salt Lake City, UT	
Mailing address:	288 N. 1460 W.	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Thomas Dunford	801-538-4181	tdunford@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:
R523-7. Certification of Designated Examiners and Certified Case Managers
3. Purpose of the new rule or reason for the change:
This proposed amendment is required by SB26, passed and signed into law during the 2024 General Session, and creates a certification process for targeted case management. The proposed amendment also updates the rule to accurately represent current practices.
4. Summary of the new rule or change:
This proposed amendment updates statutory citations, aligns this rule with the standards of the Rulewriting Manual for Utah, makes stylistic changes to comply with the Governor's Executive Order EO 2021-12, corrects grammatical and other errors, updates definitions, removes redundant requirements already covered by training and examination requirements for designated examiners, removes certain limitations for those eligible to receive a case manager certification, alters the requirement for employers to take action if a case worker acts unprofessionally, and clarifies or removes superfluous 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 as a result of this amendment. Changes to this rule have not increased or decreased costs that already exist in state budgets, as no additional training requirements have been added and the cost to provide the Office of Substance Use and Mental Health training courses that are tied to the designated examiner certification and the case manager certification are not changed by these amendments. There are no additional administrative costs to train

applicants, or record, produce and distribute certificates. No additional costs are incurred by the creation of a targeted case manager certification because that certification is directly tied to an individual being certified as a case manager.

B) Local governments:

There is no anticipated cost or savings to local governments as a result of this amendment. Changes to this rule have not increased or decreased costs that already exist in local government budgets. No additional training requirements have been added and no additional costs have been added to attend the Office of Substance Use and Mental Health training courses that are tied to the designated examiner certification that have always been provided at no cost to attendees.

Additionally, the Office of Substance Use and Mental Health sponsored trainings have not increased or decreased in duration or number of locations so other costs to the local authorities such as lost billable Medicaid hours for an employee that attends the designated examiner and case manager certification training have not increased or decreased. No additional costs are incurred by the creation of a targeted case manager certification because that certification is directly tied to an individual being certified as a case manager, being an employee of a provider that collects targeted case management payments from Medicaid, and being supervised by a provider that complies with all federal and state statutes, regulations, and rules that relate to targeted case management services. All of these requirements should already be in place for payment of targeted case management.

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

There is no anticipated cost or savings to small businesses as a result of this amendment. Changes to this rule have no related costs to state small businesses budgets, because this rule only impacts local authorities and the state hospital that are governmental agencies and a select number of accountable care organizations that are non-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 as a result of this amendment. Changes to this rule have not increased or decreased costs that already exist in the budgets of non-small businesses. No additional training requirements have been added and no additional costs have been added to attend the Office of Substance Use and Mental Health training courses that are tied to the designated examiner certification and the case manager certification that have always been provided at no cost to attendees.

Additionally, the Office of Substance Use and Mental Health sponsored trainings have not increased or decreased in duration or number of locations, so other costs to non-small businesses such as lost billable Medicaid hours for an employee that attends the designated examiner and case manager certification training have not increased or decreased. No additional costs are incurred by the creation of a targeted case manager certification because that certification is directly tied to an individual being certified as a case manager, being an employee of a provider that collects targeted case management payments from Medicaid, and being supervised by a provider that complies with all federal and state statutes, regulations, and rules that relate to targeted case management services. All of these requirements should already be in place for payment of targeted case management.

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

There is no anticipated cost or savings to other persons as a result of this amendment. Changes to this rule have no related costs to the budgets of persons other than small businesses, non-small businesses, and state, or local government entities, because this rule only impacts local authorities and the state hospital, which are governmental agencies, and a select number of accountable care organizations that are non-small businesses.

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 anticipated compliance costs for affected persons as a result of this amendment, and no cost or fee is required for the introduced certifications.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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:

Subsection 26B-5-104(2)	Subsection 26B-5-301(8)	Subsection 26B-5-102(2)(b)(5)
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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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	10/30/2024
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R523. Health and Human Services, Substance [Abu]Use and Mental Health.
~~**R523-7. Certification of Designated Examiners and Certified Case Managers.**~~
~~**R523-7-1. Authority.**~~

~~(1) This rule is promulgated under authority of Section 62A-15-105(2).~~

~~**R523-7-2. Purpose.**~~

~~(1) The purpose of this rule is to provide guidance on the process for designated examiners and case managers to attain certification from the Division of Substance Abuse and Mental Health (Division).~~

~~**R523-7-3. Designated Examiners Certification.**~~

~~(1) A "Designated Examiner" is a licensed physician or other licensed mental health professional designated by the Division as specially qualified by training or experience in the diagnosis of mental or related illness, as defined in Subsection 62A-15-602(3).~~

~~(a) The Division shall certify that a designated examiner is qualified by training and experience in the diagnosis of mental or related illness. Certification will require at least five years continual experience in the treatment of mental or related illness in addition to successful completion of training provided by the Division.~~

~~(b) Application for certification will be achieved by the applicant making a written request to the Division for their consideration. Upon receipt of a written application, the Director will initiate a review and examination of the applicant's qualifications.~~

~~(c) The applicant must meet the following minimum standards in order to be certified.~~

~~(i) The applicant must be a licensed mental health professional.~~

~~(ii) The applicant must be a resident of the State of Utah.~~

NOTICES OF PROPOSED RULES

- ~~_____ (iii) The applicant must demonstrate a complete and thorough understanding of abnormal psychology and abnormal behavior, to be determined by training, experience and written examination.~~
- ~~_____ (iv) The applicant must demonstrate a fundamental and working knowledge of the mental health law. In particular, the applicant must demonstrate a thorough understanding of the conditions which must be met to warrant involuntary commitment, to be determined by training, experience and written examination.~~
- ~~_____ (v) The applicant must be able to discriminate between abnormal behavior due to mental illness which poses a substantial likelihood of serious harm to self or others from those forms of abnormal behavior which do not represent such a threat. Such knowledge will be determined by experience, training and written examination.~~
- ~~_____ (vi) The applicant must be able to demonstrate a general knowledge of the court process and the conduct of commitment hearings. The applicant must demonstrate an ability to provide the court with a thorough and complete oral and written evaluation that addresses the standards and questions set forth in the law, to be determined by experience, training and written and oral examination.~~
- ~~_____ (vii) The applicant shall attend the training for the certification of designated examiners that is provided by the Division and pass the exam at the completion of the training with a minimum of 70% correct.~~
- ~~_____ (d) The Division Director or designee will determine if experience and qualifications are satisfactory to meet the required standards. The Division Director or designee will also determine if there are any training requirements that may be waived due to prior experience and training to grant an exception of any of the above requirements.~~
- ~~_____ (e) Upon satisfactory completion of the required experience and training, the Division Director or designee will certify the qualifications of the applicant, make record of such certification and issue a certificate to the applicant reflecting his status as a designated examiner and authorize the use of privileges and responsibilities as prescribed by law.~~

~~R523-7-4. Certified Case Manager Certification.~~

- ~~_____ (1) Definitions.~~
- ~~_____ (a) Targeted Case Management is a service that assists Medicaid recipients in the target group to gain access to needed medical, social, educational, and other services. The overall goal of the service is not only to help Medicaid recipients access needed services, but to ensure that services are coordinated among all agencies and providers involved.~~
- ~~_____ (b) Case Management services include coordinating, advocating, linking and monitoring services to help individuals access needed medical healthcare, behavioral healthcare, basic needs, housing, educational, social, and other services. Case Managers assess individual needs and develop a plan designed to help the individual obtain access to a coordinated array of services.~~
- ~~_____ (c) Certified Case Manager Certification means the process by which a non-licensed individual obtains certification from the Division. Case manager certification allows the Certified Case Manager to provide services for individuals with mental illness, substance use disorders, and/or individuals experiencing homelessness.~~
- ~~_____ (2) Case Management services can be provided by:~~
- ~~_____ (a) A qualified provider, as defined in the Utah Medicaid Provider Manual, found at <https://medicaid.utah.gov/Documents/manuals/pdfs/Medicaid%20Provider%20Manuals/Targeted%20Case%20Management/Serious%20Mental%20Illness/SeriousMentalIllness1-19.pdf> for Targeted Case Management for individuals with Serious Mental Illness; or~~
- ~~_____ (b) An individual under the supervision of a qualified provider employed or contracted by the Utah Department of Human Services, (DHS) a local mental health authority, a local substance abuse authority, a DHS licensed homeless shelter, or a targeted homeless service program defined as: public or private not for profit organizations, faith-based organizations, state departments and agencies, units of local governments and Indian tribal governments who provide services to children, individuals, and/or families who are experiencing homeless or at risk of experiencing homeless contracted by the Department of Workforce Services (DWS).~~
- ~~_____ (3) Supervisors of case managers billing Medicaid for case management services must be qualified providers as defined in (2)(a).~~
- ~~_____ (4) Supervisors of case managers not providing Medicaid billable services must have one of the following:~~
- ~~_____ (a) A Bachelor's Degree in human services or a related field and two years of experience in human services;~~
- ~~_____ (b) An Associate's Degree in human services or a related field and three years of experience in human services; or~~
- ~~_____ (c) Five years of experience in human services.~~
- ~~_____ (5) Certified Case Manager duties include activities that assist individuals with:~~
- ~~_____ (a) Serious mental illness;~~
- ~~_____ (b) Serious emotional disturbance;~~
- ~~_____ (c) Substance use disorders; and~~
- ~~_____ (d) Services related to homelessness;~~
- ~~_____ (e) Accessing medical and related therapeutic services; and~~
- ~~_____ (f) Promoting the individual's general health and their ability to function independently and successfully in the community.~~
- ~~_____ (6) A Certified Case Manager must meet the following minimum standards:~~
- ~~_____ (a) Be at least 18 years of age;~~
- ~~_____ (b) Have at least a high school degree or a General Education Diploma(GED); and~~
- ~~_____ (c) Be employed or subcontracted by DHS, a local mental health authority or a local substance abuse authority, a DHS licensed homeless shelter, or a targeted homeless program as defined in R523-7-4(2)(b); and~~
- ~~_____ (d) Meet one of the following:~~
- ~~_____ (i) Prior to applying for the Case Management Certification, obtain 400 hours experience within the previous 10 years of application submission in human services or related fields, which may include relevant education/volunteer activities; or~~
- ~~_____ (ii) Be a Certified Peer Support Specialist or Family Resource Facilitator and have been actively working in the human services field for at least 400 hours within the previous 10 years of the application submission date; or~~

- ~~_____ (iii) Have at least a bachelor's degree in Human Services or a related field of study;~~
- ~~_____ (e) Pass a Division exam which tests basic knowledge, ethics, attitudes and case management skills with a score of 70 percent or above; and~~
- ~~_____ (f) Have completed a Division approved 40-hour supervised case management practicum.~~
- ~~_____ (7) The Division Director or designee shall determine if experience and qualifications are satisfactory to exceed the required standards, and if there are any training requirements that may be waived due to prior experience and training to grant an exemption of any of the above requirements. In order to qualify for an exemption, the applicant must provide documentation of qualifications exceeding those required by this certification.~~
- ~~_____ (8) Applications and instructions to apply for certification to become a Certified Case Manager can be obtained from the Division. Only complete applications supported by all necessary documents shall be considered.~~
- ~~_____ (a) Applicants or the agency submitting the application shall respond to any Division requests for additional information regarding the application within 30 days or the Certified Case Managers certification may be denied.~~
- ~~_____ (b) Individuals shall be notified in writing of disposition and determination to grant or deny the application within 30 days of submission including response to Division requests for additional information of the Certified Case Manager's application. The Division shall issue a certificate verifying the certification is valid for three years, and the certificate shall be transferable across qualified employers.~~
- ~~_____ (c) If the application is denied the individual may file a written appeal within 30 days to the Division Director or designee.~~
- ~~_____ (9) Each Certified Case Manager is required to complete and document 30 training hours related to mental health, substance use disorder homelessness, trauma informed care or related topics over the 3-year certification period. Training hours must include at least 4 hours of ethics and 3 hours of suicide prevention training.~~
- ~~_____ (a) A Certified Case Manager shall retain training documentation. Documentation should not be sent to the Division unless requested for an audit.~~
- ~~_____ (b) Documents to verify training include:~~
 - ~~_____ (i) A certificate of completion documenting continuing education validation furnished by the presenter;~~
 - ~~_____ (ii) A letter of certificate from the sponsoring agency verifying the name of the program, presenter, and number of hours attended and participants; or~~
 - ~~_____ (iii) An official grade transcript verifying completion of an undergraduate or graduate course(s) of study.~~
- ~~_____ (10) Certified Case Managers shall abide by the Provider Code of Conduct pursuant to Section R495-876, and as also found in the DHS Provider Code of Conduct Policy.~~
- ~~_____ (a) Each employer that becomes aware of a Certified Case Manager engaging in unprofessional or unlawful conduct, or has violated the provider code of conduct shall:~~
 - ~~_____ (i) immediately take action to review the allegations;~~
 - ~~_____ (ii) take steps to ensure that all individuals involved with the allegation are protected, and~~
 - ~~_____ (iii) notify the Division within 30 days.~~
- ~~_____ (b) Termination of certification shall be made effective immediately if the alleged violation(s) results in one or more of the following:~~
 - ~~_____ (i) personal financial gain through deception, or a business transaction with a client, by the Certified Case Manager;~~
 - ~~_____ (ii) physical or emotional harm to a person that is caused by the Certified Case Manager; or~~
 - ~~_____ (iii) a financial loss to a client, the State, or another employee that is caused by the Certified Case Manager.~~
- ~~_____ (c) The Division shall take the following actions when it becomes aware of a Certified Case Manager in violation of the provider code of conduct that does not result in immediate termination:~~
 - ~~_____ (i) Within 30 days of becoming aware of the violation(s), the Division shall notify the Certified Case Manager, in writing, through a Notice of Agency Action specifying the area(s) of noncompliance.~~
 - ~~_____ (ii) Within 30 days of receiving a notice of Agency Action, the Certified Case Manager shall submit an acceptable written plan to the Division explaining how they will achieve compliance.~~
 - ~~_____ (iii) All plans shall demonstrate how the Certified Case Manager shall be in compliance within 30 days after receiving the Notice of Agency Action.~~
 - ~~_____ (iv) If an acceptable plan of action is not received by the Division within 30 days of sending the Notice of Agency Action, the Certified Case Manager shall be notified that their certification has been suspended until an acceptable plan is submitted to the Division.~~
 - ~~_____ (v) A Certified Case Manager must cease providing any and all case management services until a suspension is lifted.~~
- ~~_____ (d) The Division shall revoke the certification of any Certified Case Manager for the following reasons:~~
 - ~~_____ (i) The Certified Case Manager fails to provide the Division with written evidence of compliance to a plan of action within 30 days after receiving a Notice of Agency Action that their certification has been suspended.~~
 - ~~_____ (ii) The Certified Case Manager continues to provide case management services during the period of a suspension; or~~
 - ~~_____ (iii) The Certified Case Manager receives more than two notices of noncompliance with the Provider Code of Conduct in a one-year period.~~
- ~~_____ (e) Any Certified Case Manager whose certification has been revoked may request an informal hearing with the Division Director or designee, in writing, within 10 business days of receiving notice of revocation.~~
- ~~_____ (f) The Division Director or designee shall review the request and determine to uphold, amend or reverse the action within 10 business days, and the Division shall inform the Certified Case Manager of the decision in writing.~~
- ~~_____ (g) Any Certified Case Manager with a revoked certification may not reapply for recertification for a period of 12 months.~~
- ~~_____ (11) If a Certified Case Manager fails to complete the requirements for training hours, their certificate will be revoked or allowed to expire, and will not be renewed unless the required training hours have been completed and submitted to the Division for approval within 30 days of expiration.~~

NOTICES OF PROPOSED RULES

~~(a) If any Certified Case Manager's certification is not renewed within the required time frame, they may not reapply for certification within 60 days of the expiration date.~~

~~(12) If an individual fails the Division examination twice within a 30 day period of time, they must wait 30 days before taking the examination again.~~

~~(13) The Division Director or designee shall determine if there are any training requirements that may be waived due to prior experience and training to grant an exception of any of the above requirements.~~

~~(14) The Certified Case Manager's certification shall be posted and available upon request.]~~

R523-7. Designated Examiner, Case Manager Certification and Targeted Case Manager Certification.

R523-7-1. Authority and Purpose.

~~(1) Subsections 26B-5-102(2)(b)(v), 26B-5-104(2), and 26B-5-301(8) authorize this rule.~~

~~(2) This rule establishes certification requirements for a:~~

~~(a) case manager;~~

~~(b) designated examiner; and~~

~~(c) targeted case manager.~~

R523-7-2. Definitions.

~~(1) "Case manager" means an individual who helps a client achieve wellness and autonomy by developing a plan that coordinates and integrates support services the client needs to optimize treatment goals through advocacy, assessment, planning, communication, education, resource management, and service facilitation.~~

~~(2) "Designated examiner" means the same as defined in Subsection 26B-5-301(8).~~

~~(3) "Director" means the director of the Office of Substance Use and Mental Health or a designee.~~

~~(4) "Targeted case manager" means a case manager that is certified to provide targeted case management as defined in Subsection 26B-5-101(17).~~

R523-7-3. Designated Examiners Certification.

~~(1) To be certified as a designated examiner, a qualified individual shall submit an application to the Office of Substance Use and Mental Health.~~

~~(2) A qualified individual must be:~~

~~(a) a licensed physician, as defined in Section 58-67-102, or a licensed mental health therapist, as defined in Section 58-60-102; and~~

~~(b) employed by or a designee of:~~

~~(i) a local mental health authority or a local substance abuse authority;~~

~~(ii) the Utah State Hospital; or~~

~~(iii) an Office of Substance Use and Mental Health-approved accountable care organization.~~

~~(3) The director, or designee, shall review and approve an applicant to receive training if:~~

~~(a) the applicant meets the requirements in Subsection 26B-5-301(8) and this rule;~~

~~(b) the applicant is a Utah resident; and~~

~~(c) as determined by the director, or designee, the applicant has adequate training and experience to perform the duties of a designated examiner.~~

~~(4) To be certified as a designated examiner, an approved applicant shall:~~

~~(a) complete a training course provided by the Office of Substance Use and Mental Health; and~~

~~(b) take an examination based on the training course in which the applicant receives a minimum score of 70%.~~

~~(5) The director may grant a waiver to a training requirement under this rule if the applicant can demonstrate adequate knowledge and understanding of the training requirement based on prior experience and training.~~

R523-7-4. Case Manager General Provisions.

~~(1) To be certified by the Office of Substance Use and Mental Health, a case manager shall:~~

~~(a) be at least 18 years of age;~~

~~(b) have a high school degree or a general education diploma; and~~

~~(c)(i) have obtained, within the ten years before submitting an application, at least 400 hours experience in human services or a related field through education, volunteer work, or paid employment; or~~

~~(ii) have a bachelor degree in human services or a related field of study.~~

~~(2) The director may waive the any of the certification requirements in Subsection (1)(c) if the director determines that the applicant's experience and qualification is sufficient to ensure that no client is likely to be harmed by the waived requirements if certification is granted.~~

R523-7-5. Case Manager Certification Requirements.

~~(1) An individual who meets the requirements of Section R523-7-4 may submit an application for case manager certification to the Office of Substance Use and Mental Health.~~

~~(2) The Office of Substance Use and Mental Health shall review an application to ensure that it is complete, and if the application is not complete, shall notify the applicant that more information is needed.~~

~~(3) The Office of Substance Use and Mental Health shall consider each complete application and approve, deny, or ask for additional information.~~

~~(4) Before an applicant may be certified, the approved applicant shall:~~

(a) receive a score of 70% or higher on an examination provided by the Office of Substance Use and Mental Health that is designed to evaluate the applicant's basic knowledge about:

- (i) behavioral health disorders;
- (ii) ethical behaviors and attitudes; and
- (iii) case management skills; and

(b) complete an Office of Substance Use and Mental Health approved 40-hour supervised case management practicum.

(5) The Office of Substance Use and Mental Health shall issue a certification that is valid for three years to an individual who successfully completes the requirements described in Subsection (4).

(6) If an individual fails the Office of Substance Use and Mental Health examination twice within a 30-day period of time, the individual shall wait 30 days before retaking the examination.

R523-7-6. Case Manager Recertification Requirements.

(1)(a) To recertify, a case manager shall complete 30 hours of additional approved training. The additional training that is approved by the Office of Substance Use and Mental Health shall include:

- (i) four hours of an ethics related topic;
- (ii) three hours of a suicide prevention related topic; and
- (iii) 23 hours on a topic related to:

- (A) mental health disorders;
- (B) substance use disorders;
- (C) homelessness;
- (D) trauma informed care; or
- (E) another human services related topic.

(b) A case manager shall receive a score of 70% or higher on an examination provided by the Office of Substance Use and Mental Health.

(2) A certified case manager shall retain documentation establishing compliance with Subsection (1) for three years after the end of the renewal cycle for which the continuing education is due. Documentation shall be provided to the Office of Substance Use and Mental Health upon request and may include:

- (a) a certificate of completion;
- (b) a school transcript;
- (c) a course description; or
- (d) other course materials and proof of attendance.

(3) A certified case manager shall ensure documentation described in Subsection (2) includes:

(a) an official transcript verifying completion of:

- (i) an undergraduate course of study; or
- (ii) a graduate course of study; or

(b) the following information:

- (i) the date of the course;
- (ii) the name of the course provider;
- (iii) the name of the instructor;
- (iv) the course title;

(v) the number of hours of continuing education credit; and

(vi) the course objectives.

(4) Each certified case manager shall comply with Section R380-80-5.

R523-7-7. Targeted Case Manager Certification and Recertification.

(1) An individual who meets the requirements of Section R523-7-6 may qualify as a targeted case manager and be certified by Office of Substance Use and Mental Health if the case manager:

(a) is employed by a Medicaid provider that collects Medicaid payments for targeted case management services; and

(b) receives supervision from a Medicaid provider that complies with all federal and state statutes, regulations, and rules that relate to targeted case management services.

(2) To recertify, a targeted case manager shall comply with Section R523-7-6 and complete an additional five hours of training related to targeted case management services that is approved by the Office of Substance Use and Mental Health.

R523-7-8. Corrective Action on a Case Manager or Targeted Case Manager Certifications.

(1) When the Office of Substance Use and Mental Health becomes aware that a case manager or targeted case manager has engaged in unprofessional or unlawful conduct or has failed to comply with Section R380-80-5, the Office of Substance Use and Mental Health shall immediately review the allegation.

(2) If the Office of Substance Use and Mental Health determines the allegation is substantiated, the Office of Substance Use and Mental Health shall revoke or suspend the case manager's or targeted case manager's certification, based on the severity of the substantiated allegation, and if the case manager's conduct resulted in any of the following:

(a) a criminal charge or violation of Section R380-80-5 that results in the case manager or targeted case manager being separated from their employment with their employer;

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- (b) a personal financial gain through deception, or a business transaction with a client;
- (c) physical or emotional harm to a person;
- (d) a financial loss to a client, the state, or another employee; or
- (e) if the nature of the allegation is determined by the Office of Substance Use and Mental Health to be egregious enough that immediate action must be taken to protect an individual.
- (3) The Office of Substance Use and Mental Health shall ensure the following actions take place when the Office of Substance Use and Mental Health becomes aware that a case manager's or targeted case manager's conduct is in violation of Section R380-80-5 that does not result in immediate revocation:
 - (a) within 30 days of becoming aware of the violation, the Office of Substance Use and Mental Health shall notify the case manager or targeted case manager through a notice of violation specifying the area of noncompliance;
 - (b) within 30 days of receiving a notice of violation, the case manager or targeted case manager shall submit an acceptable written plan to the Office of Substance Use and Mental Health explaining how the case manager or targeted case manager will achieve compliance within 30 days after receiving the notice of violation; and
 - (c) if an acceptable plan of action is not received by the Office of Substance Use and Mental Health within 30 days of sending the notice of agency action, the Office of Substance Use and Mental Health shall suspend the case manager's or targeted case manager's certification until the case manager or targeted case manager submits an acceptable plan.
- (4) The Office of Substance Use and Mental Health shall revoke the certification of a case manager or targeted case manager if the case manager or targeted case manager:
 - (a) fails to provide the Office of Substance Use and Mental Health with satisfactory written evidence of compliance to a plan of action within 30 days after the case manager receives a notice of suspension; or
 - (b) receives more than two notices of noncompliance with Section R380-80-5 in a one-year period.
- (5) An individual with a revoked case manager or targeted case manager certification may not reapply for recertification for a period of 12 months.
- (6) Notices that a case manager's or targeted case manager's certification has been revoked shall include instruction on how to appeal the decision as provided in Title 63G, Chapter 4, Administrative Procedures Act and Rule R410-14.
- (7) If a case manager or targeted case manager fails to complete the requirements for continuing education, the Office of Substance Use and Mental Health shall allow the case manager's or targeted case manager's certificate to expire and may not renew the certification unless, within 30 days of expiration, the individual submits proof of completion of the required continuing education.
- (8) If a case manager's or targeted case manager's certification expires as described in Subsection (7), the individual may submit a new application for Office of Substance Use and Mental Health certification no sooner than 60 days after the expiration date.

KEY: designated examiners, involuntary commitment, case managers, case manager certification

Date of Last Change: 2024[August 21, 2019]

Notice of Continuation: December 8, 2020

Authorizing, and Implemented or Interpreted Law: 26B-5-104(2); 26B-5-301(8)[62A-15-105(2); 62A-15-602(5)]

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R527-601	Filing ID: 56865
Agency Information		
1. Title catchline:	Health and Human Services, Recovery Services	
Building:	Taylorsville State Office Building	
Street address:	4315 S. 2700 W.	
City, state	Taylorsville, UT	
Mailing address:	PO Box 450033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact persons:		
Name:	Phone:	Email:
Jodi Witte	801-741-7417	jwitte@utah.gov
Casey Cole	801-741-7523	cacole@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:
R527-601. Establishing or Modifying an Administrative Award for Child Support
3. Purpose of the new rule or reason for the change:
This rule is being repealed after an internal review of the rule determined that the rule is unnecessary because all the provisions therein are already in statute and Office of Recovery Services (ORS) policy.
4. Summary of the new rule or change:
This rule is being repealed in its entirety, as all of the information is supported by Utah Code and ORS Policy and does not require clarification in an Administrative Rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:																
A) State budget:																
There is no anticipated fiscal impact to the state budget, as the rule's provisions remain in statute and policy. This repeal does not add, remove, or modify any existing requirements or restrictions for the state.																
B) Local governments:																
There is no anticipated fiscal impact to local governments, as the rule's provisions remain in statute and policy. This repeal does not add, remove, or modify any existing requirements or restrictions for local governments.																
C) Small businesses ("small business" means a business employing 1-49 persons):																
There is no anticipated fiscal impact to small businesses, as the rule's provisions remain in statute and policy. This repeal does not add, remove, or modify any existing requirements or restrictions for small businesses.																
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):																
There is no anticipated fiscal impact to non-small businesses, as the rule's provisions remain in statute and policy. This repeal does not add, remove, or modify any existing requirements or restrictions for non-small businesses.																
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):																
There is no anticipated fiscal impact to other persons, as the rule's provisions remain in statute and policy. This repeal does not add, remove, or modify any existing requirements or restrictions for other persons.																
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 anticipated compliance costs for affected persons associated with this repeal, as the rule's provisions remain in statute and 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																
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2025</th> <th>FY2026</th> <th>FY2027</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2025	FY2026	FY2027	State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0
Fiscal Cost	FY2025	FY2026	FY2027													
State Government	\$0	\$0	\$0													
Local Governments	\$0	\$0	\$0													
Small Businesses	\$0	\$0	\$0													

NOTICES OF PROPOSED RULES

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2025	FY2026	FY2027
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-1-102	Section 26B-9-108	Section 78B-12-201
Section 78B-12-203		

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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	10/21/2024
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R527. Health and Human Services, Recovery Services.

~~**R527-601. Establishing or Modifying an Administrative Award for Child Support.**~~

~~**R527-601-1. Authority and Purpose.**~~

- ~~_____ (1) The Department of Health and Human Services is authorized to create rules necessary for social services pursuant to Section 26B-1-102. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 26B-9-108.~~
- ~~_____ (2) The purpose of this rule is to provide information as to when ORS will use best available income, what is considered best evidence available, and the procedures that must be taken for best evidence available to be used when establishing or modifying an administrative order.~~

~~**R527-601-2. Documentation of Income.**~~

~~_____ When complete documentation of current income pursuant to Section 78B-12-203 is not available for both parents in an administrative proceeding, ORS shall use the best evidence available to determine the appropriate child support award, pursuant to Section 78B-12-201.~~

~~**R527-601-3. Definition.**~~

- ~~_____ "Best evidence available" shall include the following:~~
- ~~_____ (1) historical records; including~~
- ~~_____ (a) tax returns;~~
- ~~_____ (b) pay stubs;~~
- ~~_____ (c) employer statements; or~~
- ~~_____ (d) Department of Workforce Services records.~~

- ~~_____ (2) market rate earned by persons with the same occupation as reported by the Department of Workforce Services; or~~
- ~~_____ (3) the federal minimum wage.~~

R527-601-4. Procedures.

~~Prior to establishing or modifying an administrative order, ORS shall provide a copy of an affidavit describing the income evidence used to the last known address of each case participant that is a respondent in the order. The affidavit will be updated if new income information is presented by the case participants and a copy will be provided with the final order.~~

~~**KEY: child support**~~

~~**Date of Last Change: August 14, 2023**~~

~~**Notice of Continuation: May 31, 2022**~~

~~**Authorizing, and Implemented or Interpreted Law: 26B-1-102; 26B-9-108; 78B-12-201; 78B-12-203**~~

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: New		
Rule or Section Number:	R547-16	Filing ID: 56881

Agency Information

1. Title catchline:	Health and Human Services, Juvenile Justice and Youth Services	
Building:	Multi-Agency State Office Building	
Street address:	195 N. 1950 W.	
City, state	Salt Lake City, UT	
Mailing address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Reg Garff	801-602-6261	rgarff@utah.gov
Brett Peterson	385-394-4407	brett@utah.gov
Mariah Noble	38/5-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R547-16. Income and Finances for Minors in Custody
3. Purpose of the new rule or reason for the change:
SB88 of the 2024 General Session requires the Division of Juvenile Justice and Youth Services (JJYS) to establish rules over administration of accounts and finances over minors. This new rule brings the division into compliance with this requirement.
4. Summary of the new rule or change:
This new rule provides oversight on JJYS created and administered accounts for minors. It also allows JJYS to receive and distribute funds on behalf of a minor in the JJYS custody. Additionally, it explains how JJYS may spend the funds in these accounts and clarifies the process of releasing these funds when a minor leaves JJYS custody.

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, as this rule governs only the establishment of accounts for minors in custody of the JJYS and the disposal of earned funds in those accounts. Any funds in these accounts belong exclusively to a

minor in JJYS custody and not to the state. The administration of these accounts is not anticipated to introduce a cost to JJYS because the administration of these accounts can be absorbed into existing processes within JJYS.

B) Local governments:

This rule will have no fiscal impact on local governments. This rule applies only to minors in custody of a state agency.

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

This rule will have no fiscal impact on small business. This rule applies only to minors in custody of a state agency.

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

This rule will have no fiscal impact non-small businesses. This rule applies only to minors in custody of a state agency.

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 may have a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities. This rule applies to minors who have earnings while in custody of the Division of Juvenile Justice and Youth Services. There are no anticipated costs to minors in custody, as there are no fees associated with the account, but there may be a fiscal benefit through interest earned on funds while they remain in the account. However, this amount is inestimable because JJYS cannot predict how many minors will be in custody, how many minors will earn money, or how much money minors in custody will earn while in custody.

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.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 80-5-304		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Tracy S. Gruber, Executive Director	Date:	10/27/2024
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R547. Health and Human Services, Juvenile Justice and Youth Services.**R547-16. Income and Finances for Minors in Custody.****R547-16-1. Authority and Purpose.**

(1) Section 80-5-304 requires the Division of Juvenile Justice and Youth Services to make rules establishing the administration of accounts and finances for minors in the custody of the division.

(2) This rule governs the creation of an account for minors to receive and distribute funds received while a minor is in the custody of the division.

R547-16-2. Definitions.

(1) "Account" means an account established and administered by the division where the division may place funds earned or received by a minor.

(2) "Division" means the Division of Juvenile Justice and Youth Services.

(3) "Minor" means an individual who is committed to the custody of the division.

R547-16-3. Collection and Deposit of Funds.

(1) The division may collect funds earned or received by a minor.

(2) The division shall place funds earned or received by a minor into an account described in Subsection 80-5-304(1).

R547-16-4. Use of Funds.

The division may use funds placed in an account to pay:

(1) alimony owed by the minor;

(2) child support owed by the minor;

(3) fines owed by the minor;

(4) for cost of care, if such use is approved by the division director;

(5) reparation owed by the minor;

(6) restitution owed by the minor; or

(7) similar, court-ordered payments owed by the minor.

R547-16-5. Distribution of Funds.

(1) Upon the minor's transition or termination from the custody of the division, the division shall provide the minor with any funds remaining in an account described in Subsection 80-5-304(1), with the exception of funds received as Social Security Income, which shall be returned to the Social Security Administration.

(2) If the division is unable to locate the minor within 12 months of transition or termination, the division shall consider the funds abandoned and transfer the funds to Utah Unclaimed Property within 30 days, in accordance with Section 67-4a-201.

R547-16-6. Recordkeeping.

(1) The division shall maintain records of any financial transactions involving an account established pursuant to this rule.

(2)(a) The division shall provide an account statement to a minor every 90 days that includes interest earned, each date funds were deposited or withdrawn, the reason funds were withdrawn, and the remaining balance.

(b) The minor may request an account statement at any time through their case manager.

KEY: personal account, wage, compensation
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 80-5-304

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R612-300-4	Filing ID: 56907

Agency Information

1. Title catchline:	Labor Commission, Industrial Accidents	
Building:	Heber M. Wells Building	
Street address:	160 E. 300 S., 3 rd Floor	
City, state:	Salt Lake City, Utah	
Mailing address:	PO Box 146600	
City, state and zip:	Salt Lake City UT 84114-6600	
Contact persons:		
Name:	Phone:	Email:
Ronald Dressler	801-530-5841	rdressler@utah.gov
Chris Hill	801-530-6113	chill@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R612-300-4. General Method of Computing Medical Fees
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to adopt the CPT 2024 and, with modifications, the Optum 2024 Essential Resource-Based Relative Value Schedule (RBRVS), 2024 1st Quarter Update and to adjust certain conversion factors.
4. Summary of the new rule or change:
The amendment incorporates by reference the current version of the CPT, RBRVS and adjusts certain conversion factors. Medicine, all other Evaluation and Medicine codes from \$58 to \$59; Pathology and Laboratory from \$62 to \$63; Radiology from \$64 to \$65; Surgery, all 20000 codes, codes 49505 through 49525 and all 60000 codes from \$71 to \$72; and other surgery from \$71 to \$72..

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule changes medical conversion factors and doesn't impose any costs. These medical costs are borne by the insurance carriers when paying benefits on behalf of injured workers.
B) Local governments:
This rule changes medical conversion factors and doesn't impose any costs. These medical costs are borne by the insurance carriers when paying benefits on behalf of injured workers.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change will not have a fiscal impact on small businesses. These medical costs are borne by the insurance carriers when paying benefits on behalf of injured workers. Insurance carriers may see a small increase to costs related to paying medical expenses on workers' compensation benefits. It is difficult to estimate the cost, because it would vary depending on the workers'

compensation claims filed. Some many not have any impact, others might have greater impact due to the medical care required for the claims filed.

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 small businesses. These medical costs are borne by the insurance carriers when paying benefits on behalf of injured workers. Insurance carriers may see a small increase to costs to paying medical expenses on workers' compensation benefits. It is difficult to estimate the cost, because it would vary depending on the workers' compensation claims filed. Some many not have any impact, others might have greater impact due to the medical care required for the claims filed.

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 changes medical conversion factors and doesn't impose any costs. These medical costs are borne by the insurance carriers when paying benefits on behalf of injured workers.

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. The rule changes the medical conversion factors and doesn't impose any costs.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Labor Commission, Jaceson Maughan, has reviewed and approved this regulatory impact analysis. There are no compliance costs since these changes will be incorporated into already existing systems.

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:

Section34A-1-104	Section 34A-2-201	
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Incorporations by Reference Information

7. Incorporations by Reference:	
A) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	The Essential RBRVS
Publisher	Optum
Issue or Version	2024, 1 st Quarter Update
B) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	CPT
Publisher	Optum
Issue or Version	2024

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:	12/16/2024
9. This rule change MAY become effective on:	12/23/2024
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:	Jacson R. Maughan, Commissioner	Date:	10/29/2024
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R612. Labor Commission, Industrial Accidents.

R612-300. Workers' Compensation Rules - Medical Care.

R612-300-4. General Method For Computing Medical Fees.

A. Adoption of "CPT" and "RBRVS." The Labor Commission incorporates by reference: CPT 2024 and Optum Essential RBRVS 20[~~22~~24 annual 1st Quarter Update," edition includes RBRC 23/1120 ([^{"]RBRVS["}hereafter]).

B. Medical fees calculated according to the RBRVS relative value unit assigned to each CPT code. Unless some other provision of Title R612 specifies a different method, the RBRVS is to be used in conjunction with the "conversion factors" established in Subsection (C) of this rule to calculate payments for medical care provided to injured workers.

C. Conversion Factors. Fees for medical care of injured workers shall be computed by determining the relative value unit ([^{"]RVU["}]) assigned by the RBRVS to a CPT code and then multiplying that RVU by the following conversion factors for specific medical specialties:

1. Anesthesiology, 1 unit per 15 minutes of anesthesia: \$75;
2. Medicine, Evaluation and Medicine codes 99203-99204 and 99213-99214: \$62;
3. Medicine, all other Evaluation and Medicine codes: \$[~~58~~59];
4. Pathology and Laboratory: \$[~~62~~63];
5. Radiology: \$[~~64~~65];
6. Restorative Services: \$56;
7. Surgery, all 20000 codes, codes 49505 thru 49525, and all 60000 codes: \$[~~71~~72];
8. Other Surgery: \$[~~74~~72].

D. Fees for Medical care not addressed by CPT/RBRVS, or requiring unusual treatment.

1. The payor and medical provider may establish and agree to a reasonable fee for medical care of an injured worker if:

- a. neither the CPT/RBRVS or [~~any other provision of~~]Title R612 address the medical care in question; or
- b. application of CPT/RBRVS or [~~other provisions of~~]Title R612 would result in an inadequate fee due to extraordinary difficulty of treatment.

2. If the medical provider and payor cannot agree to a reasonable fee in such cases, the provider can request a hearing before the Commission's Adjudication Division to establish a reasonable fee.

KEY: workers' compensation, fees, medical practitioners, nurse practitioners

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

Notice of Continuation: September 26, 2022

Authorizing, and Implemented or Interpreted Law: 34A-1-104; 34A-2-201

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R612-400-5

Filing ID: 56904

Agency Information

1. Title catchline:	Labor Commission, Industrial Accidents	
Building:	Heber M Wells Bldg	
Street address:	160 E 300 S, 3rd Floor	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146600	
City, state and zip:	Salt Lake City, UT 84114-6600	
Contact persons:		
Name:	Phone:	Email:
Ronald Dressler	801-530-6841	rdressler@utah.gov
Chris Hill	801-530-6113	chill@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R612-400-5. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund
3. Purpose of the new rule or reason for the change:
The agency is amending the effective date year from 2024 to 2025. The UEF Premium Assessment Rate will decrease from .5% to 0.45%.
4. Summary of the new rule or change:
The effective date will be amended from January 1, 2024, to January 1, 2025. The UEF Premium Assessment Rate will decrease from .5% to 0.45%.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is a possible small savings by the decrease in the UEF premium rate from 0.50% to 0.45%. The insurance carriers may pass this premium assessment rate decrease on to the insured. The Division cannot provide an estimation of fiscal impact since this assessment is a small percentage of insurance premium and the Division does not have access to insurance carriers premium rates, amounts, or total books of business.
B) Local governments:
There is a possible small savings by the decrease in the UEF premium rate from 0.50% to 0.45%. The insurance carriers may pass this premium assessment rate decrease on to the insured. The Division cannot provide an estimation of fiscal impact since this assessment is a small percentage of insurance premium and the Division does not have access to insurance carriers premium rates, amounts, or total books of business.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is a possible small savings by the decrease in the UEF premium rate from 0.50% to 0.45%. The insurance carriers may pass this premium assessment rate decrease on to the insured. The Division cannot provide an estimation of fiscal impact since

this assessment is a small percentage of insurance premium and the Division does not have access to insurance carriers premium rates, amounts, or total books of business.

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

There is a possible small savings by the decrease in the UEF premium rate from 0.50% to 0.45%. The insurance carriers may pass this premium assessment rate decrease on to the insured. The Division cannot provide an estimation of fiscal impact since this assessment is a small percentage of insurance premium and the Division does not have access to insurance carriers premium rates, amounts, or total books of business.

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 a possible small savings by the decrease in the UEF premium rate from 0.50% to 0.45%. The insurance carriers may pass this premium assessment rate decrease on to the insured. The Division cannot provide an estimation of fiscal impact since this assessment is a small percentage of insurance premium and the Division does not have access to insurance carriers premium rates, amounts, or total books of business.

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 Division cannot provide an estimation of fiscal impact since this assessment is a small percentage of insurance premium and the Division does not have access to insurance carriers premium rates, amounts, or total books of business.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Labor Commission, Jaceson Maughan, 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 59-9-101(2)		
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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:	12/16/2024
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9. This rule change MAY become effective on:	01/01/2025
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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:	Jaceson R. Maughan, Commissioner	Date:	11/06/2024
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R612. Labor Commission, Industrial Accidents.

R612-400. Workers' Compensation Insurance, Self-Insurance and Waivers.

R612-400-5. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.

A. Pursuant to Subsection 59-9-101(2), Sections 59-9-101.3 and 34A-2-202 the workers' compensation premium rates effective January 1, 20~~24~~²⁵, as established by the Labor Commission, shall be:

1. ~~0.50~~^{0.45}% for the Uninsured Employers' Fund; and
2. 0.0% for the Employers' Reinsurance Fund.

B. The premium rates are a percentage of the total workers' compensation insurance premium income as detailed in Subsection 59-9-101(2)(a).

KEY: workers' compensation, insurance, rates, waivers

Date of Last Change: 2025~~December 27, 2023~~

Notice of Continuation: September 26, 2022

Authorizing, and Implemented or Interpreted Law: 59-9-101(2)

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: New	
Rule or Section Number: R652-22	Filing ID: 56917

Agency Information

1. Title catchline:	Natural Resources, Forestry, Fire and State Lands	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state:	Salt Lake, UT	
Mailing address:	1594 W North Temple, Ste 3520	
City, state and zip:	Salt Lake, UT 84114-5703	
Contact persons:		
Name:	Phone:	Email:
Ben Stireman	385 228-6501	bstireman@utah.gov
Emily Hawley	385-441-6667	ehawley@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R652-22. Great Salt Lake Watershed Enhancement Oversight
3. Purpose of the new rule or reason for the change:
This rulemaking is in accordance with House Bill 410, passed in the 2022 General Session, which prescribes the division to make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4. Summary of the new rule or change:

This rule serves to create oversight and processes to implement the Great Salt Lake Watershed Enhancement Program Act, Title 65A, Chapter 16. The rule is necessary to provide definitions, outline who is responsible for oversight, termination of trust agreement requirements, and procedures for suspension of work associated with the Great Salt Lake Watershed Enhancement Program Act.

Fiscal Information

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

A) State budget:

The proposed rule is not anticipated to have aggregated anticipated costs or savings to the state budget beyond that already described in the Fiscal Note to H.B. 140 (2022).

B) Local governments:

The division does not anticipate aggregated costs or savings to local governments due to local governments not having a direct fiscal connection to the proposed rule. The rule simply provides processes to implement the Great Salt Lake Watershed Enhancement Program Act for the division to administer grant funding.

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

The division does not anticipate aggregated costs or savings to local governments due to local governments not having a direct fiscal connection to the proposed rule.

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

The division does not anticipate aggregated costs or savings to non-small businesses due to non-small businesses not having a direct fiscal connection to the proposed rule.

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

The division does not anticipate aggregated costs or savings to persons other than small businesses, non-small businesses, state or local governments due to these persons not having a direct fiscal connection to the proposed rule.

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

The proposed rule is not anticipated to have compliance costs 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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Natural Resources, Joel Ferry, 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 65A-16-102	Section 65A-16-202	
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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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	Joel Ferry Executive Director	Date:	10/31/2024
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R652. Natural Resources, Forestry, Fire and State Lands.

R652-22. Great Salt Lake Watershed Enhancement Oversight.

R652-22-100. Authority.

Rule R652-22 is promulgated pursuant to Sections 65A-16-102 and 65A-16-202.

R652-22-101. Purpose.

The purpose of Rule R652-22 is to promulgate administrative rules to govern the division's oversight of the Great Salt Lake Watershed Enhancement Trust, consistent with the purpose and intent of the Great Salt Lake Watershed Enhancement Program, Title 65A, Chapter 16.

R652-22-200. Definitions.

- (1) "Program" means the Great Salt Lake Watershed Enhancement Program created by Title 65A, Chapter 16.
- (2) "Fiduciary" means the third party selected by the grantee to hold and administer the state grant money, pursuant to Subsection 65A-16-301(2)(a).
- (3) "Grantee" means the eligible applicant that has met the requirements in Subsection 65A-16-201(3) and received a grant authorized under the program, pursuant to Subsections 65A-16-201(4) and (5).
- (4) "State Grant Money" means funds awarded by the division to an eligible applicant, pursuant to Subsection 65A-16-201(2)(a), and any other funds appropriated by the Utah State Legislature for the purposes of the program.
- (5) "Trust Agreement" means the agreement between the division and the grantee providing for the distribution of state grant money, pursuant to Subsection 65A-16-201(5)(b).
- (6) "Trust" means the Great Salt Lake Watershed Enhancement Trust established by Section 65A-16-201 and established by the grantee.

R652-22-300. Default.

- (1) In the event the grantee fails to comply with any part of Title 65A, Chapter 16 or the applicable trust agreement, the division shall provide the grantee with written notice of the default that describes in reasonable detail the grounds for default.
- (2) The grantee shall have 30 days after receiving a written notice of default to correct and cease any defaults.
 - (a) If the grantee has not cured such defaults or has not diligently commenced the cure of defaults within 30 days after receiving written notice of default, the division may:
 - (i) exercise any remedy provided by law or equity;
 - (ii) terminate the trust agreement;

NOTICES OF PROPOSED RULES

(iii) suspend the grantee from receiving future contracts or agreements from the division or the state to spend state grant money for the purposes described in the Section 65A-16-201 and Section 65A-16-302; or

(iv) demand a full refund of any unexpended portion of the state grant money or other funds the state provided to the trust to fulfill its duties as described in Section 65A-16-201 and Section 65A-16-301.

R652-22-301. Termination.

To terminate a trust agreement for any reason, the terminating party shall provide 120 days advance written notice. Upon termination, the grantee shall:

(1) cause the fiduciary to return any unexpended portion of the state grant money to the division;

(2) cause the fiduciary to prepare a written, itemized report satisfying Subsection 63J-1-220(2)(b)(ii) by describing the trust's total expenditure of all state grant money received; and

(3) ensure all required reports associated with the state grant money are submitted to the division.

R652-22-302. Suspension of Work.

(1) The division may suspend the grantee's authority to execute new contracts for trust purposes if the division has a reasonable basis to believe the grantee is not operating the trust in accordance with Title 65A, Chapter 16 or terms of the trust agreement.

(2) To suspend the grantee's authority under this rule, the division shall provide written notice to the grantee, explaining in reasonable detail the basis for the suspension, at least 14 days before the start of the suspension.

(3) If the division suspends the grantee's authority under this rule, the division shall complete an investigation to determine whether the grantee has failed to comply with Title 65A, Chapter 16 or the applicable trust agreement within 30 days of the date it issued the notice of the suspension.

(4) If the division determines the grantee has operated the trust in accordance with Title 65A, Chapter 16 and the terms of the trust agreement, the division shall issue a written notice to the grantee reinstating the grantee's authority to execute new contracts for trust purposes within 15 days of completing its investigation and making such determination.

(5) If the division finds the grantee has not operated the trust in accordance with Title 65A, Chapter 16 or the terms of the trust agreement, the division may terminate the agreement pursuant to Section R652-22-301.

R652-22-303. Division Reserved Rights.

The division reserves the right to review, conduct an audit of, or contract with a third party to conduct a review or an audit of the trust's expenditures and any documents associated with those expenditures at any time during the term of the trust agreement.

KEY: great salt lake; watershed enhancement oversight

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 65A-16-102; 65A-16-202.

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: New

Rule or Section Number:

R698-13

Filing ID: 56894

Agency Information

1. Title catchline:	Public Safety, Administration	
Building:	Calvin Rampton Building	
Street address:	4501 S. 2700 W. 1st Flr	
City, state:	Salt Lake City, Utah 84119-5994	
Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact persons:		
Name:	Phone:	Email:
Matt Pennington	801-955-2130	mpennington@utah.gov
Kim Gibb	801-965-4018	kgibb@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R698-13. School Safety

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

This rule is being enacted as required by H.B. 84, 2024 General Session, codified as Title 53, Chapter 22, School Security Act

4. Summary of the new rule or change:

This rule defines terms, establishes base standards for implementation, and establishes regulations required in the School Security Act. The rule requires that each school must comply with the safety and security standards under Sections R698-5-4 through R698-8-8 by school year 2034-2035 with regards to limited entry points, ground level windows protected by security film or ballistic windows, and fencing playgrounds; and by school year 2029-2030 with regards to video surveillance of entrances when school is in session, internal classroom door locks, bleed kits and first aid kits, and exterior cameras on entrances, parking areas, and campus grounds.

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

The proposed rule is not anticipated to have a fiscal impact on the state budget beyond that already described in the fiscal note for H.B. 84, 2024 General Session. <https://le.utah.gov/lfa/fnotes/2024/HB0084S05.fn.pdf>

B) Local governments:

This rule is anticipated to have a fiscal impact on local education agencies (LEA) that is inestimable because the total known cost for implementation for each LEA is not readily available and is fluid depending on what measures may already be in place. Additionally, the costs will vary depending on the age and conditions of each school building. Standards have been set in this rule to ensure the utmost safety of students and school personnel; however, the cost to implement these standards is unknown at this time. Local education agencies will have until 2034-2035 to implement provisions related to limited entry points, ground level windows protected by security film or ballistic windows, and fencing playgrounds; and until 2029-2030 to implement video surveillance of entrances when school is in session, internal classroom door locks, bleed kits and first aid kits, and exterior cameras on entrances, parking areas, and campus grounds. Because these dates are so flexible, and already later than FY27, these costs would not be reflected in the regulatory impact analysis table, which only forecasts to FY27. The state security chief will continue to work with local education entities, school safety security specialists in each school, the state superintendent of public instruction, and the State Board of Education to identify potential costs associated with implementation of HB84 and this rule.

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

This rule could potentially affect small businesses that provide any of the products or services schools are required to purchase to implement the requirements mandated by HB84, 2024 General Session, and clarified by this rule. The dollar amount is inestimable due to the fact that the program is new and is still being implemented and local education agencies may have limitations or requirements that dictate who they are able to contract or purchase through. In addition, local education agencies have some flexibility in time as to when they implement requirements; therefore, costs may drastically differ depending on when they make the required changes. Further, it is unknown how many or which businesses will provide these products or services all the way into 2035, the latest deadline year. The many local education agencies impacted by the passage of HB84 are unable to provide timely information to DPS regarding existing structures since the implementation will roll out in stages and a program like this has not been seen before, so data to gauge costs or benefit is nonexistent and can only be provided from this rule as it is being implemented. Because local education agencies are unable to provide timely information to DPS regarding existing structures, it is unknown exactly what retrofits or changes would be needed at an individual building level.

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

This rule could potentially affect non-small businesses that provide any of the products or services schools are required to purchase to implement the requirements mandated by HB84, 2024 General Session, and clarified by this rule. The dollar amount is inestimable due to the fact that the program is new and is still being implemented and local education agencies may have limitations or requirements that dictate who they are able to contract or purchase through. In addition, local education agencies have some flexibility in time as to when they implement requirements; therefore, costs may drastically differ depending on when they make the required changes. Further, it is unknown how many or which businesses will provide these products or services all the way into 2035, the latest deadline year. The many local education agencies impacted by the passage of HB84 are unable to provide timely information to DPS regarding existing structures since the implementation will roll out in stages and a program like this has not been seen before, so data to gauge costs or benefit is nonexistent and can only be provided from this rule as it

is being implemented. Because local education agencies are unable to provide timely information to DPS regarding existing structures, it is unknown exactly what retrofits or changes would be needed at an individual building level.

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

The proposed rule is not anticipated to have a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities such as school guardians and school safety security specialists because the rule defines terms, establishes base standards for implementation, and establishes regulations required in the School Security Act that will impact schools required to comply with the statutory provisions of H.B. 84, 2024 General Session. Any fiscal impact to school guardians or safety security specialists is directly captured within the fiscal note for H.B. 84 (2024)
<https://le.utah.gov/lfa/fnotes/2024/HB0084S05.fn.pdf>

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

The proposed rule is not anticipated to result in compliance costs for affected persons because the rule defines terms, establishes base standards for implementation, and establishes regulations required in the School Security Act that will impact schools required to comply with the statutory provisions of H.B. 84 (2024).

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Public Safety, Jess L. Anderson, 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 53-3-108	Section 53-22-102	
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Incorporations by Reference Information

7. Incorporations by Reference:

A) This rule adds or updates the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	NFPA 1225 Standard for Emergency Services Communications
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Publisher	National Fire Protection Association
Issue Date	2022

B) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	UL752, Standard for Bullet-Resisting Equipment
Publisher	Underwriters Laboratories
Issue Date	10/17/2023
Issue or Version	Edition 12

C) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	ASTM F1233-21, Standard Test Method for Security Glazing Materials and Systems
Publisher	ASTM International
Issue Date	2021

D) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	ASTM F3561, Standard Test Method for Forced-Entry-Resistance of Fenestration Systems After Simulated Active Shooter Attack
Publisher	ASTM International
Issue Date	2023

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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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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:	Jess L. Anderson, Commissioner Department of Public Safety	Date:	10/25/2024
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R698. Public Safety, Administration.

R698-13. School Safety.

R698-13-1. Authority.

This rule is authorized by Section 53-22-102.

R698-13-2. Purpose.

This rule establishes building and safety standards for any public or private school.

R698-13-3. Definitions.

(1) Terms used in this rule are defined in Sections 53-1-102 and 53-22-101.

(2) In addition:

(a) "adjacent campuses" means any additional campus grounds within one-fourth of a mile that are not separated by a physical barrier or major multi-lane roadway or divided highway that are under the jurisdiction of the LEA;

(b) "campus grounds" means any area of the property under the jurisdiction of the LEA that are accessible to students during the school day;

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(c) "fit to carry assessment" means a series of psychological assessments administered by a professional with Level C assessment qualifications to include:

(i) a personality assessment;

(ii) a symptoms screener;

(iii) an in-person interview; and

(iv) a reference check of at least one personal reference provided by the school guardian;

(c) "ground level" means the first floor of a structure above finished grade or the level of a building to which there is an entrance from the outside of the adjacent ground or street;

(d) "instructional area" means any location inside the campus buildings wherein instruction may occur;

(e) "managed point of entry" means an entrance into a school or classroom that is controlled by school staff or a video visitor management system that may allow remote access;

(f) "radio communication equipment" means a combination of components, radio frequency emitting devices, antennas, cables, power supplies, control circuitry, and programming installed at a specific location to improve wireless communication at that location that meets the National Fire Protection Association (NFPA) 1225 Standard for Emergency Services Communications (2022), incorporated by reference in this rule;

(g) "ballistic glass" means glass certified at a minimum level of:

(i) Underwriters Laboratories Standard UL752, Standard for Bullet-Resisting Equipment, Class Threat Level 7 (2023), incorporated by reference in this rule; or

(ii) ASTM F1233-21, Standard Test Method for Security Glazing Materials and Systems, Class R1 under Table 1, Ballistic Criteria (2021), incorporated by reference in this rule;

(h) "school" means an elementary school or secondary school that provides instruction for one or more of the grades of kindergarten through grade 12 and is:

(i) a public school as defined in Section 53G-9-205.1;

(ii) a private school; or

(iii) an online school that has a permanent physical location where students gather or receive instruction more than twice a month; and

(i) "security film" means a clear or tinted durable material applied to glass doors and windows that is virtually invisible and enhances the structural integrity of the glass by preventing it from shattering and falling to the ground when impacted by an object and meets the minimum standard established by:

(A) ASTM F3561, Standard Test Method for Forced-Entry-Resistance of Fenestration Systems After Simulated Active Shooter Attack, level 1 of Table 2, Potential Energy of Impactor and Drop Height (2023), incorporated by reference in this rule; or

(B) ASTM F1233-21, Standard Test Method for Security Glazing Materials and Systems, sequence 5 under Table 2, Forced Entry Sequence of Testing (2021), incorporated by reference in this rule.

R698-13-4. Limited Entry Points and Windows.

(1) Schools that have grade five to grade twelve shall establish and maintain a managed point of re-entry with proper visitor management beginning no later than ten minutes after the first bell rings until the final bell rings.

(2) Schools that have kindergarten to grade four shall establish and maintain a managed point of entry with proper visitor management beginning no later than 20 minutes before the first bell, and a secured point of entry ten minutes after the first bell until the final bell rings.

(3) Access doors, gates, and other access points that allow ingress to or egress from a school building must:

(a) operate as fully intended;

(b) remain closed and locked; and

(c) allow for emergency egress from the inside while remaining locked.

(4) Exterior ground level windows within 75 feet of an exterior entrance shall have ballistic glass or security film.

(5) Windows surrounding the interior of the classroom entrance or instructional areas shall have ballistic glass or security film.

R698-13-5. Video Surveillance and Exterior Cameras.

(1) A school shall install interior and exterior cameras for video surveillance of each entrance established under Section R698-13-4 in accordance with Section 53-22-102.

(2) Video recordings shall be:

(a) maintained by the school for a period of 14 days; and

(b) made available to the division upon request.

R698-13-6. Internal Classroom Door Locks.

(1) School classrooms and other instructional areas must be locked when occupied by students, except between class periods when students are moving between classrooms or other instructional spaces. Doors unlocked or open for any other reason must be actively staffed by a person standing or seated at the door.

(2) A school shall install an internal lock on each classroom or instructional area door that complies with Section 15A-5-205 of the State Fire Code.

(3) Classroom doors that do not satisfy the requirement in Subsection R698-13-6(2) shall remain locked while school is in session.

(4) Magnets or other methods to circumvent door locks may not be used while school is in session.

R698-13-7. Bleed Kits and First Aid Kits.

A school shall ensure that each classroom and large gathering areas are equipped with bleed kits and first aid kits.

(1) A bleed kit shall include:

- (a) four C-A-T style tourniquets;
- (b) four compressed gauze;
- (c) four four inch emergency trauma dressings;
- (d) four six inch emergency trauma dressings;
- (e) one abdominal emergency trauma dressings;
- (f) one HyFin style vent chest seal twin pack;
- (g) two CPR microshields;
- (h) one two inch roll of surgical tape;
- (i) five pairs of large nitrile gloves;
- (j) one 7.25 inch trauma shears;
- (k) two permanent markers; and
- (l) two survival blankets.

(2) A first aid kit shall include the following basic medical supplies:

- (a) eyewash with eye pads and strip;
- (b) bandages;
- (c) alcohol wipes and hand sanitizer packets;
- (d) burn dressing;
- (e) cold pack;
- (f) conforming gauze roll;
- (g) one CPR face shield;
- (h) first aid tape;
- (i) triple antibiotic ointment and burn cream packets;
- (j) nitrile exam gloves;
- (k) sterile gauze pads;
- (l) scissors and tweezer; and
- (m) trauma pads.

R698-13-8. Fencing Around Playgrounds.

(1)(a) A school shall install fencing that is a minimum height of six feet tall around school playgrounds and outdoor areas where school sponsored activities may take place.

(b) Sufficient school staff observing the school playground and outdoor areas where school activities occur to ensure the area is not accessible to the public while students are present may substitute for fencing.

(2) School outdoor areas and playgrounds may be restricted from being accessed by the public during school hours or after hours as determined by the school.

R698-13-9. Compliance Timeline for Safety and Security Standards.

(1) Each school must comply with the safety and security standards under Sections R698-13-4 through R698-13-8;

(a) by school year 2034-2035 for limited entry points, ground level windows protected by security film or ballistic windows, and fencing playgrounds; and

(b) by school year 2029-2030 for video surveillance of entrances when school is in session, internal classroom door locks, bleed kits and first aid kits, and exterior cameras on entrances, parking areas, and campus grounds.

(2) If a school fails to comply with the safety and security standards described under Subsection R698-13-9(1), the State Security Chief shall:

(a) consult with the local governing board regarding compliance issues;

(b) establish a plan and timeline to remedy compliance issues; and

(c) if compliance issues are not remedied under Subsection R698-13-9(2)(b), recommend to the Commissioner the denial or revocation of the school's occupancy permit under Section 53-1-108.

R698-13-10. Online School Temporary Location.

An online school that gathers in a temporary physical location for periods of instruction longer than four hours and has more than 50 students present shall provide a law enforcement officer, armed security guard, or school guardian as provided under Section 53-22-105.

R698-13-11. Guardian Mental Health Screening.

(1) New school guardians must pass a fit to carry assessment before commencing their duties.

(2) Existing school guardians must participate in at least one mental health assessment provided by a mental health therapist per calendar year as part of the annual recertification requirements.

R698-13-12. Examination of Plans and Specifications for Construction or Remodeling of a School Building.

Plans and specifications for construction or remodeling of a school building shall be reviewed by department personnel in accordance with Section 53E-3-706.

R698-13-13. Approval of Safety and Security Criteria for Building Inspectors.

The State Security Chief shall coordinate with the state superintendent of public instruction to approve the safety and security criteria for building inspectors.

R698-13-14. Required Reporting System for Public Schools to Report Threats.

The State Security Chief shall coordinate with the Utah State Board of Education and Statewide Information and Analysis Center to report serious and non-serious threats and other data related to threat assessment.

R698-13-15. Procedures Governing Formal Adjudicative Proceedings.

(1) The commissioner or designee shall begin an agency action to revoke or deny a school's occupancy permit for a building if the building does not meet the standards established in this rule or the building remains non-compliant with the established standards after consultation with the local governing board.

(2) Any adjudicative proceeding initiated by the commissioner or designee to revoke or deny a school's occupancy permit shall be a formal proceeding as provided by Section 63G-4-202.

(3) Any adjudicative proceeding initiated by the commissioner or designee to revoke or deny a school's occupancy permit shall be commenced by filing of a Notice of Agency Action.

R698-13-16. Responsive Pleadings.

(1) The school shall file a written response with the division, signed by the school administrator or the school's attorney, within 30 days of the mailing date of the Notice of Agency Action.

(2) The written response shall comply with the requirements in Section 63G-4-204.

R698-13-17. Scheduling a Hearing Before an ALJ.

(1)(a) If the commissioner receives a responsive pleading from the school, a notice containing the location, date, and time for the hearing shall be issued by the commissioner.

(b) The notice of hearing shall be filed with the division and a copy sent to the school

(2) The hearing shall be held within a reasonable time after service of the responsive pleading unless a later scheduling is mutually agreed upon by the commissioner and the school.

(3) Each hearing shall be conducted by an ALJ in accordance with Section 63G-4-206.

R698-13-18. Discovery and Subpoenas.

(1)(a) In adjudicative proceedings parties may conduct only limited discovery.

(b) A school's right to discovery does not extend to interrogatories, requests for admissions, request for the production of documents, request for the inspection of items, or depositions.

(2) Upon request, the school is entitled to a copy of the materials contained in the division's investigative file that the division intends to use in the adjudicative proceeding. The school is only entitled to those materials after filing a written response with the division.

R698-13-19. ALJ Decision.

(1) Within 30 days from the date a hearing is held, the ALJ shall sign and issue a written decision that includes a statement of:

(a) the ALJ's findings of fact based exclusively on the evidence of record in the adjudicative hearing or on facts officially noted;

(b) the ALJ's conclusions of law; and

(c) the reasons for the ALJ's decision.

(2) If the ALJ determines there is insufficient evidence to find that the school violated, the matter shall be dismissed.

(3) The ALJ's decision shall be filed with the division and a copy sent to the school by mail.

R698-13-20. Final Order.

(1) After the ALJ has decided the matter, the commissioner shall issue a final order within 30 days of the hearing.

(2) The final order shall state the action taken by the commissioner with regard to the school's occupancy permit and shall include information on the appeal process.

(3) The action shall be effective on the date that the final order is signed by the commissioner.

R698-13-20. Judicial Review.

(1) A school may obtain judicial review of the council's action by filing a petition for judicial review with the Utah Court of Appeals within 30 days after the date that the final order is issued by the commissioner.

(2) The petition must meet requirements specified in Sections 63G-4-401 and 63G-4-403.

R698-13-21. School Guardian Program.

The school safety security specialist for each school shall inform the county security chief if the school guardian is no longer eligible to be employed by the school district or is removed from the school guardian program.

KEY: school security, school safety

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 53-1-108; 53-22-102

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: New		
Rule or Section Number:	R714-501	Filing ID: 56880

Agency Information

1. Title catchline:	Public Safety, Highway Patrol	
Building:	Calvin Rampton Complex	
Street address:	4501 S 2700 W	
City, state:	Salt Lake City UT 84119-5994	
Mailing address:	PO Box 141100	
City, state and zip:	Salt Lake City UT 84114-1100	
Contact persons:		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R714-501. Preliminary Oral Fluid and Portable Breath Testing Standards
3. Purpose of the new rule or reason for the change:
This rule is being enacted as a result of the passage of HB69 during the 2024 General Session, which requires the department to make rules to establish standards for the proper use of preliminary oral fluid and portable breath tests as part of a field sobriety test.
4. Summary of the new rule or change:
This rule establishes standards for the proper use of preliminary oral fluid and portable breath tests as part of a field sobriety test.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The proposed rule is not expected to have any fiscal impacts on state budgets. The rule only establishes standards for the use of preliminary oral fluid and portable breath tests, it does not mandate their use.
B) Local governments:
The proposed rule is not expected to have any fiscal impacts on local governments. The rule only establishes standards for the use of preliminary oral fluid and portable breath tests, it does not mandate their use.
C) Small businesses ("small business" means a business employing 1-49 persons):
The proposed rule is not expected to have any fiscal impacts on small businesses. The rule only establishes standards for the use of preliminary oral fluid and portable breath tests, it does not mandate their use.

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

The proposed rule is not expected to have any fiscal impacts on non-small businesses. The rule only establishes standards for the use of preliminary oral fluid and portable breath tests, it does not mandate their use.

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

The proposed rule is not expected to have any fiscal impacts on persons other than small businesses, non-small businesses, state, or local government entities. The rule only establishes standards for the use of preliminary oral fluid and portable breath tests.

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

The proposed rule is not expected to result in any compliance costs for affected persons. The rule only establishes standards for the use of preliminary oral fluid and portable breath tests.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Public Safety, Jess L. Anderson, 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 53-25-104		
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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:	12/16/2024
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9. This rule change MAY become effective on:	12/23/2024
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:	Michael Rapich, Colonel Utah Highway Patrol	Date:	10/24/2024
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R714. Public Safety, Highway Patrol.

R714-501. Preliminary Oral Fluid and Portable Breath Testing Standards.

R714-501-1. Authority.

This rule is authorized by Section 53-25-102, which requires the department to establish standards for the proper use of oral fluid and portable breath testing as part of a field sobriety test.

R714-501-2. Definitions.

Terms used in this rule are defined in Sections 53-1-102 and 41-6a-102.

R714-501-3. Proper Use of Preliminary Oral Fluid Testing.

(1) A peace officer shall:

(a) complete training provided by the law enforcement agency with which they are employed on the proper use of an oral fluid testing instrument before use of an oral fluid testing instrument in connection with any type of investigation, including a DUI or drug related arrest; and

(b) ensure that the use of an oral fluid testing instrument:

(i) complies with this rule; and

(ii) is consistent with manufacturer and industry standards.

(2) An oral fluid test:

(a) shall only be conducted:

(i) after the standardized field sobriety tests have been administered if administered in connection with a DUI investigation; and

(ii) when there is evidence of impairment based on the totality of the circumstances; and

(b) may not be the primary factor upon which a decision to arrest is made.

(3) Preliminary oral fluid testing:

(a) is voluntary for the subject of the investigation; and

(b) may be refused by the subject of the investigation.

(4) When administering a preliminary oral fluid test, a peace officer shall:

(a) ensure that the sample obtained is valid and free of potential tampering; and

(b) conduct the test with the cooperation of the subject of the investigation.

(5) An oral fluid testing instrument shall provide the peace officer with a positive or negative test result.

(6) The results of a preliminary oral fluid test shall be documented and included in the peace officer's report through inclusion of:

(a) a printed copy of the test results; or

(b) a photograph of the results if a printed copy is not available.

(7) In instances where a preliminary oral fluid test is administered, a peace officer should obtain a follow-up test, such as a blood draw, for evidentiary purposes.

R714-501-4. Proper Use of Portable Breath Testing.

(1) A peace officer shall:

(a) complete training provided by the law enforcement agency with which they are employed on the proper use of a portable breath testing instrument before use of a portable breath testing instrument in connection with any type of investigation, including a DUI or drug related arrest; and

(b) ensure that the use of portable breath testing instrument:

(i) complies with this rule and

(ii) is consistent with manufacturer and industry standards.

(2) A portable breath test:

(a) shall only be conducted:

(i) after the standardized field sobriety tests have been administered if administered in connection with a DUI investigation; and

(ii) when there is evidence of impairment based on the totality of the circumstances; and

(b) may not be the primary factor upon which a decision to arrest is made.

(3) Portable breath testing:

(a) is voluntary for the subject of the investigation; and

(b) may be refused by the subject of the investigation.

(4) When administering a portable breath test, a peace officer shall:

(a) ensure that the sample obtained is valid and free of potential tampering; and

(b) conduct the test with the cooperation of the subject of the investigation.

NOTICES OF PROPOSED RULES

(5) A portable breath testing instrument shall provide the peace officer with a test result that reflects the breath alcohol concentration of the subject of the investigation.

(6) The results of a portable breath test shall be documented and included in the peace officer's report through inclusion of a hand-written positive, negative, or actual test result.

(7) In instances where a portable breath test is administered, a peace officer should obtain a follow-up test, such as an intoxalyzer test or a blood draw, for evidentiary purposes.

KEY: alcohol, breath testing, oral fluid testing, portable breath testing

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 53-25-102

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R722-350

Filing ID: 56875

Agency Information

1. Title catchline:	Public Safety, Criminal Investigations and Technical Services, Criminal Identification	
Building:	Taylorsville State Office Building	
Street address:	4315 S. 2700 W.	
City, state:	Taylorsville, UT 84129	
Mailing address:	4315 South 2700 West, Suite 1300	
City, state and zip:	Taylorsville, UT 84129	
Contact persons:		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Nicole Borgeson	801-281-5072	nshepherd@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R722-350. Certificate of Eligibility
3. Purpose of the new rule or reason for the change:
This filing is being submitted as a result of the passage of HB352 and SB163 during the 2024 General Session to incorporate language to address fee waivers for indigent individuals as authorized by the statutory changes in both bills. In addition, SB35 passed during the 2022 General Session, which renumbered Section 77-40-102 to Section 77-40a-101. Changes are being made correct statutory references in the rule as result of the recodification. Language has been added to clarify that a petition for a certificate of eligibility will be denied if the petitioner has any pending agency actions with the bureau, until the agency actions are resolved; and to clarify that the bureau may not issue a certificate of eligibility for offenses that do not require a certificate of eligibility for expungement unless the petitioner specifically requests a certificate of eligibility for such offenses.
4. Summary of the new rule or change:
The changes outline the process for an individual determined to be indigent by a court to apply for a fee waiver for expungement as authorized by HB352 and SB163, and correct statutory references in the rule, which were changed during the 2022 General Session as a result of the passage of SB35 which renumbered Section 77-40-102 to 77-40a-101. In addition, language has been added to clarify that a petition for a certificate of eligibility will be denied if the petitioner has any pending agency actions with the bureau, until the agency actions are resolved; and to clarify that the bureau may not issue a certificate of eligibility for offenses that do not require a certificate of eligibility for expungement unless the petitioner specifically requests a certificate of eligibility for such offenses.

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

The proposed rule is not expected to have any fiscal impacts on state budgets. This rule filing outlines the process for an individual determined to be indigent by a court to apply for a fee waiver for expungement as required in HB352 and SB163, 2024 General Session. Although HB352 and SB163 require the bureau to grant a fee waiver, the rule only outlines the process by which an individual may apply for the fee waiver. In addition, the rule corrects statutory references as a result of the passage of SB35 during the 2022 General Session. The rule also includes language changes to clarify that required fees must be paid before the bureau issues a certificate of eligibility, and that the bureau will not issue a certificate of eligibility for offenses that do not require a certificate of eligibility for expungement unless the petitioner specifically requests a certificate of eligibility for such offenses. These procedural changes reflected in the rule could have a positive impact on the bureau by both eliminating unnecessary workload and ensuring payment of required fees by petitioners, the rule changes do not require changes be made by the bureau that would incur any costs.

B) Local governments:

The proposed rule is not expected to have any fiscal impacts on local governments. This rule filing outlines the process for an indigent individual to apply for a fee waiver for expungement as a result of the passage of HB352 and SB163 during the 2024 General Session, corrects statutory references as a result of the passage of SB35 during the 2022 General Session, and clarifies two procedural changes. These changes will not impact local governments.

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

The proposed rule is not expected to have any fiscal impacts on small businesses. This rule filing outlines the process for an indigent individual to apply for a fee waiver for expungement as a result of the passage of HB352 and SB163 during the 2024 General Session, corrects statutory references as a result of the passage of SB35 during the 2022 General Session, and clarifies two procedural changes. These changes will not impact small businesses.

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

The proposed rule is not expected to have any fiscal impacts on non-small businesses. This rule filing outlines the process for an indigent individual to apply for a fee waiver for expungement as a result of the passage of HB352 and SB163 during the 2024 General Session, corrects statutory references as a result of the passage of SB35 during the 2022 General Session, and clarifies two procedural changes. These changes will not impact 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*):

The proposed rule is not expected to have a direct fiscal cost to members of the public. This rule filing outlines the process for an indigent individual to apply for a fee waiver for expungement as a result of the passage of HB352 and SB163 during the 2024 General Session, corrects statutory references as a result of the passage of SB35 during the 2022 General Session, and clarifies two procedural changes. Although the rule change requires payment of any outstanding fees owed to the bureau for previously requested certificates of eligibility prior to acceptance of a new petition for a certificate of eligibility, there are not any new or additional fees required as a result of the rule changes.

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

The proposed rule will not result in any compliance costs for affected persons. This rule filing outlines the process for an indigent individual to apply for a fee waiver for expungement as a result of the passage of HB352 and SB163 during the 2024 General Session, corrects statutory references as a result of the passage of SB35 during the 2022 General Session, and clarifies two procedural changes. Although the rule change requires payment of any outstanding fees owed to the bureau for previously requested certificates of eligibility prior to acceptance of a new petition for a certificate of eligibility, there are not any new or additional fees required as a result of the rule changes.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Public Safety, Jess L. Anderson, 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 77-40a-101	Section 77-40a-104	Section 77-40a-105
Section 77-40a-303	Section 77-40a-304	

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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	Jason Ricks, BCI Division Director	Date:	10/22/2024
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R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.

R722-350. Certificate of Eligibility.

R722-350-1. Purpose.

The purpose of [~~these rules~~]this rule is to establish procedures by which a petitioner may seek a certificate of eligibility pursuant to Title 77 Chapter 40a, Expungement of Criminal Records. [~~Fees established by the bureau in accordance with Section 77-40-106 to be paid by applicants are available on request.~~]

R722-350-2. Authority.

[Section 77-40-111 authorizes the department to promulgate rules to implement procedures for the application and issuance of certificates of eligibility.] This rule is authorized under Section 77-40a-104.

R722-350-3. Definitions.

Terms used in this rule are defined in Section ~~[77-40-102]~~77-40a-101.

R722-350-4. Application for a Certificate of Eligibility.

(1)(a) An application for a certificate of eligibility must be made in writing to the bureau by filling out the application form established by the bureau.

(b) An application form must be accompanied by a payment of the application fee established by the bureau in the form of cash, check, money order, or credit card.

~~(c) If the petitioner believes the court will find them to be indigent, to request a fee waiver, the petitioner shall:~~

~~(i) state on the application form that they are indigent; and~~

~~(ii) submit with the application form, the first two pages of the completed court form entitled Motion to Waive Fees for Expungement -- Criminal.~~

~~(d) If the petitioner has any pending agency actions with the bureau, including outstanding payments for past certificates, the new application will be denied until any such agency actions are fully resolved.~~

(2)(a) Upon receipt of a completed application form and payment of the application fee, the bureau shall review each criminal episode contained on the petitioner's criminal history, in its entirety, to determine whether the petitioner meets the requirements for a certificate of eligibility found in Sections ~~[77-40-104]~~77-40a-105 and ~~[77-40-105]~~77-40a-303.

(b) In making its determination, the bureau shall also review ~~all~~any federal, state and local criminal records, to which it has access.

(3) If the bureau has insufficient information to determine if the petitioner meets the requirements for a certificate of eligibility, the bureau may request that the petitioner submit additional information.

(4) If the bureau ~~is unable to~~cannot obtain disposition information regarding the petitioner's criminal history or cannot determine whether the petitioner meets the requirements for a certificate of eligibility found in Sections ~~[77-40-104]~~77-40a-105 and ~~[77-40-105]~~77-40a-303, the bureau shall send a letter to the petitioner, at the address indicated on the application form, indicating that the petitioner may obtain a special certificate for each criminal episode upon the payment of the issuance fee established by the bureau, per special certificate.

~~(a) If the petitioner requests a fee waiver as described in Subsection R722-350-4(1)(c), the bureau will not charge an issuance fee for the special certificate.~~

~~(b) If the court does not find a petitioner to be indigent after a petitioner requests a fee waiver as described in Subsection R722-350-4(1)(c), the petitioner will be required to pay each issuance fee before the bureau will process an expungement order.~~

(5) If the bureau determines that the petitioner meets the requirements for the issuance of a certificate of eligibility found in Section ~~[77-40-104]~~77-40a-105, the bureau shall send the certificate of eligibility to the petitioner, at the address or email indicated on the application form, unless the charges were dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance, or a diversion agreement under Title 77, Chapter 2, Prosecution, Screening, and Diversion.

(6) If the bureau determines that the petitioner meets the requirements for the issuance of a certificate of eligibility under any other circumstances, the bureau shall send a letter to the petitioner, at the address or email indicated on the application form, indicating that the petitioner must pay the issuance fee established by the bureau for each certificate of eligibility.

~~(a) If the petitioner requests a fee waiver as described in Subsection R722-350-4(1)(c), the bureau will not charge an issuance fee for a certificate of eligibility.~~

~~(b) If the court does not find a petitioner to be indigent after a petitioner requests a fee waiver as described in Subsection R722-350-4(1)(c), the petitioner will be required to pay an issuance fee for each certificate of eligibility before the bureau will process an expungement order.~~

~~(7) The bureau may not issue a certificate of eligibility for an offense that does not require a certificate of eligibility for expungement unless petitioner makes a specific request for a certificate of eligibility for the offense.~~

~~(7)~~(8) If the bureau determines that the petitioner does not meet the criteria for the issuance of a certificate of eligibility, the bureau shall send a letter to the petitioner, at the address or email indicated on the application form, which describes the reasons why the petitioner's application was denied and notifies the petitioner that the petitioner may seek agency review of the bureau's decision by following the procedures outlined in Section R722-350-5.

R722-350-5. Agency Review of a Decision to Deny an Application for a Certificate of Eligibility.

(1) A petitioner may seek review of the denial of an application for a certificate of eligibility, as provided by Section 63G-4-301, by mailing or emailing a written request for review to the bureau within 30 days from the date the denial letter is issued.

(2) The request for review must:

(a) be signed by the petitioner or the corresponding third party;

(b) state the specific grounds upon which relief is requested;

(c) state the date upon which it was mailed; and

(d) include documentation which supports the petitioner's request for review.

(3) An employee of the bureau shall be designated to review the petitioner's written request, any accompanying documents supplied by the petitioner, and the materials contained in the application file to determine whether the petitioner meets the requirements for the issuance of a certificate found in Sections ~~[77-40-104]~~77-40a-105 and ~~[77-40-105]~~77-40a-303.

(4)~~(4)~~ Within a reasonable time after receiving the request for review, the bureau shall issue a final written order on review, which shall be mailed to the petitioner at the address or email indicated on the application.

~~(4)~~(5) If upon further review the bureau ~~is unable to~~cannot determine whether the petitioner meets the requirements for a certificate of eligibility found in Sections ~~[77-40-104]~~77-40a-105 and ~~[77-40-105]~~77-40a-303, the bureau shall send a letter to the petitioner,

NOTICES OF PROPOSED RULES

at the address indicated on the application form, indicating that the petitioner may obtain a special certificate for each criminal episode upon the payment of the issuance fee established by the bureau, per special certificate.

(a) If the petitioner requests a fee waiver as described in Subsection R722-350-4(1)(c), the bureau will not charge an issuance fee for the special certificate.

(b) If the court does not find a petitioner to be indigent after a petitioner requests a fee waiver as described in Subsection R722-350-4(1)(c), the petitioner will be required to pay each issuance fee before the bureau will process an expungement order.

~~(6)~~(6) If further review indicates that the petitioner meets the requirements for the issuance of a certificate of eligibility found in Section ~~[77-40-104]~~77-40a-105, the bureau shall send a certificate of eligibility to the petitioner, unless the charges were dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance, or a diversion agreement under Title 77, Chapter 2, Prosecution, Screening, and Diversion.

~~(7)~~(7) If further review indicates that the petitioner meets the requirements for the issuance of a certificate of eligibility under any other circumstances, the order shall ~~[indicate]~~state that the petitioner must pay the issuance fee established by the bureau for each certificate of eligibility.

(a) If the petitioner requests a fee waiver as described in Subsection R722-350-4(1)(c), the bureau will not charge an issuance fee for a certificate of eligibility.

(b) If the court does not find a petitioner to be indigent after a petitioner requests a fee waiver as described in Subsection R722-350-4(1)(c), the petitioner will be required to pay an issuance fee for each certificate of eligibility before the bureau will process an expungement order.

~~(8)~~(8) If further review indicates that the petitioner does not meet the requirements for the issuance of a certificate, the order shall describe the reasons why the bureau's decision was upheld and notify the petitioner that the petitioner's opportunity to review the bureau's decision is limited to review by the district court as described in Section R722-350-6.

R722-350-6. Judicial Review.

A petitioner may seek judicial review of the bureau's final written order on review denying an application for a certificate of eligibility, as provided by Section 63G-4-402, by filing a complaint in the district court within 30 days from the date that the bureau's final written order is issued.

KEY: expungement, certificate of eligibility

Date of Last Change: 2024[January 10, 2018]

Notice of Continuation: August 26, 2020

Authorizing, and Implemented or Interpreted Law: ~~[77-40-111; 77-40-102; 77-40-104; 77-40-105; 77-40-106]~~77-40a-101; 77-40a-104; 77-40a-105; 77-40a-303; 77-40a-304

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: New

Rule or Section Number:

R988-100

Filing ID: 56898

Agency Information

1. Title catchline:	Workforce Services, Homeless Services	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state:	Salt Lake City, Utah	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact persons:		
Name:	Phone:	Email:
Robert Andreasen	801-517-4722	randreasen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R988-100. Homeless Services General Provisions

3. Purpose of the new rule or reason for the change:
During the 2024 General Session, the Legislature passed H.B. 298, Homelessness Services Amendments, and H.B. 421, Homelessness and Vulnerable Populations Amendments, which require the Office of Homeless Services to make rules defining certain terms and establishing methods to prioritize allocation of homeless shelter beds.
4. Summary of the new rule or change:
This rule defines terms, identifies exit outcomes, and directs shelters to allocate shelter beds in a way that prioritizes (1) clients eligible for HUD's Temporary Assistance for Needy Families Program, and (2) clients recently discharged from the Utah State Hospital. The rule was approved after a public meeting to consider the change and in consultation with various stakeholders, including the Homeless Services Board, executive leadership of the Utah State Hospital, key emergency shelter providers, the Shelter Cities Advisory Board, and the Utah League of Cities and Towns.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule is not expected to have any fiscal impact on state government revenues or expenditures beyond any impact addressed in the fiscal notes of H.B. 298 and H.B. 421 (2024). There are no additional state employees or resources needed to oversee this rule. This rule will not increase the Department's workload and can be carried out with existing budget.
B) Local governments:
This rule is not expected to have any fiscal impact on local government revenues or expenditures beyond any impact addressed in the fiscal notes of H.B. 298 and H.B. 421 (2024). The rule does not affect the amount of funds available to local governments and is not anticipated to result in any costs or savings to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses. This rule requires no action or expenditure by small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no anticipated costs or savings to non-small businesses. This rule requires no action or expenditure by 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 are no anticipated costs to other persons because the rule requires no action or expenditure by any person.
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 rule clarifies requirements and policy with no fiscal impact beyond any impact addressed in the fiscal notes of H.B. 298 and H.B. 421 (2024).
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	FY2025	FY2026	FY2027
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

NOTICES OF PROPOSED RULES

Fiscal Benefits	FY2025	FY2026	FY2027
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 Workforce Services, Casey Cameron, 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 35A-16-202	Section 35A-16-205.1	
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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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	Casey Cameron, Executive Director	Date:	10/28/2024
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R988. Workforce Services, Homeless Services.

R988-100. Homeless Services General Provisions.

R988-100-1. Authority.

This rule is authorized under Section 35A-16-202, which directs the office to define terms, and Section 35A-16-205.1, which requires the board to establish standards for the prioritization of homeless shelter beds.

R988-100-2. Definitions.

(1) Terms used in this rule are defined in Title 35A, Chapter 1, Department of Workforce Services, Title 35A, Chapter 16, Office of Homeless Services, and Section 26B-5-301.

(2) In addition:

(a) "Neutral exit" means minimal progress was made toward improving the stability of a client's housing or addressing issues that may make the client more likely to experience homelessness.

(b) "Successful exit" means significant progress was made toward improving the stability of a client's housing or addressing issues that may make the client more likely to experience homelessness.

(c) "TANF" means Temporary Assistance for Needy Families.

(d) "Unsuccessful exit" means no progress was made toward improving the stability of the client's housing or addressing issues that may make the client more likely to experience homelessness.

R988-100-3. Exit Destination Outcomes.

(1) OHS will ensure compliance with the U.S. Department of Housing and Urban Development system performance measures. Exit outcomes will be evaluated using the last exit recorded in HMIS for an individual to ensure the greatest degree of accuracy and timeliness possible, and to avoid duplication, across the following project types:

(a) emergency shelter;

(b) rapid rehousing;

(c) transitional housing;

- _____ (d) permanent supportive housing;
- _____ (e) street outreach;
- _____ (f) homeless prevention; and
- _____ (g) other.

_____ (2) The office will evaluate each standard exit destination type recorded in HMIS to determine if the outcome type meets the definition of successful, neutral, or unsuccessful exit in Section R988-100-2.

_____ (3) The office will provide guidance to service providers regarding standard exit destination types in HMIS that the office has determined meet the definitions in Section R988-100-2.

R988-100-4. Temporary Assistance for Needy Families Bed Prioritization.

_____ (1) An emergency shelter that receives TANF funding for shelter operations shall:
 _____ (a) subject to available funding, allocate an average of 85% of the total number of beds located in the shelter to individuals eligible for TANF;

_____ (b) determine prioritization for beds based on TANF eligibility requirements; and

_____ (c) follow department eligibility determination processes.

_____ (2) If an emergency shelter does not receive TANF funding for shelter operations, the office, in coordination with the shelter operator, will determine the feasibility of verifying the TANF eligibility of a shelter user.

R988-100-5. State Hospital Shelter Bed Prioritization.

_____ (1) An emergency shelter shall prioritize a referral client who is discharged from the state hospital.

_____ (2)(a) At least yearly, the office shall contact the state hospital about the state hospital's client discharge process.

_____ (b) The office shall encourage the state hospital to coordinate with the local mental health authority, as applicable, to ensure that:

_____ (i) discharge to an emergency shelter is an appropriate exit for the client; and

_____ (ii) all other options for the client have been exhausted.

_____ (3) When accepting a referral client from the state hospital, the emergency shelter operator shall document the referral from the state hospital in HMIS.

KEY: homelessness, homeless shelter

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 35A-16-202; 35A-16-205.1

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R988-400	Filing ID: 56899

Agency Information

1. Title catchline:	Workforce Services, Homeless Services	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state:	Salt Lake City, Utah	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact persons:		
Name:	Phone:	Email:
Robert Andreasen	801-517-4722	randreasen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R988-400. Homeless Shelter Cities Mitigation Restricted Account
3. Purpose of the new rule or reason for the change:
During the 2024 General Session, the Legislature passed H.B. 421, Homelessness and Vulnerable Populations Amendments, which requires municipalities applying for mitigation funding to enforce ordinances that prohibit panhandling and unsanctioned

camping and to demonstrate improvement in reducing such conduct. This rule change details how municipalities may demonstrate the improvement. In addition, the changes in H.B. 421 to Subsection 35A-16-403(2)(g) make Section R988-400-8 unnecessary and this rule change deletes that section.

4. Summary of the new rule or change:

This rule change identifies how a municipality may demonstrate improvements in reducing unsanctioned camping and reducing panhandling, and identifies the information a municipality may submit with its funding application to demonstrate improvement in those areas. The rule change also deletes Section R988-400-8 as obsolete. The rule change was approved after a public meeting to consider the change and in consultation with the Homeless Services Board, the Shelter Cities Advisory Board, and the Attorney General's Office.

Fiscal Information

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

A) State budget:

This rule change is not expected to have any fiscal impact on state government revenues or expenditures beyond any impact addressed in the fiscal notes of H.B. 421 (2024). There are no additional state employees or resources needed to oversee this rule change. This rule change will not increase the Department's workload and can be carried out with existing budget.

B) Local governments:

This rule change is not expected to have any fiscal impact on revenues or expenditures of local governments that already enforce anti-camping and anti-panhandling ordinances. A local government that does not enforce such ordinances, and is therefore ineligible for funds, may experience a slight fiscal impact if it elects to apply for mitigation funds because the local government would be required to enact and enforce ordinances, which may result in a cost. The Department therefore anticipates no fiscal impact to local governments other than the existing and ongoing cost of maintaining eligibility for mitigation funds.

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

There are no anticipated costs or savings to small businesses. This amendment requires no action or expenditure by small businesses.

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

There are no anticipated costs or savings to non-small businesses. This amendment requires no action or expenditure by 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 are no anticipated costs to other persons because the amendment requires no action or expenditure by any person.

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 rule clarifies requirements and policy with no fiscal impact beyond any impact addressed in the fiscal note of H.B. 421 (2024).

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 Workforce Services, Casey Cameron, 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 35A-16-401	Section 35A-16-403	
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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: 12/16/2024

9. This rule change MAY become effective on: 12/23/2024

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:	Casey Cameron, Executive Director	Date:	10/28/2024
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R988. Workforce Services, Homeless Services.

R988-400. Homeless Shelter Cities Mitigation Restricted Account.

R988-400-7. Application for Funds.

(1) To apply for funds under Subsection 35A-16-402(4)(a)(~~iii~~), an eligible municipality shall submit a request that outlines the impact of the location of the eligible shelter on eligible services and demonstrates the need for funding to mitigate that impact.

(2) To demonstrate improvement under Subsection 35A-16-403(2)(g)(i)(C) in:

(a) enforcing a camping ordinance, an eligible municipality shall report with its funding application:

(i) the municipality's reported number of camping-related non-enforcement contacts;

(ii) the municipality's reported number of camping-related enforcement contacts;

(iii) reported year-over-year trends for camping-related contacts with unsheltered populations in the relevant county;

(iv) shelter resources available within the eligible municipality's local homeless council region; and

(v) shelter utilization rates within the eligible municipality's local homeless council region; and

(b) prohibiting conduct impeding traffic in violation of Subsection 41-6a-1009(4), an eligible municipality shall report with its funding application:

(i) the municipality's reported number of traffic impediment-related non-enforcement contacts;

(ii) the municipality's reported number of traffic impediment-related enforcement contacts; and

(iii) reported year-over-year trends for traffic impediment-related contacts in the relevant county.

~~R988-400-8. Enforcement of Camping Ordinance.~~

~~The failure of a municipality to enforce its camping ordinance may not preclude the municipality from receiving mitigation funds if the number of unsheltered persons according to the point in time count exceeds the number of first tier eligible beds according to the HIC by 15%.~~

NOTICES OF PROPOSED RULES

KEY: grants, Homeless Shelter Cities Mitigation Restricted Account

Date of Last Change: ~~January 2,~~ 2024

Authorizing, and Implemented or Interpreted Law: 35A-16-401; 35A-16-403

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.utah.gov. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R23-26	Filing ID: 55146
Effective Date:	10/29/2024	

Agency Information

1. Title catchline:	Government Operations, Facilities Construction and Management	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W, 3rd Floor	
City, state	Taylorsville, UT 84129	
Contact persons:		
Name:	Phone:	Email:
Mike Kelley	801-957-7239	mkelley@agutah.gov
Michelle Adams	801-957-7240	michelledadams@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:	R23-26. Dispute Resolution	
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	The rule is explicitly and specifically required by Section 63A-5b-606.	
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:	No comments have been received since the last five-year review of this rule.	
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:	This rule is explicitly and specifically required by Section 63A-5b-606. Therefore, this rule should be continued.	

Agency Authorization Information

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Agency head or designee and title:	Andy Marr, Interim Director	Date:	10/28/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R68-20	Filing ID: 54504
Effective Date:	10/17/2024	

Agency Information

1. Title catchline:	Agriculture and Food, Plant Industry	
Building:	Taylorsville State Office Buildings, South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	Ambermbrown@Utah.gov
Kelly Pehrson	801-982-2200	Kwpehrson@Utah.gov
Rob Hougaard	801-982-2305	Rhougaard@Utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R68-20. Utah Organic Standards
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
<p>The Department of Agriculture and Food (Department) has authority as provided in Subsection 4-2-103(1)(i) and Sections 4-3-201 and 4-4-102, which grants the Department broad regulatory powers over agricultural practices and food safety. These provisions empower the Department to formulate rules that protect agricultural interests, prevent fraudulent practices in the sale of food, and ensure the accuracy of food labeling.</p> <p>Consequently, the Department is authorized to establish standards for organic products to ensure compliance with specific requirements and accurate product labeling. While not explicitly mandated, the legislature implicitly charges the Department with the oversight of organic standards to protect consumers and maintain the integrity of agricultural products in Utah.</p>
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has not received any comments regarding this rule over the last 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:
<p>Rule R68-20 serves a critical function in safeguarding both consumers and the state's agricultural landscape. This rule allows the Department to set clear standards for organic products, ensuring consumers can trust the integrity of organic labeling and that producers have a framework for certification.</p> <p>Rule R68-20 is essential for several reasons. It protects consumers by guaranteeing the authenticity of organic products, preventing fraudulent labeling practices, and ultimately fostering informed purchasing decisions. Furthermore, it supports Utah's agricultural sector by providing a clear pathway for organic certification, enhancing the marketability of locally grown products. By aligning with national standards while addressing Utah's specific needs, Rule R68-20 ensures consistency and facilitates</p>

interstate commerce. Ultimately, this rule is vital for the Department to fulfill its responsibility to protect consumers, promote agriculture, and uphold the integrity of food products within the state. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Craig Butters, Commissioner	Date:	10/17/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R357-27	Filing ID: 56789
Effective Date:	10/24/2024	

Agency Information

1. Title catchline:	Governor, Economic Opportunity		
Building:	World Trade Center		
Street address:	60 E South Temple, Suite 300		
City, state	Salt Lake City, UT		
Contact persons:			
Name:	Phone:	Email:	
Greg Jeffs	801-368-1957	gjeffs@utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule catchline:	R357-27. Community Reinvestment Agency Report Rule.
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	Subsection 17C-1-603(3)(b) requires the Governor's Office of Economic Opportunity to make rules to establish a fee schedule for administration of the database described in Section 17C-1-603, Reporting requirements, -- Governor's Office of Economic Opportunity to maintain a database.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:	No comments received since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:	This rule is necessary in order for The Governor's Office of Economic Opportunity to stay in compliance with Subsection 17C-1-603(3)(b). Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Greg Jeffs, Internal Auditor	Date:	10/16/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R523-20	Filing ID: 53686
Effective Date:	10/21/2024	

Agency Information

1. Title catchline:	Health and Human Services, Substance Use and Mental Health	
Building:	Cannon Health Building	
Street address:	288 N 1460 W, 3rd Floor	
City, state	Salt Lake City, UT	
Mailing address:	288 N 1460 W, 3rd Floor	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Thomas Dunford	801-538-4181	tdunford@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 catchline:
R523-20. Community Firearms Violence and Suicide Prevention Standards
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 26B-5-102(3), which requires the Division of Integrated Healthcare to implement and manage a firearms safety and suicide prevention program.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The agency has not received any written comment in support of or opposition to this rule since its last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Under the Division of Integrated Healthcare, the Office of Substance Use and Mental Health (Office) is required by statute to establish procedures for producing and distributing suicide prevention and firearm safety brochures and packets, procuring gun locks for distribution, and administering a rebate program. The Office needs to update statutory citations and reflect a change in the agency's name following the consolidation of the Department of Health and Human Services. Therefore, this rule should be continued.
Additionally, the Office has identified areas in the rule that do not comply with the Rulewriting Manual for Utah and anticipates filing an amendment to address those issues in the near future.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	10/21/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R623-100	Filing ID: 53687
Effective Date:	10/30/2024	

Agency Information

1. Title catchline:	Lieutenant Governor, Elections
Building:	Utah State Capitol Building

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Street address:	350 N State Street	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 142325	
City, state and zip:	Salt Lake City, UT 841142325	
Contact persons:		
Name:	Phone:	Email:
Collin Tanner	801-597-5323	notary@utah.gov
Layla Basic	801-597-4371	laylabasic@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R623-100. Remote Notarization
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 46-1-3.7 authorizes the director of elections in the Office of the Lieutenant Governor to enact rules regarding remote notarization standards for: 1) electronic software and hardware that a notary may use to perform electronic notarizations, 2) electronic journals kept by remote notaries, 3) public and proprietary data sources that a remote notary may use to establish satisfactory evidence of identity, 4) dynamic knowledge-based authentication or biometric data analysis that a remote notary may use to establish satisfactory evidence of identity, and 5) electronic seals a notary may use to complete an electronic notarial certificate.
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 Office of the Lt. Governor has not received any formal comments in support of Rule R623-100. Rather, representatives from prospective RON technology providers testify that the requirements for knowledge-based authentication procedures as outlined in Subsection R623-100-5(C)(1)(a) and (b) are overly strict and inhibit them from having their authentication systems approved and utilized for performing remote notarizations in the state of Utah.
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 standards for knowledge-based authentication procedures as outlined in Subsection R623-100-5(C)(1) should not be loosened for prospective remote notary technology providers which are unable to comply with the standards as they are. Slackening such standards would jeopardize the security and accuracy of identity-verification procedures. The Office of the Lt. Governor is committed to continuing its oversight of remote notarization standards to ensure that remote notaries and their solution providers utilize secure technology and procedures for identity verification, record keeping, and the issuance of remote notarization certificates. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Ryan Cowley, Director of Elections	Date:	10/30/2024
NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION			
Rule Number:	R655-14	Filing ID: 51723	
Effective Date:	10/22/2024		

Agency Information

1. Title catchline:	Natural Resources, Water Rights
Building:	Department of Natural Resources

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Street address:	1594 W North Temple Suite 200	
City, state	Salt Lake City, UT	
Mailing address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Melissa Bowdren	801-538-7370	mbowdren@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R655-14. Administrative Procedures for Enforcement Proceedings Before the Division of Water Rights
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection R655-14-1(1) establishes procedures for enforcement adjudicative proceedings which may be commenced under Section 73- 2-25. Under Subsection 73-2-1(4)(g), the State Engineer, as the Director of the Utah Division of Water Rights, is required to make rules regarding enforcement orders and the imposition of fines and penalties. Subsection R655-14-2(1) is applicable statewide to the use of the waters of the state. Additional rules may be promulgated to address enforcement for specific hydrologic areas.
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 Division of Water Rights has not received any comments either in support or opposition of this rule since its last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R655-14 establishes protection of Utah's water and the public welfare by promoting compliance and deterring noncompliance with the statutes, rules, regulations, permits, licenses and orders administered and issued under the Division's authority by removing any economic benefit realized as a direct or indirect result of a violation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Teresa Wilhelmsen, Engineer/Director of Water Rights	State	Date:	11/01/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R655-16	Filing ID: 51728
Effective Date:	10/23/2024	

Agency Information

1. Title catchline:	Natural Resources, Water Rights
Building:	Department of Natural Resources
Street address:	1594 W North Temple, Suite 200
City, state	Salt Lake City, UT
Mailing address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Contact persons:		
Name:	Phone:	Email:
Melissa Bowdren	801-538-7370	mbowdren@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R655-16. Declaration of Beneficial Use
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is issued pursuant to Subsection 73-2-1(5)(e), Subsection 73-3-3(4)(b)(vii) and Section 73-3-16 which provide declaration for Beneficial Use of a Water Use Group as the measure and limit of all rights to the use of water in the state. This gives the State Engineer the responsibility to provide the content for the applications, as well as any documents relating to the forms. Under Subsection 73-2-1(3), the State Engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.
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 Division of Water Rights has not received any comments either in support or opposition of this rule since its last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R655-16 establishes procedures and standards for water right users to obtain Beneficial Use amounts using forms provided by the State Engineer as required by Sections 73-3-3, 73-3-16, and Subsection 73-3-20(2). Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Teresa Wilhelmsen, Engineer/Director of Water Rights	State	Date:	11/01/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R895-2	Filing ID: 53715
Effective Date:	10/25/2024	

Agency Information

1. Title catchline:	Government Operations, Technology Services	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
Mailing address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Contact persons:		
Name:	Phone:	Email:
Stephanie Weteling	435-720-5315	stephanie@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

2. Rule catchline:
R895-2. Americans with Disability Act (ADA) Complaint Procedure
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated pursuant to Section 63G-3-201 of the State Administrative Rulemaking Act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received during and since the last five-year review of this rule from interested persons supporting or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is needed to provide a complaint procedure to provide for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans with Disability Act, pursuant to 28 CFR 35.107, 1992 edition. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Marvin Dodge, Executive Director	Date:	10/01/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R895-14	Filing ID: 53733
Effective Date:	10/25/2024	

Agency Information

1. Title catchline:	Government Operations, Technology Services		
Building:	Taylorsville State Office Building		
Street address:	4315 S 2700 W		
City, state	Taylorsville, UT		
Mailing address:	4315 S 2700 W		
City, state and zip:	Taylorsville, UT 84129		
Contact persons:			
Name:	Phone:	Email:	
Stephanie Weteling	435-720-5315	stephanie@utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule catchline:
R895-14. Access to Information Technology for Users with Disabilities
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 established in accordance with Sections 63A-16-102, 63A-16-204, 63A-16-205, and 63A-16-209.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

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

This rule is needed to establish minimum standards for accessibility of executive branch agency information technology by an individual with a disability, and a grievance reporting procedure. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Marvin Dodge, Executive Director	Date:	10/10/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R914-4	Filing ID: 52108
Effective Date:	10/22/2024	

Agency Information

1. Title catchline:	Transportation, Operations, Aeronautics	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state	Taylorsville, UT	
Mailing address:	PO Box 148455	
City, state and zip:	Salt Lake City, UT 84114-8455	
Contact persons:		
Name:	Phone:	Email:
Leif Elder	801-580-8296	lelder@utah.gov
Marlene Galindo	801-965-4026	Mgalindo1@utah.gov
James Godin	801-573-7181	jamesjgodin@agutah.gov
Lori Edwards	385-341-3414	loriedwards@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R914-4. Challenging Corrective Action Orders
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is enacted under Subsection 72-10-110(4), which requires the Department of Transportation (Department) to make rules establishing and administering a registration fee for an unmanned aircraft system or an advanced air mobility system registered pursuant to Subsection 72-10-109(3).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has received no written comments for this rule since the last five-year review.
5. A reasoned justification for a continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The Department is still required to have the rule per Subsection 72-10-110(4). Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Carlos M. Braceras, PE, Executive Director, UDOT	Date:	10/21/2024
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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

Animal Industry

No. 56713 (Amendment) R58-11: Slaughter of Livestock and Poultry

Published: 09/01/2024

Effective: 10/15/2024

Medical Cannabis and Industrial Hemp

No. 56711 (Amendment) R66-2: Cannabis Processing

Published: 09/01/2024

Effective: 10/15/2024

No. 56712 (Amendment) R66-3: Quality Assurance Testing on Cannabis

Published: 09/01/2024

Effective: 10/15/2024

No. 56758 (Amendment) R66-31: Industrial Hemp Cannabinoid Product Testing

Published: 09/15/2024

Effective: 10/30/2024

Plant Industry

No. 56759 (Repeal and Reenact) R68-2: Utah Commercial Feed Act Governing Feed

Published: 09/15/2024

Effective: 10/24/2024

Regulatory Services

No. 56603 (Repeal and Reenact) R70-101: Bedding, Upholstered Furniture, and Quilted Clothing

Published: 09/15/2024

Effective: 10/23/2024

No. 56603 (Change in Proposed Rule) R70-101: Bedding, Upholstered Furniture, and Quilted Clothing

Published: 09/15/2024

Effective: 10/23/2024

Commerce

Professional Licensing

No. 56788 (Amendment) R156-15A: Administration of Building Code Inspector Training Fund, Building Code Construction-Related Training Fund, and Factory Built Housing Fees Account

Published: 10/01/2024

Effective: 11/07/2024

NOTICES OF RULE EFFECTIVE DATES

Education

Administration

No. 56799 (New Rule) R277-333: Registered Apprenticeship Program for Teachers

Published: 10/01/2024

Effective: 11/07/2024

No. 56800 (Amendment) R277-419: Pupil Accounting

Published: 10/01/2024

Effective: 11/07/2024

No. 56801 (Amendment) R277-468: Parents Review of Public Education Curriculum and Review of Complaint Process

Published: 10/01/2024

Effective: 11/07/2024

No. 56802 (Amendment) R277-701: Early College Programs

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No. 56803 (Amendment) R277-705: Secondary School Completion and Diplomas

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No. 56804 (Amendment) R277-709: Education Programs Serving Youth in Custody

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No. 56805 (Repeal) R277-715: Out-of-School Time Program Standards

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No. 56806 (Repeal) R277-718: Out-of-School Time Program Quality Improvement Grants

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No. 56807 (Repeal) R277-928: High-Need Schools Grant

Published: 10/01/2024

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Environmental Quality

Air Quality

No. 56702 (Amendment) R307-101: General Requirements

Published: 09/01/2024

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No. 56483 (Amendment) R307-315: NOx Emission Controls for Natural Gas-Fired Boilers 2.0-5.0 MMBtu

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No. 56483 (Change in Proposed Rule) R307-315: NOx Emission Controls for Natural Gas-Fired Boilers 2.0-5.0 MMBtu

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No. 56484 (Amendment) R307-316: NOx Emission Controls for Natural Gas-Fired Boilers Greater Than 5.0 MMBtu

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No. 56484 (Change in Proposed Rule) R307-316: NOx Emission Controls for Natural Gas-Fired Boilers Greater Than 5.0 MMBtu

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Water Quality

No. 56761 (Amendment) R317-8: General Provisions and Definitions
Published: 09/15/2024
Effective: 10/23/2024

Government Operations

Fleet Operations

No. 56697 (Amendment) R27-3: Vehicle Use Standards
Published: 09/01/2024
Effective: 10/28/2024

Purchasing and General Services

No. 56763 (New Rule) R33-101: General Procurement Provisions
Published: 09/15/2024
Effective: 10/22/2024

No. 56760 (New Rule) R33-102: Rules of Procedure for Procurement Policy Board
Published: 09/15/2024
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No. 56764 (New Rule) R33-103: Procurement Organization
Published: 09/15/2024
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No. 56765 (New Rule) R33-104: Supplemental Procurement Procedures
Published: 09/15/2024
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No. 56766 (New Rule) R33-105: Other Standard Procurement Processes
Published: 09/15/2024
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No. 56762 (New Rule) R33-106: Bidding
Published: 09/15/2024
Effective: 10/22/2024

No. 56767 (New Rule) R33-107: Request for Proposals
Published: 09/15/2024
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No. 56768 (New Rule) R33-108: Exceptions to Standard Procurement Process
Published: 09/15/2024
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No. 56769 (New Rule) R33-109: Cancellations, Rejections, and Debarment
Published: 09/15/2024
Effective: 10/22/2024

No. 56770 (New Rule) R33-110: Preferences
Published: 09/15/2024
Effective: 10/22/2024

No. 56771 (New Rule) R33-111: Form of Bonds
Published: 09/15/2024
Effective: 10/22/2024

No. 56772 (New Rule) R33-112: Terms and Conditions, Contracts, Change Orders and Costs
Published: 09/15/2024
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No. 56773 (New Rule) R33-113: General Construction Provisions
Published: 09/15/2024
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No. 56774 (New Rule) R33-114: Procurement of Design-Build Transportation Project Contracts
Published: 09/15/2024
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No. 56775 (New Rule) R33-115: Procurement of Design Professional Services
Published: 09/15/2024
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No. 56776 (New Rule) R33-116: Protests
Published: 09/15/2024
Effective: 10/22/2024

No. 56777 (New Rule) R33-117: Procurement Appeals Panel
Published: 09/15/2024
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No. 56778 (New Rule) R33-119: General Provisions Related to Protest or Appeal
Published: 09/15/2024
Effective: 10/22/2024

No. 56779 (New Rule) R33-121: Interaction Between Procurement Units
Published: 09/15/2024
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No. 56780 (New Rule) R33-124: Unlawful Conduct and Ethical Standards
Published: 09/15/2024
Effective: 10/22/2024

No. 56781 (New Rule) R33-126: State Surplus Property
Published: 09/15/2024
Effective: 10/22/2024

Governor

Economic Opportunity
No. 56757 (Amendment) R357-5: Motion Picture Incentive Rule
Published: 10/01/2024
Effective: 11/07/2024

Health and Human Services

Children's Health Insurance Program
No. 56709 (New Rule) R382-11: State Children's Health Insurance Program
Published: 09/01/2024
Effective: 10/28/2024

Integrated Healthcare

No. 56705 (Amendment) R414-1: Services Available
Published: 09/01/2024
Effective: 10/28/2024

No. 56738 (Amendment) R414-29: Client Review and Restriction Policy
Published: 09/15/2024
Effective: 10/28/2024

No. 56708 (Amendment) R414-49: Dental, Oral, and Maxillofacial Surgeons and Orthodontia
Published: 09/01/2024
Effective: 10/28/2024

No. 56706 (Amendment) R414-308: Eligibility Period and Reviews
Published: 09/01/2024
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Substance Abuse and Mental Health, State Hospital
No. 56670 (Amendment) R525-6: Prohibited Items and Devices
Published: 08/15/2024
Effective: 10/21/2024

No. 56707 (Amendment) R525-8: Forensic Mental Health Facility
Published: 09/01/2024
Effective: 10/21/2024

Recovery Services
No. 56668 (Amendment) R527-3: Definitions
Published: 08/15/2024
Effective: 10/21/2024

No. 56669 (Amendment) R527-201: Medical Support Services
Published: 08/15/2024
Effective: 10/21/2024

Higher Education (Utah Board of)

Utah State University
No. 56693 (New Rule) R813-2: Disclosure of University Records
Published: 09/15/2024
Effective: 10/22/2024

No. 56694 (New Rule) R813-3: Trespass
Published: 09/15/2024
Effective: 10/22/2024

Insurance

Administration
No. 56792 (Amendment) R590-79: Definitions
Published: 10/01/2024
Effective: 11/07/2024

No. 56749 (Repeal and Reenact) R590-148: Long-Term Care Insurance Rule
Published: 09/15/2024
Effective: 10/22/2024

No. 56793 (Amendment) R590-229: Annuity Disclosure
Published: 10/01/2024
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No. 56748 (Amendment) R590-262: Health Data Authority Health Insurance Claims Reporting
Published: 09/15/2024
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No. 56750 (Repeal and Reenact) R590-285: Limited Long-Term Care Insurance
Published: 09/15/2024
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Labor Commission

Occupational Safety and Health
No. 56794 (Amendment) R614-1: Incorporation of Federal Standards
Published: 10/01/2024
Effective: 11/07/2024

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Tax Commission

Property Tax

No. 56783 (Amendment) R884-24P-53: 2025 Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515

Published: 09/15/2024

Effective: 10/24/2024

No. 56784 (Amendment) R884-24P-28: Reporting Requirements For Leased or Rented Personal Property Pursuant to Utah Code Ann. Section 59-2-306

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No. 56785 (Amendment) R884-24P-66: County Board of Equalization Procedures and Appeals Pursuant to Utah Code Ann. Sections 59-2-516, 59-2-1001, and 59-2-1004

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Transportation

Administration

No. 56753 (Repeal) R907-69: Records Access

Published: 09/15/2024

Effective: 10/22/2024

Motor Carrier

No. 56751 (Amendment) R909-2: Utah Size and Weight Rule

Published: 09/15/2024

Effective: 10/22/2024

No. 56755 (Amendment) R909-19: Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification

Published: 09/15/2024

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Operations, Aeronautics

No. 56739 (Amendment) R914-4: Challenging Corrective Action Orders

Published: 09/15/2024

Effective: 10/22/2024

Program Development

No. 56752 (Repeal) R926-12: Share the Road Bicycle Support Restricted Account

Published: 09/15/2024

Effective: 10/22/2024

No. 56754 (Amendment) R926-14: Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes

Published: 09/15/2024

Effective: 10/22/2024

Workforce Services

Employment Development

No. 56734 (Amendment) R986-700: Child Care Assistance

Published: 09/01/2024

Effective: 10/18/2024

School Readiness Program

No. 56685 (Amendment) R995-100: School Readiness Board

Published: 08/15/2024

Effective: 10/18/2024

End of the Notices of Rule Effective Dates Section