

# UTAH STATE BULLETIN

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

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between December 16, 2025, 12:00 a.m., and January 02, 2026, 11:59 p.m. are included in this, the January 15, 2026, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least February 17, 2026. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through May 15, 2026, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

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

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or section number:**

**R82-2**

**Filing ID: 57751**

**Agency Information**

<b>1. Title catchline:</b>	Alcoholic Beverage Services, Administration	
<b>Building:</b>	Administration Building	
<b>Street address:</b>	1625 S 900 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	1625 S 900 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84104	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melissa Suarez	385-910-9823	melissasuarez@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>
R82-2. Administration
<b>4. Purpose of the new rule or reason for the change:</b>
The purpose of this amendment is to remove outdated and difficult to interpret language related to the location of a type 2 or 3 package agency and to provide a process by which a type 2 or 3 package agency may request the Department of Alcoholic Beverage Services (department) extend the due date for payment of liquor to be sold at the package agency during times of economic hardship for the package agency.
<b>5. Summary of the new rule or change:</b>
The rule change amends Section R82-2-305 to remove outdated and difficult to interpret language requiring a type 2 or 3 package agency to serve a population of at least 6,000 people.
The rule change also amends Section R82-2-308 to create a process by which a type 2 or 3 package agency may request the department extend the due date for payment of liquor to be sold at the package agency during times of economic hardship for the package agency for a period of up to 30 days.

**Fiscal Information**

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A. State budget:</b>
There is no anticipated cost or savings to the state budget, as this amendment is clerical in nature and will have no impact on how the department functions or the parties this applies to.
<b>B. Local governments:</b>
This amendment is not expected to have a fiscal impact on local governments' revenues or expenditures because the amendment affects only the clarity of this rule and the potential economic hardship and payment obligations of the package agency operator with respect to payments owed to the department.
<b>C. Small businesses ("small business" means a business employing 1-49 persons):</b>
This amendment is not expected to have a fiscal impact on small businesses, nor will a service be required of them to implement the amendments, because the amendment is clerical in nature and also affects only the package agency operators with respect to their payment obligations to the department.

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

This amendment is not expected to have a fiscal impact on non-small businesses, nor will a service be required of them to implement the amendments, because the amendment is clerical in nature and also affects only the package agency operators with respect to their payment obligations to the department.

**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 amendment is not expected to have a fiscal impact on persons other than small businesses, non-small businesses, state or local government entities nor will a service be required of them to implement the amendments, because the amendment is clerical in nature and also affects only the package agency operators with respect to their payment obligations to the department.

**F. Compliance costs for affected persons:**

There are no compliance costs for affected persons.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Alcoholic Beverage Services, Ericka Evans, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 32B-2-202	Section 32B-2-605	
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**

<b>A. Comments will be accepted until:</b>	02/17/2026
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<b>10. This rule change MAY become effective on:</b>	02/26/2026
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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**

<b>Agency head or designee and title:</b>	Brian Swan, Deputy Director of Legal and Regulatory Affairs	<b>Date:</b>	12/29/2025
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**R82. Alcoholic Beverage Services, Administration.**

**R82-2. Administration.**

**R82-2-305. Evaluation Guidelines of Package Agencies.**

(1) Authority. This rule is made pursuant to Section 32B-2-202, which authorizes the c[C]ommission to make rules governing package agencies and the process to issue a new package agency.

(2)(a) The c[C]ommission, after considering information from the applicant for the package agency and ~~from~~ the d[D]epartment, shall determine whether the package agency ~~shall be~~ is classified and operated as a t[T]ype 1, 2, 3, 4, or 5 package agency, as described in Section R82-2-301.~~[-]~~

~~(b)(3)(i)~~ After a package agency ~~has been~~ is classified and issued, a package agent or the d[D]epartment may request that the c[C]ommission approve a change in the classification of the package agency. ~~Information shall be forwarded to aid in its determination.~~

~~(ii)~~ If, based on information provided by the package agent or the department, the c[C]ommission determines that the package agency should be reclassified, the commission~~[-]~~ shall approve the request.

~~(4) Type 2 and 3 package agencies shall:~~

~~(a) serve a population of at least 6,000 people comprised of both permanent residents and tourists; and~~

~~(c)~~ The commission may not establish a type 2 or 3 package agency ~~(b) not be established or maintained~~ within a one-mile radius of another type 2 or 3 package agency unless ~~it can be clearly demonstrated~~ the package agent clearly demonstrates that it is in the best interest of the state to establish and maintain the outlet package agency at that location.

~~(5)(a)(d)~~ The d[D]epartment shall ~~report to the Commission on package agency operations as a regular agenda item at each monthly Commission meeting.~~

~~(b)~~ report a[A]ny significant issues with respect to the operations of a particular package agency ~~shall also be reported~~ to the c[C]ommission.

~~(e)(c)~~ The department may ~~Recommend closure by the Department~~ recommend to the commission closure of a package agency due to based on:

(i) the package agent's payment ~~delinquencies~~ delinquency over 30 ~~working~~ calendar days;

(ii) ~~significant~~ inventory shortages;~~[-]~~ or

(iii) any other significant operational ~~deficiencies~~ deficiency of the package agent. ~~shall be calendared for the Commission's consideration at its next regular monthly meeting or at a special meeting.~~

**R82-2-308. Type 2 and 3 ~~Consignment Inventory Package Agencies~~ Package Agencies.**

(1) Authority. This rule is made pursuant to Sections 32B-2-202 and 32B-2-605, which authorize the c[C]ommission to make rules governing package agencies.

~~(2) Purpose.~~ This rule provides the procedures for consignment sales of liquor to a type 2 or type 3 package agency at the discretion of the Department.~~[-]~~

~~(3) Application.~~

~~(a) Consignment Inventory.~~

~~(+)~~(2)(a)(i) In accordance with Section 32B-6-605, the department, within its discretion, may provide liquor to a type 2 or 3 package agency for sale on consignment.

~~(ii)~~ The department shall ~~The Department shall:~~

~~(A)~~ establish the ~~initial~~ amount of consignment liquor inventory to be furnished to a type 2 or 3 package agency~~[-]~~.

~~(B)~~ post the package agency's consignment inventory amount to the Department's accounting system as "Consignment Inventory Account";~~[-]~~

~~(C)~~ make any adjustment to the consignment inventory amount through a transfer, shipment, or payment of money; and

~~(D)~~ include a copy of the transfer or adjusting shipment or evidence of payment in the package agency's file.~~[-]~~

~~(b)(+)(i)(A)~~ The d[D]epartment may adjust a type 2 or 3 package agency's consignment liquor inventory amount ~~from time to time~~ based on the package agency's monthly average sales.

~~(ii)~~ The department shall make any adjustment to a type 2 or 3 package agency's consignment liquor inventory amount through a transfer or shipment of liquor or payment of money.

~~(B)~~ In the event the package agency's 12-month average sales are lower than the package agency's current consignment amount, the Department may lower the consignment amount.~~[-]~~

~~(C)~~(iii) If the department reduces a type 2 or 3 package agency's consignment liquor inventory amount ~~is reduced~~, the type 2 or 3 package agency ~~must~~ shall pay for the difference between the consignment liquor inventory amount and the reduced consignment liquor inventory amount through cash payment or ~~returned~~ liquor returned ~~inventory~~ to the d[D]epartment.

~~(iii)(A)~~ The package agency's contract with the Department shall state the package agency's consignment inventory amount.

~~(B)~~ Any adjustment to the package agency's consignment inventory amount shall be made through a contract amendment or a new contract.

~~(b) Payments.~~

~~(3)(+)(a)~~ A type 2 or 3 package agency that receives shipments or transfers of liquor shall have an Automated Clearing House (ACH) payment system set up with the d[D]epartment.

- (b)(ii) The ~~d[Department]~~ shall ~~email~~ send a type 2 or 3 package agency a weekly statement that shows:
- ~~(i) the package agency's unpaid debts and applied credits; and~~
  - ~~(ii) [before the end of each week,] the payment due date for liquor received by the package agency.~~
  - ~~(iii) The weekly statement will reflect:~~
    - ~~(A) 30 days from the order date to pay for ordered liquor inventory;~~
    - ~~(B) payments received against the oldest outstanding invoices first; and~~
    - ~~(C) payments received over previous statement balances credited chronologically against ordered liquor inventory due after previous statements.]~~
- ~~(iv)(c) The package agent is responsible for reviewing the weekly statement and contacting the ~~d[Department]~~ with any discrepancies before the payment due date.~~
- ~~(v)(A) A package agent may, in advance of the Department drawing payments via Automated Clearing House (ACH), remit payment for the statement total to the Department on balances due from outstanding invoices that have not received enough credit card payments or other payments to cover those outstanding balances.~~
- ~~(B) If no other payment has been received by the due date, payment will be automatically drawn through the Automated Clearing House (ACH) process on the due date unless prior arrangements have been made between the package agent and the Department.]~~
- ~~(d) Except as provided in Subsection (4), payment for liquor is due to the department within 30 days after the day on which the type 2 or 3 package agency orders the liquor.~~
- ~~(vi)(c)(i)(A) The ~~d[Department]~~ shall consider insufficient funds, returned checks, and unpaid balances from a previous statement past due.~~
- ~~(ii)(B) If a statement is past due, t[F]he ~~d[Department]~~ may:~~
- ~~(A) assess the legal rate of interest on the amount owed by the ~~a~~ type 2 or 3 package agency; [and] or~~
  - ~~(B) [the package agency may be referred to] refer the package agency to the ~~c[Commission]~~ for possible termination of the package agency contract [and closure].~~
- ~~(vii)(iii)(A) The ~~d[Department]~~ and ~~a~~ the type 2 or 3 package agency shall resolve any liquor delivery discrepancies using [the LQ9 form or another] a form provided by the ~~d[Department]~~.~~
- ~~(B) The Department shall issue a debit or credit after proper completion and submission of the LQ9 or other form to the Department.]~~
- ~~(C)(B) A [The] type 2 or 3 p[Package] agency shall pay [in accordance with] the package agency's statement by the due date regardless of whether any discrepancies have been resolved.~~
- ~~(4)(a) A type 2 or 3 package agent may request in writing that the department extend the due date for payment under Subsection (3) for up to 30 days if:~~
- ~~(i) the package agency's liquor sales have decreased at least 10% when compared to the package agency's liquor sales from the same month in the immediately preceding calendar year for a period of at least two consecutive months;~~
  - ~~(ii)(A) the package agency is experiencing a temporary and substantial increase in essential operational expenses because of an unforeseen and uncontrollable event; and~~
    - ~~(B) the package agent has attempted to mitigate expenses through reasonable efforts; or~~
    - ~~(iii) the package agent requests and receives approval for a closure under Section 32B-2-605.~~
  - ~~(b) The department may request the type 2 or 3 package agent provide documentation demonstrating the circumstances described in Subsection (4)(a) are met.~~
  - ~~(c)(i) The department may approve a request under Subsection (4)(a) only if the type 2 or 3 package agent is otherwise compliant with the package agent's contract and other requirements by law.~~
    - ~~(ii) The department may approve a request under Subsection (4)(a) for a period:~~
      - ~~(A) of up to 90 consecutive days in one fiscal year; and~~
      - ~~(B) between the months of July and February of a fiscal year.~~
    - ~~(iii) If the department approves a request under Subsection (4)(a), the department may:~~
      - ~~(A) cap the number of orders a package agency may make during the period during which the request is approved; or~~
      - ~~(B) prohibit the package agency from returning delisted or seasonal liquor products during the period during which the request is approved.~~
  - ~~(e) Transfers.]~~
    - ~~(i) The Department shall adjust transfers, up or down, to the package agency's payment due the Department.~~
    - ~~(ii) Transfers to the package agency will add to the amount owed to the Department.~~
    - ~~(iii) Transfers out will subtract from the amount owed to the Department on the next check due to the Department.~~
  - ~~(d) Credit and Debit Card Credits.~~
    - ~~(i) Credit for credit and debit cards processed at the package agency will be posted to the package agency's statement.~~
    - ~~(ii) The package agent is responsible for sending the package agency's settlement report and individual receipts to the Department to receive credit.~~
  - ~~(e)] (d) Audits.~~
    - ~~(i) The ~~d[Department]~~ shall audit a type 2 or 3 [the] package agency at least once each fiscal year and [but] may conduct additional audits if [deemed] necessary.~~
    - ~~(ii) [The] A type 2 or 3 package agency is subject to a ~~d[Department]~~ audit at any time.~~

**KEY: alcoholic beverages**

**Date of Last Change: 2026[June 27, 2025]**

Notice of Continuation: February 5, 2025

Authorizing, and Implemented or Interpreted Law: 32B-1-102; 32B-2-202; 32B-1-301 through 32B-1-307; 32B-2-504; 32B-2-605; 32B-5-303

<b>NOTICE OF SUBSTANTIVE CHANGE</b>		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or section number:</b>	<b>R156-47b</b>	<b>Filing ID:</b> 57754
<b>Agency Information</b>		
<b>1. Title catchline:</b>	Commerce, Professional Licensing	
<b>Building:</b>	Heber M Wells Building	
<b>Street address:</b>	160 E 300 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 146741	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6741	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Lisa Martin	801-530-6628	lmartin@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

<b>General Information</b>	
<b>2. Rule or section catchline:</b>	
R156-47b. Massage Therapy Practice Act Rule	
<b>3. Are any changes in this filing because of state legislative action?</b>	Changes are because of legislative action.
<b>If yes, any bill number and session:</b>	HB 278 (2025 General Session)
<b>4. Purpose of the new rule or reason for the change:</b>	
<p>The Division of Professional Licensing (Division), in collaboration with the Massage Therapy and Acupuncture Licensing Board, is filing these amendments in accordance with statutory changes made by HB 278 that passed in the 2025 General Session and became effective 10/01/2025.</p> <p>HB 278 (2025) created additional pathways to licensure for massage assistants and amended certain other licensure requirements for individuals and required massage establishments to register with the Division and comply with certain standards and requirements.</p> <p>The proposed amendments also reorganize, streamline, and update this rule for clarity and to provide more utility for individual licensees and massage establishments, and to comply with the Rulewriting Manual for Utah.</p>	
<b>5. Summary of the new rule or change:</b>	
<p>Section R156-47b-102 is amended to update definitions and provide additional definitions relating to massage establishments and to supervision and education standards for individual licensees.</p> <p>Section R156-47b-202 is amended to update the composition of the Massage Therapy Education Peer Committee.</p> <p>Section R156-47b-302 is amended to clarify the requirements for licensure as a massage therapist through the massage school education pathway.</p> <p>Section R156-47b-302b regarding exam requirements is updated and renumbered to new Section R156-47b-302g.</p> <p>Section R156-47b-302c is renumbered to Section R156-47b-302b and is amended to clarify the requirements for licensure as a massage therapist through the massage apprenticeship program, including performing massage client services under the indirect supervision of a massage therapy supervisor.</p>	

New Section R156-47b-302c clarifies the requirements for licensure as a massage assistant through the massage school education pathway.

Section R156-47b-302d is amended to clarify the requirements for licensure as a massage assistant through the massage assistant-in-training pathway.

Section R156-47b-302e is amended to provide that the 300 hours of indirect supervision under Subsection 58-47b-301(5)(a)(ii) may include hours performed as supervised massage client services during education and training.

New Section R156-47b-302f consolidates and outlines the qualifications and requirements to be a massage therapy supervisor.

New Section R156-47b-302g was renumbered from Section R156-47b-302b and clarifies the requirements of the exam for each licensing pathway that requires an exam.

New Section R156-47b-302h establishes the required subject matter for the Massage Safety Permit Educational Module.

New Section R156-47b-302.2a clarifies and supplements the details for the application requirements for massage establishments registering with the Division.

New Section R156-47b-302.2b establishes the facility requirements for massage establishments registered with the Division.

New Section R156-47b-302.2c outlines the necessary records that a massage establishment must maintain and provide to the Division upon request.

New Section R156-47b-303.1 establishes the registration renewal date and process for registered massage establishments.

New Section R156-47b-306 establishes and clarifies the required contents of the client intake form.

Section R156-47b-502 is amended to clarify and update the rule's definitions of unprofessional conduct for individuals.

New Section R156-47b-502.1 establishes rule definitions of unprofessional conduct for massage establishments.

New Section R156-47b-503 establishes pursuant to Section 58-47b-503 the penalty schedule for acts of unprofessional conduct or unlawful conduct by an individual.

New Section R156-47b-503.1. establishes pursuant to Section 58-47b-503.1 the penalty schedule for acts of unprofessional conduct or unlawful conduct by a massage establishment.

New Section R156-47b-504 establishes and clarifies the requirements and processes for a sole practitioner who is renting or leasing to another sole practitioner.

New Section R156-47b-601 clarifies the processes for an administrative inspection of a massage establishment.

Additional nonsubstantive formatting changes are also made throughout this rule to clarify and update provisions and to comply with the Rulewriting Manual for Utah.

**Fiscal Information**

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A. State budget:</b>
The Division does not anticipate any fiscal impact to the state budget beyond that determined by the fiscal note for HB 278 (2025), at <a href="https://le.utah.gov/~2025/bills/static/HB0278.html">https://le.utah.gov/~2025/bills/static/HB0278.html</a> , because the proposed amendments are made in accordance with the statutory changes and requirements of HB 278 or they reorganize, streamline, and update this rule to provide more utility to licensees and registered massage establishments and comply with the Rulewriting Manual for Utah.
<b>B. Local governments:</b>
The Division does not anticipate any cost or savings to local governments from the proposed amendments because the proposed amendments do not apply to local governments.

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

There are approximately 487 small businesses in Utah with massage therapists (NAICS 812199) and other licensees engaged in the practice of massage therapy and who may employ those engaged in the practice of massage therapy.

However, the proposed amendments are not expected to have any measurable impact on small business revenues or expenditures beyond that determined by the fiscal note for HB 278 (2025), at <https://le.utah.gov/~2025/bills/static/HB0278.html>, because the amendments merely implement the new registration and statutory changes enacted by HB 278 and reorganize, streamline, and update this rule to provide more utility to licensees and registered massage establishments and comply with the Rulewriting Manual for Utah.

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

There are approximately six non-small businesses in Utah with massage therapists (NAICS 812199) and other licensees engaged in the practice of massage therapy and who may employ those engaged in the practice of massage therapy.

However, the proposed amendments are not expected to have any measurable impact on small business revenues or expenditures beyond that determined by the fiscal note for HB 278 (2025), at <https://le.utah.gov/~2025/bills/static/HB0278.html>, because the amendments merely implement the new registration and statutory changes enacted by HB 278 and reorganize, streamline, and update this rule to provide more utility to licensees and registered massage establishments and comply with the Rulewriting Manual for 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**):

In Utah, there are approximately 7,388 licensed massage therapists, 181 licensed massage apprentices, 3 licensed massage assistants-in-training, and 2 licensed massage assistants.

The Division does not anticipate any cost or savings from these proposed amendments to these persons or to additional persons other than small businesses, non-small businesses, state, or local government entities, because the amendments merely implement the new registration and statutory changes enacted by HB 278 (2025), and reorganize, streamline, and update the rule to provide more utility to licensees and registered massage establishments and comply with the Rulewriting Manual for Utah, and the proposed amendments will not create new obligations for other persons or increase the costs associated with any existing obligations for other persons.

**F. Compliance costs for affected persons:**

As described in Box 6E for other persons, no compliance costs are expected for affected persons.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

<b>Regulatory Impact Summary Table</b>					
<b>Fiscal Cost</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0

<b>Total Fiscal Benefits</b>	\$0	\$0	\$0	\$0	\$0
<b>Net Fiscal Benefits</b>	\$0	\$0	\$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**

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

Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	Section 58-47b-101
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**Incorporation by Reference Information**

**8. Incorporation by Reference:**

**A. This rule adds or updates the following title of material incorporated by reference** (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	Utah Massage Therapy Code of Ethics and Standards of Practice
<b>Publisher</b>	Division of Professional Licensing
<b>Issue Date</b>	October 2025

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**

**A. Comments will be accepted until:** 02/17/2026

**B. A public hearing (optional) will be held** (The public may request a hearing by submitting a written request to the agency, as outlined in Section 63G-3-302 and Rule R15-1.):

<b>Date:</b>	<b>Time:</b>	<b>Place (physical address or URL):</b>
01/28/2026	10:00 AM	Google Meet joining info: Video call link: <a href="https://meet.google.com/ymf-vmci-nkc">https://meet.google.com/ymf-vmci-nkc</a> Or dial: (US) +1 208-907-1936 PIN: 229 987 474# More phone numbers: <a href="https://tel.meet/ymf-vmci-nkc?pin=9542045733974">https://tel.meet/ymf-vmci-nkc?pin=9542045733974</a> Anchor Location: North Conference Room Heber M. Wells Building 160 E 300 S Salt Lake City, UT 84111

**10. This rule change MAY become effective on:** 02/24/2026

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**

<b>Agency head or designee and title:</b>	Deborah Blackburn, Assistant Division Director	<b>Date:</b>	12/31/2025
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**R156. Commerce, Professional Licensing.**

**R156-47b. Massage Therapy Practice Act Rule.**

**R156-47b-101. Title - Authority - Relationship to Rule R156-1.**

(1) This rule is known as the "Massage Therapy 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 47b, Massage Therapy Practice Act.

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(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-10[7]1.

**R156-47b-102. Definitions.**

Terms used in this rule are defined in Title 58, Chapter 1, Division of Professional Licensing Act, and Title 58, Chapter 47b, Massage Therapy Practice Act. In addition:

(1) "Accrediting agency" means an organization, association, or commission recognized by the United States Department of Education as a reliable authority in assessing the quality of education or training provided by a school or institution.

(2) "Acute" injury under Subsection 58-47b-102[(9)(b)](13)(g) means a sudden onset injury[~~;~~ such as] including a sprain, strain, or contusion.

~~[(3) "Body wrap" means a body treatment that:~~

~~(a) may include one or more therapeutic preparations;~~

~~(b) is not for cosmetic purposes; and~~

~~(c) maintains modesty by fully or partially draping the body.]~~

(4) "Clinic" means performing on the public, in a supervised student setting, the techniques and skills learned under the curriculum of a registered school.

(4) "Display prominently" means to make visible in at least the entryway reception area of a registered massage establishment.

(5) "Direct supervision" means the same as that term is defined in Section R156-1-102a.

(6) "Disrobe" means removing one's clothes to the point of undress.

(5) "Distance learning" means the acquisition of theory-based knowledge and non hands-on skills through information and education that is: ~~[provided without the teacher being physically present with the student, massage apprentice, or massage assistant in training, using various technologies to facilitate communication such as internet and audio or visual recordings.]~~

~~(a) provided without the teacher being physically present with the student, massage apprentice, or massage assistant-in-training; and~~

~~(b) using various technologies to facilitate communication such as internet and audio or visual recordings.~~

(6) "FSMTB" means the Federation of State Massage Therapy Boards.

(9)(a) "Fully clothed" as used in Subsection 58-47b-501.1(4)(a) means the licensee is wearing opaque outer garments that cover at least the genitals, pubic area, buttocks, and breasts.

(b) "Fully clothed" as used in Subsection 58-47b-501.1(4)(a) does not include wearing one of the following as an outer garment:

(i) lingerie;

(ii) a bikini or similar; or

(iii) swimwear, unless:

(A) it is specific to the modality including aquatic therapy; and

(B) it meets the requirements of Subsection (9)(a).

(7) "Hands-on instruction" means ~~[direct experience with or application of the education or training in a school of massage therapy, massage apprenticeship curriculum, or massage assistant in training curriculum.]~~ instruction in a massage school, massage apprentice curriculum, or massage assistant-in-training curriculum when:

(a) the instructor and trainee are both physically present in the same room at the same time; and

(b) the trainee participates in direct experience with application of the education or training.

(11) "Indirect supervision" means the same as that term is defined in Section R156-1-102a.

(12) "Intake form" as used in Subsection 58-47b-306(1) means a form that meets the requirements of Section R156-47b-306.

(8) "Lymphatic massage" means a method using light pressure applied by the hands to the skin in specific maneuvers to promote drainage of lymphatic fluid from the tissue.

(9) "Manipulation" as used in Subsection[s] 58-47b-102[(9)2](a)[(i) and 58-47b-102(10)(b);] means contact with movement[~~;~~] that involves ~~[ing]~~ touching the clothed or unclothed body.

(10) "Massage client services" means practicing on the public the techniques and skills being learned as a massage apprentice or massage assistant in-training, while under the supervision of a ~~[supervising massage therapist pursuant to Subsection 58-47b-302(3)(d) and Section R156-47b-302e or Subsection 58-47b-302(4)(b)(ii)(B) and Section R156-47b-302d]~~ massage therapy supervisor.

(16) "Massage safety permit educational module" means the educational module described in Subsections 58-47b-302(5)(d) and (7)(f) that meets the requirements of Section R156-47b-302h.

(17) "MBLEx" means the FSMTB Massage and Bodywork Licensing Exam.

(18) "Operating hours" as used in Subsection R156-47b-601(4) means any time the massage establishment is in use.

(19) "Recognized school" means a massage school located in another state, district, or territory of the United States, whose students upon graduation are recognized by that jurisdiction as having completed the educational requirements for licensure in that jurisdiction.

(20) "Registered school" means a massage school ~~[of massage]~~ with a curriculum that is registered with an accrediting agency or with the Utah Department of Commerce, Division of Consumer Protection, in accordance with Subsection R156-47b-302(1).

(21) "Subacute injury" ~~[under]~~ as used in Subsection 58-47b-102[(9)(b)](13)(g) and Section R156-47b-306 means an injury that: (a) happened less than eight weeks ago and is beyond an acute injury stage, but the tissue becomes sensitive to pain when there is tissue resistance; and

(b) is managed uniquely compared to more chronic or persistent issues.

(22) "Unprofessional conduct" is further defined, in accordance with Subsection 58-1-203(1)(e) and Sections 58-47b-502 and 58-47b-502.1, in Sections R156-47b-502 and R156-47b-502.1.

**R156-47b-202. Massage Therapy Education Peer Committee.**

(1) ~~There is created a~~ Under Subsection 58-1-203(1)(f), the Division in collaboration with the Board establishes the Massage Therapy Education Peer Committee~~;~~ consisting of:

- (a) ~~two individuals~~ four licensed massage therapists who have experience:
  - (i) ~~are~~ as an instructor[s] in massage therapy at a registered school; ~~and~~
  - (ii) ~~have experience~~ in curriculum development; or
  - (iii) as a massage apprentice supervisor; and

~~\_\_\_\_\_ (b) one individual who represents a professional massage therapy association;~~

~~(e)~~ b one individual who previously served as a member of the Board as a licensed massage therapist. ~~and~~

~~\_\_\_\_\_ (d) one individual who is a licensed massage therapist.]~~

~~\_\_\_\_\_ (2) The Board may recommend an individual qualified under Subsection (1) for appointment to the Massage Therapy Education Peer Committee if the number of committee applicants exceeds the number of open seats on the committee.~~

~~(2)~~ 3 The Massage Therapy Education Peer Committee shall:

- (a) advise the Board 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-302. Qualifications for Licensure as a Massage Therapist - Massage School Curriculum Standards.**

(1) Under Subsection 58-47b-302~~(2)(d)(i)(A))~~ (4)(a)(i)(A), an applicant shall graduate from a ~~school of~~ massage school with a curriculum that meets the ~~following standards at the time of graduation;~~ requirements of this section when the applicant graduated.

~~(1)~~ 2 ~~(Curricula)~~ The massage school's curriculum shall be:

- (a) ~~be~~ registered with:
  - (i) the ~~Utah Department of Commerce,~~ Division of Consumer Protection of the Utah Department of Commerce; or
  - (ii) an accrediting agency; ~~or~~
- (b) ~~be~~ from a recognized school as defined in Subsection R156-47b-102(19); or ~~[-]~~
- (c) recommended by the Massage Therapy Education Peer Committee and approved by the Board.

~~\_\_\_\_\_ (2)~~ 3 ~~(Curricula)~~ The massage school's curriculum shall ~~be a minimum of~~ include at least 600 hours ~~and shall include~~ covering the following:

- ~~\_\_\_\_\_ (a) anatomy, physiology and kinesiology – 125 hours;~~
- ~~\_\_\_\_\_ (b) pathology – 40 hours;~~
- ~~\_\_\_\_\_ (c) massage theory, massage techniques including the five basic Swedish massage strokes, and hands-on instruction – 285 hours;~~
- ~~\_\_\_\_\_ (d) professional standards, ethics and business practices – 35 hours;~~
- ~~\_\_\_\_\_ (e) sanitation and universal precautions including CPR and first aid – 15 hours;~~
- ~~\_\_\_\_\_ (f) clinic – 100 hours; and~~
- ~~\_\_\_\_\_ (g) other related massage subjects as approved by the Division in collaboration with the Board.]~~

TABLE 1	
Area	Hours
Anatomy, physiology, and kinesiology	125 hours
Pathology	40 hours
Massage theory, massage techniques including the five basic Swedish massage strokes, and hands-on instruction	285 hours
Professional standards, ethics, and business practices	35 hours
Sanitation and universal precautions including CPR and first aid	15 hours
Clinic	100 hours
Other related massage subjects as approved by the Division in collaboration with the Board	No specific hour requirement

~~(3)~~ 4 The Division, in collaboration with the Board, may consider supplemental coursework of an applicant who has completed the minimum 600 curricula hours, but has incidental deficiencies in one or more of the categories in Subsection~~s~~ R156-47b-302~~(2)(3)~~ (a) through (f).

~~\_\_\_\_\_ (5) An applicant may not accumulate more than 80 curricula hours within any two week period.~~

**R156-47b-302a. Qualifications for Licensure as a Massage Therapist - Equivalent Education and Training.**

(1) Under Subsections ~~58-47b-302(2)(d)(i)(B))~~ 58-47b-302(4)(a) and 58-47b-302(7)(d), an applicant shall demonstrate equivalent education and training by submitting documentation of:

- (a) a massage therapist license issued by another state, district, or territory of the United States or by a jurisdiction outside of the United States that meets the requirements for licensure by endorsement in Section 58-1-302; or

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(b) for an applicant for licensure by endorsement under Subsection 58-1-302(3)(b) with education and training in a jurisdiction outside of the United States, a credential evaluation satisfactory to the Division from an evaluation service that is a current member of the National Association of Credential Evaluation Services (NACES).

(2) Under Subsection 58-47b-302(~~2~~)(~~4~~), an applicant for licensure as a massage therapist may not:

(a) satisfy any of the required minimum 600 hours of school instruction under Subsection 58-47b-302(~~2~~)(~~4~~)(~~a~~)(i) and Section R156-47b-302 by using:

(i) hours of supervised training as a massage apprentice under Subsection~~s~~ 58-47b-302(~~2~~)(~~4~~)(~~a~~)(iii) and Section R156-47b-302c(~~5~~); or

(ii) hours of education and training as a massage assistant in-training under Subsection 58-47b-302(~~4~~)(~~2~~)(b)(i)(~~B~~) and Section R156-47b-302d; or

(b) satisfy any of the required minimum 1,000 hours of supervised training as a massage apprentice under Subsection~~s~~ 58-47b-302(~~2~~)(~~4~~)(~~a~~)(iii) and Section R156-47b-302c(~~5~~) by using:

(i) hours of school instruction under Subsection 58-47b-302(~~2~~)(~~4~~)(~~a~~)(i) and Section R156-47b-302;

(ii) hours of school instruction under Subsection 58-47b-302(~~4~~)(~~2~~)(~~b~~)(i)(~~A~~) or (ii)(~~A~~); or

(iii) hours of supervised education and training obtained while licensed as a massage assistant in-training under Subsection 58-47b-302(~~4~~)(~~2~~)(b)(i)(~~B~~) or (ii)(~~B~~).

~~**R156-47b-302b. Qualifications for Licensure—Examination Requirements.**~~

~~(1) Under Subsection 58-47b-302(2)(e), an applicant for licensure as a massage therapist shall pass:~~

~~(a) the FSMTB Massage and Bodywork Licensing Examination (MBLEx); or~~

~~(b) a predecessor exam, if the exam was passed during the time the exam was accepted by the Division.~~

~~(2) Under Subsection 58-47b-302(3)(e), an applicant for licensure as a massage apprentice shall pass the Utah Massage Therapy Law and Rule Examination.~~

~~(3) Under Subsection 58-47b-302(4)(a)(vi), an applicant for licensure as a massage assistant shall pass the Utah Massage Assistant Theory, Law, and Rule Examination.]~~

**R156-47b-302[e]b. Massage Apprenticeship Program Standards.**

~~(1) Under Subsections [58-47b-302(2)(d)(ii) and]58-47b-302(3)(~~d~~), (4)(a)(iii), and (7)(c), the [following]standards [are established] for a massage apprenticeship program[.] are established in this section.~~

~~(2)(a) An applicant for a massage apprentice license shall submit with their application for Division review and approval under Section R156-47b-302f:~~

~~(i) the first name, last name, and license number of the applicant's proposed massage therapy supervisor;~~

~~(ii) an outline of the Division-approved massage apprenticeship curriculum and the resources the applicant will use; and~~

~~(iii) a written approval from the owner of the approved massage apprentice curriculum verifying that the applicant may use the curriculum.~~

~~(~~f~~)b) An applicant may begin a massage apprenticeship with the proposed massage therapy supervisor[~~-supervising massage therapist and massage apprentice may begin an apprenticeship program~~] after:~~

~~(~~a~~)i) [the massage apprentice is licensed]the Division has licensed the applicant as a massage apprentice; and~~

~~[~~(b) the supervising massage therapist is approved by the Division; and~~~~

~~(~~e~~)ii) unless otherwise approved by the Division in collaboration with the Board, each of the [supervising massage therapist's]massage therapy supervisor's previous massage apprentices have[~~s~~] passed the [FSMTB-]MBLEx.~~

~~(3) The massage apprentice shall follow the submitted massage apprenticeship curriculum and use the resource materials.~~

~~(2) A massage therapist may not serve as a supervising massage therapist if the massage therapist has been disciplined for unlawful or unprofessional conduct within five years of the start of the apprenticeship program.~~

~~(3) Under Subsection 58-47b-302(6)(a), unless otherwise approved by the Division in collaboration with the Board:~~

~~(a) a supervising massage therapist shall serve as the sole supervisor for their massage apprentice, and may not allow another massage therapist to also supervise that massage apprentice; and~~

~~(b) a massage therapist may not supervise a massage apprentice who is under the supervision of another massage therapist.]~~

~~(4) The [supervising massage therapist]massage therapy supervisor shall train the massage apprentice in the following areas[~~-of~~]:~~

~~(a) anatomy, physiology and kinesiology—125 hours;~~

~~(b) pathology—40 hours;~~

~~(c) massage theory—50 hours;~~

~~(d) massage techniques including the five basic Swedish massage strokes—120 hours;~~

~~(e) massage client services—300 hours;~~

~~(f) hands on instruction—310 hours;~~

~~(g) professional standards, ethics and business practices—40 hours; and~~

~~(h) sanitation and universal precautions including CPR and first aid—15 hours.]~~

TABLE 2

Area	Hours Required
Anatomy, physiology, and kinesiology	125 hours
Pathology	40 hours

<u>Massage theory</u>	<u>50 hours</u>
<u>Massage techniques including the five basic Swedish massage strokes</u>	<u>120 hours</u>
<u>Massage client services</u>	<u>300 hours</u>
<u>Hands-on instruction</u>	<u>310 hours</u>
<u>Professional standards, ethics, and business practices</u>	<u>40 hours</u>
<u>Sanitation and universal precautions including CPR and first aid</u>	<u>15 hours</u>

(5) Training hours accumulated without a massage apprentice license may not be counted unless approved by the Division in collaboration with the Board.

~~[(5)(a) The supervising massage therapist shall submit with the massage apprentice's application a curriculum content outline that includes a list of the resource materials to be used, which has been preapproved by the Division.~~

~~(b) The massage apprentice shall follow the submitted Division approved curriculum content outline.]~~

(6) The list of massage apprenticeship programs approved by the Division in collaboration with the Board are listed on the Division's website at <https://dopl.utah.gov/massage-therapy>.

~~[(6) The supervising massage therapist and massage apprentice shall:~~

~~(a) display a conspicuous sign near the massage apprentice's workstation stating "Apprentice in Training";~~

~~(b) keep a daily record that includes:~~

~~(i) the number of hours of training completed; and~~

~~(ii) the number of hours of massage client services performed;~~

~~(c) make the massage apprentice's training records available to the Division immediately upon request;~~

~~(d) verify the completion of the apprenticeship program on forms available from the Division;~~

~~(e) if the apprenticeship program is terminated, notify the Division within ten working days on a Notice of Disassociation form available from the Division; and~~

~~(f) ensure that the massage apprentice performs the massage client services in Subsection (4)(e) only on the public, and performs the other hands-on instruction or practice on a massage apprentice or the supervising massage therapist.]~~

(7)~~[(a)]~~ Under Subsection 58-47b-302(3), a massage apprentice shall perform massage client services under at least the indirect supervision, as defined in Subsection R156-1-102a(1), of a massage therapy supervisor.~~[A supervising massage therapist shall provide direct supervision under Subsection 58-47b-302(3)(d) for a massage apprentice performing massage client services by:~~

~~(i) giving prior written or verbal instructions to the massage apprentice;~~

~~(ii) being present in the facility where the massage apprentice is performing the massage client services; and~~

~~(iii) being available to provide immediate face-to-face communication with the massage apprentice as necessary.~~

~~(b) The supervision massage therapist may, but need not be, present in the room where the massage apprentice is performing massage client services on the public client.]~~

(8) If a massage apprentice fails the ~~[FSMTB-]MBLEx~~ three times and requests to retake the exam:

~~[(a) the supervising massage therapist shall:~~

~~(i) with the massage apprentice, meet with the Board at the next appropriate Board meeting;~~

~~(ii) explain to the Board why the massage apprentice cannot pass the examination; and~~

~~(iii) provide to the Board a plan of study in the appropriate subject matter to assist the massage apprentice in passing the examination; and]~~

(a) the massage apprentice shall:

(i) submit to the Board a written statement outlining the massage apprentice's:

(A) core barriers to successful completion of the exam;

(B) plan for overcoming the core barriers, with goals in a specific, measurable, achievable, relevant, and time-bound (SMART)

format; and

(C) timeline for achieving the plan;

(ii) appear before the Board and develop with the Board a plan of study in the appropriate subject matter; and

(iii) complete the plan of study to the satisfaction of the Board; and

~~[(b) if the Division and Board approve, the massage apprentice shall again be eligible to take the FSMTB MBLEx.]~~

~~(b) the Division in collaboration with the Board shall review the massage apprentice's application to determine whether to provide approval for the massage apprentice to retake the exam.~~

(9) A licensed or formerly licensed massage apprentice who has failed the MBLEx may not use their supervised training as a massage apprentice to apply for a massage assistant license unless the applicant has received prior approval from the Division in collaboration with the Board.

### **R156-47b-302c. Qualifications for Licensure as a Massage Assistant - Massage School Education and Training Standards.**

(1) Under Subsections 58-47b-302(2)(a)(i) and (ii) and (7)(c), an applicant shall graduate from a massage school with a curriculum that meets the requirements of this section when the applicant graduated.

(2) The massage school's curriculum shall be:

(a) registered with:

(i) the Division of Consumer Protection of the Utah Department of Commerce; or

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- (ii) an accrediting agency;
- (b) from a recognized school as defined in Subsection R156-47b-102(19); or
- (c) recommended by the Massage Therapy Education Peer Committee and approved by the Board.
- (3) The massage school's curriculum shall include at least 300 hours covering the following:

<u>TABLE 3</u>	
<u>Area</u>	<u>Hours</u>
<u>Anatomy, physiology, and kinesiology</u>	<u>62.5 hours</u>
<u>Pathology</u>	<u>20 hours</u>
<u>Massage theory, massage techniques including the five basic Swedish massage strokes, and hands-on instruction</u>	<u>142.5 hours</u>
<u>Professional standards, ethics, and business practices</u>	<u>17.5 hours</u>
<u>Sanitation and universal precautions including CPR and first aid</u>	<u>7.5 hours</u>
<u>Clinic</u>	<u>50 hours</u>
<u>Other related massage subjects as approved by the Division in collaboration with the Board</u>	<u>No specific hour requirement</u>

(4) The Division, in collaboration with the Board, may consider supplemental coursework of an applicant who has completed the minimum 300 curricula hours, but has incidental deficiencies in one or more of the categories in Subsection R156-47b-302c(3).

(5) An applicant may not accumulate more than 80 curriculum hours within any two week period.

**R156-47b-302d. Qualifications for Licensure as a Massage Assistant[-in-Training] - Massage Assistant-In-Training Application and Education and Training Standards.**

(1) Under Subsections 58-47b-302[(4)(a)(iv)](1), 58-47b-302[(4)(b)](2)(b)(i), and 58-47b-302[(5)(d)](7)(b), the [following] standards [are established] for a massage assistant in-training education and training program[.] are established in this section.

[ (1) Under Subsections 58-47b-102(6), 58-47b-302(5)(d), and 58-47b-501(1)(a), a massage assistant in-training may engage in the supervised practice of limited massage therapy as defined in Subsection 58-47b-102(9), but may not engage in the practice of massage therapy as defined in Subsection 58-47b-102(10). ]

[ (2) A supervision massage therapist and a massage assistant in training may begin their education and training program after:

(a) the supervision massage therapist has submitted with the massage assistant in-training's license application the curriculum content outline and list of resource materials to be used;

(b) the massage assistant in training is licensed as a massage assistant in training; and

(c) the Division has approved the supervising massage therapist.]

(2)(a) An applicant for a massage assistant-in-training license shall submit:

(i) the first name, last name, and license number of the applicant's proposed massage therapy supervisor to the Division for approval under Section R156-47b-302f;

(ii) an outline of the Division-approved massage assistant-in-training curriculum program and resources the applicant will use; and

(iii) a written approval from the owner of the approved massage assistant-in-training curriculum verifying that the applicant may use the curriculum.

(b) An applicant may begin their massage assistant-in-training program with the massage therapy supervisor after:

(i) the Division has licensed the applicant as a massage assistant-in-training; and

(ii) unless otherwise approved by the Division in collaboration with the Board, each of the massage therapy supervisor's previous massage assistants-in-training have passed the Utah Massage Assistant Theory, Law, and Rule Exam.

(c) The massage assistant-in-training shall follow the submitted curriculum content outline and use the resource materials.

[ (3) A massage therapist may not serve as a supervising massage therapist if:

(a) the massage therapist's license has been disciplined for unlawful or unprofessional conduct within five years of the start of the massage assistant in-training education and training program; or

(b) unless otherwise approved by the Division in collaboration with the Board, one or more of the supervising massage therapist's previous massage assistants in training has not passed the Utah Massage Assistant Theory, Law, and Rule Examination.]

[(4)2] Under Subsection 58-47b-302[(4)2](b)(i), a [supervising massage therapist shall train the] massage assistant in-training shall complete[for a total of] at least 300 hours of education and training as follows:

[ (a) under Subsection 58-47b-302(4)(b)(i)(B), at least 150 hours of education and training under the direct supervision of the supervising massage therapist, by face to face instruction in the following areas while the supervising massage therapist and massage assistant in-training are present in the same room:

(i) anatomy and physiology—40 hours;

(ii) pathology—20 hours;

(iii) massage theory—10 hours;

(iv) massage techniques including the five basic Swedish massage strokes—40 hours;

(v) hands-on instruction in the areas in Subsections 58-47b-102(9)(a)(ii) through (vi)—30 hours;

(vi) professional standards, ethics, and business practices—5 hours;

~~(vii) sanitation and universal precautions, including CPR and first aid – 5 hours; and~~  
(a) under Subsection 58-47b-302(2)(b)(i)(A), at least 150 hours of education under the direct supervision of the massage therapy supervisor that meets the following requirements:

TABLE 4	
Area	Hours
Anatomy, physiology, and kinesiology	40 hours
Pathology	20 hours
Massage theory	10 hours
Massage techniques including the five basic Swedish massage strokes	40 hours
Hands-on instruction	30 hours
Professional standards, ethics, and business practices	5 hours
Sanitation and universal precautions including CPR and first aid	5 hours

~~(b) under Subsection 58-47b-302(4)2(b)(i)(B), at least 150 hours of education and training; [under the indirect supervision of the supervising massage therapist, by the massage assistant in training performing at least 150 hours of massage client services on the public while the supervising massage therapist:~~

- ~~(i) has given prior written or verbal instructions to the massage assistant in training;~~
- ~~(ii) is present in the facility where the massage assistant in training is performing the massage client services, and may, but need not be, present in the room where the massage assistant in training is performing the massage client services; and~~
- ~~(iii) is available to provide immediate face to face communication with the massage assistant in training as necessary.]~~
- (i) performing massage client services within the scope of limited massage therapy;
- (ii) under at least the indirect supervision of the massage therapy supervisor as defined in Subsection R156-1-102a(1)(b); and
- (iii) following the massage therapy supervisor's written or verbal instructions for each client.
- ~~(5) The massage assistant in training shall follow the curriculum content outline and use the resource materials as submitted by their supervising massage therapist.~~

~~(6) Under Subsection 58-47b-302(6)(a), unless otherwise approved by the Division in collaboration with the Board:~~  
~~(a) a supervising massage therapist shall serve as the sole supervisor for their massage assistant in training, and may not allow another massage therapist to supervise that massage assistant in training; and~~

~~(b) a massage therapist may not supervise a massage assistant in training who is under the supervision of another massage therapist.~~

~~(7) A supervising massage therapist and massage assistant in training shall:~~

- ~~(a) under Section 58-47b-306, display a conspicuous sign near the workstation stating "Massage Assistant In Training";~~
- ~~(b) keep a daily record that includes:~~
  - ~~(i) the number of hours of education and training completed; and~~
  - ~~(ii) the number of hours of massage client services performed;~~
  - ~~(c) make massage assistant in training education and training and work history records available to the Division upon request;~~
  - ~~(d) verify the massage assistant in training's completion of their education and training on a form available from the Division;~~
  - ~~(e) if the massage assistant in training program is terminated, notify the Division within ten working days on a Notice of Disassociation form available from the Division; and~~
  - ~~(f) ensure that the massage assistant in training performs massage client services only on the public, and performs the other hands-on instruction or practice on a massage assistant in training, a massage assistant, or the supervision massage therapist.]~~

~~(8)4] If a massage assistant in-training fails the Utah Massage Assistant Theory, Law, and Rule Exam[ination] three times and requests to retake the exam:~~

- ~~(a) the supervising massage therapist shall:~~
  - ~~(i) with the massage assistant in training, meet with the Board at the next appropriate meeting;~~
  - ~~(ii) explain to the Board why the massage assistant in training cannot pass the examination; and~~
  - ~~(iii) provide to the Board a plan of study in the appropriate subject matter to help the massage assistant in training pass the examination; and]~~

~~(a) the massage assistant-in-training shall:~~  
~~(i) submit to the Board a written statement outlining the massage assistant-in-training's:~~  
~~(A) core barriers to successful completion of the exam;~~  
~~(B) plan for overcoming the core barriers, with goals in a specific, measurable, achievable, relevant, and time-bound (SMART) format; and~~

~~(C) timeline for achieving the plan;~~  
~~(ii) appear before the Board and develop with the Board a plan of study in appropriate subject matter; and~~  
~~(iii) complete the plan of study to the satisfaction of the Board; and~~

~~(b) if the Division and Board approve, the massage assistant in training shall again be eligible to take the Utah Massage Assistant Theory, Law, and Rule Examination.]~~

(b) the Division in collaboration with the Board shall review the massage assistant-in-training's application to determine whether to provide approval for the massage assistant-in-training to retake the exam.

**R156-47b-302e. Massage Assistant Practice Standards.**

~~(1) Under Subsection[s] 58-47b-102([5]2)[, 58-47b-302(4)(a)(v),] and Section 58-47b-301, the [following]practice standards [are established for practice as]for a massage assistant[?] are established in this section.~~

~~([+]2) Under Subsection 58-47b-[501(1)(a)]301(5)(a)(ii), a massage assistant;[ may engage in the supervised practice of limited massage therapy as defined in Subsection 58-47b-102(9), but may not engage in the practice of massage therapy as defined in Subsection 58-47b-102(10).]~~

~~(a) may preform limited massage therapy as defined in Subsection 58-47b-102(7); and~~

~~(b) may not perform massage therapy as defined in Subsection 58-47b-102(13).~~

~~[(2) An individual may not serve as a massage therapy supervisor for a massage assistant if the individual's professional license under Title 58, Occupations and Professions, or professional license in any other jurisdiction, has been disciplined for unlawful or unprofessional conduct within five years of the start of the supervision.]~~

~~(3) Under Subsection 58-47b-[302(6)(b)]301(5)(a)(i), [when-]a massage assistant [is engaging in the practice of]performing limited massage therapy under supervision, [the massage assistant may]shall be supervised by only one massage therapy supervisor at a time. [-This does not prohibit+]The massage assistant [from having]may have different massage therapy supervisors at different times.~~

~~[(4) Under Subsection 58-47b-306(2), the massage therapy supervisor and massage assistant shall display a conspicuous sign near the massage assistant's workstation stating "Massage Assistant".]~~

~~(5) A massage therapy supervisor shall make the massage therapy supervisor's and the massage assistant's employment records available to the Division upon request, such as personnel records, payroll records, independent contractor and 1099 records, supervision records, work contracts, performance reviews, disciplinary actions, and work history records showing dates, times, and locations of practice.]~~

~~(4) Under Subsection 58-47b-301(5)(a)(ii), the 300 hours of indirect supervision may include hours performed as supervised massage client services under Subsection 58-47b-302(2)(a)(i) and Section R156-47b-302c, or Subsections 58-47b-302(2)(b)(i) and R156-47b-302d(3)(b).~~

~~([6]5) A massage assistant shall make the massage assistant's employment records available to the Division upon request, such as payroll records, independent contractor and 1099 records, supervision records, work contracts, and work history records showing dates, times and locations of practice.~~

**R156-47b-302f. Massage Therapy Supervisor Standards.**

~~(1) Under Subsections 58-47b-102(14) and 58-47b-301(6), the supervisor standards for a massage therapy supervisor are established in this section.~~

~~(2) A massage therapist may not serve as a massage therapy supervisor if, within the five years immediately preceding the submission of the proposed supervisee's application for licensure:~~

~~(a) a license held by the massage therapist, in any regulated profession and in any jurisdiction, is under investigation or has been disciplined for unlawful or unprofessional conduct, or has been surrendered as described in Subsection R156-1-501(1); or~~

~~(b) unless otherwise approved by the Division in collaboration with the Board, three or more of the massage therapy supervisor's supervisees have taken and not passed a required exam.~~

~~(3) Unless otherwise approved by the Division in collaboration with the Board, a massage therapy supervisor:~~

~~(a) shall serve as the sole supervisor for the supervisee;~~

~~(b) may not allow another massage therapist to supervise the supervisee;~~

~~(c) may not supervise a supervisee who is under the supervision of another massage therapy supervisor;~~

~~(d) shall ensure the supervisee is properly licensed; and~~

~~(e) may not allow a supervisee to accumulate hours without being properly licensed.~~

~~(4) A massage therapy supervisor for:~~

~~(a) a massage apprentice shall display a conspicuous sign near the apprentice's workstation stating "Massage apprentice";~~

~~(b) a massage assistant-in-training shall display a conspicuous sign near the massage assistant-in-training's workstation stating "Massage assistant-in-training"; and~~

~~(c) a massage assistant shall display a conspicuous sign near the massage assistant's workstation stating "Massage assistant".~~

~~(5) A massage therapy supervisor shall:~~

~~(a) follow the curriculum content outline and use the resource materials that have been submitted to and approved by the Division for that supervisee;~~

~~(b) advise, direct, and instruct the supervised licensee in education, training, and behavior that follows the generally accepted and recognized standards and ethics of the massage therapy profession, including those in the Utah Chapter of the American Massage Therapy Association Utah Code of Ethics and Standards of Practice, October 2025 edition, which is incorporated by reference;~~

~~(c) keep a daily record that includes:~~

~~(i) the number of hours of education and training completed; and~~

~~(ii) the number of hours of massage client services performed;~~

~~(d) make the supervisee's education, training, and employment records available to the Division upon request;~~

~~(e) verify the completion of the supervisee's education and training on a form available from the Division;~~

~~(f) if the supervisor-supervisee relationship is terminated, notify the Division within ten working days on a Notice of Disassociation form available from the Division at <https://dopl.utah.gov/massage-therapy/>; and~~

~~(g) ensure that the supervisee performs massage client services only on the public and performs the other hands-on instruction or practice on a massage assistant-in-training, massage assistant, massage apprentice, massage therapist, or the massage therapy supervisor.~~

~~(6) If a supervisee fails a required exam three times the massage therapy supervisor shall:~~

- (a) appear before the Board to explain why the supervisee has not passed the exam; and
- (b) provide to the Board a plan of study in the appropriate subject matter to address deficiencies in the supervisee's education and training to pass the exam.

**R156-47b-302g. Qualifications for Licensure - Exam Requirements.**

- (1) Under Subsections 58-47b-302(4)(b) and (7)(a), an applicant for licensure as a massage therapist shall pass:
  - (a) the MBLEx; or
  - (b) a predecessor exam, if the exam was passed during the time the exam was accepted by the Division.
- (2) Under Subsections 58-47b-302(2)(a)(iii), (2)(b)(iii), (2)(c)(ii), and (7)(a), an applicant for licensure as a massage assistant or massage apprentice shall pass the Utah Massage Assistant Theory, Law, and Rule Exam.

**R156-47b-302h. Massage Safety Permit Educational Module - Training on Topics.**

The topics described in Table 5 in this section:

- (1) are the required subject matter for the massage safety permit educational module under Subsections 58-47b-302(5)(d) and (7)(f); and
- (2) are the topics on which an applicant shall complete training in accordance with Subsections 58-47b-302(2)(a)(ii), (2)(b)(ii), and (4)(a)(i)(B), (ii)(B), and (iii)(B).

<u>TABLE 5</u>		
<u>Topic</u>	<u>Subtopics</u>	<u>Hours Required</u>
<u>Universal standard precautions</u>	<u>Client and therapist safety; legal and ethical responsibilities; sanitation; insurance; communication</u>	<u>2 hours</u>
<u>Taking a medical history and intake</u>	<u>Identifying basic contraindications; pathology; presenting conditions and primary concerns; known allergies, sensitivities, and conditions; systems review; record retention</u>	<u>4 hours</u>
<u>Practicing physical boundaries and professional boundaries</u>	<u>Proper draping techniques; respect for personal space; inappropriate touch; consent and informed consent; appropriate client-therapist relationship; personal disclosure; avoiding a dual relationship, romantic or sexual advance, giving or receiving a gift; out-of-office contact</u>	<u>4 hours</u>

**R156-47b-302.2a. Qualifications for Registration as a Massage Establishment -- Application.**

- (1) Under Subsection 58-47b-302.2(2)(c)(iii), an applicant for registration as a massage establishment shall include with the application a signed attestation by the owner that the massage establishment's physical facilities comply with the requirements of Section R156-47b-302.2b when the application is submitted.
- (2) Under Subsection 58-47b-302.2(2), upon request by the Division an applicant for registration as a massage establishment shall assist the Division to confirm the accuracy or completeness of any information and documentation in the registration application and to verify compliance with Title 58, Chapter 47b, Massage Therapy Practice Act, which assistance may include:
  - (a) providing to the Division accurate and complete records of massage establishment ownership and operations, including advertising, employment and work history, payroll, supervision agreements, or documentation showing ownership or right to possession of the premises;
  - (b) providing to the Division any of the information described in Section R156-47b-302.2c; or
  - (c) consenting to and successfully completing an inspection under Section R156-47b-601.

**R156-47b-302.2b. Qualifications for Registration as a Massage Establishment - Facility Requirements.**

- (1) Under Subsection 58-47b-302.2(2)(c)(iii), the facility requirements for a massage establishment are established in this section.
- (2) A massage establishment shall:
  - (a) under Subsection 58-47b-502.1(2), follow applicable state and local health and sanitation codes and requirements, including under Title 26B, Chapter 7, Public Health and Prevention;
  - (b) provide each client with a private space to disrobe as necessary;
  - (c) provide a private space for each client to receive massage services, except if the client has consented in writing to receiving massage services in a nonprivate setting, such as for couples massage and event work; and
  - (d) display prominently the Division resources and information required under Subsections 58-47b-306.1(1)(c) and (3)(b), by posting in the entryway reception area and in each restroom of the massage establishment the Division's Massage Disclosure form, available on the Division's website, which describes:
    - (i) methods for reporting complaints to the Division, including by phone and through the Division's online complaint form at <https://dopl.utah.gov/file-a-complaint>;
    - (ii) a client's right to request the licensee's first name and last initial and license type;
    - (iii) methods for contacting local law enforcement about concerns;

- ~~(iv) resources for identifying and reporting suspected human trafficking; and~~
- ~~(v) resources available to potential victims of human trafficking.~~
- ~~(3) A massage establishment may not:~~
  - ~~(a) place or allow a camera or other recording device in a practice room, restroom, or other location where an individual disrobes;~~
  - ~~(b) place or allow a camera or other recording device in a location where an individual receives massage services, unless:~~
    - ~~(i) the recording is solely for an educational or marketing purpose; and~~
    - ~~(ii) the individual has given signed consent to the recording in a form separate from the intake form; or~~
  - ~~(c) install or operate an automated teller machine (ATM) in the massage establishment.~~

**R156-47b-302.2c. Qualifications for Registration as a Massage Establishment - Maintenance of Registration - Verification of Compliance with Massage Therapy Practice Act.**

- ~~(1) Under Subsections 58-47b-301.1(5), 58-47b-502.1(1), 58-47b-601(4) and (5), or Section 58-47b-302.2, a massage establishment shall maintain, and provide to the Division upon request, an accurate record of current employees and contracted personnel that includes:~~
  - ~~(a) first and last name;~~
  - ~~(b) license classification, if any;~~
  - ~~(c) license number, if any;~~
  - ~~(d) license expiration date, if any; and~~
  - ~~(e) recent color photograph of the individual's face.~~
- ~~(2) Under Subsection 58-47b-301.1(5), a massage establishment shall maintain, and provide to the Division upon request, accurate documentation of the massage establishment's current employment agreements or contract relationships.~~
- ~~(3) Under Sections 58-47b-401.1 and 58-47b-504, Subsections 58-47b-301.1(6), (7), or (8), 58-47b-302.2(2), (3), or (5), or 58-47b-601(4) or (5), a massage establishment shall maintain, and provide to the Division upon request, an accurate record of the massage establishment's ownership and organizational structure, including:~~
  - ~~(a) percentages of ownership, including as the beneficiary of a trust;~~
  - ~~(b) the lines of authority, including any contractual or actual delegations of management or responsibility for the massage establishment; and~~
  - ~~(c) the identity of each individual for whom a background check is required under Subsection 58-47b-302.2(3), together with the information for that individual under Subsection 58-47b-302.2(2)(e).~~

**R156-47b-303. Renewal Cycle - Procedures - Individuals.**

- ~~(1) Under Subsections 58-47b-303(1) and 58-1-308(1)(a), the renewal date for the two-year renewal cycle for [licensees]a massage therapist or a massage assistant under Title 58, Chapter 47b, Massage Therapy Practice Act is established in Section R156-1-308a.~~
- ~~(2) Renewal procedures shall be in accordance with Sections R156-1-308c through R156-1-308e.~~
- ~~(3) Under Subsection 58-47b-303(3) an expired massage assistant in training license may not be renewed, but the Division in collaboration with the Board may extend the license for a period proportionate to a hardship experienced by the massage assistant in training, if the massage assistant in training presents evidence in writing satisfactory to the Division and Board that:~~
  - ~~(a) the circumstance of hardship arose beyond the massage assistant in training's control to prevent the completion of the licensure process; and~~
  - ~~(b) the massage assistant in training is on a course reasonably expected to lead to licensure as a massage assistant, such as making reasonable progress toward completing the required hours of education and training and passing the required exam.]~~

**R156-47b-303.1. Renewal Cycle - Procedures - Massage Establishment.**

- ~~(1) Under Section 58-47b-303.1 and Subsection 58-1-308(1)(a), the renewal date for the two-year renewal cycle for a massage establishment's registration under Title 58, Chapter 47b, Massage Therapy Practice Act is established in Section R156-1-308a and is the same as the renewal cycle for a massage therapist or massage assistant under Subsection R156-47b-303(1).~~
- ~~(2) Renewal procedures shall be in accordance with Sections R156-1-308c through R156-1-308e.~~
- ~~(3) Under Subsection 58-47b-301.1(6), a massage establishment's registration expires immediately upon the transfer or assignment, or attempted transfer or assignment, of the registration.~~

**R156-47b-304. Exemptions from Licensure - Individuals.**

~~Under Subsection 58-47b-304(1)([#]o)(i), the industry organizations that are recognized by the Division are listed on the Division's website at <https://dopl.utah.gov/massage-therapy>[ under Related Information - Resources].~~

**R156-47b-306. Client Intake Form Requirements.**

- ~~(1)(a) Under Subsection 58-47b-306(1)(b), a licensee shall require that each client complete a client intake form before the first session; and~~
  - ~~(b) before each new session, a licensee shall review the most recently completed intake form with the client and confirm all information is current.~~
- ~~(2) Under Subsection 58-47b-306(1)(b), a licensee's intake form shall include at least the following:~~
  - ~~(a) the name of the massage establishment or the sole practitioner;~~
  - ~~(b) the date of the session;~~
  - ~~(c) the client's;~~

- (i) first and last names;
- (ii) birth year;
- (iii) contact information; and
- (iv) emergency contact;
- (d) if the client is seeking a massage for a specific health issue;
- (e) the client's health history including:
  - (i) each major medical issue;
  - (ii) each allergy;
  - (iii) a current acute injury as defined in Subsection R156-47b-102(2);
  - (iv) a current subacute injury as defined in Subsection R156-47b-102(21); and
  - (v) if the client is currently under the treatment of a physician;
- (f) an explanation of what the client may expect during the session including:
  - (i) the treatment plan;
  - (ii) the massage technique;
  - (iii) the level of massage pressure;
  - (iv) each focus area on the client's body;
  - (v) each area to avoid on the client's body;
  - (vi) draping;
  - (vii) duration of the session; and
  - (viii) privacy and confidentiality;
- (g) the client's right to:
  - (i) disrobe in privacy and to the client's comfort level;
  - (ii) ask questions;
  - (iii) modify the treatment;
  - (iv) stop treatment; or
  - (v) report inappropriate conduct to law enforcement or to the Division of Professional Licensing;
- (h) the licensee's right to:
  - (i) immediately end the session for a client's inappropriate conduct including:
    - (A) disrespectful speech or behavior;
    - (B) harassment;
    - (C) a sexual advance or request; or
    - (D) alcohol or drug intoxication; and
  - (ii) report inappropriate conduct to law enforcement or to the Division of Professional Licensing;
- (i) policies regarding:
  - (i) cancellation; and
  - (ii) no show; and
  - (i) signed consent to treatment.

**R156-47b-502. Unprofessional Conduct[-] - Individuals.**

Under Section 58-47b-502, "unprofessional conduct" for an individual licensed under Section 58-47b-302 includes:

- (1) engaging in any lewd, indecent, obscene, or unlawful behavior while practicing as:~~[ a massage therapist, massage therapy supervisor, massage apprentice, massage assistant, or massage assistant in training;]~~
  - (a) a massage therapist;
  - (b) a massage therapy supervisor;
  - (c) a massage apprentice;
  - (d) a massage assistant; or
  - (e) a massage assistant-in-training;
- ~~[(2) under Subsection 58-47b-502(4), failing to properly supervise a massage apprentice, massage assistant, or massage assistant in training shall include:~~
  - ~~(a) failing to provide the required direct supervision;~~
  - ~~(b) failing to provide the required indirect supervision; or~~
  - ~~(c) violating Subsection 58-47b-302(6).]~~
    - ([3]2) as a massage apprentice, practicing without [direct supervision]the required level of supervision under Subsection 58-47b-302(3) and Section R156-47b-302b;
    - (3) as a massage assistant:
      - [4] as a massage assistant,](a) practicing without [the required indirect supervision under Subsection 58-47b-301(5)(a)(ii) and Section R156-47b-302e; or
      - (b) failing to provide employment records to the Division upon request, including under Subsection R156-47b-302e(5);
      - ([5]4) as a massage assistant in-training, practicing without [the required-]direct or indirect supervision under Subsection 58-47b-302(1) and Section R156-47b-302d;
      - ([6]5) as a [supervising massage therapist,]massage therapy supervisor:[ failing to provide or to document adequate education and training as required by Title 58, Chapter 47b, Massage Therapy Practice Act or Rule R156-47b;]

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~~(a) failing to provide or document the required education and training under Title 58, Chapter 47b, Massage Therapy Practice Act or Rule R156-47b;~~

~~[(7) as a massage therapy supervisor,](b) failing to provide employment records to the Division upon request, including under Subsection R156-47b-302[e]f(5)(d);~~

~~(c) allowing another individual to also supervise the supervised individual under Section 58-47b-302 in violation of Section R156-47b-302f;~~

~~[(8) as a massage assistant, failing to provide employment records to the Division upon request, including under Subsection R156-47b-302e(6);]~~

~~[(9) as a supervising massage therapist,](d) advising, directing, or instructing [a massage apprentice or massage assistant in training]the supervised licensee in any education or training or behavior that violates the generally accepted and recognized standards and ethics of the massage therapy supervisor's licensed profession under Title 58, Occupations and Professions[the massage profession], including those in the Utah Chapter of the American Massage Therapy Association Utah Code of Ethics and Standards of Practice, [May 1, 2010]October 2025 edition, which is incorporated by reference;~~

~~[(10) as a massage therapy supervisor, advising or directing a massage assistant in any behavior, or allowing or aiding or abetting any behavior by a massage assistant, that violates the generally accepted and recognized standards and ethics of:~~

~~(a) the massage profession, including those in the Utah Chapter of the American Massage Therapy Association Utah Code of Ethics and Standards of Practice, May 1, 2010 edition, which is incorporated by reference; or~~

~~(b) the massage therapy supervisor's licensed profession under Title 58, Occupations and Professions.]~~

~~(e) supervising more than six individuals or more than four massage apprentices or massage assistants-in-training in violation of Subsection 58-47b-301(6); or~~

~~(f) allowing a massage apprentice to accumulate hours toward an apprenticeship in violation of Subsection R156-47b-302f(3)(e);~~

~~(6) supervising a massage apprentice, massage assistant, or massage assistant-in-training:~~

~~(a) when not qualified under Subsection 58-47b-102(14) or Section R156-47b-302f;~~

~~(b) without Division approval under Subsection R156-47b-302b(2) or R156-47b-302d(2); or~~

~~(c) when the massage apprentice, massage assistant, or massage assistant-in-training is under the supervision of another massage therapy supervisor who is approved by the Division and meets the requirements of Subsection 58-47b-102(14) and Section R156-47b-302f;~~

~~[(11)7] failing to notify a client of any communicable health condition the licensee may have that could present a hazard to the client;~~

~~[(12)8] failing to use appropriate draping procedures to protect the client's personal privacy;[-or]~~

~~[(13)9] failing to conform to the generally accepted and recognized standards and ethics of the massage profession, including those in the Utah Chapter of the American Massage Therapy Association Utah Code of Ethics and Standards of Practice, [May 1, 2010]October 2025 edition, which is incorporated by reference[-];~~

~~(10) failing to comply with an administrative inspection under Sections 58-47b-601 and R156-47b-601;~~

~~(11) failing to comply with an administrative investigation under Subsection 58-1-106(1)(b);~~

~~(12) failing to obtain signed consent from a client before starting a massage;~~

~~(13) failing to provide a client with a private space to disrobe as necessary;~~

~~(14) failing to provide a private room for a client to receive massage services unless the client has consented to receiving massage services in a nonprivate setting, including couples massage and event work;~~

~~(15) placing or allowing a camera or other recording device in a practice room, restroom, or other location where an individual disrobes;~~

~~(16) placing or allowing a camera or other recording device in a location where an individual receives massage services, unless:~~

~~(a) the recording is solely for an educational or marketing purpose; and~~

~~(b) the individual has given signed consent to the recording in a form separate from the intake form;~~

~~(17) holding oneself out as a sole practitioner when the licensee does not meet the definition of a sole practitioner under Subsection 58-47b-102(19);~~

~~(18) performing massage services in a location not listed in Subsection 58-47b-301(3);~~

~~(19) failing to obtain from the client a completed and signed intake form under Subsection 58-47b-306(1);~~

~~(20) failing to wear or display the licensee's first name, last name or last initial, and license type under Subsection 58-47b-306(2);~~

~~(21) failing to provide to the client the first name, last name initial, and license type of the licensed individual performing the massage services under Subsection 58-47b-306(3); or~~

~~(22) under Subsection 58-47b-301.1(8), acting as an owner of a registered massage establishment that has failed to comply with a statute or rule that requires or prohibits action by the registered massage establishment.~~

**R156-47b-502.1. Unprofessional Conduct - Massage Establishments.**

Under Section 58-47b-502.1, "unprofessional conduct" for a massage establishment includes:

(1) advising, instructing, directing, arranging, allowing, or aiding or abetting any individual in the massage establishment to engage in any lewd, indecent, obscene or unlawful conduct, or conduct that may be reasonably construed as sexual in nature;

(2) advising, instructing, directing, arranging, allowing, or aiding or abetting an individual in any unprofessional conduct or conduct that violates the generally accepted and recognized standards and ethics of the massage profession, including the Utah Chapter of the American Massage Therapy Association Utah Code of Ethics and Standards of Practice, October 2025 edition, which is incorporated by reference;

(3) failing to display any registration, signage, or resource in accordance with Title 58, Chapter 47b, Massage Therapy Practice Act including Section 58-47b-306.1, or Rule R156-47b, Massage Therapy Practice Act Rule including Section R156-47b-302.2b;

(4) failing to comply with Section R156-47b-302.2c;

- (5) failing to notify the Division as required by statute or rule, including under Section 58-1-301.7 or Subsection 58-47b-301.1(7);
- (6) failing to comply with an administrative inspection under Sections 58-47b-601 and R156-47b-601;
- (7) failing to comply with an administrative investigation under Title 58, Occupations and Professions or Rule 156-1, General Rule of the Division of Professional Licensing;
- (8) failing to comply with a facility requirement under Section R156-47b-302.2b; or
- (9) failing to correct a violation of the statute or rule regulating massage establishments discovered upon inspection by the Division within the time period established by the Division.

**R156-47b-503. Administrative Penalties[-] - Individuals.**

[In addition to the penalties in Section 58-47b-503, the penalties under Sections 58-1-502 and R156-1-502 shall apply to a violation of Title 58, Occupations and Professions.]

(1) Under Subsection 58-47b-503(6), unless otherwise ordered by the Division's presiding officer, the following penalties apply to a licensed individual under Title 58, Chapter 1, Division of Professional Licensing Act, and Title 58, Chapter 47b, Massage Therapy Practice Act:

TABLE 6		
Violation	First Offense Penalty	Subsequent Offense Penalty
<u>58-1-501(1)(a)</u>	<u>The greater of: \$100 - \$500 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-1-501(1)(b)</u>	<u>The greater of: \$100 - \$500 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-1-501(1)(c)</u>	<u>The greater of: \$500 - \$1,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-1-501(1)(d)</u>	<u>The greater of: \$500 - \$1,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-1-501(1)(e)</u>	<u>The greater of: \$100 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-1-501(1)(f)</u>	<u>The greater of: \$500 - \$1,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-1-501(1)(g)</u>	<u>The greater of: \$500 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-1-501(2)(a)(i)</u>	<u>The greater of: \$500 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-1-501(2)(a)(ii)</u>	<u>The greater of: \$500 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-1-501(2)(a)(iii)</u>	<u>\$500 - \$2,000, subject to Subsection 58-47b-503(5).</u>	<u>\$2,000 - \$10,000, subject to Subsection 58-47b-503(5).</u>
<u>58-1-501(2)(a)(iv)</u>	<u>\$500 - \$2,000</u>	<u>\$2,000 - \$10,000</u>
<u>58-1-501(2)(a)(v)</u>	<u>\$100 - \$500</u>	<u>The greater of: \$500 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>

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<u>58-1-501(2)(a)(vi)</u>	<u>\$100 - \$500</u>	<u>The greater of:</u> <u>\$2,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(vii)</u>	<u>\$500 - \$2,000</u>	<u>The greater of:</u> <u>\$2,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(viii)</u>	<u>\$100 - \$500</u>	<u>The greater of:</u> <u>\$500 - \$10,000 for a single violation, or</u> <u>up to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(ix)</u>	<u>The greater of:</u> <u>\$100 - \$500 for a single violation, or</u> <u>up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$500 - \$10,000 for a single violation, or</u> <u>up to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(x)</u>	<u>The greater of:</u> <u>\$100 - \$500 for a single violation, or</u> <u>up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$2,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(xi)</u>	<u>The greater of:</u> <u>\$2,000 - \$5,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(xii)</u>	<u>The greater of:</u> <u>\$100 - \$1,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$2,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(xv)</u>	<u>The greater of:</u> <u>\$500 - \$2,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$2,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-47b-501(1)(a)</u>	<u>The greater of:</u> <u>\$100 - \$500 for a single violation, or</u> <u>up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$2,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-47b-501(1)(b)</u>	<u>The greater of:</u> <u>\$100 - \$500 for a single violation, or</u> <u>up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$2,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-47b-501(1)(c)</u>	<u>The greater of:</u> <u>\$100 - \$500 for a single violation, or</u> <u>up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$2,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-47b-501(1)(d)</u>	<u>\$2,000 - \$5,000</u>	<u>\$5,000 - \$10,000</u>
<u>58-47b-502(1)</u>	<u>The greater of:</u> <u>\$500 - \$1,000 for a single violation,</u> <u>or \$250 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$2,000 - \$10,000 for a single violation,</u> <u>or \$500 per day of an ongoing</u> <u>violation.</u>
<u>58-47b-502(2)</u>	<u>The greater of:</u> <u>\$500 - \$1,000 for a single violation,</u> <u>or \$100 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$2,000 - \$10,000 for a single violation,</u> <u>or \$200 per day of an ongoing</u> <u>violation.</u>
<u>58-47b-502(3)</u>	<u>The greater of:</u> <u>\$500 - \$1,000 for a single violation,</u> <u>or \$100 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$1,000 - \$5,000 for a single violation,</u> <u>or \$200 per day of an ongoing</u> <u>violation.</u>
<u>58-47b-502(4)</u>	<u>The greater of:</u> <u>\$200 - \$2,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$2,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>

<u>58-47b-502(5)</u>	<u>The greater of: \$100 - \$2,000 for a single violation, or \$125 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or \$250 per day of an ongoing violation.</u>
<u>58-47b-502(6)</u>	<u>\$500 - \$1,000</u>	<u>\$2,000 - \$10,000</u>
<u>58-47b-502(7)</u>	<u>The greater of: \$500 - \$1,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-502(8)</u>	<u>The greater of: \$100 - \$500 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-502(9)</u>	<u>The greater of: \$100 - \$500 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>Any rule from 58- 1, 58-47b-501, or 58-47b-502.</u>	<u>The greater of: \$1,000 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-1-501(1)</u>	<u>\$100 - \$500</u>	<u>\$500 - \$10,000</u>
<u>R156-1-501(2)</u>	<u>The greater of: \$500 - \$1,000 for a single violation, or \$250 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or \$500 per day of an ongoing violation.</u>
<u>R156-1-501(3)</u>	<u>\$500 - \$2,000</u>	<u>\$2,000 - \$10,000</u>
<u>R156-1-501(4)</u>	<u>The greater of: \$500 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-1-501(5)</u>	<u>The greater of: \$100 - \$1,000 for a single violation, or \$150 per day of an ongoing violation.</u>	<u>The greater of: \$1,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-1-501(7)</u>	<u>The greater of: \$500 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(1)</u>	<u>The greater of: \$2,000 - \$5,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$5,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(2)</u>	<u>The greater of: \$200 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b- 502(3)(a)</u>	<u>The greater of: \$200 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b- 302(3)(b)</u>	<u>The greater of: \$100 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(4)</u>	<u>The greater of: \$200 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>

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<u>R156-47b-502(5)(a)</u>	<u>The greater of: \$200 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(5)(b)</u>	<u>The greater of: \$100 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(5)(c)</u>	<u>The greater of: \$200 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(5)(d)</u>	<u>The greater of: \$500 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(5)(e)</u>	<u>The greater of: \$200 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(5)(f)</u>	<u>\$200 - \$2,000</u>	<u>\$2,000 - \$10,000</u>
<u>R156-47b-502(6)(a)</u>	<u>The greater of: \$200 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(6)(b)</u>	<u>The greater of: \$200 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(6)(c)</u>	<u>The greater of: \$200 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(7)</u>	<u>\$100 - \$500</u>	<u>\$500 - \$1,000</u>
<u>R156-47b-502(8)</u>	<u>\$500 - \$2,000</u>	<u>\$2,000 - \$10,000</u>
<u>R156-47b-502(9)</u>	<u>The greater of: \$500 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(10)</u>	<u>\$500 - \$2,000</u>	<u>\$2,000 - \$10,000</u>
<u>R156-47b-502(11)</u>	<u>The greater of: \$500 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(12)</u>	<u>\$200 - \$2,000</u>	<u>\$2,000 - \$10,000</u>
<u>R156-47b-502(13)</u>	<u>The greater of: \$500 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(14)</u>	<u>The greater of: \$500 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(15)</u>	<u>The greater of: \$2,000 - \$5,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$5,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>

<u>R156-47b-502(16)</u>	<u>The greater of: \$2,000 - \$5,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$5,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(17)</u>	<u>The greater of: \$100 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(18)</u>	<u>The greater of: \$200 - \$2,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>R156-47b-502(19)</u>	<u>\$100 - \$500</u>	<u>\$500 - \$2,000</u>
<u>R156-47b-502(20)</u>	<u>The greater of: \$100 - \$500 for a single violation, or \$150 per day of an ongoing violation.</u>	<u>The greater of: \$500 - \$1,000 for a single violation, or \$300 per day of an ongoing violation.</u>
<u>R156-47b-502(21)</u>	<u>\$100 - \$500</u>	<u>\$500 - \$1,000</u>
<u>R156-47b-502(22)</u>	<u>The greater of: \$2,000 - \$5,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$5,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>Any act of unlawful conduct or unprofessional conduct that is not specifically listed in this penalty schedule.</u>	<u>The greater of: \$100 - \$2,000 for a single violation, or \$100 per day of an ongoing violation.</u>	<u>The greater of: \$2,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>

(2)(a) Under Subsection R156-1-502(1), a citation may not be issued for a third or subsequent offense except in extraordinary circumstances approved by the bureau manager or chief investigator.

(b) If a citation is issued for a third or subsequent offense, the penalty amount shall be double the second offense penalty amount up to the maximum penalty amount allowed under Section 58-47b-503.

(3) Multiple offenses may be cited on the same penalty if the citation clearly indicates:

(a) each offense; and

(b) the penalty amount allocated to each offense.

(4) The Division bureau manager, investigative team leader, or chief investigator may authorize a deviation from the penalty amount in a citation based upon the aggravating or mitigating circumstances.

(5) The Division's presiding officer for a contested citation may increase or decrease the penalty amount imposed by an investigator based on:

(a) a review of the evidence; and

(b) the aggravating or mitigating circumstances.

**R156-47b-503.1. Administrative Penalties - Massage Establishments.**

(1) Under Subsection 58-47b-503.1(4), unless otherwise ordered by the Division's presiding officer, the following penalties apply to a massage establishment under Title 58, Chapter 1, Division of Professional Licensing Act, and Title 58, Chapter 47b, Massage Therapy Practice Act:

<u>TABLE 7</u>		
<u>Violation</u>	<u>First Offense Penalty</u>	<u>Subsequent Offense Penalty</u>
<u>58-1-501(1)(a)</u>	<u>The greater of: \$5,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-1-501(1)(b)</u>	<u>The greater of: \$5,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>

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<u>58-1-501(1)(c)</u>	<u>The greater of:</u> <u>\$1,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(1)(d)</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(1)(e)</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(1)(g)</u>	<u>\$5,000 - \$10,000</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(i)</u>	<u>\$1,000 - \$5,000</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(ii)</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(iii)</u>	<u>\$5,000 - \$10,000, subject to</u> <u>Subsection 58-47b-503.1(3).</u>	<u>\$10,000, subject to Subsection 58-</u> <u>47b-503.1(3).</u>
<u>58-1-501(2)(a)(iv)</u>	<u>\$5,000 - \$10,000</u>	<u>\$10,000</u>
<u>58-1-501(2)(a)(vii)</u>	<u>\$1,000 - \$5,000</u>	<u>The greater of:</u> <u>\$5,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(viii)</u>	<u>\$5,000 - \$10,000</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(x)</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(xi)</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up to</u> <u>\$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-1-501(2)(a)(xv)</u>	<u>The greater of:</u> <u>\$500 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$1,000 - \$10,000 for a single</u> <u>violation, or up to \$2,000 per day of</u> <u>an ongoing violation.</u>
<u>58-47b-501.1(1)</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-47b-501.1(2)</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>58-47b-501.1(3)</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>

<u>58-47b-501.1(4)</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-501.1(5)</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-501.1(6)</u>	<u>The greater of: \$5,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-501.1(7)</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-501.1(8)</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-501.1(9)</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-501.1(10)</u>	<u>The greater of: \$5,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-501.1(11)</u>	<u>The greater of: \$5,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-501.1(13)</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-501.1(14)</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>	<u>The greater of: \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-502.1(1)</u>	<u>The greater of: \$500 - \$1,000 for a single violation, or \$100 per day of an ongoing violation.</u>	<u>The greater of: \$5,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-502.1(2)</u>	<u>The greater of: \$500 - \$1,000 for a single violation, or \$100 per day of an ongoing violation.</u>	<u>The greater of: \$1,000 - \$5,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-502.1(3)</u>	<u>The greater of: \$1,000 - \$5,000 for a single violation, or \$500 per day of an ongoing violation.</u>	<u>The greater of: \$5,000 - \$10,000 for a single violation, or up to \$2,000 per day of an ongoing violation.</u>
<u>58-47b-502.1(4)</u>	<u>The greater of: \$1,000 - \$5,000 for a single violation, or \$500 per day of an ongoing violation.</u>	<u>The greater of: \$5,000 - \$10,000 for a single violation, or \$1,000 per day of an ongoing violation.</u>
<u>58-47b-502.1(5)</u>	<u>The greater of \$1,000 - \$5,000 for a single violation, or \$500 per day of an ongoing violation.</u>	<u>The greater of: \$5,000 - \$10,000 for a single violation, or \$1,000 per day of an ongoing violation.</u>

NOTICES OF PROPOSED RULES

<u>58-47b-502.1(6)</u>	<u>The greater of:</u> <u>\$250 - \$5,000 for a single violation, or</u> <u>\$125 per day of an ongoing violation.</u>	<u>The greater of:</u> <u>\$500 - \$10,000 for a single</u> <u>violation, or \$250 per day of an</u> <u>ongoing violation.</u>
<u>58-47b-502.1(7)</u>	<u>\$1,000 - \$5,000</u>	<u>\$5,000 - \$10,000</u>
<u>Any rule from 58-1,</u> <u>58-47b-501.1, or 58-</u> <u>47b-502.1.</u>	<u>The greater of:</u> <u>\$1,000 - \$2,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$2,000 - \$10,000 for a single</u> <u>violation, or up to \$2,000 per day of</u> <u>an ongoing violation.</u>
<u>R156-1-501(1)</u>	<u>\$200 - \$1,000</u>	<u>\$1,000 - \$10,000</u>
<u>R156-1-501(2)</u>	<u>The greater of:</u> <u>\$1,000 - \$5,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single</u> <u>violation, or up to \$2,000 per day of</u> <u>an ongoing violation.</u>
<u>R156-1-501(3)</u>	<u>\$5,000 - \$10,000</u>	<u>\$10,000</u>
<u>R156-1-501(4)</u>	<u>The greater of:</u> <u>\$1,000 - \$5,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single</u> <u>violation, or up to \$2,000 per day of</u> <u>an ongoing violation.</u>
<u>R156-1-501(5)</u>	<u>The greater of:</u> <u>\$1,000 - \$5,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single</u> <u>violation, or up to \$2,000 per day of</u> <u>an ongoing violation.</u>
<u>R156-1-501(7)</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>R156-47b-502.1(1)</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>R156-47b-502.1(2)</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>R156-47b-502.1(3)</u>	<u>The greater of:</u> <u>\$1,000 - \$5,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single</u> <u>violation, or up to \$2,000 per day of</u> <u>an ongoing violation.</u>
<u>R156-47b-502.1(4)</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>R156-47b-502.1(5)</u>	<u>The greater of:</u> <u>\$1,000 - \$5,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single</u> <u>violation, or up to \$2,000 per day of</u> <u>an ongoing violation.</u>
<u>R156-47b-502.1(6)</u>	<u>\$10,000</u>	<u>\$10,000</u>
<u>R156-47b-502.1(7)</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up to</u> <u>\$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>R156-47b-502.1(8)</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>
<u>R156-47b-502.1(9)</u>	<u>The greater of:</u> <u>\$5,000 - \$10,000 for a single violation,</u> <u>or up to \$2,000 per day of an ongoing</u> <u>violation.</u>	<u>The greater of:</u> <u>\$10,000 for a single violation, or up</u> <u>to \$2,000 per day of an ongoing</u> <u>violation.</u>

<p><u>Any act of unlawful conduct or unprofessional conduct that is not specifically listed in this penalty schedule.</u></p>	<p><u>The greater of: \$100 - \$5,000 for a single violation, or \$100 per day of an ongoing violation.</u></p>	<p><u>The greater of: \$5,000 - \$10,000 for a single violation, or \$200 per day of an ongoing violation.</u></p>
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(2)(a) Under Subsection R156-1-502(1), a citation may not be issued for a third or subsequent offense except in extraordinary circumstances approved by the bureau manager or chief investigator.

(b) If a citation is issued for a third or subsequent offense, the penalty shall be at least double the penalty for a second offense, up to the maximum penalty allowed under Section 58-47b-503.1.

(3) Multiple offenses may be cited on the same citation if the citation clearly indicates:

(a) each offense; and

(b) the penalty allocated to each offense.

(4) The Division bureau manager, investigative team leader, or chief investigator may authorize a deviation from the penalty amount based upon the aggravating or mitigating circumstances.

(5) The Division's presiding officer for a contested citation may increase or decrease the penalties imposed by the citation based on:

(a) a review of the evidence; and

(b) the aggravating or mitigating circumstances.

**R156-47b-504. Renting or Leasing to a Sole Practitioner - Attestation and Documentation.**

Under Section 58-47b-504, a sole practitioner renting or leasing to another sole practitioner shall obtain the signed attestation required by Subsection 58-47b-504(2) by using the Division's Massage Lessor Attestation form, available on the Division's website, or similar form, which contains the following:

(1) the attestation for the lessee to sign;

(2) information on how to use the Division's website to verify the lessee is a licensed massage therapist in good standing in Utah; and

(3) instructions to attach a copy of the lessee's current license to the attestation.

**R156-47b-601. Inspection.**

(1) Under Subsection 58-47b-601(1), the Division may enter and inspect the premises and facilities of a massage establishment, with or without notice, to determine compliance with Title 58, Chapter 1, Division of Professional Licensing Act, Title 58, Chapter 47b, Massage Therapy Practice Act, and this Rule R156-47b.

(2) In conducting an inspection under Section 58-47b-601, the Division may:

(a) inspect and copy physical and electronic records of the massage establishment, including intake forms, billing records, and employment records;

(b) inspect within reasonable limits and in a reasonable manner the premises and equipment, following the Division's Massage Establishment Inspection form, available on the Division's website; and

(c) verify the identity of all on-duty employees by checking photo identification and massage license, if any.

(3) A massage establishment shall assist the inspector conducting an inspection by providing upon request any of the information described in Section R156-47b-302.2c.

(4) An inspection shall be conducted within the operating hours of the massage establishment as defined in Subsection R156-47b-102(18), unless law enforcement requests the presence of a Division investigator outside of the operating hours in which case the inspection shall be limited to license and registration verifications.

(5) If a massage establishment is located within a licensee's residence or an office space shared with other businesses, an inspector shall have independent and sufficient legal justification before inspecting areas not being used as a place of business for massage.

**R156-47b-[6]701. Standards for Animal Massage Therapy Training.**

Under Subsection 58-28-307(12)(c), an individual 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 establishment, massage establishment registration, massage therapy, massage therapist, massage apprentice, massage assistant, massage assistant-in-training, inspection, animal massage**

**Date of Last Change: 2026[February 14, 2025]**

**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		
<b>TYPE OF FILING:</b> New		
<b>Rule or section number:</b>	<b>R380-90</b>	<b>Filing ID: 57746</b>

**Agency Information**

<b>1. Title catchline:</b>	Health and Human Services, Administration	
<b>Building:</b>	Multi-Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Lindsay Harris	385-315-0622	lindsayharris@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>	
R380-90. Accounting and Protection of Federal Benefits for Minor Beneficiaries in Custody	
<b>3. Are any changes in this filing because of state legislative action?</b>	Changes are because of legislative action.
<b>If yes, any bill number and session:</b>	HB 302 (2025 General Session)
<b>4. Purpose of the new rule or reason for the change:</b>	
HB 302, passed in the 2025 General Session, enacted Section 80-2-504, which requires the Department of Health and Human Services (department) to make rules to implement the requirements of the section and to provide for the accounting and protection of federal benefits for minor beneficiaries in the custody of the Division of Child and Family Services and Division of Juvenile Justice and Youth Services.	
<b>5. Summary of the new rule or change:</b>	
This new rule implements the requirements of Section 80-2-504 and provides for the accounting and protection of federal benefits for minors in the Division of Child and Family Services or Division of Juvenile Justice and Youth Services custody, including establishing federal benefit criteria, providing definitions, and establishing policies, procedures, and safeguards.	

**Fiscal Information**

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A. State budget:</b>
There is no anticipated cost or savings to the department as a result of this rule filing because any cost to the department is a result of HB 302 (2025), rather than this rule filing.
This rule filing implements the administration of the requirements established in Section 80-2-504, enacted by HB 302 (2025), to provide for accounting and protection of federal benefits for minors, including criteria for the preservation of disbursement of a minor beneficiary's federal benefits, defining what constitutes good cause for the use of an account other than an ABLE account, safeguards to prevent the mismanagement of and protection against theft, loss, or misappropriation of minor beneficiary's federal benefits, and policies and procedures to ensure compliance with federal regulations.
Costs to the department have already been captured in a fiscal note for HB 302 (2025) can be viewed at <a href="https://pf.utleg.gov/public-web/sessions/2025GS/fiscal-notes/HB0302S03.fn.pdf">https://pf.utleg.gov/public-web/sessions/2025GS/fiscal-notes/HB0302S03.fn.pdf</a> .
Before HB 302 enacted Section 80-2-504, the department had been able to use the entirety of a minor beneficiary's federal benefits for any maintenance cost, as defined in Section 80-2-504.

However, with the enactment of this statute, the department is limited to using up to 75% of those benefits for maintenance costs. The Legislature appropriated ongoing funds through SB 3 (2025), starting in FY 26, of \$795,200 in general funds and \$137,800 in federal funds to the department to help cover these additional costs. As these costs are already reflected in the fiscal notes for HB 302 and SB 3, they are not reflected in the regulatory impact summary table for this rule filing.

**B. Local governments:**

There is no anticipated fiscal impact to local governments as a result of this rule filing because this rule does not apply to 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 rule filing because this rule does not apply to 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 rule filing because this rule 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*):

There is no anticipated cost or savings to other persons, identified as minor beneficiaries in the custody of the department, because this rule filing implements the administration of the requirements established in Section 80-2-504, and any potential indirect impacts on minor beneficiaries are related to the implementation of the bill rather than this rule filing.

As a result of HB 302 (2025), Section 80-2-504 limits the department's use of a minor's federal benefits for maintenance costs. The department is still responsible for covering maintenance costs, meaning that a minor beneficiary is not fiscally responsible for any additional costs and is not anticipated to see a change in non-fiscal benefits.

Additionally, because of Section 80-2-504, minor beneficiaries may have a larger portion of their federal benefits available to them when they leave department custody, but it is impossible to know how many minor beneficiaries will be released and the value of each beneficiary's benefits.

However, this would be a result of the bill and not of this rule filing.

**F. Compliance costs for affected persons:**

There are no anticipated compliance costs for affected persons, identified as minor beneficiaries and the department, as a result of this rule filing.

Any cost to the department is a result of HB 302 (2025), rather than this rule filing, and there are no anticipated compliance costs to minor beneficiaries because any potential indirect fiscal impacts on minor beneficiaries are related to the implementation of the bill rather than this rule filing.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

NOTICES OF PROPOSED RULES

Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**  
 Section 80-2-504

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**  
**A. Comments will be accepted until:** 02/17/2026

**10. This rule change MAY become effective on:** 02/24/2026  
 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**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	12/27/2025
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**R380. Health and Human Services, Administration.**

**R380-90. Accounting and Protection of Federal Benefits for Minor Beneficiaries in Custody.**

**R380-90-1. Authority and Purpose.**

- (1) Section 80-2-504 authorizes this rule.
- (2) This rule implements the requirements of Section 80-2-504 and provides for the accounting and protection of federal benefits for minors in department custody.

**R380-90-2. Definitions.**

- Terms used in this rule are defined in Section 80-2-504. Additionally:
- (1) "ABLE account" means:
    - (a) the same as defined in Section 80-2-504; and
    - (b) a tax-advantaged savings account for an eligible person with disabilities that allows the person to save and invest money for disability-related expenses without jeopardizing the person's eligibility for means-tested public benefits, including Medicaid and supplemental security income (SSI).
  - (2) "PTIF" means the Public Treasurer's Investment Fund.
  - (3) "Trust account" means a tracking account used to store funds available to use for a minor beneficiary's maintenance cost.

**R380-90-3. Preservation and Disbursement of Minor Beneficiary Federal Benefits.**

- (1) In accordance with Subsection 80-2-504(4)(e), the department shall conserve or invest federal benefit funds not expended for maintenance costs in a PTIF or an ABLE account, depending on a minor beneficiary's eligibility, unless good cause exists to use a different account, as described in Section R380-90-4.
- (2) The department shall calculate eligible deposits upon receipt and conserve at least 25% of each eligible deposit separate from the minor beneficiary's available spending balance.
- (3)(a) When a minor beneficiary leaves custody, the department shall request authorization from the federal agency that was the source of the minor beneficiary's federal benefit, in accordance with applicable federal regulation, to send any conserved and unspent funds directly to the minor beneficiary or the next representative payee.

- (b) The department shall return the conserved and unspent funds to the federal agency that was the source of the benefits if:
  - (i) the department's request is denied; or
  - (ii) the department does not receive a response from the federal agency that was the source of the benefits by the time the federal agency requires the funds be returned.
- (4) If the department receives federal benefit funds for a minor beneficiary no longer in the department's custody, the department shall return those funds to the federal agency that was the source of the benefits.

**R380-90-4. Good Cause for Use of Other Accounts.**

- Good cause for using an account other than an ABLE account includes if the minor beneficiary:
- (1) already has a special needs trust or other account;
  - (2) has exceeded or is likely to exceed the contribution limits for an ABLE account;
  - (3) does not qualify for an ABLE account; or
  - (4) has any other circumstance the department determines is good cause.

**R380-90-5. Compliance with Federal Regulations.**

The department shall establish policies and procedures to ensure compliance with applicable federal regulations.

**R380-90-6. Safeguards Against Mismanagement and Theft.**

- (1) The department shall limit employee access to minor beneficiary accounts by providing specific authorization to any employee with access.
- (2) For each minor beneficiary, the department shall document every account transaction.
- (3)(a) The department shall calculate and separate at least 25% of the eligible federal benefit funds received for each minor beneficiary into an account that is not accessible to the minor beneficiary while the minor beneficiary is in department custody.
  - (b) Any amount remaining in a minor beneficiary's trust account may be used for maintenance costs.
- (4)(a) Before a disbursement from a minor beneficiary's trust account may be processed:
  - (i) the department must obtain appropriate approval and supporting documentation, in accordance with Division of Finance Administration policy; and
  - (ii) the representative payee must ensure there is sufficient balance in the account to cover the disbursement.
- (b) The department shall void any outstanding check after 180 days.
- (5) The department shall reconcile every minor beneficiary's account with bank statements each month, including the funds conserved in accordance with Subsection 80-2-504(4)(e).
- (6) A minor beneficiary may request information about that minor beneficiary's account through a caseworker.

**KEY: DCFS, Division of Child and Family Services, Division of Juvenile Justice and Youth Services, JJYS**

**Date of Last Change: 2026**

**Authorizing, and Implemented or Interpreted Law: 80-2-504**

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: New		
Rule or section number:	R500-4	Filing ID: 57747

**Agency Information**

<b>1. Title catchline:</b>	Health and Human Services, Ombudsman (Office of)	
<b>Building:</b>	Multi-Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 142003	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2003	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Sofia Latham	801-440-6775	slatham1@utah.gov
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**Please address questions regarding information on this notice to the persons listed above.**

**General Information**

<b>2. Rule or section catchline:</b>	
R500-4. Congregate Care Ombudsman Program	
<b>3. Are any changes in this filing because of state legislative action?</b>	Changes are because of legislative action.
<b>If yes, any bill number and session:</b>	SB 297 (2025 General Session)
<b>4. Purpose of the new rule or reason for the change:</b>	
SB 297, passed in the 2025 General Session, enacted Section 26B-2-124.2, which establishes the congregate care ombudsman and requires the Office of Licensing to make rules to implement and enforce that section.	
In coordination with the Office of Licensing, the Office of Ombudsman determined that it is appropriate to also create this new rule, under the authority in Section 26B-1-202 given to the Department of Health and Human Services (department) to adopt rules necessary for providing health and social services to the people of Utah, to establish the Congregate Care Ombudsman Program.	
<b>5. Summary of the new rule or change:</b>	
This new rule defines and outlines the structure, roles, functions, and operational procedures for the Congregate Care Ombudsman Program.	
This includes the process for the congregate care ombudsman to receive complaints, conduct an investigation, and request records, the process for a provider to provide records requested by the ombudsman and to file an appeal when the ombudsman makes recommendations that a provider does not agree with, requirements for a provider to allow a child to contact the ombudsman, and confidentiality of records.	

**Fiscal Information**

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>	
<b>A. State budget:</b>	
There is no anticipated fiscal impact to the department as a result of this new rule, as any costs to the department for starting and maintaining the Congregate Care Ombudsman Program have already been accounted for in the fiscal note for SB 297 (2025), which can be viewed at <a href="https://pf.utleg.gov/public-web/sessions/2025GS/fiscal-notes/SB0297S05.fn.pdf">https://pf.utleg.gov/public-web/sessions/2025GS/fiscal-notes/SB0297S05.fn.pdf</a> .	
That fiscal note for SB 297 (2025) accounts for an anticipated \$413,600 in costs to the department, related to personnel and operations in FY2026. This amount was calculated based on \$412,200 of ongoing costs and a one-time cost of \$1,400. The cost of \$412,200 is anticipated to be the annual cost of implementing the bill each year, starting in FY2027.	
The department anticipates absorbing the \$1,400 one-time cost and \$600 of the ongoing costs within existing budgets. As these costs were captured in the bill's fiscal note, they are not reflected in the regulatory impact summary table for this filing.	
<b>B. Local governments:</b>	
This new rule is not anticipated to impact local governments' revenues or expenditures because local governments do not provide congregate care services and, therefore, are not affected by this rule.	
<b>C. Small businesses</b> ("small business" means a business employing 1-49 persons):	
This new rule is not anticipated to result in a cost or savings for small businesses providing congregate care services because this rule requires those businesses to post congregate care ombudsman information in their facilities and allow children to contact the ombudsman as needed.	
These businesses are already required to post other information in facilities, provide children with the means to contact the Office of Licensing for complaints, and to have a process in place to resolve concerns with the Office of Licensing, so it is not anticipated that posting additional congregate care ombudsman information, providing children with the means to contact the Office of Ombudsman for complaints, or creating processes to resolve concerns with the Office of Ombudsman will result in any additional cost to the business.	

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

This new rule is not anticipated to result in a cost or savings for non-small businesses providing congregate care services because this rule requires those businesses to post congregate care ombudsman information in their facilities and allow children to contact the ombudsman as needed.

These businesses are already required to post other information in facilities, provide children with the means to contact the Office of Licensing for complaints, and to have a process in place to resolve concerns with the Office of Licensing, so it is not anticipated that posting additional congregate care ombudsman information, providing children with the means to contact the Office of Ombudsman for complaints, or creating processes to resolve concerns with the Office of Ombudsman will result in any additional cost to the 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**):

This rule is not anticipated to result in a cost or saving to persons other than small businesses, non-small businesses, state, or local governments, as it applies only to the department and congregate care providers.

There are no other persons affected by this rule filing.

**F. Compliance costs for affected persons:**

There are no anticipated compliance costs for affected persons, identified as the department and small and non-small businesses providing congregate care services. Any cost to the department to implement this change was already identified in the fiscal note for SB 297 (2025) as a result of the bill and not as a result of the rule.

Affected businesses are already required to post other information in facilities, provide children with the means to contact the Office of Licensing for complaints, and to have a process in place to resolve concerns with the Office of Licensing, so it is not anticipated that the requirement to post additional congregate care ombudsman information, provide children with the means to contact the Office of Ombudsman for complaints, or creating processes to resolve concerns with the Office of Ombudsman will result in any additional cost to these businesses.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$40
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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**

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

Section 26B-1-202		
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**

<b>A. Comments will be accepted until:</b>	02/17/2026
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<b>10. This rule change MAY become effective on:</b>	02/24/2026
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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**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	12/27/2025
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**R500. Health and Human Services, Ombudsman (Office of).**

**R500-4. Congregate Care Ombudsman Program.**

**R500-4-1. Authority and Purpose.**

- (1) Section 26B-1-202 authorizes this rule, and Section 26B-2-124.2 establishes the congregate care ombudsman.
- (2) This rule outlines the structure, roles, functions, and operational procedures for the Congregate Care Ombudsman Program.

**R500-4-2. Definitions.**

- (1) "Complaint" means the same as "report" is defined in Subsection 26B-2-124.2(1)(b).
- (2) "Complainant" means a person who initiates a complaint.
- (3) "Department" means the Department of Health and Human Services.
- (4) "Division" means the Division of Customer Experience under the department.
- (5) "Executive director" means the executive director of the department, or a designee.
- (6) "Ombudsman" means the congregate care ombudsman, described in Section 26B-2-124.2, or a designee.
- (7) "Office" means the Office of the Ombudsman within the division under the department.
- (8) "Office director" means the director of the office.
- (9) "Preliminary investigative review" means the second phase of the ombudsman complaint resolution process, which is initiated if a complaint has merit and remains unresolved after the complainant has attempted to resolve the issue directly with the provider.
- (10) "Provider" means an entity that provides a congregate care program, as defined in Subsection 26B-2-101(12).

**R500-4-3. Receiving and Processing Complaints.**

- (1)(a) For a complaint to be accepted by the ombudsman, a complainant must file a complaint with the ombudsman no later than nine months from the date of any alleged circumstance that led to the complaint.
- (b) If the office director determines that there is a legitimate complaint filed more than nine months after the alleged circumstance, the office director may direct the ombudsman to accept and investigate the complaint.
- (2) The complainant may file a complaint by:
  - (a) filling out and submitting the online complaint form at [dhs.utah.gov/office-of-ombuds/congregate%20care%20ombuds/](https://dhs.utah.gov/office-of-ombuds/congregate%20care%20ombuds/);
  - (b) emailing the complaint to [dhscustomerexp@utah.gov](mailto:dhscustomerexp@utah.gov);
  - (c) calling the ombudsman at 801-538-4580; or
  - (d) mailing the complaint to:  
Multi-Agency State Office Building, Utah Department of Health and Human Services, Office of Ombudsman - 1st Floor  
195 N. 1950 West, Salt Lake City, UT 84116
- (3) Each complaint shall include:
  - (a) a summary of any alleged circumstance that led to the complaint;
  - (b) the name of any person involved in the complaint;
  - (c) a summary of any action already taken by the complainant to resolve the complaint; and
  - (d) the anticipated outcome the complainant is seeking.
- (4) If a complaint does not include the information in Subsection (3), the ombudsman shall attempt to contact the complainant to request more information.
- (5) The ombudsman shall prioritize any complaint alleging any:
  - (a) act or omission that places a child's health or safety at risk; or
  - (b) behavior that could cause serious emotional or bodily harm to any person.

**R500-4-4. Conducting an Investigation.**

(1) The ombudsman shall make an effort to contact the complainant within three business days of receiving a properly filed complaint to confirm receipt of the complaint and gather additional information as needed.

(2) If the complainant has not attempted to resolve the complaint with the provider before filing the complaint, the ombudsman may refer the complainant back to the provider to attempt to resolve the complaint before the ombudsman takes further action.

(3) If the complaint remains unresolved after the complainant attempts to resolve the complaint with the provider and the complaint has merit, the ombudsman may initiate a preliminary investigative review and contact the provider to discuss the complaint.

(4) If the complaint remains unresolved after the ombudsman's efforts to facilitate resolution during the preliminary investigative review, the ombudsman shall determine whether further investigation is warranted based on the merits of the complaint.

(a) If the ombudsman decides to escalate the complaint and conduct a formal investigation, the ombudsman shall provide written notification of that decision to:

(i) the provider;

(ii) the complainant; and

(iii) the parent or guardian of any child mentioned in the complaint, including the complainant if the complainant is a child.

(b) If the ombudsman determines that further investigation is not warranted, the ombudsman shall notify the complainant and the provider of the reason for the decision.

(5) If the ombudsman determines a formal investigation is warranted, the investigation may include the ombudsman:

(a) interviewing the complainant and gathering information necessary to determine the validity of the complaint;

(b) interviewing any child admitted to the provider;

(c) interviewing a parent or guardian of a child admitted to the provider;

(d) interviewing any provider staff member;

(e) accessing, copying, or inspecting a provider's records related to the complaint;

(f) entering, inspecting, or observing any physical area of a provider's facility.

(6) At the end of the formal investigation, the ombudsman shall:

(a) document the findings of the investigation; and

(b) make recommendations as needed to the provider to address any complaint found to be valid.

(7)(a) The ombudsman shall complete any investigation within 180 days from the date the complaint was filed, unless there are extenuating circumstances, such as the complexity of a case or workload.

(b) If the ombudsman cannot complete the investigation within 180 days, the ombudsman shall notify the complainant in an accessible format suitable to the complainant, of the reason why the final decision is delayed and the additional time needed to reach a final decision.

(8) The ombudsman shall provide written notification of the completion of an investigation and any recommendations to:

(a) the provider;

(b) the complainant; and

(c) the parent or guardian of any child mentioned in the complaint, including the complainant if the complainant is a child.

**R500-4-5. Recommendation Compliance or Appeal.**

(1) If the ombudsman makes recommendations upon completion of an investigation, the provider shall, within ten business days of receipt of the written recommendations:

(a) agree to comply with the recommendations; or

(b) if the provider does not agree with the recommendations, file a written appeal with the office director that:

(i) includes why the provider does not agree with the recommendations; and

(ii) requests that the recommendations be amended.

(2)(a) The office director shall issue a written final decision to the provider on any appeal no later than 15 business days after receiving the provider's appeal.

(b) If the office director's final decision on an appeal amends the original recommendations, the office director shall also provide written notification of the final decision to:

(i) the complainant; and

(ii) the parent or guardian of any child mentioned in the complaint, including the complainant if the complainant is a child.

(3) The provider may submit a written appeal of the office director's decision to the executive director within ten business days of receiving the office director's decision.

(4)(a) The executive director shall issue a written final decision to the provider within 15 business days of receiving the appeal.

(b) If the executive director's final decision on an appeal amends recommendations, the executive director shall also provide written notification of the final decision to:

(i) the complainant; and

(ii) the parent or guardian of any child mentioned in the complaint, including the complainant if the complainant is a child.

(5) If the executive director cannot reach a final decision within 15 business days, the executive director shall notify the provider in writing and inform the provider the additional time needed to reach a final decision.

**R500-4-6. Processing Records Requests.**

(1) In accordance with Subsection 26B-2-124.2(4)(e), the ombudsman may access, copy, or inspect a program's records that are relevant to a complaint, investigation, or review concerning a child, including any:

## NOTICES OF PROPOSED RULES

- \_\_\_\_\_ (a) clinical file;
- \_\_\_\_\_ (b) medical records;
- \_\_\_\_\_ (c) educational records;
- \_\_\_\_\_ (d) progress notes;
- \_\_\_\_\_ (e) incident report;
- \_\_\_\_\_ (f) audio file;
- \_\_\_\_\_ (g) video file;
- \_\_\_\_\_ (h) behavioral plans; and
- \_\_\_\_\_ (i) other records that pertain to the care, treatment, or well-being of the child in the provider's program.
- \_\_\_\_\_ (2) The ombudsman shall submit a written request for records to the provider and specify in the request:
  - \_\_\_\_\_ (a) the purpose of the request;
  - \_\_\_\_\_ (b) the name of any child whose records are being requested; and
  - \_\_\_\_\_ (c) the nature of the information requested.
- \_\_\_\_\_ (3)(a) Upon receipt of the ombudsman's written request, the provider shall provide the requested records to the ombudsman within three business days, unless a shorter timeframe is required for an urgent or expedited investigation, as described in Subsection (3)(d).
- \_\_\_\_\_ (b) The provider shall give the ombudsman access to the requested records without requiring a release of information or consent from the child or the child's legal guardian when:
  - \_\_\_\_\_ (i) the ombudsman requests the records as part of the ombudsman's official duties; and
  - \_\_\_\_\_ (ii) the records are related to a specific complaint or investigation.
- \_\_\_\_\_ (c) The provider shall deliver the records to the ombudsman in a secure, confidential manner to protect the child's privacy, such as through a secure electronic portal, encrypted email, or secure physical delivery.
- \_\_\_\_\_ (d) If the ombudsman determines that a delay in receiving records would jeopardize the child's health, safety, or welfare, the ombudsman may make an expedited request for records.
  - \_\_\_\_\_ (i) The ombudsman shall clearly mark any expedited request as "Expedited" and include an explanation of the immediate need for the records.
    - \_\_\_\_\_ (ii)(A) Upon receipt of an expedited request, the provider shall provide the requested records within 24 hours.
  - \_\_\_\_\_ (B) If the request is received after regular business hours, the 24-hour period shall begin at the start of the next business day.
- \_\_\_\_\_ (4)(a) If a provider cannot provide the requested records to the ombudsman within the timeframe specified in this section, the provider shall immediately contact the ombudsman to explain the reason for the delay and provide a firm date by which the records will be provided.
- \_\_\_\_\_ (b) Any provider's delay in providing requested records, as described in Subsection (4)(a), may only be the result of unforeseen and exceptional circumstances and may not be a matter of routine practice.

### **R500-4-7. Child Access to Contact with the Ombudsman.**

- \_\_\_\_\_ (1) A provider shall ensure that each child in the provider's program has reasonable and confidential access to the ombudsman.
- \_\_\_\_\_ (2) A provider shall promptly accommodate a child's request to contact the ombudsman and may not impede or discourage a child from contacting the ombudsman.
- \_\_\_\_\_ (3)(a) If a child requests to contact the ombudsman during a scheduled program activity, including an educational class, group therapy, or recreational activity, the provider shall make a reasonable effort to facilitate contact between the child and the ombudsman without undue delay.
- \_\_\_\_\_ (b) If the child expresses an urgent or immediate need to speak with the ombudsman, the provider shall facilitate contact between the child and the ombudsman as soon as it is safe and practical to do so.
- \_\_\_\_\_ (4) A child's ability to contact the ombudsman may not be contingent on the child's behavior, therapeutic progress, or any other factor.
- \_\_\_\_\_ (5) If a child requests to contact the ombudsman after the posted business hours, the provider shall allow the child to call the ombudsman and leave a voicemail.

### **R500-4-8. Confidentiality.**

- \_\_\_\_\_ (1) The office may only disclose records maintained by the Congregate Care Ombudsman Program in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.
- \_\_\_\_\_ (2) The ombudsman may not disclose the identity of a complainant or entity named in the complaint unless:
  - \_\_\_\_\_ (a) the complainant or the legal representative of the complainant consents verbally or in writing;
  - \_\_\_\_\_ (b) a court orders disclosure; or
  - \_\_\_\_\_ (c) the ombudsman approves the disclosure, as part of an investigation involving the complainant, to an agency that:
    - \_\_\_\_\_ (i) has statutory responsibility;
    - \_\_\_\_\_ (A) for the complainant;
    - \_\_\_\_\_ (B) over the action alleged in the complaint; or
    - \_\_\_\_\_ (C) for another entity named in the complaint;
    - \_\_\_\_\_ (ii) can assist the ombudsman to achieve resolution of the complaint; or
    - \_\_\_\_\_ (iii) can provide expertise that would benefit the complainant.
- \_\_\_\_\_ (3) The ombudsman may only be required to testify in court with respect to confidential matters when a court finds the ombudsman's testimony necessary to enforce this section.

**R500-4-9. Complaints Regarding the Congregate Care Ombudsman Program.**

- (1) If a complaint is made to the ombudsman about the ombudsman, the ombudsman shall immediately notify the office director.
- (2)(a) The office director, or a designee, shall investigate the complaint within ten business days of the office director receiving the complaint.
- (b) The office director, or a designee, shall document the nature of the complaint and investigation.
- (3)(a) The office director, or a designee, shall provide a response to the complainant within ten business days of completing the investigation.
- (b) The office director, or a designee, shall document that response.

**KEY: residential treatment**

**Date of Last Change: 2026**

**Authorizing, and Implemented or Interpreted Law: 26B-1-202; 26B-2-124.2**

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> New		
<b>Rule or section number:</b>	R501-19A	<b>Filing ID:</b> 57748

**Agency Information**

<b>1. Title catchline:</b>	Health and Human Services, Human Services Program Licensing	
<b>Building:</b>	Multi-Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 142003	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2003	
<b>Contact persons:</b>		
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Kamille Sheikh	385-227-1290	kamillesheikh@utah.gov
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**General Information**

<b>2. Rule or section catchline:</b>	
R501-19A. Residential Treatment, Congregate Care	
<b>3. Are any changes in this filing because of state legislative action?</b>	Changes are because of legislative action.
<b>If yes, any bill number and session:</b>	SB 297 (2025 General Session)
<b>4. Purpose of the new rule or reason for the change:</b>	
<p>The purpose of this filing is to create a new rule that addresses the health and safety standards and statutory requirements of congregate care programs offering residential treatment services, regulated by the Office of Licensing (OL), under the Department of Health and Human Services (department).</p> <p>The new rule incorporates applicable provisions from Rule R501-1, General Provisions for Licensing, and Rule R501-19, Residential Treatment Programs, for congregate care providers offering residential treatment programs and complies with the rulemaking requirements in Sections 26B-2-124 and 26B-2-124.1, introduced in SB 297, passed in the 2025 General Session.</p> <p>SB 297 (2025) amended Section 26B-2-124 by adding definitions and requirements specific to congregate care program regulation and requiring OL to make rules describing additional mandatory provisions for a discharge plan, objective criteria that a congregate care program shall apply in determining whether a child is in crisis, and how congregate care program shall notify OL when a child begins receiving services.</p> <p>Based on changes from SB 297 (2025), Section 26B-2-124 also requires OL to make rules defining key terms and establish rules necessary to administer the section.</p>	

SB 297 (2025) also enacted Section 26B-2-124.1, which requires OL to make rules.

Section 26B-2-124.1 establishes the Congregate Care Advisory Committee and, in consultation with this committee, requires OL to adopt by rule a set of applicable minimum safety requirements and make rules to implement and enforce that section. This section also requires OL to, in consultation with the committee, regulate admissions criteria for congregate care programs and define levels of congregate care. OL and the committee are in the process of developing the standard and intensive levels of congregate care and will update the rule when the levels of congregate care have been determined.

The majority of congregate care providers were previously regulated under Rule R501-1, General Provisions for Licensing, and Rule R501-19, Residential Treatment Programs, and based on internal review and discussions with stakeholders, OL determined it was appropriate to create a new rule for residential treatment congregate care providers, to fulfill statutory requirements for oversight of these types of congregate care providers.

OL is currently conducting a comprehensive review of OL rules and will determine if additional rule types related to congregate care specialties are needed.

**5. Summary of the new rule or change:**

This new rule provides the basic health and safety requirements for congregate care programs offering residential treatment services.

This new rule also provides definitions and outlines criteria for a child to qualify as a candidate for and gain admission to a congregate care residential treatment program.

Additionally, this rule describes the Congregate Care Advisory Committee, requires providers to post and distribute a notice related to the congregate care ombudsman, and references applicable statute regarding provider requirements.

This new rule also outlines how OL, in consultation with the Congregate Care Advisory Committee, will define and assign the levels of congregate care to new and existing programs, as well as the process for reviewing initial and renewal applications for congregate care residential treatment providers.

The structure of this new rule follows the structure of other OL human services rules and includes penalty and background check sections congruent with any other rule under OL.

**Fiscal Information**

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

**A. State budget:**

This new rule is not anticipated to result in a cost or savings to the state budget as congregate care providers are already regulated by OL under other human services rules.

This new rule is specific to congregate care providers that offer residential treatment services. Some content in this rule previously existed in other human services rules, and this new stand-alone rule is intended to make clear the health and safety requirements for congregate care providers offering residential treatment services.

Any content that did not previously exist under other human services rules is based on new requirements for congregate care providers as a result of SB 297 (2025) and is related to admissions criteria and the responsibilities of the Congregate Care Advisory Committee created in Section 26B-1-204 and described in Section 26B-2-124.1, any costs for which have been identified and considered in the fiscal note for SB 297 (2025).

Any new content in this rule related to a disruption plan for a client in a congregate care program provides specifics for an existing requirement and is not anticipated to introduce any cost or savings. While the time needed for OL to conduct licensing reviews of congregate care providers offering residential treatment services may be reduced as a result of this new rule containing only relevant requirements, licensors are not likely to reduce work to the point of a measurable savings to the state budget. No new processes are being added to licensing reviews of these providers.

The fiscal note for SB 297 (2025) is available at <https://le.utah.gov/~2025/bills/static/SB0297.html>.

**B. Local governments:**

This new rule is not anticipated to impact local governments' revenues or expenditures because congregate care providers are regulated by OL and not local governments.

There will be no change in local business licensing or any other item with which local government is involved.

Additionally, OL has not identified any congregate care residential treatment providers that qualify as local governments.

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

This new rule is not anticipated to result in a cost or savings for small businesses, as congregate care providers are already regulated by OL and have already been complying with this rule's requirements as part of OL's existing licensing process.

Any content that did not previously exist under other human services rules is based on new requirements for congregate care providers as a result of SB 297 (2025) and is related to admissions criteria and the responsibilities of the Congregate Care Advisory Committee created in Section 26B-1-204 and described in Section 26B-2-124.1, any costs for which have been identified and considered under the state budget in fiscal note for SB 297 (2025).

Any new content in this rule related to a disruption plan for a client in a congregate care program provides specifics for an existing requirement and is not anticipated to introduce any cost or savings.

Licensing reviews may be shorter due to less cumbersome content in the rule that does not apply to these licensees, but the time savings and conversion to monetary savings in provider hourly wages are inestimable due to the differences in pay scales and time spent on licensing compliance.

No new licensing processes have been added to increase costs for small business compliance.

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

This new rule is not anticipated to result in a cost or savings for non-small businesses, as congregate care providers are already regulated by OL.

Any content that did not previously exist under other human services rules is based on new requirements for congregate care providers as a result of SB 297 (2025) and is related to admissions criteria and the responsibilities of the Congregate Care Advisory Committee created in Section 26B-1-204 and described in Section 26B-2-124.1, any costs for which have been identified and considered under the state budget in the fiscal note for SB 297 (2025).

Any new content in this rule related to a disruption plan for a client in a congregate care program provides specifics for an existing requirement and is not anticipated to introduce any cost or savings.

Licensing reviews may be shorter due to less cumbersome content in the rule that does not apply to these licensees, but the time savings and conversion to monetary savings in provider hourly wages are inestimable due to the differences in pay scales and time spent on licensing compliance.

No new licensing processes have been added to increase costs for non-small business compliance.

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

This rule is not anticipated to result in a cost or saving to persons other than small businesses, non-small businesses, state, or local governments, as congregate care providers are already regulated by OL.

Any content that did not previously exist under other human services rules is based on new requirements for congregate care providers as a result of SB 297 (2025) and is related to admissions criteria and the responsibilities of the Congregate Care Advisory Committee created in Section 26B-1-204 and described in Section 26B-2-124.1, any costs for which have been identified and considered under the state budget in the fiscal note for SB 297 (2025).

Any new content in this rule related to a disruption plan for a client in a congregate care program provides specifics for an existing requirement and is not anticipated to introduce any cost or savings.

Licensing reviews may be shorter due to less cumbersome content in this rule that does not apply to these licensees, but the time savings and conversion to monetary savings in provider hourly wages are inestimable due to the differences in pay scales and time spent on licensing compliance.

No new licensing processes have been added to increase costs for persons other than small businesses, non-small businesses, state, or local government entities.

**F. Compliance costs for affected persons:**

Affected persons would be the small businesses, non-small businesses, and persons other than small businesses, non-small businesses, state, or local government entities, including nonprofit entities, providing congregate care residential treatment services.

Additionally, OL, as the regulatory body for health and safety standards for human services providers, is affected by this new rule.

Any content that did not previously exist under other human services rules is based on new requirements for congregate care providers as a result of SB 297 (2025) and is related to admissions criteria and the responsibilities of the Congregate Care Advisory Committee created in Section 26B-1-204 and described in Section 26B-2-124.1, any costs for which have been identified and considered under the state budget in the fiscal note for SB 297 (2025 General Session).

Any new content in this rule related to a disruption plan for a client in a congregate care program provides specifics for an existing requirement and is not anticipated to introduce any cost or savings.

There is no anticipated compliance cost for affected persons as a result of this rule. These providers are already regulated by OL and there is no anticipated cost associated with licensing reviews eliminating parts of the review that are not applicable to this provider type.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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**

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

Section 26B-2-104	Section 26B-2-124	Section 26B-2-124.1
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**Incorporation by Reference Information**

<b>8. Incorporation by Reference:</b>	
<b>A. This rule adds or updates the following title of material incorporated by reference</b> (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. <i>If none, leave blank</i> ):	
<b>Official Title of Materials Incorporated (from title page)</b>	21 CFR 1301
<b>Publisher</b>	Office of the Federal Register
<b>Issue Date</b>	April 1, 2021
<b>Issue or Version</b>	2021

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b>	
<b>A. Comments will be accepted until:</b>	02/17/2026
<b>10. This rule change MAY become effective on:</b>	02/24/2026
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**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	12/28/2025
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**R501. Health and Human Services, Human Services Program Licensing.**

**R501-19A. Residential Treatment, Congregate Care.**

**R501-19A-1. Authority and Purpose.**

- (1) Sections 26B-2-104, 26B-2-124, and 26B-2-124.1 authorize this rule.
- (2) This rule provides the basic health and safety standards for congregate care residential treatment licensure.

**R501-19A-2. Definitions.**

Terms used in this rule are defined in Sections 26B-2-101, 26B-2-120, 26B-2-124, and 26B-2-124.1 and Rule R380-600. Additionally:

- (1)(a) "Body cavity search" means a visual or manual inspection of a body cavity in search of prohibited material.
- (b) Body cavity search does not mean an inspection of a client's mouth after taking medication.
- (2) "Chemical restraint" means any drug that:
  - (a) is administered to manage a client's behavior in a way that reduces the safety risk to the resident or another person;
  - (b) has the temporary effect of restricting the client's freedom of movement; and
  - (c) is not a standard treatment for a client's medical or psychiatric condition.
- (3)(a) "Child in crisis" means a child who is experiencing a situation where the child's mental health or safety is at immediate risk.
- (b) A child in crisis may exhibit extreme behaviors or emotions that require immediate intervention and support, including:
  - (i) destruction of property;
  - (ii) engaging in self-injurious behavior;
  - (iii) experiencing severe aggression, agitation, or hostility;
  - (iv) expressing suicidal thoughts;
  - (v) extreme emotional changes including intense anger, irritability, or sadness;
  - (vi) hallucinating or experiencing delusions; and
  - (vii) withdrawal or isolation.
- (c) A child in crisis is a reportable critical incident.
- (4) "Clinical" means the type of treatment or services delivered by a mental health or medical professional who is licensed by the Division of Professional Licensing.
- (5) "Clinical director" means a professionally licensed individual responsible for the oversight of a program's clinical processes who is appropriately qualified to supervise the program's professional staff.
- (6)(a) "Confidential communication" means the communication between a client in a congregate care program and the individuals referenced in Subsection 26B-2-123(6).
- (b) Confidential communication does not allow for any outside entity to have access to view or hear information contained in the confidential exchange.
- (7) "DACs" means the Direct Access Clearance System and is the online system used by Office of Background Processing (OBP) for processing and monitoring background checks for any individual with direct access to a client in a human services program.
- (8) "Direct care staff" means staff that works directly with a client.

## NOTICES OF PROPOSED RULES

(9) "Direct supervision" means when staff actively supervises a client in close physical proximity and with uninterrupted auditory surveillance and can immediately respond to the client if necessary.

(10) "Education entitled children" means the same as defined in Section 26B-2-116.

(11) "Individual treatment" means individualized therapy involving a client and a clinician that may include one or more family members as clinically indicated.

(12) "Intake assessment" means a formal review process following every new intake of a client into the program as described in Subsection R501-19A-7(4).

(13) "Mechanical restraint" means the use of a device, material, or equipment attached or adjacent to a person's body that restricts freedom of movement and normal access to the body.

(14) "On-duty" means an individual counted in a supervision ratio who is charged with supervising one or more clients as a primary job requirement.

(15) "Program" means the same as "program or facility" is defined in Section 26B-2-701.

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

(17)(a) "Restraint" means the use of a device, material, or equipment that physically restricts a client's freedom of movement, physical activity, or normal access to the body, including a chemical, mechanical, or passive restraint used as a last resort as a means to prevent harm to the client or another person.

(b) A restraint does not mean an escort used to direct, guide, or lead a client.

(18)(a) "Seclusion" means the same as defined in Section 26B-2-101 and applies to a client.

(b) Seclusion does not include a medically approved quarantine.

(19) "Settings final rule" means the Home and Community-Based Services Final Rule as established in 79 FR 2948 (2014).

(20) "Significant criminal activity" means any unlawful activity by or against any client of a provider or on-duty staff that poses a serious threat to the health, safety, or well-being of the client or staff, including:

(a) any criminal activity that involves law enforcement;

(b) illegal physical or sexual misconduct or assault;

(c) riot;

(d) suspected exploitation; and

(e) suspected fraud.

(21) "Significant medical emergency" means an acute injury or illness which poses an immediate risk to a client or staff's life or health or requires emergency medical care.

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

(23) "Staff" means an individual who is employed by and providing services through a provider.

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

(25) "Telehealth" means the use of digital information and communication technologies, including computers and mobile devices, to remotely access behavioral health or health care services.

(26) "Trauma-informed" means any practice that promotes an environment of healing and recovery rather than a practice that may inadvertently re-traumatize.

### **R501-19A-3. Scope.**

Each provider shall comply with any applicable federal, state, or local law, rule, or ordinance, including:

(1) Section 26B-2-123;

(2) Section 26B-2-124;

(3) Rule R380-80;

(4) Rule R380-600;

(5) Rule R500-4;

(6) Rule R501-14; and

(7) this rule.

### **R501-19A-4. License Required.**

(1) A license is required for any provider offering residential treatment, congregate care program services to any client:

(a) under the age of 12 with OL approval;

(b) ages 12 through 17; and

(c) ages 18 through 19 only as outlined in this rule.

(2) A residential treatment, congregate care license is not required for:

(a) a youth shelter

(b) a youth receiving center; or

(c) any other short-term or temporary setting for a youth.

### **R501-19A-5. Policies, Procedures, and Safe Practices.**

(1) Each provider shall develop, implement, and comply with policies, procedures, and safe practices for:

(a) behavior management;

(b) gender non-discrimination;

(c) identifying and responding to a child in crisis; and

- (d) suicide prevention.
- (2) The provider shall ensure staff receive training on the policies, procedures, and safe practices described in this section.
- (3) The provider shall ensure compliance with the policies, procedures, and safe practices described in this section by:
- (a) submitting the required policies, procedures, and safe practices to OL during initial and renewal licensure and when any policy change requires approval; and
- (b) making any policy, procedure, or safe practice available upon request to OL and a client's parent or legal guardian.
- (4) The provider shall ensure any policy, procedure, and safe practice is trauma-informed.
- (5) The provider shall provide staff guidance regarding:
- (a) the appropriate response to any inappropriate behavior from other staff or a client;
- (b) the appropriate use of restraint, any emergency safety intervention, and seclusion;
- (c) prohibition of chemical and mechanical restraint unless approved by OL;
- (d) when a client poses a risk of violence;
- (e) what constitutes contraband and how the provider ensures restriction of any contraband and dangerous weapon or material;
- (f) appropriate client body cavity and strip search techniques, in alignment with Subsection 26B-2-123(1)(a), including that any body cavity or strip search:
- (i) cannot be a standard practice; and
- (ii) shall only be conducted by a licensed medical professional outside the view of any direct care staff;
- (g) critical incident reporting policy, in alignment with Rule R380-600;
- (h) any emergency procedure during any natural disaster, extreme weather event, fire, utility or structural failure, or other unexpected disruption, including:
- (i) continuity of care;
- (ii) critical incident reporting; and
- (iii) transport, relocation, and client health and safety;
- (i) how to recognize and report abuse and neglect;
- (j) how to report and respond to significant criminal activity or any significant medical emergency;
- (k) the least restrictive staff response to a client leaving the program without permission;
- (l) how to file a staff grievance and how to direct a client grievance;
- (m) the management of any unique provider circumstance regarding client supervision, the physical facility, community safety, and comingling populations;
- (n) firearm policy;
- (o) food service policy, including:
- (i) how to identify and accommodate any client with special dietary needs;
- (ii) if the program restricts access to food and kitchen equipment, an allowance for nutritious snacks to be available during restricted hours; and
- (iii) if any client participates in meal preparation, a policy that addresses:
- (A) any menu planning and procedure;
- (B) any nutrition requirement;
- (C) any sanitation requirement;
- (D) required training for safe food handling practices with a requirement for documented justification of each client's participation;
- and
- (E) any program rule or privilege involving kitchen use;
- (p) how to prevent and control any infectious and communicable disease, including coordination with and following the guidance of state or local health authorities, Center for Disease Control and Prevention, and the Department of Health and Human Services (department); and
- (q) provider and client responsibility for medication, including how to:
- (i) administer medication, including any self-administration process;
- (ii) log each medication dose;
- (iii) record and report any medication error;
- (iv) monitor and record any intended effect and side effect of medication;
- (v) record each medication dosage according to any prescription;
- (vi) store and administer medication on-site;
- (vii) store and administer medication when a client is in an off-site program-related activity;
- (viii) properly dispose of any unused or expired medication; and
- (ix) ensure the individual responsible for the discharge of a client is given any unused medication.
- (6) The provider shall train staff and ensure the use of any alternative sleeping arrangement, outside the client's assigned bedroom, complies with the suicide prevention plan, as described in Subsection 26B-2-124(4)(a)(iii).
- (a) Any alternative sleeping arrangement shall:
- (i) preserve client dignity and confidentiality; and
- (ii) be done on an individualized, time delimited basis.
- (b) Any alternative sleeping arrangement may not be used:
- (i) as a behavior management technique or as a consequence for behavior;
- (ii) to address any staffing shortage; or

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- (iii) for staff convenience.
- (7) The provider shall preserve the rights of each client who receives congregate care residential treatment services.
- (8) The provider shall ensure there is a policy addressing management of client funds that requires documentation of each deposit and expense.
- (9) The provider shall ensure there is a policy addressing the care, licensure, maintenance, and vaccination of any on-site animal in accordance with any local ordinance, including the:
  - (a) assessment of any pet allergy for any client interacting with any animal in the program;
  - (b) maintenance of any required examination, registration, and vaccination of each animal; and
  - (c) supervision of any client in the presence of an animal.

**R501-19A-6. Administration.**

- (1)(a) Each provider shall provide information through print and website sources, on any program service for any client to:
  - (i) OL;
  - (ii) the public;
  - (iii) any potential client; and
  - (iv) a client's parent or legal guardian.
- (b) The information described in Subsection (1)(a) shall include:
  - (i) a description of each service;
  - (ii) each program requirement and expectation;
  - (iii) current and accurate program contact information;
  - (iv) the complaint reporting and resolution process;
  - (v) identification of each non-clinical, extracurricular, or supplemental service offered or referred; and
  - (vi) each cost, fee, and expense for a service and refund policy.
- (2) The provider shall maintain a phone number to be used for the purposes described in Subsections 26B-2-124(4)(g) through 26B-2-124(4)(h).
- (3) The provider shall make every reasonable effort to connect any authorized contact who calls the program in an attempt to contact a client with that client by phone.
- (4) In conspicuous places where each visitor, staff, and client may see, the provider shall post:
  - (a) abuse reporting laws, as described in Sections 26B-6-205 and 80-2-609;
  - (b) an Americans with Disabilities Act notice;
  - (c) any department notice of agency action;
  - (d) a civil rights notice;
  - (e) a client rights poster, except in a setting serving a client population governed by the settings final rule;
  - (f) a congregate care ombudsman notice form, in compliance with each requirement in Subsection 26B-2-124(7)(a);
  - (g) a provider code of conduct poster; and
  - (h) the program's license.
- (5) In addition to posting the congregate care ombudsman notice described in Subsection (4)(f), the provider shall ensure each client, the client's parent or legal guardian, OL, and each sending agency or private agency receives a copy of the congregate care ombudsman notice.
- (6) The provider shall:
  - (a) document notification to the local government for any new service or increased consumer capacity, as described in Section 26B-2-117;
  - (b) maintain compliance with, or documentation of any exemption from, requirements for:
    - (i) a food handler permit for any person preparing meals for any other person;
    - (ii) each capacity determination, including each staff and client on the premises, that does not exceed any capacity limit placed by a local authority;
    - (iii) fire clearance, if conducted separately from a business license; and
    - (iv) licensure and registration of any vehicle used to transport a client.
- (7) Any provider with local requirements under dispute must resolve the dispute before OL may issue a license in good standing.
- (8)(a) The provider shall maintain:
  - (i) fire insurance;
  - (ii) general liability insurance;
  - (iii) professional liability insurance, as applicable;
  - (iv) vehicle insurance and registration for any vehicle that transports a client; and
  - (v) any additional insurance as required to cover each program activity.
- (b) The provider shall make documentation of insurance and registration described in Subsection (8)(a) available to OL upon request.
- (9) The provider shall ensure:
  - (a) a manager is immediately available when the program is in operation and there is a qualified designee when the manager is absent or unavailable;
  - (b) the implementation of a quality improvement plan addressing any:
    - (i) client or staff grievance;
    - (ii) program feedback; or
    - (iii) trend in licensing noncompliance and incident reports;

- (c) there is a means to communicate with each client, which may include a language interpreter being available or a referral to an appropriate resource;
- (d) availability of a current staff list and client list;
- (e) each entity associated with the provider understands and signs the provider code of conduct before working with any client; and
- (f) the organizational and governance structure of the program is available to OL upon request and includes:
- (i) each line of authority and responsibility; and
- (ii) a job description for each job title, including each duty and qualification.
- (10) The provider shall notify OL of any program change, as described in Section R380-600-4.
- (11) Any provider serving or likely to serve any client with a substance use disorder shall ensure:
- (i) there is an opioid overdose reversal kit on site; and
- (ii) staff receive training on how to use the kit before being on-duty.
- (12) Any provider serving a client who is classified as an education entitled child shall:
- (a) comply, as applicable, with Section 26B-2-116, Rule R277-709, and Rule R277-926 regarding coordination of any educational service, including completion of youth education forms at initial and renewal licensure; and
- (b) make any necessary accommodation to allow a client to continue that client's education with a curriculum approved by the Utah State Board of Education.
- (13) Any provider that offers on-site school shall:
- (a) ensure each client is taught at the appropriate grade level;
- (b) ensure a staff-to-client ratio of one staff to every four clients in the school setting, unless the provider is an intermediate secure treatment program;
- (c) ensure staff providing school receive training in behavior intervention.
- (d) keep the education record of each client;
- (e) use a curriculum with an educational accreditation in good standing, including the Utah State Board of Education or the National School Accreditation Board; and
- (f) during discharge, provide proof of high school graduation or equivalent to the client, the client's parent or legal guardian, and the local education agency (LEA).
- (14) The provider shall ensure any:
- (a) clinical and medical staff have the appropriate license or certification;
- (b) clinical and medical staff are in good standing with any license or certification; and
- (c) unlicensed staff are appropriately supervised in compliance with Title 58, Occupations and Professions.
- (15) Any provider using telehealth for treatment shall operate within the scope of the provider's professional licensure in accordance with:
- (a) Section 26B-4-704; and
- (d) any applicable rule.
- (16) Any provider offering any behavior intervention service to a client served by the Division of Services for People with Disabilities (DSPD) shall comply with Rule R539-4, which supersedes any conflicting rule under Title R501.
- (17)(a) The provider shall ensure access to a medical clinic or a licensed medical professional familiar with the program and population served.
- (b) A licensed medical professional shall oversee the medication management practices for the program.
- (c) The provider shall ensure that each person involved with the prescription, administration, or dispensing of any controlled substance maintains the appropriate medical or pharmaceutical license and the Drug Enforcement Administration registration numbers, as described in 21 CFR 1301 (2021), published by the Office of the Federal Register, incorporated by reference in this rule.
- (d) The provider shall ensure at least one CPR and first aid-certified staff is available when any staff or client is present, unless a licensed medical professional is present on site.
- (18) Any provider that serves a client who has been placed in a Utah program from outside of Utah shall comply with Title 80, Chapter 2, Part 9, Interstate Compact on Placement of Children.
- (19) The provider may allow a client to remain in the program after the client turns 18 years old, as described in Subsection 26B-2-104(1)(a)(iii), if:
- (a) the client has remained in the custody of a state entity or the client was admitted and continuously resided in the program for at least 30 days before the client's 18th birthday;
- (b) the client has a documented need to remain in the program;
- (c) the provider maintains responsibility for discharge to an appropriate setting when clinically appropriate and no later than the client's 19th birthday;
- (d) the provider outlines a plan for the protection of any client younger than 18 years old by supervising and separating the client who is 18 years old from any client who is under the age of 16; and
- (e) the client signs a consent document outlining that:
- (i) any criminal offense committed may result in being charged as an adult;
- (ii) if the client is involved in any critical incident posing a risk to the health and safety of any other client, the client who is 18 years old may be discharged from the program; and
- (iii) the client consents to remain in the program voluntarily and understands the client is not being required to remain in the program against the client's will.

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(20) The provider shall ensure weekly, confidential communication between the client and any family member or authorized contact of the client, in accordance with Section 26B-2-123.

(a) A client's parent or legal guardian shall authorize, in writing, an alternate means of confidential communication when voice-to-voice communication is unavailable.

(b) The frequency or form of the confidential communication requirement may only be modified if the provider submits a voice-to-voice variance notification to OL, signed by the provider's clinical director, demonstrating:

(i) any extenuating circumstances that exist outside the client treatment plan that inhibit offering voice-to-voice communication;

(ii) an alternative that satisfies the requirement of weekly, confidential two-way communication;

(iii) the program primarily operates in an area of limited or unreliable phone accessibility or coverage; or

(iv) there is a significant risk of harm or danger to the client's emotional, mental, or physical safety by providing the client with unsupervised phone access.

(c) The provider shall offer confidential voice-to-voice communication as soon as it is safe to do so.

(d) A standardized statement or practice applied to every treatment plan may not be used to satisfy the requirement of individualized documentation.

(21) A provider may offer any client step-down privileges, including authorized departures from the program and unsupervised time, if the provider:

(a) documents in the client record and communicates to each client's direct care staff:

(i) the individualized justification for the step-down privileges; and

(ii) which privileges are authorized by a licensed clinical professional;

(b) maintains a staff-to-client ratio of one direct care staff for every four clients present in the step-down setting;

(c) obtains written parental or legal guardian consent before allowing step-down privileges; and

(d) distributes a policy to each client, client's parent or legal guardian, and staff that includes:

(i) a description of how each step-down privilege may be achieved or rescinded;

(ii) a description of what constitutes authorized departure and unsupervised time;

(iii) a statement that no client with step-down privileges is allowed to perform any direct care staff duty; and

(iv) a statement that the provider will immediately communicate to each client, client's parent or legal guardian, and direct care staff when any step-down privilege has been rescinded.

(22) Any provider that serves any client with a substance use disorder shall ensure each staff and client is screened for tuberculosis as recommended by the local health authority.

(23) The provider shall make any program record in this section available to OL for review upon request.

### **R501-19A-7. Client Intake and Discharge.**

(1) Each provider shall develop, maintain, and adhere to an admissions review process that:

(a) is approved by OL during initial and renewal licensure;

(b) aligns with the admissions criteria described in Section 26B-2-124;

(c) outlines the process for identifying a qualified candidate who can be safely served in the program, including an assessment of each candidate in consideration of:

(i) the candidate's behavior;

(ii) the candidate's diagnosis;

(iii) the candidate's individual situation;

(iv) the candidate's trauma history;

(v) the population and age of each client the provider already serves;

(vi) the physical facility;

(vii) the programming; and

(viii) the ability of current staff to manage the candidate; and

(d) outlines how to identify a person not considered a qualified candidate.

(2) The provider may not solicit or accept payment from, or on behalf of, a client, unless:

(a) the client meets the approved admissions criteria; and

(b) the client's parent or legal guardian has signed a contract for the provider's services.

(3) The provider shall develop, maintain, and adhere to:

(a) an outline of each behavior or presenting issue that would be a reason for:

(i) declining to classify a candidate as qualified for admission; or

(ii) discharging a current client from the program; and

(b) a statement, posted on the provider's admissions webpage and included in any of the provider's print admissions criteria marketing material, that the program does not accept placement of a client whose needs exceed the scope or ability of the program.

(4) Before accepting any client into a program, the provider shall complete an intake screening for each client that includes:

(a) a description of any presenting needs;

(b) a suicide risk screening;

(c) gender identity and individualized assessment for any bedroom and bathroom assignment;

(d) verification that the client meets the admission criteria of the program; and

(e) verification that the client does not meet any of the exclusionary criteria described in Subsection (3)(a).

- (5) A provider serving any client with a substance use disorder may not admit a client who is unresponsive or unable to consent to care because the individual is experiencing convulsions or delirium tremens, in shock, in a coma, or unconscious.
- (6) A provider serving any court-mandated, justice-involved client shall:
- (a) conduct a criminogenic risk assessment during the client intake process; and
  - (b) physically separate high criminogenic risk populations from low criminogenic risk populations, including in any bedroom area.
- (7) The provider shall ensure that the client, or the client's parent or legal guardian, signs and receives a copy of agreements to be maintained as client records, including the:
- (a) determination of eligibility;
  - (b) fee agreement outlining the cost of services, including program and client, or the client's parent or legal guardian's, responsibility for payment; and
  - (c) signed consent for treatment that outlines:
    - (i) the rights of the client;
    - (ii) any program expectation of a client and the client's parent or legal guardian;
    - (iii) licensing contact information;
    - (iv) insurance information and identification of any other entity that is billed for the client's services;
    - (v) the client's Medicaid number, if applicable; and
    - (vi) services to be provided.
- (8) The provider shall ensure, upon admission, a disruption plan is tailored to each client and includes:
- (a) how progress will be assessed;
  - (b) any plausible reason identified in the admissions process for possible discharge or transfer;
  - (c) any reference to the Interstate Compact on Placement of Children (ICPC) plan requirement for any unplanned discharge;
  - (d) an aftercare plan, which includes:
    - (i) any resource available to the client; and
    - (ii) any clinical recommendation;
  - (e) a plan for safe transportation, including:
    - (i) any return to the client's state of origin;
    - (ii) to the client's parent or legal guardian; or
    - (iii) to another licensed congregate care program, or higher level of care, as needed;
  - (f) a signed statement from the client's parent or legal guardian outlining the plan for the client in the event of an unplanned disruption in care;
  - (g) current emergency contact information of the client's parent or legal guardian, including the parent or legal guardian's:
    - (i) name;
    - (ii) address;
    - (iii) phone number; and
    - (iv) email address;
  - (h) each individual responsible for the client's return if placement at the facility disrupts; and
  - (i) a statement acknowledging the program retains jurisdiction and responsibility for the client while the client remains in Utah.
- (9) The provider may not serve any client from out of state without a disruption plan, as described in Section 26B-2-124.
- (10) A provider serving any client from out of state shall comply with Section 80-2-905, as applicable.
- (11) The provider may demonstrate compliance with Subsection (9) by producing the ICPC-100A and ICPC-100B forms as required by the ICPC Regulations or a disruption plan.
- (a) The provider shall report any out-of-state private placement to OL by completing the congregate care out-of-state placement report, available on the OL website, no later than the fifth business day of each month.
  - (b) Any provider that does not comply with the disruption plan requirements in Section 26B-2-124 shall pay for the cost of care incurred by any entity housing, locating, maintaining, or transporting the client.
- (12) Any provider that transports an out-of-state client to a health care facility, as defined in Section 78B-3-403, shall comply with the payment requirements described in Subsection 26B-2-124(10).
- (13) Before the provider may accept or discharge any client who is transported by a youth transportation company, the provider must ensure the youth transport company is registered with OL.
- (14) The provider shall ensure the completion and documentation of an intake, following an approved admissions review process, no later than seven days after the admission date.
- (15) Each client's intake assessment shall include:
- (a) any developmental, educational, psychological, social, and vocational factor;
  - (b) a statement of how the client is a qualified candidate for admission;
  - (c) authorization for the provider to obtain emergency care for the client;
  - (d) the client's cultural background;
  - (e) the client's health and medical history;
  - (f) the client's dominant language and mode of communication;
  - (g) the client's family history; and
  - (h) a suicide prevention plan that is:
    - (i) tailored to the client and;
    - (ii) maintained and revised as needed to support the client's safety.

**R501-19A-8. Clinical Services.**

- (1) The provider shall ensure each client's treatment plan is:
  - (a) developed and signed by a licensed clinical professional within 30 days of admission; and
  - (b) followed by staff.
- (2) Any staff working directly with a client shall be informed of the individual treatment needs of that client.

**R501-19A-9. Client Records.**

- (1) The provider shall maintain a process for the retention of any client record for seven years or until a client turns 21 years old, whichever comes later.
- (2) The provider shall make any client record available to OL upon request.
- (3) The provider shall ensure each client record includes:
  - (a) the client name, date of birth, and identified gender;
  - (b) accurate parent or legal guardian contact information;
  - (c) a list of any client's authorized contact as identified by the client's parent, legal guardian, or sending agency or private agency, including each authorized contact's:
    - (i) name;
    - (ii) phone number; and
    - (iii) relationship to the client;
  - (d) any signed agreement and consent form;
  - (e)(i) consent for each treatment and non-clinical service signed by the client, or the client's parent or legal guardian; or
  - (ii) a court order of commitment to services in lieu of signed consent for each treatment and non-clinical service;
  - (f) any information that could affect the health, safety, or well-being of the client, including any:
    - (i) allergy;
    - (ii) chronic condition;
    - (iii) communicable disease; and
    - (iv) medication needs;
  - (g) any grievance or complaint made by or against the client and any action taken by a provider;
  - (h) each crisis intervention or critical incident report involving the client;
  - (i) an individualized assessment for restriction of access to any on-site item that could be used as a weapon, for self-directed violence, or as an intoxicant;
  - (j) an individualized disruption plan;
  - (k) an individualized suicide prevention plan, as needed;
  - (l) an intake screening and assessment;
  - (m) any progress note and service provided with date and signature of staff completing each entry;
  - (n) a summary of attendance and absence in each treatment service;
  - (o) the treatment or service plan;
  - (p) any referral arrangement made by the provider;
  - (q) discharge documentation; and
  - (r) an initial and annual client tuberculosis screening result for any client with a history of substance abuse.
- (4) The provider shall disclose how any client and client's parent or legal guardian may access any educational or medical record following the client's discharge from the program, including how and where to locate records if the program is no longer licensed.

**R501-19A-10. Staff Records and Training.**

- (1) The provider shall maintain staff information, including:
  - (a) a provider code of conduct with the signature of each staff, contracted employee, or volunteer;
  - (b) any approved and current OBP background clearance, except as excluded in Rule R501-14;
  - (c) any applicable staff certification, license, or qualification;
  - (d) any grievance or complaint made by or against the staff and action taken by the provider;
  - (e) any pre-service and annual training record, which includes the:
    - (i) date of completion;
    - (ii) topic; and
    - (iii) signature of each staff who completed the training;
  - (f) each crisis intervention or critical incident report involving staff; and
  - (g) documentation of the initial and annual tuberculosis screening, if serving a population with a substance use disorder.
- (2) The provider shall ensure staff training is:
  - (a) completed within 30 days of hire and annually thereafter; and
  - (b) covers:
    - (i) CPR and first aid;
    - (ii) Rule R380-80; and
    - (iii) any policies, procedures, and safe practice, as described in Section R501-19A-5.
- (3) The provider shall ensure staff behavior management training includes:
  - (a) client rights;

- (b) the provider code of conduct;
- (c) suicide prevention training;
- (d) how staff shall address any injury or complaint;
- (e) de-escalation techniques and least restrictive methods for managing behavior;
- (f) the physiological and psychological impact of restraints or emergency safety intervention;
- (g) any threshold for restraints or emergency safety intervention;
- (h) the time limit for restraints or emergency safety intervention;
- (i) appropriate monitoring of any use of restraints and emergency safety intervention;
- (j) how to recognize the physical signs of distress or positional asphyxia and obtain medical assistance;
- (k) the procedure:
  - (i) to intervene if another staff fails to follow procedure for restraints or emergency safety intervention;
  - (ii) for documenting and reporting any use of restraints or emergency safety intervention;
  - (iii) for processing restraints or emergency safety intervention with a client; and
  - (iv) for staff follow-up after use of restraints or emergency safety intervention; and
- (l) the process for obtaining clinical approval for continued use of restraints or emergency safety intervention.

**R501-19A-11. Physical Facility.**

- (1)(a) The provider shall maintain the facility in a clean and safe manner free from any hazard that could pose a risk to a client's health or safety.
  - (b) The provider shall keep each furnishing and finish clean and in good repair.
  - (c) The provider shall conduct a fire drill at least quarterly and document the response time and process for each fire drill.
  - (d) The provider shall ensure each appliance and electrical, HVAC, and plumbing system is maintained in operating order.
- (2) The provider shall provide indoor space for informal client activities.
- (3) The provider shall ensure that when a client is present, there is a phone available in each facility that can be used to call 911.
- (4) The provider shall maintain a first aid kit at each facility.
- (5) The provider shall have a separate space for any client who is showing symptoms of an infectious disease.
- (6) The provider shall ensure there is designated space available for:
  - (i) records;
  - (ii) administrative work; and
  - (ii) confidential client phone calls.
- (7) For each client bedroom, the provider shall ensure:
  - (a) there is at least 60 square feet per client;
  - (b) there is a source of natural light;
  - (c) the room is ventilated by mechanical means or equipped with a window that opens;
  - (d) any bedroom assignment is made in accordance with OL policy and individualized assessment, described in Section 26B-2-109;
  - (e) no client is locked in the client's bedroom;
  - (f) each client has a similar solid type of bed or sleeping equipment to any other client in the program;
  - (g) each client is allowed to decorate and personalize the client's bedroom, while maintaining respect for each other resident and the property; and
  - (h) each bedroom is comparable to other similarly used bedrooms with similar access, finishes, furnishings, location, and space.
- (8) A provider serving any client receiving DSPD services may not house more than two clients in each bedroom.
- (9) The provider shall ensure any bedding or towel provided to a client is laundered:
  - (a) weekly;
  - (b) any time the bedding or towel is soiled; and
  - (c) after the discharge of the client.
- (10) The provider shall supply each client with any hygiene item necessary to meet the client's needs.
- (11) The provider shall ensure each client bathroom:
  - (a) allows for individual privacy;
  - (b) affords reasonable accommodation based on the client's gender identity;
  - (c) is placed to allow each client access without disturbing any other client during sleeping hours;
  - (d) is properly equipped with toilet paper, soap, and a non-shared means to dry hands;
  - (e) is ventilated by mechanical means or equipped with a window that opens; and
  - (f) includes a mirror, or safety mirror, secured to the bathroom wall at a convenient height.
- (12) The provider shall ensure any live-in staff has a dedicated bedroom and bathroom separate from any client bedroom or bathroom.
- (13) If the program permits a client to do laundry, the provider shall ensure:
  - (a) any equipment and supplies for washing and drying laundry are available; and
  - (b) separate containers for soiled and clean laundry are provided, if the program provides common laundry for bedding, clothing, or towels.
- (14) The provider shall maintain any on-site medication or potentially hazardous item lawfully, responsibly, and with consideration of the safety and risk level of the population served, including locked storage for each medication and hazardous chemical that is not in active use.

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(15) The provider shall ensure the licensed medical professional responsible for administration and supervision of prescription medication reviews information and each dosage for each client at least weekly.

(16) For any on-site medication, the provider shall ensure the medication:

(a) is stored in the manufacturer's original packaging, including any directions and warning information; and

(b) is discarded when no longer required for a client.

(17) The provider may store any on-site medication, or medication for an off-site visit, outside of the manufacturer's original packaging if, at least weekly, the provider ensures:

(a) a licensed medical professional oversees the filling and administration of each medication package;

(b) each client's pill organizer includes:

(i) the client's name;

(ii) the medication's name;

(iii) any directions for medication administration;

(iv) dosage information; and

(v) the date filled; and

(c) any medication is discarded when no longer required for a client.

(18) For each seclusion room, the provider shall ensure:

(a) the seclusion room is not located in any bathroom, closet, unfurnished area, or other area outside the residential living space;

(b) a bedroom is not used as a seclusion room and a seclusion room is not be used as a bedroom;

(c) the seclusion room is at least 75 square feet and has a ceiling height of at least seven feet with no equipment, furnishing, or hardware that obstructs the staff's view of the client or presents a risk of harm;

(d) there is a break-resistant two-way mirror or camera for observation of the entire room;

(e) there is mechanical ventilation or a break-resistant window in the seclusion room; and

(f) the seclusion room does not have a locking capability.

(19) The provider shall accommodate a client with a physical disability as needed or refer the client to comparable services.

### **R501-19A-12. Background Checks.**

(1) OBP shall conduct a human services program background check for each program staff or volunteer, in accordance with Section 26B-2-120 and Rule R501-14.

(2) The provider shall designate an individual who is responsible for:

(a) ensuring and documenting how each applicant is directly supervised for the entirety of that applicant's supervised employment term before receiving the eligible determination;

(b) ensuring an application is submitted in DACS within 14 days of each staff becoming associated with the provider;

(c) initiating, monitoring, and maintaining background checks in DACS for each individual with direct access;

(d) maintaining compliance with Rule R501-14;

(e) managing communications with OBP and OL;

(f) monitoring DACS and taking necessary action when staff eligibility status changes; and

(g) separating any staff in DACS within five days of that staff:

(i) no longer being associated with the provider; or

(ii) having an ineligible determination status from OBP on a background check with no pending appeal.

(3) The provider must ensure each direct care staff, contracted staff, volunteer, and intern has an eligible background check determination before permitting that individual to work unsupervised with a client, except as excluded in Rule R501-14.

### **R501-19A-13. Client Care, Safety, and Supervision.**

(1) The provider shall ensure:

(a) a staff-to-client ratio of one direct care staff to every four clients is maintained, except:

(i) to reduce the staff-to-client ratio during client sleeping hours to one direct care staff to every 16 clients;

(ii) in an intermediate secure program, as specified in Subsection R501-19A-14(2); and

(iii) as otherwise required by a department contract;

(b) a ratio of one staff to one client during any transport only occurs when the provider has conducted a safety assessment that demonstrates client and staff safety is reasonably assured;

(c) any direct care staff assigned to supervise a client one-on-one is not counted at the same time in the staffing ratio for any other client, except in an emergency situation;

(d) at least two direct care staff are on-duty and immediately available;

(e) direct care staff conduct and document line-of-sight check-ins at least every 15 minutes when the staff is outside the line of sight of any client;

(f) direct care staff conduct and document sign-of-life check-ins during sleeping hours and when a client is in the medical bay;

(g) continuous direct supervision of any client that meets supervision and ratio needs of the presenting population, including increasing the ratio for individual supervision as needed;

(h) on-site video surveillance is only used to directly supervise a client in time-out or seclusion or as an enhancement to minimum supervision ratio requirements;

(i) only direct care staff may perform direct supervision;

(j) staff conduct and document physical check-ins every 15 minutes when a client is being monitored by video;

- (k) the staff-to-client ratio may only decrease during sleeping hours if:
  - (i) a minimum of two direct care staff are on-duty;
  - (ii) each client is appropriately supervised to ensure health and safety at the ratio; and
  - (iii) each direct care staff remains awake while on-duty;
- (l) the staff-to-client ratio is increased as necessary to ensure the health and safety of the client population;
- (m) there are enough staff on-duty each shift to safely supervise the client population, including adding more staff than required by the usual staffing ratio as needed to manage behaviors, dynamics, and individual client treatment and supervision needs;
- (n) there is a phone accessible to each client, staff, or any other individual to place a direct call to the congregate care ombudsman:
  - (i) at any time;
  - (ii) without interference;
  - (iii) with sufficient privacy to preclude another individual from hearing the conversation; and
  - (iv) subject to the whistleblower protections in Section 26B-2-124.3; and
- (o) video surveillance is only used in a client bedroom if:
  - (i) the provider monitors any camera footage or physically performs client checks in at intervals of at least every 15 minutes;
  - (ii) there is a documented need;
  - (iii) providing services to an individual served by DSPD, the video surveillance is compliant with Rule R539-3; and
  - (iv) the client, or the client's parent or legal guardian, provides written permission.
- (2) The provider may not allow:
  - (a) any client, non-direct care staff, or direct care staff who does not have current behavior management training, or anyone unfamiliar to the client, to use any form of restraint on a client;
  - (b) any intervention that uses painful stimuli, unless as an individually justified and documented emergency safety measure;
  - (c) the use of any physical work assignment or activity that inflicts pain as a behavior management technique; and
  - (d) the use of restraints or seclusion as a convenience to staff, substitute for programming, or punishment.
- (3) The provider may allow a client to be separated from the area of any activity or any other client, including a client's bedroom, if on-duty staff:
  - (a) provides direct line-of-sight supervision and monitors the client;
  - (b) does not prevent the client from leaving the area; and
  - (c) documents the separation, including the reason for the separation and the amount of time of the client was separated from an activity or another client.
- (4) For each critical incident, the provider shall:
  - (a) document the details of the critical incident in each client and staff record;
  - (b)(i) report to each involved client's parent or legal guardian no later than one business day after the incident; or
  - (ii) when the critical incident involves any client meeting the definition of a child in crisis, report to the client's parent or legal guardian no later than five hours after the crisis began; and
  - (c) report to OL no later than one business day after the incident.
- (5) During each shift, the provider shall:
  - (a) document and share with staff from the next shift and the administration any client illness, injury, or critical incident; and
  - (b) maintain and make available to OL upon request each staff shift list.

**R501-19A-14. Additional Requirements for Intermediate Secure Care Programs.**

- (1)(a) Each intermediate secure treatment provider shall clearly define in policy any responsibility of the manager, as described in Subsection R501-19A-6(9)(a).
- (b) The provider shall ensure the manager:
  - (i) is at least 25 years old;
  - (ii) has a bachelor's degree or equivalent training in a human service-related field; and
  - (iii) has at least three years of management experience in a residential or secure treatment setting.
- (2) Each intermediate secure treatment provider shall maintain a staff-to-client ratio of one direct 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:
  - (a) receives training to work with a client with behavioral or mental health needs;
  - (b) works under the supervision of a licensed clinical professional; and
  - (c) completes 30 hours of additional training annually regarding:
    - (i) client record and incident documentation;
    - (ii) each rule and regulation associated with serving clients;
    - (iii) interpersonal relationships and communication skills;
    - (iv) maintaining staff, client, and visitor safety in a secure setting;
    - (v) problem-solving and guidance;
    - (vi) the special needs of families; and
    - (vii) any universal precaution for bloodborne pathogens.
- (4) Each intermediate secure treatment shall incorporate the use of any fixture and furnishing to limit client self-harm and suicide, including:
  - (a) non-exposed fire sprinkler heads;

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- \_\_\_\_\_ (b) plexiglass or safety glass;
- \_\_\_\_\_ (c) pressure release robe hooks;
- \_\_\_\_\_ (d) recessed lighting; and
- \_\_\_\_\_ (e) sealed light fixtures.

**R501-19A-15. Congregate Care Advisory Committee.**

(1) The committee shall, in consultation with OL, advise as to whether each application for licensure or renewal meets each requirement in accordance with Subsection 26B-2-124.1(3)(c).

(2) The committee shall provide consultation to OL regarding:

- \_\_\_\_\_ (a) defining and assigning the levels of congregate care to new and existing programs; and
- \_\_\_\_\_ (b) setting the minimum safety requirements for each level of congregate care, considering any:
  - \_\_\_\_\_ (i) facility;
  - \_\_\_\_\_ (ii) policy;
  - \_\_\_\_\_ (iii) procedure;
  - \_\_\_\_\_ (iv) safe practice;
  - \_\_\_\_\_ (v) program;
  - \_\_\_\_\_ (vi) service;
  - \_\_\_\_\_ (vii) staffing; and
  - \_\_\_\_\_ (viii) other element or characteristic determined by OL and the committee to impact the safety to any admitted client.

**R501-19A-16. 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: human services, licensing, congregate care, residential treatment**

**Date of Last Change: 2026**

**Authorizing, and Implemented or Interpreted Law: 26B-2-104; 26B-2-124; 26B-2-124.1**

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> New		
<b>Rule or section number:</b>	R652-126	<b>Filing ID:</b> 57743

**Agency Information**

<b>1. Title catchline:</b>	Natural Resources, Forestry, Fire and State Lands	
<b>Building:</b>	Wildland Fire Operations Center	
<b>Street address:</b>	3522 S 700 W	
<b>City, state:</b>	South Salt Lake, UT	
<b>Mailing address:</b>	3522 S 700 W	
<b>City, state and zip:</b>	South Salt Lake, UT 84119	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Joseph Anderson	385-786-5588	randerson3@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>	
R652-126. Wildland Urban Interface Property	
<b>3. Are any changes in this filing because of state legislative action?</b>	Changes are because of legislative action.
<b>If yes, any bill number and session:</b>	HB 48 (2025 General Session)
<b>4. Purpose of the new rule or reason for the change:</b>	
The purpose of this filing is to implement Article XVIII of the Utah Constitution, as well as Section 65A-8-203 and establish guidelines for the evaluation and classification of property within the wildland urban interface.	

**5. Summary of the new rule or change:**

This rule establishes guidelines for the evaluation and classification of property within the wildland urban interface.

**Fiscal Information**

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

**A. State budget:**

This rule is put in place according to HB 48, passed in the 2025 General Session, and all fiscal impact was accounted for in the fiscal note of that bill.

**B. Local governments:**

This rule is put in place according to HB 48 (2025), and all fiscal impact was accounted for in the fiscal note of that bill

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

This rule is put in place according to HB 48 (2025), and all fiscal impact was accounted for in the fiscal note of that bill

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

This rule is put in place according to HB 48 (2025), and all fiscal impact was accounted for in the fiscal note of that bill

**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 is put in place according to HB 48 (2025), and all fiscal impact was accounted for in the fiscal note of that bill.

**F. Compliance costs for affected persons:**

This rule is put in place according to HB 48 (2025), and all fiscal impact was accounted for in the fiscal note of that bill.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

**Regulatory Impact Summary Table**

<b>Fiscal Cost</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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**

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

Section 65A-8-203		
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**

<b>A. Comments will be accepted until:</b>	02/17/2026
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<b>10. This rule change MAY become effective on:</b>	02/24/2026
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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**

<b>Agency head or designee and title:</b>	Jamie Barnes, State Forester	<b>Date:</b>	12/22/2025
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**R652. Natural Resources, Forestry, Fire and State Lands.**

**R652-126. Wildland Urban Interface Property.**

**R652-126-100. Purpose and Authority.**

Rule R652-126 implements Article XVIII of the Utah Constitution and Section 65A-8-203 and establishes guidelines for the evaluation and classification of property within the wildland urban interface.

**R652-126-200. Definitions.**

- (1) "County" is a political subdivision organized under Subsection 17-50-101(1) that contains High Risk Wildland Urban Interface.
- (2) "Division" is the Division of Forestry, Fire, and State Lands.
- (3) "High Risk Wildland Urban Interface" is identified within the Utah Wildfire Risk Assessment Portal (UWRAP) as seven and above on the Wildfire Structure Exposure Score combined with a structure density as determined by the division.
- (4) "Individual" a natural person, government agency, municipality, corporation, limited liability company, or business association including but not limited to a partnership.
- (5) "Lot Assessment" is an assessment performed by the Wildland Urban Interface Coordinator to analyze the wildfire risk of the property and structure according to the Wildland Urban Interface Building Standards pursuant to Section 65A-8-402.
- (6) "Lot Assessment Results" means the results and recommendations as determined by the lot assessment.
- (7) "Non High Risk Wildland Urban Interface" means Wildland Urban Interface that is not identified within UWRAP as High Risk Wildland Urban Interface.
- (8) "Property" means real property that contains one or more structures.
- (9) "Property Owner" means an individual who owns property in the High Risk Wildland Urban Interface.
- (10) "Required Lot Assessment Improvements" means the lot assessment results that must be performed to comply with the Utah WUI Code.
- (11) "Structure" means a "building" or "accessory structure" as defined in the Utah WUI Code and that also satisfies the definition of "property" in Subsection 59-2-102(30)(a).
- (12) "Triage Scale" A lot assessment metric that classifies the wildfire risk to structures into three categories:
  - (a) "Classification III" means there is extreme risk of wildfire damage to structures.
  - (b) "Classification II" means there is very high risk of wildfire damage to structures.
  - (c) "Classification I" means there is high risk of wildfire damage to structures.
- (13) "Wildland Urban Interface (WUI) means the zone where structures and other human development meets, or intermingles with, undeveloped wildland.
- (14) "Wildland Urban Interface Coordinator" means a representative of the division or a county who evaluates and classifies wildland urban interface property pursuant to Section 65A-8-402.
- (15) "Wildland Urban Interface Property and Casualty Insurer" means an insurer that issues property or casualty insurance for wildland urban interface property.
- (16) "Wildland Urban Interface Building Standards" means the Utah WUI Code adopted under Section 15A-2-103.

**R652-126-300. Requirement for Wildland Urban Interface Property and Casualty Insurers to Use the High Risk Wildland Urban Interface Boundary Map.**

- (1) The high risk wildland urban interface boundary map identifies the high risk wildland urban interface.
- (2) Only property within this high risk wildland urban interface boundary are subject to this rules.
- (3) Wildland urban interface property and casualty insurers shall only use the high risk wildland urban interface boundary map provided by the division to determine whether the property is high risk wildland urban interface property.
- (4) The division shall make the boundary map available to wildland urban interface property and casualty insurers as state technology allows, including but not limited to an application programming interface or similar data transfer protocol.

(5) Any data collected by the division that is not otherwise public shall be considered a private record.

(6) Wildland urban interface property and casualty insurers may use additional fire hazard data, beyond the high risk wildland urban interface boundary map, when setting a rate for, or the underwriting of, high risk wildland urban interface property.

(7) This rule does not restrict the use of data or underwriting tools in determining risks that are unrelated to wildfire risk.

**R652-126-400. Criteria Used to Determine Triage Scale Classification.**

Within the high risk wildland urban interface:

(1) Structures that do not meet the defensible space requirements nor the ignition resistant construction requirements in Chapters 5 and 6 of the current Utah WUI Code are rated as classification III;

(2) Structures that meet either the defensible space requirements in Chapter 6 or the ignition resistant construction requirements in Chapter 5 of the current Utah WUI Code, but not both, are rated as classification II;

(3) Structures that meet both the requirements of defensible space and ignition resistant construction in Chapters 5 and 6 of the current Utah WUI Code are rated as classification I;

(4) Triage scale classifications are classified as public records.

**R652-126-500. Process for Certification of Wildland Urban Interface Coordinators.**

(1) Wildland urban interface coordinators performing lot assessments must be certified by the division.

(2) The division shall maintain a database of individuals who are currently certified to perform lot assessments.

(3) To attain wildland urban interface coordinator certification individuals shall demonstrate completion of all education and safety requirements and standards set by the division.

(4) The division shall perform quality control checks and may terminate the certification of individuals at any time if the division identifies lot assessments performed contrary to division rules, policy, or guidance.

**R652-126-600. Process Used for a Property Owner to Move Into a Different Triage Scale Classification of Risk.**

(1) All property within the high risk wildland urban interface boundary that has not been assessed by the 1st of January 2028 shall be assigned classification III on the triage scale until a lot assessment is completed.

(2) To obtain a triage scale classification, the property owner must first obtain a lot assessment from a certified wildland urban interface coordinator.

(3) If the lot assessment identifies required lot assessment improvements, the improvements must be implemented prior to requesting a change in triage scale classification.

(4) Upon completion of the required lot assessment improvements, the property owner may request that the division update the triage scale classification for the property. Any request shall be accompanied by proof of work completed in a manner specified by the division.

(5) After making the request and providing the proof of work contemplated in Subsection (4), a wildland urban interface coordinator shall verify that the required lot assessment improvements have been completed to warrant a change in triage scale classification.

(6) To verify completion of the required lot assessment improvements, the wildland urban interface coordinator shall:

(a) If the proof of work is completed according to the required lot assessment improvements, update the triage scale classification accordingly; or

(b) If the proof of work completed fails to demonstrate completion of required lot assessment improvements, request additional information from the property owner for proof of work completed; or

(c) Perform an additional lot assessment to verify completed improvements.

(7) For a property owner to maintain the property's current triage scale classification, the property owner shall:

(a) Annually, verify that the property is still in compliance with the previous lot assessment; and

(b) Every five years, receive a new lot assessment by a wildland urban interface coordinator.

(8) Property owners that do not comply with Subsection (7) will be assessed at classification III on the triage scale.

**R652-126-700. Process by Which Lot Assessment Results and Triage Scale Classification Results Assigned to Property Are Communicated Between the Division, Counties, Insurers, and Property Owners.**

(1) The division shall develop and maintain a database of lot assessment results and triage scale classification results.

(2) The database created in Subsection (1) is a private record.

(3) When a lot assessment leads to a change of triage scale classification, that information shall be accessible by the county in the database.

(4) Certified wildland urban interface coordinators must utilize the software tool specified by the division to perform lot assessments.

(5) The database of lot assessment results and triage scale classification results will be made available to all counties with high risk WUI properties. The division shall limit access to the database of lot assessment results to county personnel as specified in agreement with the county.

(6) The lot assessment results will be made available to property owners.

(7) The database of triage scale classification results shall be made available to property and casualty insurers within specified limitations.

(a) Property and casualty insurers shall be limited to view only the triage scale classification of properties.

(b) Insurance personnel must request limited access to the database from the division.

**R652-126-800. How the High Risk Wildland Urban Interface Fee Amount is Set.**

(1) The county will annually assess a fee against the property owner of structures identified in the wildland urban interface boundary map as high risk wildland urban interface.

(2) Any portion of a structure that falls within the high risk wildland urban interface shall be assessed as if the entire structure falls within the high risk wildland urban interface. High risk to part of a structure is high risk to all of the structure.

(3) Prior to the 1st of January 2028, the fee amounts assessed to property owners within the high risk wildland urban interface shall be based on the square footage of structures on property.

(4) To determine the square footage of a structure, counties shall refer to the county assessor database, identified in Subsection 59-2-301.1(5), or the statewide web portal for uniform access to property characteristics and features, identified in Subsection 59-2-1606(5) through (6) or any database the county utilizes for assessment purposes.

(5) After the 1st of January 2028, the fee amounts shall be set by the division according to the determined triage scale classification of the property and square footage of structures.

(a) Classification III will be assessed at the highest fee level.

(b) Classification II will be assessed at the medium fee level.

(c) Classification I will be assessed at the lowest fee level.

(6) The county officer shall collect the fees annually based on the current square footage rate or triage scale classification, as applicable.

(7) The division may update fee amounts annually to align with current costs associated with implementation of the high risk wildland urban interface property assessments and fee collection as per Section 65A-8-402.

(8) The county may retain a portion of the fees in a manner specified by agreement with the division.

(9) The county shall transmit the remainder of the fees to the division in a manner specified by agreement with the division.

(10) The county may only use retained fees for costs associated with implementation of the high risk wildland urban interface fee implementation as specified in agreement with the division.

(11) If the division chooses to delegate lot assessments to the county, the county may retain a portion of fees for lot assessment implementation as specified in agreement with the division.

(12) The county may include retained fees in their annual reporting of participation commitment fulfillment where allowed in the cooperative wildfire system policy, as specified in agreement with the division.

**R652-126-900. Appeal of Lot Assessment Results and Triage Scale Classification.**

(1) A property owner may appeal to the division the result of a lot assessment or triage scale classification following the procedure outlined in subsection.

(2) Any appeal shall:

(a) be submitted to the division within 45 days of receipt of the result of the lot assessment; and

(b) be in writing and contain the following:

(i) The alleged discrepancy between the triage scale classification and the compliance with the current Utah WUI Code.

(ii) The effect of that discrepancy on the classification.

(iii) Evidence to support the property owner's assertion that the triage scale classification is inaccurate.

(c) Follow the procedures outlined in Section R652-8-300.

(3) The division director or the director's designee shall be the presiding officer of any appeal hearing.

**R652-126-1000. Appeal of Fee Amount.**

A property owner may appeal to the division the fee amount as it relates to the square footage of the structure.

(1) Any appeal to the fee amount shall be submitted to the division.

(2) The appeal time runs concurrent with the property valuation appeal time as identified by the county.

**R652-126-1100. Appeal of Structure Location.**

A property owner may appeal the structure's location within the High Risk Wildland Urban Interface Boundary. Any appeal of the structure location shall be submitted to the division by March 1 following the release of the High Risk Wildland Urban Interface Boundary Map.

**R652-126-1200. Items included in WUI Addendum.**

The division and county shall enter into a cooperative agreement. The cooperative agreement shall include terms that identify how the division and the county shall cooperate in the execution of state code and administrative rules related to the High Risk Wildland Urban Interface.

**KEY: WUI, Risk Assessment, property classification**

**Date of Last Change: 2026**

**Authorizing, and Implemented or Interpreted Law: 65A-8-203**

**NOTICE OF SUBSTANTIVE CHANGE****TYPE OF FILING:** Repeal and Reenact**Rule or section number:****R916-1****Filing ID: 57738****Agency Information**

<b>1. Title catchline:</b>	Transportation, Operations, Construction	
<b>Building:</b>	Calvin Rampton	
<b>Street address:</b>	4501 S 2700 W	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 148455	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-8455	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R916-1. Advertising and Awarding Construction Contracts
<b>4. Purpose of the new rule or reason for the change:</b>
These proposed changes are part of a comprehensive review of the Department of Transportation's (Department) project development rules and policies, which include this rule, and Rules R916-2, R916-3, and R916-4.  Because several subsections in this rule and in Rules R916-3 and R916-4 overlap, the Department is consolidating these three rules and bringing them into Rule R916-1 only.  Therefore, this filing repeals the current Rule R916-1. Rules R916-3 and R916-4 are also repealed in their current form and will be moved into the reenacted Rule R916-1.
<b>5. Summary of the new rule or change:</b>
This proposed repeal and reenact would: 1) consolidate this rule, and Rules R916-3, and R916-4 into one rule; 2) delete certain provisions related to joint ventures and prequalification so these provisions can be moved to Rule R916-2; 3) make needed updates for clarity and for streamlined processes; and 4) conform the new consolidated rule with the requirements of the Rulewriting Manual for Utah.  (EDITOR'S NOTES: The proposed repeal and reenact of Rule R916-2, ID 57739; the proposed repeal of Rule R916-3, ID 57744; and the proposed repeal of Rule R916-4, ID 57742, are in this issue, January 15, 2026, of the Utah State Bulletin.)

**Fiscal Information**

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A. State budget:</b>
There is no aggregate anticipated cost or savings to the state budget because this repeal and reenact is clerical in nature; no new obligations or duties are required by or taken away from the Department.

**B. Local governments:**

There is no aggregate anticipated cost or savings to local governments because this repeal and reenact is clerical in nature; no new obligations or duties are required by or taken away from local governments.

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

There is no aggregate anticipated cost or savings to small businesses because this repeal and reenact is clerical in nature; no new obligations or duties are required by or taken away from small businesses.

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

There is no aggregate anticipated cost or savings to non-small businesses because this repeal and reenact is clerical in nature; no new obligations or duties are required by or taken away from 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 aggregate anticipated cost or savings to other persons because this repeal and reenact is clerical in nature; no new obligations or duties are required by or taken away from other persons.

**F. Compliance costs for affected persons:**

It will cost the Department nothing to adhere to the changes proposed in this repeal and reenact.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Transportation, Carlos M. Braceras, PE, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 63G-6a-602	Section 63G-6a-1302	Section 63G-6a-1402
Section 72-1-201	Section 72-6-107	

## Public Notice Information

**9. The public may submit written or oral comments to the agency identified in box 1.**

**A. Comments will be accepted until:** 02/17/2026

**10. This rule change MAY become effective on:** 02/24/2026

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

<b>Agency head or designee and title:</b>	Carlos M. Bracerias, PE, Executive Director	<b>Date:</b>	11/13/2025
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**R916. Transportation, Operations, Construction.****R916-1. Advertising and Awarding Construction Contracts.****~~R916-1-1. Authority and Purpose.~~**

~~\_\_\_\_\_ This rule establishes the procedures for the advertising and awarding of Utah Department of Transportation construction contracts. This rule is authorized under Sections 72-1-201, 72-6-107, 63G-6-505, and Subsection 63G-6-207(3).~~

**~~R916-1-2. Definitions.~~**

~~\_\_\_\_\_ (1) Terms used in this rule are defined in Section 72-1-102.~~

~~\_\_\_\_\_ (2) In addition, "Notice to Contractors" means the advertisement or public announcement inviting bids for work to be performed or materials to be furnished.~~

**~~R916-1-3. Invitation for Bids.~~**

~~\_\_\_\_\_ (1) The department shall prepare a notice to contractors inviting bid proposals on each project. The notice to contractors shall specify the type of construction, the location, the principal items of work, and the bid opening time and date.~~

~~\_\_\_\_\_ (2) The advertisement for bids shall be published pursuant to the requirements of Section 72-6-107(2)(e)(i).~~

~~\_\_\_\_\_ (3) Contractors and suppliers may receive notice to contractors by requesting their name be placed on a distribution list which is maintained by the department.~~

**~~R916-1-4. Bidding Proposals, Plans and Specifications.~~**

~~\_\_\_\_\_ (1) Bidding proposals, plans and specifications shall be available for inspection at all Region offices, Cedar City, Preece, Richfield and Salt Lake City headquarters. Plans are available for download at the department's website, [www.udot.utah.gov](http://www.udot.utah.gov).~~

~~\_\_\_\_\_ (2) Prior to submitting a bid, the bidder must become prequalified at least 10 working days prior to bid opening date, under Rule R916-2 concerning prequalification of contractors. Prequalification of bidders is not required on projects estimated under \$1,500,000.~~

~~\_\_\_\_\_ (3) Prequalified contractors may obtain bidding proposals, plans and specifications and non-prequalified contractors may obtain non-bidding plans and specifications from the department's website, [www.udot.utah.gov](http://www.udot.utah.gov).~~

~~\_\_\_\_\_ (a) Projects shall not be awarded when the sum of the amount of uncompleted work, both in and outside of the state of Utah, shown on the contractor's "Status of Work Under Contract" form and the bid amount submitted exceeds the amount for which the contractor is prequalified. This calculation is performed at the close of bid opening for all apparent low bidders, on all projects with an advertised engineer's estimate over \$1,500,000. This process does not apply to contractors who are prequalified as "unlimited."~~

~~\_\_\_\_\_ (b) Two or more contractors who have prequalified separately and desire to enter a joint bid on a single project may do so upon submitting a letter of intent to the department prequalification secretary at least four working days prior to bid opening. The prequalification of each contractor can then be considered for consolidation to place a bid as prime.~~

~~\_\_\_\_\_ (4) If it is necessary to issue an addendum to the plans and specifications during the advertising period, the contractors and suppliers listed on the planholders list will be faxed and e-mailed a copy of the addendum by the department.~~

**~~R916-1-5. Bidding Requirements and Conditions.~~**

~~\_\_\_\_\_ (1) Each bidder shall submit their proposal upon the forms furnished by the department.~~

~~\_\_\_\_\_ (2) Sealed proposals shall be submitted to the department prior to the time and at the place specified in the notice to contractors.~~

~~\_\_\_\_\_ (3) Proposals shall be publicly opened and read at the time and place indicated in the notice to contractors.~~

~~\_\_\_\_\_ (4) No proposal shall be considered unless accompanied by a guaranty in the form of certified check, cashier's check or guaranty bond for not less than five percent of the total amount of the bid.~~

~~\_\_\_\_\_ (5) Each bidder must comply with the laws of Utah relative to the licensing of contractors. A contractor's license is required prior to the submission of a bid, except that a contractor may submit a bid on a Federal aid highway project without having first obtained a license, provided the contractor, prior to undertaking any construction under that bid (at time of official award notification), shall be licensed in Utah.~~

~~\_\_\_\_\_ (6) The department reserves the right to reject any or all bid proposals.~~

**~~R916-1-6. Award of Contracts.~~**

~~\_\_\_\_\_ (1) The department shall award the contract to the lowest responsible and qualified bidder.~~

NOTICES OF PROPOSED RULES

- ~~\_\_\_\_\_ (2) When all bids received exceed the engineer's estimate by more than 10%, the department reserves the right to either accept the low bid or to reject all bids.~~
- ~~\_\_\_\_\_ (3) The award, if made, shall be within 30 days after the opening of proposals. The department may, subject to approval of the successful bidder, withhold the award beyond the 30 day time frame. After 30 days, if no award has been made, the contractor may withdraw their proposal without liability.~~
- ~~\_\_\_\_\_ (4) The successful bidder shall be notified, by mail using the address shown on their proposal, that they have been awarded the contract.~~
- ~~\_\_\_\_\_ (5) The department reserves the right to cancel the award of any contract at any time before the execution of the contract by all parties with no liability against the department.~~

**R916-1-7. Execution of Contracts.**

- ~~\_\_\_\_\_ (1) Unless the bonds are waived pursuant to Subparagraph (6), when the contract is executed, the successful bidder shall furnish a performance bond and a payment bond, each in a sum equal to the full amount of the contract. Each bond shall be on the form provided by the department and shall be executed by a surety company or companies licensed by the state of Utah. These companies must be listed on the current United States Department of the Treasury Circular 570 as acceptable sureties on Federal bonds. The United States Department of the Treasury Circular 570 is available on the internet at [www.fms.treas.gov/e570/e570.html](http://www.fms.treas.gov/e570/e570.html).~~
- ~~\_\_\_\_\_ (2) The contract shall be signed by the successful bidder and returned together with the fully executed contract bonds and appropriate insurance documents within 15 days after the contract has been awarded.~~
- ~~\_\_\_\_\_ (3) Failure to execute a contract and file acceptable bonds and appropriate insurance documents within 15 days after the contract has been awarded shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty.~~
- ~~\_\_\_\_\_ (4) If the contract is not executed by the Department within 30 days after receiving signed contracts, bonds, and insurance documentation, the bidder shall have the right to withdraw their bid without penalty.~~
- ~~\_\_\_\_\_ (5) No contract shall be considered effective until it has been fully executed by all the parties thereto.~~
- ~~\_\_\_\_\_ (6) In accordance with Section 63G-6-505, the Executive Director or designee may reduce or waive the amount of the payment and performance bonds below the 100% normally required, if he or she determines that the circumstances are such that the normal bonding requirement is unnecessary to protect the State.]~~

**R916-1-1. Purpose and Authority.**

- ~~\_\_\_\_\_ (1) This rule establishes procedures for advertising and awarding department construction contracts.~~
- ~~\_\_\_\_\_ (2) This rule is authorized by Sections 63G-6a-602, 63G-6a-1302, 63G-6a-1402, 72-1-201, and 72-6-107.~~

**R916-1-2. Definitions.**

~~\_\_\_\_\_ As used in this rule:~~

- ~~\_\_\_\_\_ (1)(a) "Alternative delivery" means a project delivery method other than the traditional design-bid-build method.~~
- ~~\_\_\_\_\_ (b) "Alternative delivery" includes design-build, CMGC, PDB, public-private partnership, or other alternative delivery methods allowed by state or federal law.~~
- ~~\_\_\_\_\_ (2) "Bidder" means the same as that term is defined in Section 63G-6a-103.~~
- ~~\_\_\_\_\_ (3) "CMGC" means construction manager/general contractor, which means the same as the term "construction manager/general contractor" is defined in Section 63G-6a-103.~~
- ~~\_\_\_\_\_ (4) "Construction project" means the same as that term is defined in Section 63G-6a-103.~~
- ~~\_\_\_\_\_ (5) "Contract" means the same as that term is defined in Section 63G-6a-103.~~
- ~~\_\_\_\_\_ (6) "Contractor" means the same as that term is defined in Section 63G-6a-103.~~
- ~~\_\_\_\_\_ (7) "Department" means the Utah Department of Transportation.~~
- ~~\_\_\_\_\_ (8) "Deputy director" means one of the deputy directors described in Section 72-1-203.~~
- ~~\_\_\_\_\_ (9) "Design-build" means the same as that term is defined in Section 63G-6a-103.~~
- ~~\_\_\_\_\_ (10) "Executive director" means the executive director of the department or the executive director's designee.~~
- ~~\_\_\_\_\_ (11)(a) "Invitation for bids" means the same as that term is defined in Section 63G-6a-103.~~
- ~~\_\_\_\_\_ (b) "Invitation for bids" includes the notice to contractors for a traditional design-bid-build project.~~
- ~~\_\_\_\_\_ (12) "Notice to contractors" means an advertisement or public announcement of an invitation for bids.~~
- ~~\_\_\_\_\_ (13) "PDB" means "progressive design-build," which is a project delivery method where the department collaboratively develops the design and cost model in phases, culminating in a firm price and the project's completion.~~
- ~~\_\_\_\_\_ (14) "Project" means a construction project.~~
- ~~\_\_\_\_\_ (15) "Proposal" means a proposal or statement submitted in response to an RFP or RFQ.~~
- ~~\_\_\_\_\_ (16) "Proposer" means an entity that submits a proposal or statement in response to a solicitation.~~
- ~~\_\_\_\_\_ (17) "Public-private partnership" means the same as that term is defined in Section 63G-6a-103.~~
- ~~\_\_\_\_\_ (18) "Responsible" means the same as that term is defined in Section 63G-6a-103.~~
- ~~\_\_\_\_\_ (19) "Responsive" means the same as that term is defined in Section 63G-6a-103.~~
- ~~\_\_\_\_\_ (20) "RFP" means "request for proposals," which means the same as the term "request for proposals" is defined in Section 63G-6a-103.~~
- ~~\_\_\_\_\_ (21) "RFQ" means "request for qualifications," which means the same as the term "request for statement of qualifications" is defined in Section 63G-6a-103.~~
- ~~\_\_\_\_\_ (22) "Solicitation" means an advertisement or public announcement of an RFP or RFQ as part of an alternative delivery project.~~
- ~~\_\_\_\_\_ (23) "Specifications" means the same as that term is defined in Section 63G-6a-103.~~

**R916-1-3. Policy.**

- (1) This rule applies to projects the department constructs using an invitation for bids or an alternative delivery method.
- (2) The department shall establish a process for determining which project delivery method is used.
- (3) A contractor that prepares specifications for a notice to contractors or solicitation for a construction project may not submit a bid or proposal on that project unless the executive director determines there is no conflict of interest.
- (4) The department shall readvertise a project if the solicitation or notice to contractors fails to attract multiple bidders unless a deputy director or the deputy director's designee determines in writing that readvertisement of the project is not in the best interest of the state.
- (5)(a) The department may establish a committee to evaluate bids or proposals.
- (b) In establishing a committee described in Subsection (5)(a), the department:
  - (i) may appoint one committee member who is an employee of a consulting engineering entity, selected based on a recommendation from the American Council of Engineering Companies of Utah;
  - (ii) may appoint one committee member who is an employee of a licensed contractor, selected based on a recommendation from the Utah Chapter of the Association of General Contractors;
  - (iii) may not appoint a committee member who is an employee of an entity that participated in preparing one of the proposals or bids that the committee will evaluate in response to a solicitation or notice to contractors; and
  - (iv) shall ensure that each member of a committee discloses in writing to the department's director of project development any conflicts of interest pursuant to the requirements of state and federal ethics and procurement law and the department's standard specifications and policies.

**R916-1-4. Prequalification.**

A contractor shall prequalify before submitting a bid or proposal on a department construction project in accordance with Rule R916-2.

**R916-1-5. Bid Security Requirements.**

- (1) Regardless of the delivery method, a bidder or proposer shall provide the department with bid security that meets the requirements of:
  - (a) Sections 63G-6a-1102 and 63G-6a-1103; and
  - (b) the solicitation or notice to contractors.
- (2) The executive director may waive a bid security requirement as provided in Subsection 63G-6a-1103(3).
- (3) A bidder or proposer shall provide the bid security in a form stated in the solicitation or notice to contractors.

**R916-1-6. Required Contract Clauses.**

- (1) Regardless of delivery method, the department shall include in a construction contract a provision that:
  - (a) allows the department to terminate the contract at any time for cause or without cause;
  - (b) requires the contractor to satisfy the requirements of Title 63G, Chapter 2, Government Records Access Management Act, regarding records the department owns that are in the contractor's possession;
  - (c) authorizes the department to penalize a contractor for violating the requirements of Title 63G, Chapter 2, Government Records Access Management Act, or delaying the department's response to a government records request;
  - (d) requires a contractor to have insurance protecting the department from judgments up to the limits described in Rule R37-4; and
  - (e) defines the standard of care for a contractor to comply with applicable common, statutory, and municipal law.

**R916-1-7. Communications with Bidders and Proposers.**

- (1) The department may hold pre-bid or pre-proposal meetings with all bidders or proposers in accordance with requirements outlined in the solicitation or notice to contractors.
- (2)(a) The department may hold one-on-one meetings with bidders or proposers either before or after bids or proposals are received.
- (b) If the department holds one-on-one meetings with one bidder or proposer, the department shall hold one-on-one meetings with all bidders or proposers.
- (3) If provided in the solicitation or notice to contractors, the department may:
  - (a) hold confidential one-on-one meetings with bidders or proposers before the receipt of a bid or proposal to discuss the contents of the solicitation or notice to contractors, alternative technical concepts, or other proposed design or construction deviations;
  - (b) request and receive confidential alternative technical concepts from bidders or proposers; or
  - (c) seek clarification from bidders or proposers.
- (4) Bidders or proposers may seek clarification from the department regarding the contents of a published solicitation or notice to contractors.
- (5)(a) If a process is outlined in the solicitation or notice to contractors, the department may allow confidential questions to be submitted by bidders or proposers.
- (b) The department shall ensure that any process for submitting confidential questions makes clear that the department may determine if a question will be made available to all bidders or proposers to ensure the integrity of the procurement.

**R916-1-8. Contracts Awarded by Bid.**

- (1) This section applies only when the department uses an invitation for bids for a design-bid-build construction project.

## NOTICES OF PROPOSED RULES

(2) When procuring a construction project through an invitation for bids, the department shall prepare and publish a notice to contractors that:

(a) invites bids for the project;

(b) specifies details such as the type of construction, location of the project, principal items of work, and the bid opening date and time; and

(c) complies with the advertisement for bids requirements described in Section 72-6-107.

(3) After preparing and publishing a notice to contractors as described in Subsection (2), upon request, the department shall make project plans and specifications available for in-person inspection.

(4) After preparing and publishing a notice to contractors as described in Subsection (2), the department shall make construction project plans and specifications available for download on the department's website.

(5)(a) The department may only accept or consider a bid from a bidder that has prequalified in accordance with Rule R916-2.

(b)(i) The department may not award a contract to a bidder for a construction project if the bidder's bid amount, added to the bidder's total uncompleted work, is more than the maximum total dollar value of contracts the bidder is allowed to undertake at any one time as determined by the department under Section R916-2-3.

(ii) The department will make this calculation for the apparent low bidder at the close of a bid opening.

(iii) The contractor's total uncompleted work includes all uncompleted work regardless of location or project owner.

(iv) To calculate the total uncompleted work amount, the department shall use the amount shown on the contractor's "Status of Work Under Contract" form found in the department's bid system.

(v) The process described in this Subsection (5) does not apply to contractors prequalified as "unlimited."

(c) If the department determines it is necessary to issue an addendum to the plans and specifications during the advertising period, the department shall post the addenda in the department's bid system.

(6)(a) Each bidder shall submit a sealed bid to the department within the department bid system before the time and at the place specified in the notice to contractors.

(b) The department shall open bids publicly at the time and place indicated in the notice to contractors.

(c) The department may only consider a bid if the bid is accompanied by a bid security in the form and amount stated in the notice to contractors.

(d)(i) Except as provided in Subsection (6)(d)(ii), a bidder must be licensed as required by Title 58, Occupations and Professions, to engage in the work described in the notice to contractors before submitting a bid.

(ii) A contractor may submit a bid on a Federal-aid highway project without having first obtained a license if the contractor obtains a valid Utah license before starting any work under the contract.

(e) The department may reject any or all bids.

(7)(a) If the department awards a contract to a bidder, the department shall award the contract:

(i) to the lowest responsible, responsible, and qualified bidder; and

(ii) within 30 calendar days after the opening of bids or within a timeframe agreed upon by the department and the successful bidder.

(b) When all bids received exceed the engineer's estimate by more than 10%, the department may accept a bid as described in Subsection (6)(a) or reject all bids.

(c) The department shall notify a successful bidder by email, using the email address shown on the bidder's bid.

### **R916-1.9. Design-Build Contracts.**

(1) This section applies only when the department uses a solicitation for a design-build construction project.

(2) The department may:

(a) issue an RFQ soliciting qualification statements from potential proposers wishing to submit proposals for a design-build project;

(b) forgo issuing an RFQ and invite potential proposers that are prequalified in accordance with Rule R916-2 to submit proposals for a design-build project pursuant to an RFP.

(3) When the department issues an RFP for a design-build construction project, the department may:

(a) ask for initial proposals followed by clarifications, communications, or discussions, and may request best and final offers; or

(b) award the contract without clarifications, communications, discussions, or requesting best and final offers.

(4) When the department issues an RFP for a design-build construction project, the department may ask for proposals based on a predetermined sum.

(5)(a) The department may award a stipend to a proposer who submits a responsive proposal but who is not awarded a contract for the project.

(b) If the department elects to award a stipend as described in Subsection (5)(a), the department shall identify the amount of the stipend in the RFP.

(6)(a) The department shall include in the RFP separate technical and price proposals.

(b) The department shall treat technical solutions or design concepts contained in proposals as proprietary information unless the proposer receives a stipend as described in Subsection (5)(a) and as provided in the RFP.

(c) In accordance with Subsection 63G-2-305(6), the department may not disclose a proposal or other information submitted to the department in response to an RFP until after the contract is awarded and signed by all parties.

(7) When procuring a design-build project, the department may follow any of the criteria described in 23 CFR 636.

(8)(a) The department shall state the basis for an award in the solicitation.

(b) To meet the requirement of Section 63G-6a-1402 of only awarding a contract to the responsible proposer whose proposal is most advantageous to the department or the state, the department may only base an award of an RFP on the following approaches:

(i) Award to the responsible proposer offering the lowest-priced responsive proposal. If the solicitation includes a mandatory technical level, the department may not consider a proposal responsive unless it meets that mandatory level.

(ii) Award to the responsible proposer whose proposal is evaluated as providing the best value to the department.

(iii) If the solicitation provides for a specified sum, award to the responsible proposer whose proposal is evaluated as providing the best value to the department.

(c) If the department awards the contract, the department shall execute the contract and issue a notice to proceed when the department is ready for the contractor to proceed with the work.

**R916-1-10. Construction Manager/General Contractor and PDB Contracts.**

(1)(a) To procure a CMGC or PDB project, the department shall issue a solicitation with an accompanying RFP or RFQ.

(b) For the RFP or RFQ described in Subsection (1)(a), the department:

(i) shall require each proposer to submit a technical proposal as part of the proposer's submission;

(c) may require that each proposer meet a minimum mandatory level of technical competence;

(d) may require each proposer to include a price component as part of the proposer's submission; and

(e) shall describe the evaluation criteria and the basis the department will use to select a proposal.

(2)(a) The department may only consider the evaluation criteria and selection factors that are specified in the RFP or RFQ when selecting a proposal.

(b) The department may only select a proposal by using one of the following approaches:

(i) selecting the responsible proposer whose proposal is evaluated as providing the best value to the department;

(ii) selecting the responsible proposer whose proposal is evaluated as representing the most qualified proposer; or

(iii) selecting the responsible proposer based on an alternative approach that complies with the requirements of the Utah Procurement Code and is approved by the executive director.

(3) The CMGC and PDB delivery methods may consist of multiple contract phases, including any of the following:

(a) preconstruction or design services, which may include:

(i) value engineering;

(ii) cost estimating and conceptual estimating;

(iii) constructability reviews;

(iv) project scheduling; and

(v) maintenance of traffic plans;

(b) for CMGC projects only:

(i) the department may award construction services after the project plans have been sufficiently developed, and the construction price has been validated and accepted by the department;

(ii) if a price is not validated and accepted by the department, the department may not award the design-build phase of the contract; and

(iii) the department may award incremental construction contracts as individual components of the work are validated and accepted by the department; and

(c) for PDB projects only:

(i) the department may award design-build services after the price for such services has been successfully validated and accepted by the department;

(ii) if a price is not validated and accepted by the department, the department may not award the design-build phase of the contract;

(iii) the department may award incremental contracts as prices for individual components are validated and accepted by the department; and

(iv) the department reserves the right to retain any party to the agreement even if the design-build services phase is not awarded.

**R916-1-11. Award of Contracts.**

(1)(a) The department is not required to award a contract when the department engages in the design-bid-build, design-build, or PDB construction project contract solicitation process.

(b) If the department awards a contract, the department shall execute the contract and issue a notice to proceed when the department is ready for the successful bidder or proposer to commence work.

(2) A successful bidder or proposer may not begin work before receiving the notice to proceed from the department.

(3) The department may cancel the award of any contract at any time before the execution of the contract by all parties without incurring any liability.

(4) For any contract awarded that includes a construction project, in whole or in part, the following provisions apply:

(a) the successful bidder or proposer shall comply with the bond requirements described in Section 63G-6a-1103, unless the executive director, in accordance with Subsection 63G-6a-1103(3), waives the bond requirement or reduces the required bond amount upon determining that the waiver or reduction benefits the state;

(b) the successful bidder or proposer shall provide both a performance bond and a payment bond, each in an amount equal to the full contract value, before execution of the contract, unless waived or reduced under Subsection (4)(a) or Rule R916-5;

(c) the successful bidder or proposer shall submit required bonds on the forms provided by the department on the department's bid system and shall ensure that the bonds are executed by a surety company authorized to conduct business in the state;

(d) the successful bidder or proposer may only use a surety company listed as an acceptable surety for federal bonds in the current United States Department of the Treasury Circular 570;

NOTICES OF PROPOSED RULES

- (e) the successful bidder or proposer shall deliver the following within 15 business days after the department issues the notice of contract award:
  - (i) a contract signed by an authorized representative of the successful bidder or proposer; and
  - (ii) all required, fully executed bonds and insurance documentation, as specified by the department;
- (f) the department may cancel the contract award and may require the successful bidder or proposer to forfeit the bid security if the successful bidder or proposer fails to sign the contract or submit acceptable bonds and insurance documentation within the 15-business-day period;
- (g) the successful bidder or proposer may withdraw the bid or proposal without penalty if the department does not execute the contract within 30 calendar days after receiving the signed contract, bonds, and required documentation; and
- (h) a contract subject to this Subsection (4) is not effective or binding until the contract has been fully executed by all parties to the contract.

**KEY: bids, advertising, contracts, bonding requirements**

**Date of Last Change: 2026[October 11, 2011]**

**Notice of Continuation: May 13, 2021**

**Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-6-107; 63G-6-505; 63G-6-207(3)**

<b>NOTICE OF SUBSTANTIVE CHANGE</b>		
<b>TYPE OF FILING:</b> Repeal and Reenact		
<b>Rule or section number:</b>	<b>R916-2</b>	<b>Filing ID: 57739</b>

**Agency Information**

<b>1. Title catchline:</b>	Transportation, Operations, Construction	
<b>Building:</b>	Calvin Rampton	
<b>Street address:</b>	4501 S 2700 W	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 148455	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-8455	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R916-2. Prequalification of Contractors
<b>4. Purpose of the new rule or reason for the change:</b>
These proposed changes are part of a comprehensive review of the Department of Transportation's (Department) project development rules and policies, which include this rule, and Rules R916-1, R916-3, and R916-4.
<b>5. Summary of the new rule or change:</b>
The proposed rule changes would: 1) consolidate provisions related to joint ventures and prequalification that currently exist in Department Rules R916-1, R916-3, and R916-4; 2) clarifies that firms have to prequalify to bid on any project that involves specialty work regardless of the project's value; 3) make needed updates for clarity and for streamlined processes; and 4) conform with requirements of the Rulewriting Manual for Utah.

(EDITOR'S NOTES: The proposed repeal and reenact of Rule R916-1, ID 57738; the proposed repeal of Rule R916-3, ID 57744; and the proposed repeal of Rule R916-4, ID 57742, are in this issue, January 15, 2026, of the Utah State Bulletin.)

**Fiscal Information**

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

**A. State budget:**

There is no aggregate anticipated cost or savings to the state budget because this repeal and reenact is clerical in nature; no new obligations or duties are required by or taken away from the Department.

**B. Local governments:**

There is no aggregate anticipated cost or savings to local governments because this repeal and reenact is clerical in nature; no new obligations or duties are required by or taken away from local governments.

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

There is no aggregate anticipated cost or savings to small businesses because this repeal and reenact is clerical in nature; no new obligations or duties are required by or taken away from small businesses.

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

There is no aggregate anticipated cost or savings to non-small businesses because this repeal and reenact is clerical in nature; no new obligations or duties are required by or taken away from 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 aggregate anticipated cost or savings to other persons because this repeal and reenact is clerical in nature; no new obligations or duties are required by or taken away from other persons.

**F. Compliance costs for affected persons:**

It will cost the Department nothing to adhere to the changes proposed in this repeal and reenact.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

<b>Regulatory Impact Summary Table</b>					
<b>Fiscal Cost</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H. Department head comments on fiscal impact and approval of regulatory impact analysis:**  
 The Executive Director of the Department of Transportation, Carlos M. Braceras, PE, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 72-1-201	Subsection 63G-6a-106(3)(a)	
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**  
**A. Comments will be accepted until:** 02/17/2026

**10. This rule change MAY become effective on:** 02/24/2026  
 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**

<b>Agency head or designee and title:</b>	Carlos M. Braceras, PE, Executive Director	<b>Date:</b>	11/13/2025
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**R916. Transportation, Operations, Construction.**

**R916-2. Prequalification of Contractors.**

~~**[R916-2-1. Authority and Purpose.**~~

~~This rule establishes procedures for prequalifying contractors desiring to submit bids and proposals for Utah Department of Transportation construction projects. This rule is authorized under Utah Code Ann. Sections 72-1-201 and 63G-6a-106(3)(a).~~

~~**R916-2-2. Definitions.**~~

- ~~(1) Terms used in this rule are defined in Section 72-1-102.~~
- ~~(2) "Board" means the prequalification board, consisting of 4 positions: Department of Transportation Comptroller, Director of Construction and Materials, an engineer for construction, and the Prequalification Specialist, or designees.~~
- ~~(3) "Applicant" means any person who submits an application for prequalification.~~

~~**R916-2-3. Prequalification.**~~

- ~~(1) Contractors desiring to submit bids or proposals for construction contracts shall be prequalified by the Department to ensure they have the resources and capability to successfully complete awarded contracts. Prequalification is not required for projects that have an advertised estimate of \$3,000,000 or less.~~
- ~~(a) Prequalification information is due at least 20 calendar days before submitting a proposal or bid on projects of more than \$3,000,000.~~
- ~~(b) The Department may change an Applicant's prequalification status at any time if the Department receives favorable or unfavorable information about the Applicant's job work performance or financial performance.~~
- ~~(c) The prequalification amount limits the size of individual contracts and type of work for which a prequalified contractor may submit proposals or bids.~~
- ~~(2) Qualification ratings establish the type of construction work contractors may be permitted to perform and the maximum total dollar value of contracts contractors are allowed to undertake at any one time if not classified as unlimited.~~
- ~~(3) Applicants who attain a total prequalification of \$50,000,000 will be classified as unlimited. The Department will audit or review each Applicant's prequalification at least annually; more often if circumstances warrant, as determined by the Department or the Applicant.~~
- ~~(4) The Department will base an Applicant's prequalification ratings on the Applicant's:~~
  - ~~(a) experience;~~
  - ~~(b) past performance and safety record;~~
  - ~~(c) personnel; and~~
  - ~~(d) analysis of certified audited or reviewed financial statements, including balance sheet, income statements, assets including equipment, cash flow, and changes in financial condition.~~
  - ~~(e) If current financial statements on file are reviewed and not audited, the Department may accept financial statements for the same period in lieu of the required certified audited financial statements; however, providing reviewed financial statements will result in a prequalification rating based on one half the financial factor allowed if the applicant provides audited financial statements.~~
  - ~~(5) An applicant may submit a guaranty of financial support provided by an affiliated but independent entity. The Department will provide applicants a guaranty agreement form for this purpose. Applicants that submit a guaranty of financial support must submit the~~

Department's guarantee agreement form with their applications. The guarantee may increase an applicant's adjusted equity by a maximum of 50% of the applicant's calculated adjusted equity in the formula, as determined by the Department.

~~(6) The applicant may only provide the experience and past performance of the applicant and must submit financial reports that accurately represent the past financial performance and present financial condition of the applicant.~~

~~(7) The Department may reject an application and not pre-qualify an Applicant if the Applicant:~~

~~(a) fails to provide all requested information;~~

~~(b) provides false, misleading, or incorrect information;~~

~~(c) has now or in the past had an officer, member or owner who was convicted of a felony;~~

~~(d) is now or has been suspended or debarred by any governmental entity;~~

~~(e) has failed to complete a construction contract as the prime contractor;~~

~~(f) has an average contractor rating over the past 5 projects that falls below 70%;~~

~~(g) has been convicted or held liable for any crime or civil offense that involved collusive or deceptive activity related to a procurement process; or~~

~~(h) otherwise fails to meet the Department's requirements.~~

~~(8) This rule shall be administered to ensure that Applicants possess adequate financial resources to provide complete performance of contracts awarded to them by the Department, and to foster and protect competition in the Department's bidding processes.~~

~~(9) The Department will not accept any pledges.~~

#### **R916-2-4. Joint Venture.**

~~(1) Joint ventures must submit a letter of intent to the Department's Prequalification Board Specialist prior to bidding as a joint venture. The letter must state whether the joint venture partners intend to bid on a single project, or on multiple projects. If the intent is to bid on a single project, the letter of intent must identify the project by the Department's project number. If the intent is to bid on multiple projects, the letter must request approval to bid as a continuing joint venture. Approval to bid as a continuing joint venture will expire one year after the date the Department grants approval. Joint ventures must submit their letter of intent together with an executed copy of their joint venture agreement at least 20 working days before the scheduled bid opening, or the first scheduled bid opening a continuing joint venture intends to bid. The Department will consolidate individual prequalification amounts for joint venture bids or proposals.~~

~~(2) Applicants must obtain the following under the joint venture designation before bid openings:~~

~~(a) Bid bond; and~~

~~(b) UDOT Contractor identification and password.~~

#### **R916-2-5. Prequalification Board.**

~~(1) The Prequalification board is established to:~~

~~(a) direct the prequalification of contractors;~~

~~(b) review and analyze prequalification applications; and~~

~~(c) establish the amount and type of prequalification work classifications to be granted to contractors.]~~

#### **R916-2-1. Authority and Purpose.**

~~(1) This rule is made in accordance with the authority granted to the department in Section 72-1-201 and Subsection 63G-6a-106(3)(a).~~

~~(2) This rule establishes the criteria for the prequalification of entities seeking to submit bids or proposals for construction projects administered by the department.~~

~~(3) The department shall administer this rule in a manner that:~~

~~(a) ensures applicants possess adequate financial resources to provide complete performance of contracts awarded by the department; and~~

~~(b) fosters and protects competition in the department's bidding and proposal process.~~

#### **R916-2-2. Definitions.**

~~(1) The definitions provided in Section 72-1-102 and Rule R916-1 apply to this rule.~~

~~(2) In addition to the definitions described in Subsection (1), as used in this rule:~~

~~(a) "Applicant" means an entity that submits an application for prequalification.~~

~~(b) "Board" means the Prequalification Board created in Section R916-2-5.~~

~~(c) "Prequalification" means the process established by the department whereby an applicant that seeks to submit a bid or proposal for one or more construction contracts demonstrates to the department that the applicant has the resources and capabilities to successfully complete an awarded contract.~~

~~(d) "Specialty work classification" means a type of work that requires a specific skill set and experience to perform, as determined by the department.~~

#### **R916-2-3. Prequalification.**

~~(1)(a) Unless otherwise provided in this rule, an applicant that seeks to submit a bid or proposal for one or more construction projects must first demonstrate to the department, through prequalification, that the applicant has the resources and capabilities to successfully complete an awarded contract.~~

~~(b) Except as provided in Subsection (1)(c), a potential contractor does not need to participate in prequalification for a project with an advertised estimate of \$3,000,000 or less.~~

NOTICES OF PROPOSED RULES

(c) An applicant seeking to participate in a transportation project that requires a specialty work classification must obtain prequalification from the department as a specialty contractor, regardless of the project's value.

(2)(a) An applicant must submit prequalification information at least 20 calendar days before submitting a bid or proposal for a project.

(b) The department may change an applicant's prequalification status at any time if the department receives information about the applicant's work or financial performance.

(c) Through prequalification, the department shall determine a rating for each applicant that establishes the type of project that the applicant is permitted to perform, including:

(i) the maximum type, scope, and size of an individual awarded contract;

(ii) the specialty work classifications for which an applicant is authorized to submit one or more bids or proposals; and

(iii) the maximum contract value of all total contracts awarded to the applicant.

(d) The department shall classify an applicant as unlimited if the applicant's total prequalification rating reflects a permitted maximum contract value of \$50,000,000 or more for all awarded contracts.

(3)(a) The department shall review each applicant's prequalification information at least annually.

(b) The department may review an applicant's information more than once a year if warranted, as determined by either the department or the applicant.

(4) The department shall base an applicant's prequalification rating on the applicant's:

(a) experience;

(b) performance;

(c) safety record; and

(d) financial condition.

(5)(a) In determining an applicant's financial condition as described in Subsection (4)(d), the department may analyze information from financial statements that have undergone audit or review, including balance sheets, income statements, current assets, fixed assets, liabilities, long-term debt, equity, cash flow, and revenues.

(b) If the financial statements described in Subsection (5)(a) are reviewed rather than audited, the department may accept the statements for the corresponding period, but the applicant's prequalification rating may only be based on one-half of the financial rating factor that would apply to audited financial statements.

(6)(a) When providing prequalification information to the department, an applicant may submit in a form approved by the department a guarantee of financial support provided by an affiliated but independent entity, accompanied by financial statements of the entity providing the guarantee.

(b) If an applicant submits a guarantee of financial support in a form approved by the department, the applicant's equity as part of the department's prequalification formula may be adjusted by an amount up to 50% greater than determined by the department.

(7) In submitting an application for prequalification, an applicant may only provide:

(a) prequalification information that describes the experience and performance of the applicant itself; and

(b) financial statements in the name of the applicant that accurately represent the applicant's:

(i) past financial performance; and

(ii) current financial condition.

(8) The department may reject an application and decline to prequalify an applicant if, as determined by the department, the applicant:

(a) fails to provide any requested information;

(b) provides false, misleading, or incorrect information;

(c) has now or in the past had an officer, member, or owner who was convicted of a felony;

(d) is suspended or debarred by any governmental entity;

(e) has failed to complete a construction contract as the prime contractor;

(f) has an average contractor performance rating over the past five projects that falls below 70%;

(g) has been convicted or held liable for any crime or civil offense involving collusive or deceptive activity related to a procurement process; or

(h) otherwise fails to meet the department's requirements.

(9) The department may not accept any pledges.

**R916-2-4. Joint Venture.**

(1) Multiple prequalified contractors may jointly submit a bid or proposal as a joint venture.

(2) Before submitting a bid or proposal as a joint venture, the joint venture shall:

(a) register with the oo Division of Corporations and Commercial Code; and

(b) have a fully executed joint venture agreement and submit a copy of the agreement to the department's prequalification specialist at least four business days before a project's bid opening.

(3) The joint ventures included in the joint venture shall ensure that the agreement described in Subsection (2)(b) includes:

(a) the joint venture's name as the name appears on the joint venture's registration with the Utah Division of Corporations and Commercial Code;

(b) the name of each joint ventures included in the joint venture as each name appears on the registration with the Utah Division of Corporations and Commercial Code;

(c) a provision acknowledging that each joint venturer's liability under the construction contract is joint and several;

(d) the duration of the agreement and conditions for terminating the agreement;

- (e) each joint venturer's interests to the joint venture and each joint venturer's claims, including claims to property, equipment, profits, and liabilities related to the joint venture;
  - (f) a provision recognizing that each joint venturer agrees to indemnify the other joint venturers against any loss or liability not directly related to the joint venture;
  - (g) the initial capital contribution of each joint venturer, and how each joint venturer will maintain and control working capital contributions;
  - (h) the name and authority of at least one authorized representative for each joint venture;
  - (i) information describing how the joint venture will manage and conduct business;
  - (j) information describing how the joint venture will maintain and control records belonging to the department;
  - (k) information describing the time and effort contribution of each joint venturer;
  - (l) information describing what happens to the joint venturer's assets and obligations should one venturer file for bankruptcy protection; and
  - (m) the name and project identification number of the project on which the joint venture will bid or propose.
- (4) If joint venturers included in a joint venture intend to compete for multiple projects under the same joint venture, the joint venturers shall amend the joint venture agreement for each project the joint venturers intend to bid or propose.
- (5) Joint venturers participating in a joint venture under this section may classify any portion of the joint venture agreement as protected from disclosure under Subsection 63G-2-305(1) or (2) by submitting, within the joint venture agreement, a claim of business confidentiality in accordance with the requirements of Section 63G-2-309.

**R916-2-5. Prequalification Board.**

- (1) The department shall establish a prequalification board that includes the following members:
  - (a) the department's director of finance or the director of finance's designee;
  - (b) the department's director of state construction or the director of state construction's designee;
  - (c) a department construction engineer appointed by the department; and
  - (d) a department prequalification specialist appointed by the department.
- (2) The responsibilities of the prequalification board include:
  - (a) directing the prequalification process;
  - (b) reviewing and analyzing prequalification applications; and
  - (c) establishing the prequalification ratings and types of prequalification specialty work classifications that the department may grant to applicants.

**KEY: bids, contracts, prequalification, contractor rating**

**Date of Last Change: ~~2026~~ ~~May 9, 2018~~**

**Notice of Continuation: May 10, 2021**

**Authorizing, and Implemented or Interpreted Law: 72-1-102; 72-1-201; 63G-6a-106(3)(a)**

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Repeal		
<b>Rule or section number:</b>	R916-3	<b>Filing ID:</b> 57744

**Agency Information**

<b>1. Title catchline:</b>	Transportation, Operations, Construction	
<b>Building:</b>	Calvin Rampton	
<b>Street address:</b>	4501 S 2700 W	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 148455	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-8455	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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**

<b>2. Rule or section catchline:</b>
R916-3. Design Build Contracts
<b>4. Purpose of the new rule or reason for the change:</b>
This proposed repeal is part of a comprehensive review of the Department of Transportation's (Department) project development rules and policies, which include this rule, and Rules R916-1, R916-2, and R916-4.  Because several subsections in this rule and in Rules R916-1 and R916-4 overlap, the Department is consolidating these three rules and bringing them into R916-1 only.  Therefore, repeal is part of an effort of consolidating the provisions of Rule R916-3 into Rule R916-1.
<b>5. Summary of the new rule or change:</b>
This proposed repeal repeals this rule in its entirety.  (EDITOR'S NOTES: The proposed repeal and reenact of Rule R916-1, ID 57738; the proposed repeal and reenact of Rule R916-2, ID 57739; and the proposed repeal of Rule R916-4, ID 57742, are in this issue, January 15, 2026, of the Utah State Bulletin.)

**Fiscal Information**

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>												
<b>A. State budget:</b>												
There is no aggregate anticipated cost or savings to the state budget because this repeal is clerical in nature; no new obligations or duties are required by or taken away from the Department.												
<b>B. Local governments:</b>												
There is no aggregate anticipated cost or savings to local governments because this repeal is clerical in nature; no new obligations or duties are required by or taken away from local governments.												
<b>C. Small businesses</b> ("small business" means a business employing 1-49 persons):												
There is no aggregate anticipated cost or savings to small businesses because this repeal is clerical in nature; no new obligations or duties are required by or taken away from small businesses.												
<b>D. Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):												
There is no aggregate anticipated cost or savings to non-small businesses because this repeal is clerical in nature; no new obligations or duties are required by or taken away from non-small businesses.												
<b>E. Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i> ):												
There is no aggregate anticipated cost or savings to other persons because this repeal is clerical in nature; no new obligations or duties are required by or taken away from other persons.												
<b>F. Compliance costs for affected persons:</b>												
It will cost the Department nothing to adhere to the changes proposed in this repeal.												
<b>G. Regulatory Impact Summary Table</b> (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)												
<b>Regulatory Impact Summary Table</b>												
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2026</th> <th>FY2027</th> <th>FY2028</th> <th>FY2029</th> <th>FY2030</th> </tr> </thead> <tbody> <tr> <td>State Budget</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030	State Budget	\$0	\$0	\$0	\$0	\$0
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030							
State Budget	\$0	\$0	\$0	\$0	\$0							

Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H. Department head comments on fiscal impact and approval of regulatory impact analysis:**  
 The Executive Director of the Department of Transportation, Carlos M. Braceras, PE, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Subsection 63G-6a-1402(3)(a)	Section 72-2-201	Section 72-2-206
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**

<b>A. Comments will be accepted until:</b>	02/17/2026
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<b>10. This rule change MAY become effective on:</b>	02/24/2026
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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**

<b>Agency head or designee and title:</b>	Carlos M. Braceras, PE, Executive Director	<b>Date:</b>	11/13/2025
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**R916. Transportation, Operations, Construction.**

~~**R916-3. Design-Build Contracts.**~~

~~**R916-3-1. Purpose.**~~

~~(1) This rule is to provide guidance under which the Utah Department of Transportation (UDOT) may use the Design-Build approach to contracting pursuant to Section 63G-6a-1402(3)(a). Design-Build seeks to provide a project delivery method which may result in: a savings of time, cost, and administrative burden; improved quality expectations as to the end product, schedule, and budget; and risk management savings due to lack of duplication of expenses and improved coordination of efforts.~~

~~**R916-3-2. Authority.**~~

~~(1) The provisions of this rule are authorized by the following grants of rulemaking authority and provisions of Utah Code: Subsection 63G-6a-1402(3)(a), Title 63G, Chapter 3; and Sections 72-1-201 and 72-2-206 of the Utah Transportation Code.~~

~~**R916-3-3. Policy.**~~

~~(1) UDOT may use, where determined appropriate by the Executive Director, or designee, the Design-Build method of project delivery. When Design-Build is used, UDOT shall enter into a contract with a single entity to provide both engineering/design services, construction services, and/or maintenance services pursuant to a UDOT provided scope of work statement. Design-Build is not recommended for every project. The use of the Design-Build method may be determined by the individual needs and merits of the project.~~

**R916-3-4. Pre qualification.**

~~(1) UDOT may issue a Request for Qualifications (RFQ,) soliciting qualification statements from contractors wishing to submit proposals on a UDOT Design Build project. The RFQ shall state the minimum and maximum number of highly qualified proposers that will be invited to submit final proposals.~~

~~(2) Pre qualification shall be based on an evaluation of the criteria set forth in the RFQ, including construction experience; design experience; technical competence; capability to perform, including financial, manpower and equipment resources; experience in other Design Build projects; and past performance.~~

~~(3) The field of competing proposers shall be narrowed to the most qualified proposers, not to exceed the number designated in the RFQ. Failure to achieve at least two qualified proposers shall necessitate re-soliciting the project.~~

**R916-3-5. Preparation of Specifications.**

~~(1) UDOT may use any method of specifying construction items the Executive Director determines to be in the best interest of UDOT. Engineering firms who participate in the preparation of specifications or other information used in a procurement may not participate as proposers on such projects if a conflict of interest exists as determined by UDOT.~~

**R916-3-6. Request for Proposals (RFP).**

~~(1) Pre-qualified proposers shall be invited to submit proposals on designated Design Build project pursuant to an RFP. UDOT may elect to ask for initial proposals followed by discussions and may request best and final offers, or may elect to award the contract without discussions or requesting best and final offers. The RFP may ask for proposals based on a predetermined sum.~~

~~(2) UDOT may award a predetermined fee to the proposers who submit responsive proposals but who are not selected for contract award. The amount of the fee (if any) shall be identified in the RFP.~~

~~(3) The RFP shall require separate technical and price proposals, meeting requirements as stated in the RFP. The RFP may require proposals to meet a mandatory technical level, and may include a provision for submitting alternative technical concepts.~~

~~(4) Technical solutions/design concepts contained in proposals shall be considered proprietary information unless a predetermined fee is accepted.~~

**R916-3-7. Evaluation of Proposals and Discussions with Proposers.**

~~(1) UDOT shall evaluate the technical and price proposals separately, in accordance with the evaluation criteria set forth in the RFP.~~

~~(2) UDOT may offer the proposers the opportunity to participate in presentations and/or discussions regarding their proposals. Discussions, either oral or in writing, may be held with proposers for the purpose of clarification of the proposals and/or to identify deficiencies in initial proposals. If presentations or discussions are held with one proposer, they must be held with all pre-qualified proposers.~~

~~(3) If discussions are held, best and final offers will be requested. If best and final offers are requested they will be the basis for award and will be evaluated as stated in the RFP.~~

~~(4) UDOT may follow any of the criteria included in 23 CFR 636 Subpart E when conducting discussions with proposers, which is incorporated as part of this Rule R916-3-7.~~

**R916-3-8. Acceptable Bid Security; Performance and Payment Bonds.**

~~(1) The Executive Director, or designee, shall have authority to waive the requirement to provide bid security, or may reduce the amount of such security, if he or she determines that the bid security otherwise required by Part 11 of the Utah Procurement Code to be unnecessary to protect the State.~~

~~(2) The Executive Director, or designee, shall have authority to reduce the amount of the payment and performance bonds below the 100% level required by Part 11 of the Utah Procurement Code if he or she determines that a 100% bond is unnecessary to protect the State.~~

~~(3) Bid security, payment bonds and performance bonds must be provided on the forms included in the RFP.~~

**R916-3-9. Required Contract Clauses.**

~~The Design Build contract documents shall include the contract clauses set forth in Utah Administrative Code R23-1-60, subject to such modifications as the Executive Director deems advisable. Any modifications shall be supported by a written determination of the Executive Director that describes the circumstances justifying the variations, and notice of any material variation shall be included in the RFP.~~

**R916-3-10. Award and Contract.**

~~(1) The basis for award shall be stated in the RFP. Award may be based on any of the following approaches, all of which shall be deemed to constitute award to the responsive and responsible offeror whose proposal is most advantageous to UDOT as such terms are used in Utah Code Section 63G-6a-1402:~~

~~(a) Award to the responsible proposer offering the lowest priced responsive proposal. If the RFP includes a mandatory technical level, no proposal shall be considered responsive unless it meets that level.~~

~~(b) Award to the responsible proposer whose proposal is evaluated as providing the best value to UDOT.~~

~~(c) If the RFP provides for a stipulated sum, award to the responsible proposer whose proposal is evaluated as providing the best value to UDOT.~~

~~(2) There is no requirement that a contract be awarded. Following award, a contract shall be executed and notice given to the successful Design Build proposer to proceed with the work.~~

~~KEY: construction, contracts, highways~~~~Date of Last Change: March 27, 2015~~~~Notice of Continuation: May 10, 2021~~~~Authorizing, and Implemented or Interpreted Law: 63G-6a-1402]~~**NOTICE OF SUBSTANTIVE CHANGE****TYPE OF FILING:** Repeal**Rule or section number:****R916-4****Filing ID:** 57742**Agency Information**

<b>1. Title catchline:</b>	Transportation, Operations, Construction	
<b>Building:</b>	Calvin Rampton	
<b>Street address:</b>	4501 S 2700 W	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 148455	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-8455	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

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

R916-4. Construction Manager/General Contractor and Progressive Construction Manager/General Contractor Contracts

**4. Purpose of the new rule or reason for the change:**

This proposed repeal is part of a comprehensive review of the Department of Transportation's (Department) project development rules and policies, which include this rule, and Rules R916-1, R916-2, and R916-3.

Because several subsections in this rule and in Rules R916-1 and R916-3 overlap, the Department is consolidating these three rules and bringing them into Rule R916-1 only.

Therefore, repeal is part of an effort of consolidating the provisions of Rule R916-4 into Rule R916-1.

**5. Summary of the new rule or change:**

This proposed repeal repeals this rule in its entirety.

(EDITOR'S NOTES: The proposed repeal and reenact of Rule R916-1, ID 57738; the proposed repeal and reenact of Rule R916-2, ID 57739; and the proposed repeal of Rule R916-3, ID 57744, are in this issue, January 15, 2026, of the Utah State Bulletin.)

**Fiscal Information****6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A. State budget:**

There is no aggregate anticipated cost or savings to the state budget because this repeal is clerical in nature; no new obligations or duties are required by or taken away from the Department.

**B. Local governments:**

There is no aggregate anticipated cost or savings to local governments because this repeal is clerical in nature; no new obligations or duties are required by or taken away from local governments.

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

There is no aggregate anticipated cost or savings to small businesses because this repeal is clerical in nature; no new obligations or duties are required by or taken away from small businesses.

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

There is no aggregate anticipated cost or savings to non-small businesses because this repeal is clerical in nature; no new obligations or duties are required by or taken away from 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 aggregate anticipated cost or savings to other persons because this repeal is clerical in nature; no new obligations or duties are required by or taken away from other persons.

**F. Compliance costs for affected persons:**

It will cost the Department nothing to adhere to the changes proposed in this repeal.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Transportation, Carlos M. Braceras, PE, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 63G-6a-106	Section 63G-6a-702	Section 63G-6a-1302
Section 63G-3-201	Subsection 72-1-201(1)(h)	

## Public Notice Information

**9. The public may submit written or oral comments to the agency identified in box 1.**

**A. Comments will be accepted until:** 02/17/2026

**10. This rule change MAY become effective on:** 02/24/2026

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

<b>Agency head or designee and title:</b>	Carlos M. Braceras, PE, Executive Director	<b>Date:</b>	11/13/2025
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**R916. Transportation, Operations, Construction.**~~**R916 4. Construction Manager/General Contractor and Progressive Construction Manager/General Contractor Contracts.**~~~~**R916 4 1. Purpose.**~~

~~\_\_\_\_\_ (1) Pursuant to Utah Code Section 63G-6a-106(3)(a), this rule establishes the Department's procedures to procure transportation construction under the Construction Manager/General Contractor (CM/GC) approach authorized in Utah Code Section 63G-6a-1302. CM/GC contracting seeks to provide a collaborative project delivery method which may result in: A savings of time and cost; improved quality expectations as to the end product, schedule, and budget; and risk management savings through lack of duplication of expenses, and through early, continuous and coordinated efforts.~~

~~**R916 4 2. Authority.**~~

~~\_\_\_\_\_ (1) This rule is authorized by sections 63G-6a-106, 63G-6a-702, and 63G-6a-1302 of the Utah Procurement Code; section 63G-3-201 of the Utah Administrative Rulemaking Act; and subsection 72-1-201(1)(h) of the Utah Transportation Code.~~

~~**R916 4 3. Policy.**~~

~~\_\_\_\_\_ (1) When the Executive Director or designee determines it appropriate, Department may use CM/GC method of project delivery. CM/GC is not recommended for every project, therefore, the decision to use the method must consider the factors listed in Utah Code Subsection 63G-6a-1302(3). When the Executive Director or designee makes such a determination, the procurement officer responsible for the project shall execute and include in the contract file a written statement describing the facts leading to the selection of the method of construction contracting management used for the project.~~

~~\_\_\_\_\_ (2) This rule also applies when the Department uses a variation of CM/GC contracting known as Progressive CM/GC (also referred to in the transportation industry as Progressive Design Build).~~

~~\_\_\_\_\_ (3) When a Progressive CM/GC contracting approach is used, the Department shall enter into one or multiple contracts to provide both engineering/design services, construction services, maintenance services, or a combination thereof pursuant to a scope of work statement provided by the Department.~~

~~**R916 4 4. Request for Proposals (RFP).**~~

~~\_\_\_\_\_ (1) The Department will issue a request for proposals (RFP) from interested contractors.~~

~~\_\_\_\_\_ (2) The RFP may require separate technical and price proposals, meeting requirements as stated in the RFP.~~

~~\_\_\_\_\_ (3) The RFP may require a minimum mandatory technical level.~~

~~**R916 4 5. Evaluation Team.**~~

~~\_\_\_\_\_ (1) The Department shall establish a team for evaluating proposals.~~

~~\_\_\_\_\_ (2) One member of the team may be an employee of a consulting engineering firm, selected based on recommendation from the American Council of Engineering Companies of Utah (ACEC); and~~

~~\_\_\_\_\_ (3) One member may be an employee of a licensed contractor, selected based on recommendation from the Utah Chapter of the Association of General Contractors (AGC).~~

~~\_\_\_\_\_ (4) No evaluation team member may be an employee of any firm that participates in preparing a proposal to be submitted in response to an RFP or RLOI issued by the Department.~~

~~\_\_\_\_\_ (5) Every member of an evaluation team must disclose conflicts of interest pursuant to the requirements of state and federal ethics and procurement law and the Department's Standard Specifications and policies.~~

~~**R916 4 6. Evaluation of Proposals and Discussions with Proposers.**~~

~~\_\_\_\_\_ (1) The Department shall evaluate proposals, in accordance with the evaluation criteria set forth in the RFP.~~

~~\_\_\_\_\_ (2) As part of the qualifications specified in the RFP, the Department may require that potential contractors, at a minimum, demonstrate their:~~

~~\_\_\_\_\_ (a) Construction experience with similar projects;~~

~~\_\_\_\_\_ (b) financial, manpower and equipment resources available for the project;~~

~~\_\_\_\_\_ (c) experience with other negotiated contracts; and~~

~~\_\_\_\_\_ (d) preconstruction or design support experience.~~

~~\_\_\_\_\_ (3) The Department may require potential contractors to participate in formal interviews as part of the selection process.~~

**~~R916-4-7. Acceptable Bid Security; Performance and Payment Bonds.~~**

~~\_\_\_\_\_ (1) The Executive Director or designee shall have the authority to waive the requirement to provide bid security, or may reduce the amount of such security, if he or she determines that the bid security otherwise required by Part 11 of the Utah Procurement Code to be unnecessary to protect the State.~~

~~\_\_\_\_\_ (2) The Executive Director or designee may reduce the amount of the payment and performance bonds below the 100% level required by Part 11 of the Utah Procurement Code, if he or she determines that a 100% bond is unnecessary to protect the State.~~

~~\_\_\_\_\_ (3) Bid security, payment bonds and performance bonds must be provided on the forms included in the RFP.~~

**~~R916-4-8. Required Contract Clauses.~~**

~~\_\_\_\_\_ (1) The Department shall comply with Section 63G-6a-1202 regarding clauses for contracts. The Department shall establish standard contract clauses to assist the Department and to help contractors and potential contractors to understand applicable requirements. These standard contract clauses may be modified as needed to meet the requirements of individual projects.~~

~~\_\_\_\_\_ (2) All definitions in the Utah Procurement Code apply to this Rule unless otherwise specified in this Rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Procurement Code.~~

~~\_\_\_\_\_ (3) All contracts shall include text that allows the Department to terminate the contract for cause at any time, or without cause after providing the contractor with reasonable notice. The Department will pay the contractor the amount owing as of the termination date.~~

**~~R916-4-9. Selection.~~**

~~\_\_\_\_\_ The basis for selection shall be stated in the RFP. Selection may be based on any of the following approaches:~~

~~\_\_\_\_\_ (1) By the responsible proposer offering the lowest priced responsive proposal. If the RFP includes a mandatory technical level, no proposal shall be considered responsive unless it meets that level;~~

~~\_\_\_\_\_ (2) By the responsible proposer whose proposal is evaluated as providing the best value to Department;~~

~~\_\_\_\_\_ (3) By the responsible proposer whose proposal is evaluated as representing the most qualified proposer; or~~

~~\_\_\_\_\_ (4) Other approaches as determined by the Executive Director or designee, which satisfy the requirements of the Utah Procurement Code.~~

**~~R916-4-10. Award of Contracts.~~**

~~\_\_\_\_\_ (1) The CM/GC approach consists of the following two contract phases:~~

~~\_\_\_\_\_ (a) Preconstruction or design services, which may include value engineering, cost estimating, conceptual estimating, constructability reviews, scheduling, and Maintenance of Traffic plans.~~

~~\_\_\_\_\_ (b) Construction services, which will be awarded after the plans have been sufficiently developed and a price for construction services has been successfully validated and accepted. In the event that a price is not validated and accepted, the Department shall not award the construction phase of the contract. Incremental construction contracts may be awarded after prices are validated and accepted for each contract. The Department may choose to retain any of the parties if the construction/design services phase of the contract is not awarded.~~

~~\_\_\_\_\_ (2) The Department shall not be required to award a contract during either of the contract phases. However, following an award, the Department shall provide notice of the award to the successful CM/GC proposer followed by a notice to proceed with the work.~~

~~\_\_\_\_\_ (3) Contractors or contractor teams must not begin work before receiving the notice to proceed with work described in rule R916-8-12(2).~~

**~~KEY: transportation, highways, contracts, construction~~**

**~~Date of Last Change: April 23, 2018~~**

**~~Notice of Continuation: May 12, 2025~~**

**~~Authorizing, and Implemented or Interpreted Law: 63G-6a-1302; 63G-6a-106(3)(a); 72-1-201~~**

**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends February 17, 2026.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through May 15, 2026, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

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

<b>NOTICE OF SUBSTANTIVE CHANGE</b>		
<b>TYPE OF FILING:</b> CPR (Change in Proposed Rule)		
<b>Rule or section number:</b>	<b>R152-76</b>	<b>Filing ID: 57660</b>
<b>Date of previous publication (only for CPRs):</b>		<b>12/01/2025</b>

**Agency Information**

<b>1. Title catchline:</b>	Commerce, Consumer Protection	
<b>Building:</b>	Heber Wells Bldg	
<b>Street address:</b>	160 E 300 S	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 146704	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6704	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Daniel Larsen	801-530-6601	dcprules@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>	
R152-76. App Store Accountability Act Rule	
<b>3. Are any changes in this filing because of state legislative action?</b>	Changes are because of legislative action.
<b>If yes, any bill number and session:</b>	SB 142 (2025 General Session)
<b>4. Purpose of the new rule or reason for the change:</b>	
The change to the proposed new rule is designed to clarify that there are multiple methods a regulated entity may use to conform to the App Store Accountability Act's requirements.	
<b>5. Summary of the new rule or change:</b>	
This change modifies the proposed rule to include an express reference to Subsection 13-76-201(1)(a)(ii)(A) in response to feedback, renumbers sections to accommodate the changed language, and corrects a terminology error.	
(EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the December 1, 2025, issue of the Utah State Bulletin, on page 8. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)	

**Fiscal Information**

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>	
<b>A. State budget:</b>	
This change is not anticipated to create costs or savings to the state budget because it does not impose requirements or other obligations on the state or its agencies.	
<b>B. Local governments:</b>	
This change is not anticipated to create costs or savings to local governments because it does not impose requirements or other obligations upon local governments.	

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

This change is not anticipated to create costs or savings to small businesses because it does not impose new requirements or other obligations upon small businesses.

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

This change is not anticipated to create costs or savings to non-small businesses because it does not impose new requirements or other obligations upon 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 change is not anticipated to have a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities) because it does not impose new requirements or other obligations.

**F. Compliance costs for affected persons:**

This change is not expected to alter compliance costs for affected persons because it does not impose new requirements or other obligations.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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**

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

Subsection 13-76-201(1)(a)(ii)(B)	Section 13-76-301	
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**

<b>A. Comments will be accepted until:</b>	04/24/2026
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<b>10. This rule change MAY become effective on:</b>	05/01/2026
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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**

<b>Agency head or designee and title:</b>	Daniel Larsen, Managing Analyst	<b>Date:</b>	12/16/2025
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**R152. Commerce, Consumer Protection.**

**R152-76. App Store Accountability Act Rule.**

**R152-76-1. Purpose.**

The purpose of this rule is to establish the processes and means by which an app store provider may verify whether an account holder is a minor in accordance with Subsection 13-76-201(1)(a)(ii)(B).

**R152-76-2. Authority.**

This rule is promulgated in accordance with Section 13-76-301.

**R152-76-3. Definitions.**

- (1) "False negative" means an app store provider's age verification system's incorrect determination that a person is a minor.
- (2)(a) "False negative rate" means the rate at which an app store provider's age verification system incorrectly determines a person is a minor.
- (b) "False negative rate" is calculated as (false negative rate = false negatives ÷ (false negatives + true positives)).
- (3) "False positive" means an app store provider's age verification system's incorrect determination that a person is not a minor.
- (4)(a) "False positive rate" means the rate at which an app store provider's age verification system incorrectly determines a person is not a minor.
- (b) "False positive rate" is calculated as (false positive rate = false positives ÷ (false positives + true negatives)).
- (5) "Liveness" means verification that information provided by a user to an app store provider's age verification system is from a human being, and not from an imitation including a photo, video, or other replica.
- (6) "Liveness false acceptance rate" means the proportion of users incorrectly accepted by an age verification system as being live.
- (7) "Outcome error parity" means an age verification system's determinations are correct or incorrect in equal proportion for individuals of different skin color and sex.
- (8) "True negative" means an age verification system's correct determination that a person is a minor.
- (9) "True positive" means an age verification system's correct determination that a person is not a minor.
- (10) "Upper and lower limit" means the age range between 16 and 20 years of age.

**R152-76-4. Processes and Means for Age Verification.**

~~\_\_\_\_\_ (1)(a) An app store provider may verify a person is a minor by using processes and means that satisfy the criteria in the following table:~~

(1) An app store provider may verify whether a person is a minor by using processes and means:

(a) that are commercially available and reasonably designed to ensure accuracy as described by Subsection 13-76-201(1)(a)(ii)(A);  
or

(b) that satisfy the criteria in the following table:

TABLE Accuracy of Age Verification				
Liveness false acceptance rate maximum	False positive rate maximum	False negative rate maximum	Accuracy within upper and lower limit	Outcome error parity maximum disparity
1%	3%	10%	95%	1%

~~(b)~~(2) The criteria described by Subsection ~~(1)(a)~~(1)(b) shall be verified by an independent third-party auditor:  
~~(i)~~(a) using a random sample of age verification attempts made by the app store provider with respect to 1,400 or more unique Utah persons, half of whom the age verification processes and means identified as a minor, and half of whom the age verification processes and means identified as not a minor; and  
~~(ii)~~(b) confirming that the age verification processes and means correctly determined whether each person selected in the sample described by Subsection ~~(1)(b)(i)~~(2)(a) was or was not a minor.  
~~(e)~~(3) The processes and means an app store provider uses to verify an account holder is a minor shall:  
~~(i)~~(a) include reasonable means by which a person may challenge an incorrect age verification result; and  
~~(ii)~~(b) be designed to:  
~~(A)~~(i) encourage the person submitting age information to submit accurate age information, and to deter the person from submitting inaccurate information; and  
~~(B)~~(ii) deter a person from bypassing the processes and means by which the app store provider verifies whether the person is a minor.  
~~(2)(a)~~(4)(a) An app store provider may use a third party's age verification processes and means, provided that the third party complies with the requirements of Title 13, Chapter 76, App Store Accountability Act and this rule.  
 (b) An app store provider that uses a third party's age verification processes and means may not use the same third party to verify the age verification ~~system's~~ processes' and means' results, as described by Subsection R152-76-4~~(1)(b)~~(2).

**KEY: app store, age verification**  
**Date of Last Change: 2026**  
**Authorizing, and Implemented or Interpreted Law: 13-76-201(1)(a)(ii)(b); 13-76-301**

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: CPR (Change in Proposed Rule)		
Rule or section number:	R590-291	Filing ID: 57607
Date of previous publication (only for CPRs):	11/15/2025	

**Agency Information**

1. Title catchline:	Insurance, Administration	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state:	Taylorsville, UT	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

2. Rule or section catchline:
R590-291. Use of Fire Hazard Data in Rating and Underwriting
4. Purpose of the new rule or reason for the change:
The Department of Insurance is changing the effective date of this proposed rule to give insurers more time to comply.
5. Summary of the new rule or change:
The change delays the effective date of this rule to 07/01/2026.

(EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the November 15, 2025, issue of the Utah State Bulletin, on page 131. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**Fiscal Information**

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

**A. State budget:**

There is no anticipated cost or savings to the state budget. The change merely delays the effective date and does not change the amount or type of work the state will accomplish.

**B. Local governments:**

There is no anticipated cost or savings to local governments. Local governments will not be impacted by this rule in any way.

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

There is no anticipated cost or savings to small businesses. All affected property and casualty insurance companies active in the state have more than 50 employees.

Small businesses will not be impacted by this rule in any way.

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

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

The change merely delays the effective date of the rule; property and casualty insurers will still be required to comply, just at a later date.

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

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

This rule only applies to property and casualty insurance companies and will not impact any other persons.

**F. Compliance costs for affected persons:**

There are no compliance costs for any affected parties.

The change merely delays the effective date of this rule; affected property and casualty insurers will still be required to comply, just at a later date.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

<b>Regulatory Impact Summary Table</b>					
<b>Fiscal Cost</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0

<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H. Department head comments on fiscal impact and approval of regulatory impact analysis:**  
 The Commissioner of the Insurance Department, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 31A-2-201	Section 31A-22-1310	
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**

<b>A. Comments will be accepted until:</b>	02/17/2026
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<b>10. This rule change MAY become effective on:</b>	02/24/2026
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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**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	12/18/2025
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**R590. Insurance, Administration.**

**R590-291. Use of Fire Hazard Data in Rating and Underwriting.**

**R590-291-1. Authority.**

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-22-1310.

**R590-291-2. Purpose and Scope.**

(1) The purpose of this rule is to identify the circumstances under which a property and casualty insurer may use fire hazard data other than the wildfire risk assessment mapping tool maintained by the Division of Forestry, Fire, and State Lands.

(2)(a) This rule applies to a property and casualty insurer doing business in Utah.

(b) This rule does not apply to:

- (i) an inland marine insurer; or
- (ii) a surplus lines insurer.

**R590-291-3. Definitions.**

Terms used in this rule are defined in Sections 31A-1-301 and 31A-22-1310. Additional terms are defined as follows:

(1) "Boundary determination" means the boundary provided in the wildfire risk assessment mapping tool maintained by the Division of Forestry, Fire, and State Lands in accordance with Subsection 65A-8-203(8).

(2) "Insurer" means an insurer that issues property or casualty insurance for property located within the boundary of high risk wildland urban interface as designated by the wildfire risk assessment tool in Subsection 65A-8-203(8)(a) and defined by rule made in accordance with Subsection 65A-8-402(5)(a).

(3) "Mapping tool" means the wildfire risk assessment mapping tool maintained by the Division of Forestry, Fire, and State Lands in accordance with Subsection 65A-8-203(8).

NOTICES OF CHANGES IN PROPOSED RULES

**R590-291-4. Use of Fire Hazard Data in Rating and Underwriting.**

(1) In rating or underwriting high risk wildland urban interface property, an insurer may use fire hazard data other than the boundary determination provided in the mapping tool.

(2) Other fire hazard data may only be used if an insurer objectively demonstrates, in a reasonable manner acceptable to the commissioner, that the data are compliant with the mapping tool.

(3) An insurer shall provide to the commissioner, upon request, evidence and information demonstrating compliance with Subsection (2).

(4) Nothing in this rule affects the requirements of the Utah Rate Regulation Act, Title 31A, Chapter 19a.

**R590-291-5. Effective Date.**

The commissioner will begin enforcing this rule [~~February 15, 2026~~July 1, 2026].

**R590-291-6. Severability.**

If any provision of this rule, R590-291, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule which can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

**KEY: property and casualty insurance, wildfire**

**Date of Last Change: 2026[2025]**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-22-1310**

**End of the Notices of Changes in Proposed Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at [adminrules.utah.gov](http://adminrules.utah.gov). The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

## NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

<b>Rule number:</b>	<b>R51-3</b>	<b>Filing ID: 57638</b>
<b>Effective date:</b>	<b>12/23/2025</b>	

### Agency Information

<b>1. Title catchline:</b>	Agriculture and Food, Administration	
<b>Building:</b>	TSOB South Bldg, Floor 2	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state, and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	385-245-5222	ambermbrown@utah.gov
Camille Knudson	801-597-6010	camillek@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### General Information

<b>2. Rule catchline:</b>	
R51-3. Government Records Access Management Act	
<b>3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:</b>	
Section 63G-2-204	This section authorizes agencies to make rules specifying where and to whom record requests must be directed.
Section 63A-12-104	Authorizes an agency to make a rule regarding which level within the agency will undertake the requirements as listed.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

The Department of Agriculture and Food (department) has not received any public 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:**

This rule is necessary because it provides essential instructions for the public to direct record requests to the specific division holding the files, ensuring a faster and more accurate response. The department has already streamlined the text to remove redundant language, resulting in a rule that is simple, clear, and compliant with the law. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Kelly Pehrson, Commissioner	<b>Date:</b>	12/23/2025
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**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule number:</b>	<b>R131-4</b>	<b>Filing ID:</b> 50212
<b>Effective date:</b>	12/26/2025	

**Agency Information**

<b>1. Title catchline:</b>	Capitol Preservation Board (State), Administration		
<b>Building:</b>	Utah State Capitol Building		
<b>Street address:</b>	350 N State Street, Suite 120		
<b>City, state:</b>	Salt Lake City, UT		
<b>Mailing address:</b>	PO Box 142110		
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2110		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Paul Tonks	385-266-4104	phtonks@agutah.gov	

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

**General Information**

<b>2. Rule catchline:</b>
R131-4. Capitol Preservation Board General Procurement Rule

**3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:**

Subsection 63O-2-301(2)(a)	Authorization for the Capitol Improvement Board to implement administrative rules to govern, administer, and regulate capitol hill.
Subsection 63O-2-301(3)	Authorization for the Capitol Improvement Board to implement rules that are substantially similar to the requirements of Title 63G, Chapter 6a, Utah Procurement Code.

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

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 administrative rule is necessary for the Capitol Improvement Board to substantially comply with the requirements of the Utah Procurement Code while also being an Independent Procurement Unit as defined by Subsection 63G-6a-103(40)(f). Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Dana Jones, Executive Director, Capitol Improvement Board	<b>Date:</b>	12/26/2025
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**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule number:</b>	<b>R162-2g</b>	<b>Filing ID:</b>	<b>56995</b>
<b>Effective date:</b>	<b>12/30/2025</b>		

**Agency Information**

<b>1. Title catchline:</b>	Commerce, Real Estate		
<b>Building:</b>	Heber Wells Building		
<b>Street address:</b>	160 E 300 S		
<b>City, state:</b>	Salt Lake City, UT		
<b>Mailing address:</b>	PO Box 146711		
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6711		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Justin Barney	801-530-6603	justinbarney@utah.gov	
Tyler Huff	801-530-6284	tylerhuff@utah.gov	
<b>Please address questions regarding information on this notice to the persons listed above.</b>			

**General Information**

<b>2. Rule catchline:</b>	
R162-2g. Real Estate Appraiser Licensing and Certification Administrative Rules	
<b>3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:</b>	
Subsection 61-2g-102(2),	Authorizes rulemaking authority to define a term not defined by statute.
Subsection 61-2g-201(2)(h)	Requires the Division of Real Estate (division), with the concurrence of the board, to adopt rules for the administration of the Real Estate Appraiser Licensing and Certification Act, Title 61, Chapter 2g.  Rules are not to be inconsistent with Title 61, Chapter 2g, the constitution and laws of the state, or the constitution and laws United States.
Subsection 61-2g-205(5)	Authorizes the board, with the concurrence of the division, to make a rule for the exemption from a provision of the Uniform Standards of Professional Appraisal Practice (USPAP) for an activity engaged in on behalf of a governmental entity or the act of an individual licensed or certified when providing an evaluation.
Subsection 61-2g-302(2)	Requires the board, with the concurrence of the division, to make rules for appraiser trainee registration and renewal of registration.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Subsection 61-2g-304.5(8)	Authorizes the commission (board), with the concurrence of the division, to make rules about the criminal background check and ongoing monitoring required of an individual applying for appraiser licensure, certification, or registration.
Subsection 61-2g-306(2)	Authorizes the division to make a rule about the subject matter for continuing education required of an applicant seeking reinstatement of an appraiser credential.
Section 61-2g-307	Authorizes the division, with the concurrence of the board, to adopt rules regarding continuing education requirements.
Section 61-2g-308	Requires the board to make rules establishing the duration and procedures for renewal of a temporary permit by a nonresident applicant.
Section 61-2g-311	Requires the division, with the concurrence of the board, to make rules that establish educational and experience requirements to qualify as a state-licensed appraiser.
Subsection 61-2g-313(3)	Requires the division, with the concurrence of the board, to make rules that establish educational and experience requirements to qualify as a state-certified residential appraiser.
Subsection 61-2g-314(3)	Requires the division, with the concurrence of the board, to make rules that establish educational and experience requirements to qualify as a state-certified general appraiser.
Section 61-2g-401	Authorizes the board, with the concurrence of the division, to make rules regarding the signing of an appraisal report and the disclosure and use of a division-assigned credential, registration, license, or certification number.
Section 61-2g-403	Authorizes the board, with the concurrence of the division, to make a rule that exempts a person licensed, certified, or registered from complying with USPAP for an activity that the person engages in on behalf of a governmental entity.
Section 61-2g-502	Authorizes the division to establish by rule a collection process for the collection of a fine not paid by the stated deadline in an order issued by the board or division.

**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:**

This rule was reviewed and continued in 2021. It was amended in 2022, and again February 25, 2025.

Prior to adopting the proposed amendment to the rule in 2022, the proposed amendment was discussed during public meetings of the Real Estate Appraiser Licensing and Certification Board. On July 29, 2022, the Appraisal Institute provided a letter with some suggestions for the proposed amendment and expressing support for the then proposed amendment that would provide an alternative experience path for an appraiser applicant to qualify for a state-licensed or a state-certified credential.

On September 28, 2022, the division and board carefully considered all public comment made during meetings of the board and the written comment received from the Appraisal Institute.

No public comment was received opposing the adoption of the proposed rule amendments in 2022 or 2025, and the division received no comments opposing the rule itself. The proposed rule amendments were both approved and adopted.

**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 statutory requirements, outlined in Box 3 of this Rule Analysis, provide the basis for this rule and the expectation and need for its continued existence. The board and the division have carefully considered all public comments regarding this rule and amendments to this rule. This rule, as amended, is required by statute. Therefore, this rule should be continued.

There have been no comments received in opposition to this rule.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Leigh Veillette, Division Director	<b>Date:</b>	12/19/2025
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**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule number:</b>	<b>R805-5</b>	<b>Filing ID:</b>	<b>54650</b>
<b>Effective date:</b>	<b>12/17/2025</b>		

**Agency Information**

<b>1. Title catchline:</b>	Higher Education (Board of), University of Utah, Administration		
<b>Building:</b>	Park Building		
<b>Street address:</b>	201 S President's Circle		
<b>City, state:</b>	Salt Lake City, UT		
<b>Mailing address:</b>	201 S President's Circle, Room 309		
<b>City, state and zip:</b>	Salt Lake City, UT 84112-9009		

<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Allyson Hicks	801-587-2357	allyson.hicks@utah.edu	

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

**General Information**

<b>2. Rule catchline:</b>	R805-5. Enforcement of No Smoking Areas at University of Utah Hospitals and Clinics		
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**3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:**

Section 26-38-1 et seq.	The Utah Clean Air Act establishes requirements related to smoking in publicly-owned buildings and outdoor areas.
Section 63G-4-102	Establishes the Administrative Procedures Act, which governs adjudicative proceedings.
Section 76-6-206	Defines criminal trespass.
Section 53H-3-304	Establishes powers of a chief administrative officer to order individuals off an institution of higher education's property.

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

No comments were received since the last five-year review of this rule.

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

This rule is necessary as it sets forth the regulations that govern smoking in the vicinity of the University of Utah's Hospitals and Clinics. This rule reiterates the requirements set forth in the Utah Indoor Clean Air Act in Rule R392-510. It also defines the protocols for enforcing this rule, as well as the sanctions to be applied for failure to comply with this rule. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Robert Payne, Deputy General Counsel	<b>Date:</b>	12/08/2025
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**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Agriculture and Food

#### Specialized Products

No. 57488 (Amendment) R66-2: Cannabis Processing

Published: 10/01/2025

Effective: 01/07/2026

No. 57488 (Change in Proposed Rule) R66-2: Cannabis Processing

Published: 12/01/2025

Effective: 01/07/2026

No. 57403 (Amendment) R66-5: Medical Cannabis Pharmacy

Published: 09/15/2025

Effective: 01/07/2026

No. 57403 (Change in Proposed Rule) R66-5: Medical Cannabis Pharmacy

Published: 12/01/2025

Effective: 01/07/2026

#### Plant Industry

No. 57667 (Amendment) R68-1: Utah Bee Inspection Act Governing Inspection of Bees

Published: 12/01/2025

Effective: 01/07/2026

### Education

#### Administration

No. 57677 (Amendment) R277-100: Definitions for Utah State Board of Education (Board) Rules

Published: 12/01/2025

Effective: 01/07/2026

No. 57678 (Amendment) R277-311: Specialized Endorsements

Published: 12/01/2025

Effective: 01/07/2026

No. 57679 (Amendment) R277-325: Public Education Exit and Engagement Surveys

Published: 12/01/2025

Effective: 01/07/2026

NOTICES OF RULE EFFECTIVE DATES

No. 57680 (New Rule) R277-731: Catalyst Center Grant Program Policy  
Published: 12/01/2025  
Effective: 01/07/2026

Environmental Quality

Waste Management and Radiation Control, Radiation

No. 57545 (Amendment) R313-24: Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements  
Published: 11/01/2025  
Effective: 01/12/2026

Governor

Economic Opportunity

No. 57684 (Repeal) R357-11: Utah Technology Innovation Funding Rule  
Published: 12/01/2025  
Effective: 01/13/2026

Insurance

Administration

No. 57626 (Amendment) R590-267: Personal Injury Protection Relative Value Study Rule  
Published: 11/15/2025  
Effective: 01/01/2026

Title and Escrow Commission

No. 57685 (Amendment) R592-6: Prohibited Unfair Methods of Competition  
Published: 12/01/2025  
Effective: 01/07/2026

Labor Commission

Industrial Accidents

No. 57620 (Amendment) R612-300-2: Obtaining Medical Care for Injured Workers  
Published: 11/15/2025  
Effective: 01/01/2026

No. 57619 (Amendment) R612-300-4: General Method For Computing Medical Fees  
Published: 11/15/2025  
Effective: 01/01/2026

No. 57625 (Amendment) R612-300-6: Limitations on Fees for Specific Medical Providers and Non-Physicians  
Published: 11/15/2025  
Effective: 01/01/2026

No. 57637 (Amendment) R612-300-7: Billing and Payment  
Published: 11/15/2025  
Effective: 01/01/2026

No. 57621 (Amendment) R612-400-50: Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund  
Published: 11/15/2025  
Effective: 01/01/2026

Natural Resources

Forestry, Fire and State Lands

No. 57671 (Amendment) R652-20: Mineral Resources  
Published: 12/01/2025  
Effective: 01/07/2026

Public Service Commission

Administration

No. 57639 (New Rule) R746-318: Large Scale Electric Requirements

Published: 11/15/2025

Effective: 01/01/2026

**End of the Notices of Rule Effective Dates Section**