

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed January 16, 1999, 12:00 a.m. through February 1, 1999, 11:59 p.m.

Number 99-4
February 15, 1999

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Nancy L. Lancaster, Editor

The *Utah State Bulletin (Bulletin)* is the official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63-46a-10, *Utah Code Annotated* 1953.

Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of these publications, visit the division's web site at: <http://www.rules.state.ut.us/>

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Bulletin* and *Digest* are printed and distributed semi-monthly by Legislative Printing. Annual subscription rates (24 issues) are \$150 for the *Bulletin* and \$35 for the *Digest*. Inquiries concerning subscription, billing, or changes of address should be addressed to:

LEGISLATIVE PRINTING
PO BOX 140107
SALT LAKE CITY, UT 84114-0107
(801) 538-1103
FAX (801) 538-1728

ISSN 0882-4738

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EDITOR'S NOTES

NOTICE OF CODIFICATION ERROR FOR RULE R714-159, "UTAH STREET ROD RULE"

On March 6, 1998, the Highway Patrol, in the Department of Public Safety, filed a rulemaking action with the Division of Administrative Rules (Division) to repeal Rule R714-159 (DAR No. 20840, published in the April 1, 1998, issue of the *Utah State Bulletin*). Though the rulemaking action was filed and published as a repeal of this rule, and an effective date notice was properly filed with the Division (with an effective date of May 5, 1998), the Division left the rule in the UTAH ADMINISTRATIVE CODE (CODE).

The repeal of the rule was properly effective as of May 5, 1998, and the rule has technically not existed since that date, regardless of its appearance in the CODE. The rule has now been removed from the CODE.

Questions regarding the codification error associated with Rule R714-159 should be addressed to Mike Broschinsky, Administrative Code Editor, tel. (801) 538-3003, Internet E-mail asitmain.mbroschi@email.state.ut.us, FAX at (801) 538-1773, or regular mail at Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007.

LEGISLATION WHICH MAY AFFECT THE RULEMAKING PROCESS

As of February 5, 1999, two bills have been filed that affect the administrative rulemaking process or administrative rules in general.

H.B. 193 Administrative Rules Reauthorization (Stephens)

This is the Administrative Rules Review Committee's annual bill which is required by Section 63-46a-11.5. The long title describes H.B. 193 as "[a]n act . . . reauthorizing rules of state agencies . . ." The bill does not reauthorize two rules: R277-458 and R477-8. The bill reauthorizes all other administrative rules and provides for an effective date of May 1, 1999.

(DAR Note: As of February 9, 1999, H.B. 193 was amended to remove R477-8 from the bill. It has now been sent to the Senate.)

H.B. 331 Administrative Rules Review Committee (Ure)

This bill changes the composition of the Administrative Rules Review Committee. It gives the House and the Senate three members each (instead of five), and adds four citizen members with two appointed by the Senate President and two appointed by the House Speaker. It also provides that members of the committee may be compensated. H.B. 331 provides for an effective date of July 1, 1999.

General Information

Up-to-date information about legislation related to rulemaking is available on the Internet at:

<http://www.rules.state.ut.us/law/legis.htm>

Information about legislation may be found on the Legislature's 1999 General Session page at:

<http://www.le.state.ut.us/~1999/1999.htm>

Questions about these bills may be directed to Ken Hansen, Director, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3777, FAX: (801) 538-1773, or Internet E-mail: asitmain.khansen@email.state.ut.us

Bill Text Begins on Next Page

H.B. 331

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**ADMINISTRATIVE RULES REVIEW
COMMITTEE
1999 GENERAL SESSION
STATE OF UTAH
Sponsor: David Ure**

6 AN ACT RELATING TO STATE AFFAIRS IN GENERAL; REDUCING THE NUMBER OF
7 LEGISLATORS ON THE ADMINISTRATIVE RULES REVIEW COMMITTEE AND ADDING
8 CITIZEN MEMBERS; MAKING TECHNICAL CORRECTIONS; AND PROVIDING AN
9 EFFECTIVE DATE.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12 **63-46a-11**, as last amended by Chapter 332, Laws of Utah 1998

13 *Be it enacted by the Legislature of the state of Utah:*

14 Section 1. 63-46a-11 is amended to read:

15 **63-46a-11. Administrative Rules Review Committee.**

16 (1) (a) There is created an Administrative Rules Review Committee of ten permanent
17 members and four ex officio members.

18 (b) (i) The committee's permanent members shall be composed of ~~[five]~~:

19 ~~(A) three~~ members of the Senate, appointed by the president of the Senate~~[-, and five]~~;

20 ~~(B) three~~ members of the House, appointed by the speaker of the House~~[-, with no more~~

21 ~~than three senators and three]~~; and

22 ~~(C) four citizen members, two appointed by the president of the Senate and two appointed~~

23 ~~by the speaker of the House.~~

24 ~~(ii) No more than two senators and two~~ representatives ~~may be~~ from the same political

25 party.

26 ~~[(ii)] (iii)~~ The permanent members shall convene at least once each month as a committee
27 to review new agency rules, amendments to existing agency rules, and repeals of existing agency
28 rules. Meetings may be suspended at the discretion of the committee chairs.

29 ~~[(iii)] (iv)~~ Members shall serve for two-year terms or until their successors are appointed.

30 ~~[(iv)] (v)~~ A vacancy exists whenever a committee member ceases to be a member of the
31 Legislature, or when a member resigns from the committee. Vacancies shall be filled by the
32 appointing authority, and the replacement shall serve out the unexpired term.

33 (c) When the committee reviews existing rules, the committee's permanent members shall
34 invite the Senate and House chairmen of the standing committee and the Senate and House
35 chairmen of the appropriation subcommittee that have jurisdiction over the agency whose existing
36 rules are being reviewed to participate as nonvoting, ex officio members with the committee.

37 (d) ~~Three representatives and three senators from the~~ Six permanent members are a
38 quorum for the transaction of business at any meeting.

39 ~~(2)~~ (a) Citizen members shall receive per diem and expenses incurred in the performance
40 of the member's official duties at the rates established by the Division of Finance under Sections
41 63A-3-106 and 63A-3-107.

42 (b) Legislators on the committee shall receive compensation and expenses as provided by
43 law and legislative rule.

44 ~~[(2)]~~ (3) Each agency rule as defined in Section 63-46a-2 shall be submitted to the
45 committee at the same time public notice is given under Section 63-46a-4.

46 ~~[(3)]~~ (4) (a) The committee shall exercise continuous oversight of the process of
47 rulemaking.

48 (b) The committee shall examine rules submitted by each agency to determine:

49 (i) whether or not they are authorized by statute;

50 (ii) whether or not they comply with legislative intent;

51 (iii) their impact on the economy and the government operations of the state and local
52 political subdivisions; and

53 (iv) their impact on affected persons.

54 (c) To carry out these duties, the committee may examine any other issues that it considers
55 necessary. The committee may also notify and refer rules to the chairmen of the interim committee
56 which has jurisdiction over a particular agency when the committee determines that an issue
57 involved in an agency's rules may be more appropriately addressed by that committee.

58 (d) In reviewing the rules, the committee shall follow generally accepted principles of
59 statutory construction.

60 ~~[(4)]~~ (5) The committee may request that the Office of the Legislative Fiscal Analyst
61 prepare a fiscal note on any rule.

62 ~~[(5)]~~ (6) In order to accomplish its oversight functions, the committee has all the powers
63 granted to legislative interim committees as set forth in Section 36-12-11.

64 ~~[(6)]~~ (7) (a) The committee may prepare written findings of its review of each rule and may
65 include any recommendations, including legislative action.

66 (b) The committee shall provide to the agency that enacted the rule:

67 (i) a copy of its findings, if any; and

68 (ii) a request that the agency notify the committee of any changes it makes in the rule.

69 (c) The committee shall provide a copy of its findings to any member of the Legislature
70 and to any person affected by the rule who requests a copy.

71 (d) The committee shall provide a copy of its findings to the presiding officers of both the
72 House and the Senate, Senate and House chairmen of the standing committee, and the Senate and
73 House chairmen of the Appropriation Subcommittee that have jurisdiction over the agency whose
74 rules are the subject of the findings.

75 ~~[(7)]~~ (8) (a) The committee may submit a report on its review of state agency rules to each
76 member of the Legislature at each regular session.

77 (b) The report shall include:

78 (i) the findings and recommendations made by the committee under Subsection [~~(6)~~] (7);

79 (ii) any action taken by an agency in response to committee recommendations; and

80 (iii) any recommendations by the committee for legislation.

81 Section 2. **Effective date.**

82 This act takes effect on July 1, 1999.

Legislative Review Note

as of 2-2-99 3:53 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

End of the Editor's Notes Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between January 16, 1999, 12:00 a.m., and February 1, 1999, 11:59 p.m., are included in this, the February 15, 1999, 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 (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text (••••) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least March 17, 1999. The agency may accept comment beyond this date and will list 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 to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through June 15, 1999, the agency may notify the Division 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 31 days 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 Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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 *Utah Code* Section 63-46a-4 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Agriculture and Food, Plant Industry
R68-15
Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21808
FILED: 01/25/1999, 14:15
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is established to control the spread of Japanese Beetle within the State of Utah.

SUMMARY OF THE RULE OR CHANGE: The changes are made to clarify the intent of this quarantine.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 4-2-2(1)(j) and 4-2-2(1)(1)(ii)

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: No anticipated cost to state government.
LOCAL GOVERNMENTS: No anticipated cost to local government.
OTHER PERSONS: Cost would be to shipper if the quarantine is violated.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Noncompliance with the quarantine provisions may result in civil penalties up to \$5,000 per violation and/or revocation of nursery license.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: If there is a violation to this quarantine there would be a cost to the owner, or owners, or their duly authorized agent for treatment or destruction of the infected plants.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Agriculture and Food
Plant Industry
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dick Wilson at the above address, by phone at (801) 538-7180, by FAX at (801) 538-7126, or by Internet E-mail at agmain.dwinson@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: Cary G. Peterson, Commissioner

R68. Agriculture and Food, Plant Industry.
R68-15. Quarantine Pertaining to Japanese Beetle, (Popillia Japonica).

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R68-15-3. Areas Under Quarantine.

A. The following states have been placed under a general quarantine to prohibit the entry of Japanese Beetle into Utah through the sale of plants and plant products: the entire states of Alabama, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

B. The same general quarantine shall apply [from]to the following states in provinces of Canada:

- 1. In the Province of Ontario: Lincoln, Welland, and Wentworth.
2. In the Province of Quebec: Missiquoi and St. Jean.

C. Any areas not mentioned above [which are subsequently found to be infested with Japanese Beetle]where Japanese Beetle has been found or known to occur, shall also be placed under this same general quarantine.

R68-15-4. Articles and Commodities Under Quarantine.

A. The following are hereby declared to be hosts and possible carriers of all stages of the Japanese beetle:

- 1. Soil, humus, compost and manure (except when commercially packaged and treated);
2. All plants with roots (except bareroot plants free from soil).
3. Grass Sod;
4. Plant crowns or roots for propagation (except when free from soil);
5. Bulbs, corms, tubers, and rhizomes of ornamental plants (except when free from soil);
6. Any other plant, plant part, article, or means of conveyance when it is determined by a Utah State Plant Quarantine Officer to present a hazard of spreading live Japanese beetle due to infestation or exposure to infestation by Japanese beetle.

B. [Soil - For the purpose of this quarantine, soil is defined as all growing media in which the plants are actually rooted.]Packing material[other than soil;] added to bareroot plants after harvesting would not normally pose a pest risk. Packing material would be covered under (6) above, at the inspector's discretion.

C. Free From Soil - For the purposes of this quarantine, free from soil is defined as soil in amounts that could not contain concealed Japanese beetle larvae or pupae.

R68-15-5. Restrictions.

All commodities covered are prohibited entry into Utah from the area under quarantine unless they have the required certification. Plants may be shipped from the area under quarantine into Utah provided such shipments conform to one of the options below and are accompanied by a certificate issued by an authorized state agricultural official at origin. Note that not all protocols approved in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for Utah. Advance notification of regulated commodity shipment is required. The certificate shall bear the name and address of the shipper and receiver as well as the inspection/certificate date and the signature of state agricultural officer. The certifying official shall mail, FAX or e-mail a copy of the certificate to Director, Plant Industry Division, Utah Department of Agriculture and Food, 350 North Redwood Road, P.O. Box 146500, Salt Lake City, Utah 84114-6500, FAX: (801) 538-7189, e-mail: agmain.dwilson@state.ut.us. The shipper shall notify the receiver to hold such commodities for inspection by the Utah Department of Agriculture and Food. The receiver must notify the Utah Department of Agriculture and Food of the arrival of commodities imported under the provisions of this quarantine and must hold such commodities for inspection. Such certificates shall be issued only if the shipment conforms fully with (a), (b), (c), (d) or (e) below:

(a) Production in an Approved Japanese Beetle Free Greenhouse/Screenhouse. All the following criteria apply: All media must be sterilized and free of soil; All stock must be free of soil (bareroot) before planting into the approved medium; The potted plants must be maintained within the greenhouse/screenhouse during the entire adult flight period; During the adult flight period the greenhouse/screenhouse must be made secure so that adult Japanese beetles cannot gain entry. Security will be documented by the appropriate phytosanitary officials of the origin state department of agriculture and must be specifically approved as a secure area. They shall be inspected by the same officials for the presence of all life stages of the Japanese beetle; The plants and their growing medium must be appropriately protected from subsequent infestation while being stored, packed and shipped; Certified greenhouse/screenhouse nursery stock may not be transported into or through any infested areas unless identity is preserved and adequate safeguards are applied to prevent possible infestation; Each greenhouse/screenhouse operation must be approved by the phytosanitary officials as having met and maintained the above criteria, and issued an appropriate certificate bearing the following declaration: "The rooted plants (or crowns) were produced in an approved Japanese beetle free greenhouse or screenhouse." The certificate accompanying the shipment must have the same statement as an additional declaration.

(b) Production During a Pest Free Window. The entire rooted plant production cycle will be completed within a pest free window, in clean containers with sterilized and soilless growing medium, i.e., planting, growth, harvest, and shipment will occur outside the adult Japanese beetle flight period, June through October. The accompanying phytosanitary certificate shall bear the following additional declaration: "These plants were produced outside the Japanese beetle flight season."

(c) Applications of Approved Regulatory Treatments. All treatments will be performed under direct supervision of a phytosanitary official of the origin state department of agriculture

or under a compliance agreement thereof. Treatments and procedures under a compliance agreement will be monitored closely throughout the season. State phytosanitary certificates listing and verifying the treatment used must be forwarded to the receiving state via fax or electronic mail, as well as accompanying the shipment. Note that not all treatments approved in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for Utah. The phytosanitary certificate shall bear the following additional declaration: "The rooted plants were treated to control *Popillia japonica*" according to the criteria for shipment to category 1 states as provided in the U.S. Domestic Japanese Beetle Harmonization Plan and Utah Japanese Beetle Quarantine."

(A) Dip Treatment - B and B and Container Plants. Not approved.

(B) Drench Treatments - Container Plants Only. Not approved for ornamental grasses or sedges. Potting media used must be sterile and soilless, containers must be clean. Field potted plants are not eligible for certification using this protocol. This is a prophylactic treatment protocol targeting eggs and early first instar larvae. If the containers are exposed to a second flight season they must be retreated.

(1) Imidacloprid (Marathon 60WP). Apply one-half (0.5) gram of active ingredient per gallon as a prophylactic treatment just prior to Japanese beetle adult flight season (June 1, or as otherwise determined by the phytosanitary official). Apply tank mix as a drench to wet the entire surface of the potting media. A twenty-four (24) gallon tank mix should be enough to treat 120-140 one-gallon containers. Avoid over drenching so as not to waste active ingredient through leaching. During the adult flight season, plants must be retreated after sixteen (16) weeks if not shipped to assure adequate protection.

(2) Bifenthrin (Talstar Nursery Flowable 7.9%). Mix at the rate of twenty (20) ounces per 100 gallons of water. Apply, as a drench, approximately eight (8) ounces of tank mix per six (6) inches of container diameter.

(C) Media (Granule) Incorporation - Container Plants Only. All pesticides used for media incorporation must be mixed prior to potting and plants potted a minimum of thirty (30) days prior to shipment. Potting media used must be sterile and soilless; containers must be clean. The granules must be incorporated into the media prior to potting. Field potted plants are not eligible for treatment. This treatment protocol targets eggs and early first instar larvae and allows for certification of plants that have been exposed to only one flight season after application. If the containers are to be exposed to a second flight season they must be repotted with a granule incorporated mix or retreated using one of the approved drench treatments. Pesticides approved for media incorporation are:

(1) Imidacloprid (Marathon 1G). Mix at the rate of five (5) pounds per cubic yard.

(2) Bifenthrin (Talstar Nursery Granular or Talstar T and O Granular (0.2)). Mix at the rate of 25 ppm or one-third (0.33) of a pound per cubic yard based on a potting media bulk density of 200.

(3) Tefluthrin (Fireban 1.5 G). Mix at the rate of 25 ppm based on a potting media bulk density of 400.

(D) Methyl Bromide Fumigation. Nursery stock: methyl bromide fumigation at NAP, chamber or tarpaulin. See the California Commodity Treatment Manual for authorized schedules.

(E) Other treatment or protocol not described herein may be submitted for review and approval to the Commissioner of Utah Department of Agriculture and Food.

(d) Detection Survey for Origin Certification. Japanese Beetle Harmonization Plan protocol not approved. Alternative approved protocol: States listed in the area under quarantine may have counties that are not infested with Japanese beetle. Shipments of commodities covered may be accepted from these noninfested counties if annual surveys are made in such counties and adjacent counties and the results of such surveys are negative for Japanese beetle. In addition, the plants must be greenhouse grown or contained in media that is sterilized and free of soil and the shipping nursery must grow all their own stock from seed, unrooted cuttings or bareroot material. A list of counties so approved will be maintained by the Utah Department of Agriculture and Food. Agricultural officials from a quarantined state or province may recommend a noninfested county be placed on the approved county list by writing for such approval and stating how surveys were conducted giving the following information:

- (A) Areas surveyed
- (B) How survey was carried out
- (C) Number of traps
- (D) Results of survey
- (E) History of survey

If a county was previously infested, give date of last infestation. If infestations occur in neighboring counties, approval may be denied. To be maintained on the approved list, each county must be reapproved every twelve (12) months. Shipments of commodities covered from noninfested counties will only be allowed entry into Utah if the uninfested county has been placed on the approved list prior to the arrival of the shipment in Utah. The certificate must have the following additional declaration: " The plants in this consignment were produced in (name of county), state of (name of state of origin) that is known to be free of Japanese beetle.

(e) Privately owned house plants obviously grown, or certified at the place of origin as having been grown indoors without exposure to Japanese beetle may be allowed entry into this state without meeting the requirements of section (4). Contact the Utah Department of Agriculture and Food for requirements: Director, Plant Industry Division, Utah Department of Agriculture and Food, 350 North Redwood Road, P.O. Box 146500, Salt Lake City, Utah 84114-6500, FAX: (801) 538-7189, e-mail: agmain.dwilson@state.ut.us.

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KEY: quarantine	
[January 15,]1999	4-2-2
Notice of Continuation March 5, 1998	4-35-9



**Commerce, Occupational and
Professional Licensing
R156-50
Private Probation Provider Licensing
Act Rules**

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21822
FILED: 02/01/1999, 12:32
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division needed to update rules so that they conform with the Division's standard rule format.

SUMMARY OF THE RULE OR CHANGE: Numbering was changed throughout the rule so that it conforms with the Division's standard rule format. Added "unprofessional conduct" in "Definitions" section identifying that unprofessional conduct is defined in Section R156-50-502. Updated "Authority" section. Added section regarding organization of the rule and its relationship to R156-1. Reworded education and equivalent training requirements section; no substantive changes were made to this section. Added section regarding renewal cycle and procedures. Corrected the tense of wording in unprofessional conduct section. Reworded several operating standards sections to make them more clear; no substantive changes were made.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-50-1, and Subsections 58-50-5(1), 58-50-9(5), 58-1-106(1), and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: The Division has determined that there is no cost or savings impact to the state budget because the changes being proposed are only formatting changes and further clarifying the statutory authority for the operating standards contained in the current rule.
- ❖LOCAL GOVERNMENTS: The Division has determined that there is no cost or savings impact to local governments because the changes being proposed are only formatting changes and further clarifying the statutory authority for the operating standards contained in the current rule.
- ❖OTHER PERSONS: The Division has determined that there is no cost or savings impact to other persons because the changes being proposed are only formatting changes and further clarifying the statutory authority for the operating standards contained in the current rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional costs to persons impacted by the proposed changes because the changes are only formatting changes and further clarifying the statutory authority for the operating standards contained in the current rule. No additional requirements have been added to the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These amendments do not add any requirements to the qualifications for obtaining or maintaining licensure in this field and are not substantive in nature. The changes are for the purpose of clarification and adaption to the Division of Occupational and Professional Licensing rules format. Therefore, there will be no impact due to these changes on the state budget, local governments or the public or licensees--Douglas C. Borba.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Clyde Ormond at the above address, by phone at (801) 530-6254, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.cormond@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 02/23/1999, 9:00 a.m., 160 East 300 South, Conference Room 4A (Fourth Floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-50. Private Probation Provider Licensing Act Rules.
R156-50-101. Title.**

These rules ~~shall be~~are known as the "Private Probation Provider Licensing Act Rules".

R156-50-[3]102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 50, as used in Title 58, Chapter 50 or these rules:

(1) "Direct supervision of staff" means that the licensee is responsible to direct and control the activities of employees, subordinates, assistants, clerks, contractors, etc., and shall review, approve and sign off on all staff duties and responsibilities. Members of staff shall not engage in those duties and functions performed exclusively by the licensee as defined under R156-50-[7]603.

(2) "Probation agreement" means the court order which outlines the terms and conditions the probationer shall comply with during the time period of probation.

(3) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 50, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-50-502.

R156-50-[2]103. Authority.

These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer~~promulgated in accordance with the provisions of~~ Title 58, Chapter ~~s 1 and~~ 50.

R156-50-104. Organization - Relationship to Rule R156-1.

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

R156-50-[6]302. Qualifications for Licensure - Education and Equivalent Training~~[-Experience]~~ **Requirements.**

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the education and equivalent training requirements for licensure in Subsection 58-50-5(1) are defined, established and defined as follows:

(1) ~~[Applicants for licensure as a private probation provider shall have:~~

~~(a) a~~~~The~~ baccalaureate ~~[or graduate]~~degree shall include~~[with a]~~ major study in social work, sociology, psychology, counseling, law enforcement, criminal justice, corrections or other related fields~~[-or]~~

~~(b) 2~~ The equivalent training shall consist of four years of full-time paid employment in private probation, social work, psychology, counseling, law enforcement, criminal practice, corrections or other related fields~~[-or]~~

~~(c) a combination of four years of education and work experience approved by the Division in collaboration with the board.~~

R156-50-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 50 is established by rule in Section R156-1-308.

(2) Renewal procedures shall be in accordance with Section R156-1-308.

R156-50-[9]304. Continuing ~~[Professional]~~ **Education.**

(1) In accordance with Subsections 58-1-203(7) and 58-1-308(3)(b) and the continuing education requirement for renewal of licensure in Subsection 58-50-6(2), e[E]ach person holding a license shall complete 40 hours of qualified continuing professional education (CPE) every two years.

(2) Those persons who become licensed during the renewal period shall be required to complete a total number of CPE hours based upon a formula of five hours of CPE for each of the remaining quarters in the renewal period.

~~(2) 3~~ Programs will generally qualify for CPE if the program is related to probation, social work, psychology, counseling, law enforcement, criminal practice, correction or other related fields and if the program will enhance professional development.

~~(3) 4~~ Training provided by the licensee for staff will not qualify.

([#]5) It is the responsibility of the licensee to obtain qualifying CPE and document the CPE on forms supplied by the Division.

([5]6) The Division may perform random audits to determine compliance with CPE.

R156-50-[10]502. Unprofessional Conduct.

"Unprofessional conduct" includes the following:

(1) [~~The Division may refuse to issue or renew, and may revoke, suspend, or place on probation the license of any licensee who:~~

—(a) fails]failing to comply with the continuing professional education requirement of Section R156-50-304[CPE];

(b)2) failing[s] to comply [tø]with the operating standards required for a presentence report;

(c)3) failing[s] to properly supervise the offender as set forth in the probation agreement;

[—(d) has been convicted of a crime or offense;]

(e)4) failing[s] to disclose any conflict of interest relating to supervision of an offender;

(f)5) accepting[s] any amount of money or gratuity from an offender other than that fee which is set forth in the probation agreement; or

(g) failing[s] to report any violation of the probation agreement.

R156-50-[4]601. Private Probation Services Standards [for]- Probation Supervision.

In accordance with Subsection 58-50-9(5), the private probation services standards concerning probation supervision are established and defined as follows:

(1) [~~"Probation supervision" means that the licensee]~~The private probation provider shall perform the following minimum services for each offender who is referred by the court:

(a) conduct an initial interview/assessment with each offender and establish a plan of supervision which shall be known as the case plan;

(b) review the court ordered agreement with each offender and have the offender sign the probation agreement;

(c) review with each offender the court ordered payment contract which shall provide for the collection and distribution of fines and restitution payments, and fees for services performed by the licensee;

(d) after the initial assessment, conduct a personal interview with each offender in accordance with the case plan not less than once each month and as many additional times as necessary to determine that the offender is in compliance with the probation agreement; and

(e) submit written reports as required by the probation agreement.

(2) The [licensee]private probation provider shall maintain and make available for inspection a current list of fees for services to be charged to the offender which shall be reviewed and approved by the court.

(3) The [licensee]private probation provider shall be required to report to the court within two working days any new known criminal law violations committed by the offender or report any failure to comply with the terms and conditions of the probation agreement including payment of fines, restitution and fees.

(4) The [licensee]private probation provider shall notify in writing the sentencing court and the office of the prosecuting attorney not less than ten working days prior to the date of termination of any supervised probation. The notification shall include a report outlining the probationer's compliance with terms and conditions of the probation agreement including payment of any fines, restitution and fees.

R156-50-[5]602. Private Probation Services Standards [for]- Preparing Presentence Investigative Reports.

In accordance with Subsection 58-50-9(5), the private probation services standards concerning preparing presentence investigative reports are established and defined as follows:

(1) The private probation provider shall [perform the following tasks in the preparation of the presentence investigative report]gather the following relevant information, if applicable:

(a) [gather the following relevant information, if applicable;

—(i)—]juvenile arrest and disposition records;

(ii)b) adult arrest and disposition records;

(iii)c) county attorney or city prosecutor file information[;—as required];

(iv)d) arresting officer's report;

(v)e) victim impact statement;

(vi)f) driving history record[;—if applicable];

(vii)g) blood/breath alcohol content test results[;—if applicable];

(viii)h) treatment evaluations; and

(ix) medical reports[;—if applicable].

(b)2) The private probation provider shall conduct interviews with the following[Interview]:

(i)a) the defendant;

(ii)b) the victim, and

(iii)c) the following when relevant and available:

(A)i) family;

(B)ii) friends;

(C)iii) school;

(D)iv) employers;

(E)v) military; and

(F)vi) past and present treatment providers.

(c)3) The private probation provider shall recommend restitution, when appropriate;

(d)4) The private probation provider shall refer to outside agencies, when appropriate, for additional evaluation;

(e)5) The private probation provider shall develop recommendations based upon a risk/needs assessment; and

(f)6) The private probation provider shall complete and submit the report to the court within not less than 24 hours prior to sentencing.

R156-50-[7]603. Private Probation Services Standards - Duties and Responsibilities of the Private Probation Provider and [7]Staff.

(1) [~~The licensee shall]~~In accordance with Subsection 58-50-9(5), the duties and responsibilities of the private probation provider shall include the following:

(a) review, approve and sign all reports required under this chapter or ordered by the court;

(b) conduct the initial interview/assessment with each offender;

(c) conduct at least one personal interview with each offender each month;

(d) conduct all interviews required in the preparation of the presentence report.

(2) The duties and responsibilities of the staff under direct supervision of the private probation provider include the following[licensee may]:

(a) assist in the gathering of information and the preparation of reports;

(b) perform other monthly interviews;

(c) contact offenders by telephone or in person to determine compliance with the case plan;

(d) collect fines, restitutions and fees for services; and

(e) other clerical duties as assigned by the licensee.

R156-50-[8]604. Private Probation Services Standards - Distribution of Fines, [f]Restitutions, and [f]Service Fees.

~~[(+)—C]~~In accordance with Subsection 58-50-9(5), private probation providers shall distribute court ordered fines and restitutions and private probation service fees which are collected by the private probation provider[licensee shall be distributed] at least every month in equal proportions to the court, the victim, the licensee and any other parties ordered by the court until each party entitled to the monies are paid in full as determined by the court order and case plan.

KEY: licensing, probation, private probation provider*
~~[October 1, 1991]~~1999 **58-50-1**
Notice of Continuation September 16, 1996 **58-1-106(1)**
58-1-202(1)
58-50-5(1)
58-50-9(5)

Commerce, Occupational and Professional Licensing
R156-74
Certified Shorthand Reporters Licensing Act Rules

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 21812

FILED: 01/28/1999, 10:15

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The statute governing certified shorthand reporters (CSRs), Title 58, Chapter 74, became effective January 1, 1998. This rule is to clarify provisions of that statute.

SUMMARY OF THE RULE OR CHANGE: This new rule provides the following: title; authority; organization; renewal cycle and procedures; and continuing education.

(DAR Note: A corresponding proposed repeal of R156-78 is under DAR No. 21813 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-74-101, and Subsections 58-74-303(2), 58-1-106(1) and 58-1-202(1)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: National Court Reporters Association, Council of the Academy of Professional Reporters Continuing Education Program, revised October 1, 1998

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No costs or savings are anticipated to the state budget as the continuing education requirement is a clarification of the statutory requirement which only affects certified shorthand reporters. However, there may be a cost to a state agency if the agency chooses to pay for continuing education hours for a certified shorthand reporter (CSR) who is an employee of the agency.

❖LOCAL GOVERNMENTS: No costs or savings are anticipated for local governments as the continuing education requirement is a clarification of the statutory requirement which only affects certified shorthand reporters. However, there may be a cost to a local government if a local agency chooses to pay for continuing education hours for a CSR who is an employee of the agency.

❖OTHER PERSONS: There will be undeterminable costs for licensed CSRs to obtain required continuing education hours. There will be no other cost or savings for other persons since this rule only affects certified shorthand reporters.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs for continuing education vary depending upon the course of training taken. Local courses, such as the "at home study courses," are free. However, courses taken from colleges, universities, through local and national associations, the Department of Education, or the Office of the Court are or could be expensive depending on the type of course taken.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this new rule is to eliminate redundancies caused by the incorporation of former rule into the new licensing act; to conform the rule numbering to the numbering of the new statutory provisions; and to clarify the continuing education provision of the statute by adopting as the continuing education requirements those standards which have been established by the national court reporter association. This rule will have no impact on the state budget or upon local governments. The continuing education requirement was in the law prior to the changes this rule is designed to address, although the current rule does not define the continuing education requirement of the licensing act. The expense of continuing education should not be altered as a result of this rule and the cost of continuing education will continue to range from free to expensive, depending upon the nature and source of the education chosen which varies from no cost home study courses to expensive university courses--Douglas C. Borba.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Clyde Ormond at the above address, by phone at (801) 530-6254, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.cormond@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 03/10/1999, 9:00 a.m., 160 East 300 South, Conference Room 4A (Fourth Floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing. R156-74. Certified Shorthand Reporters Licensing Act Rules. R156-74-101. Title.

These rules shall be known as the "Certified Shorthand Reporters Licensing Act Rules."

R156-74-102. Reserved.

Reserved.

R156-74-103. Authority.

These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 74.

R156-74-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-307.

R156-74-303. Renewal Cycle - Procedure.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 74 is established by rule in Section 58-1-308.

(2) Renewal procedures shall be in accordance with Section R156-1-308.

R156-74-304. Continuing Education.

In accordance with Subsection 58-74-303(2), the standards for the continuing education requirement for renewal of a certified shorthand reporter license shall be the standards established by the National Court Reporters Association, Council of the Academy of Professional Reporters Continuing Education Program, revised October 1, 1998, which is hereby adopted and incorporated by reference.

KEY: court reporting, licensing, shorthand reporter*

1999

58-74-101

58-74-303(2)

58-1-106(1)

58-1-202(1)



Commerce, Occupational and Professional Licensing
R156-78
Rules of the Certified Shorthand Reporters Licensing Board

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 21813

FILED: 01/28/1999, 10:15

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being deleted in its entirety as the statute governing certified shorthand reporters (CSRs) was in Title 78, Chapter 56. However, due to legislative changes in 1997 that became effective January 1, 1998, the statute governing CSRs was deleted in Title 78, Chapter 56 and added to Title 58, Chapter 74. The Division is proposing a new rule at R156-74 in a separate rule filing in this *Bulletin*.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

(DAR Note: A corresponding proposed new rule is R156-74 under DAR No. 21812 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 58-1-6(1) and 58-1-8(1)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No costs or savings are anticipated because the statute under which this rule was written no longer exists. The new statute, Title 58, Chapter 74, incorporates many of the sections that are in this rule.

❖LOCAL GOVERNMENTS: No costs or savings are anticipated because the statute under which this rule was written no longer exists. The new statute, Title 58, Chapter 74, incorporates many of the sections that are in this rule.

❖OTHER PERSONS: No costs or savings are anticipated because the statute under which this rule was written no longer exists. The new statute, Title 58, Chapter 74, incorporates many of the sections that are in this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs or savings are anticipated because the statute under which this rule was written no longer exists. The new statute, Title 58, Chapter 74, incorporates many of the sections that are in this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this rule filing is to delete this rule as the statutes for which it was propounded, Utah Code Ann., Section 78-56-1, et seq., has been repealed and replaced by Section 58-74-101, et seq. for which a new rule has been proposed. The repeal of this rule will result in no additional cost to the state budget, local governments, general public, or the affected licensees but will result in no savings to the same groups since the rule is largely being reenacted under the newly numbered licensing act--Douglas C. Borba.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Clyde Ormond at the above address, by phone at (801) 530-6254, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.cormond@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 03/10/1999, 9:00 a.m., 160 East 300 South, Conference Room 4A (Fourth Floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
~~[R156-78. Rules of the Certified Shorthand Reporters Licensing Board.~~

R156-78-1. Title:

—These rules shall be known as the "Rules of the Certified Shorthand Reporters Licensing Board."

R156-78-2. Authority:

—These rules are promulgated in accordance with the provision of Sections 78-56-13, 58-1-6 and 58-1-9, Utah Code Ann. (1953), as amended.

R156-78-3. Definitions:

—As used in these rules:

(1) "Board" means the Certified Shorthand Reporters Licensing Board.

(2) "Certified Shorthand Reporter" means any person licensed under these rules who is engaged in the practice of making a verbatim record, using symbols or abbreviations, of any trial, proceeding, or hearing before any court, or before any referee;

master board or commission of this state or its political subdivisions:

—(3) "Department" means the Department of Commerce.

—(4) "Director" means the director of the Division of Occupational and Professional Licensing.

—(5) "Division" means the Division of Occupational and Professional Licensing.

—(6) "Registered Professional Reporter" means any person who has successfully completed the Registered Professional Reporter Examination of the National Shorthand Reporters Association and holds a registration certificate from that organization as a result of passing the examination.

R156-78-4. Board - Members - Duties:

—(1) There is hereby created a Certified Shorthand Reporters Licensing Board to advise the Division regarding the licensing and regulation of certified shorthand reporters.

—(2) The board shall consist of four licensed certified shorthand reporters and one public member who shall be appointed in accordance with Section 58-1-7.

—(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-8 and 58-1-9.

R156-78-5. License Required - Unlawful Activity - Exceptions:

—(1) Any person engaged in practice as a certified shorthand reporter must be licensed under these rules.

—(2) It is unlawful for any person to:

(a) practice, engage in or attempt to practice or engage in practice as a certified shorthand reporter who is not licensed under these rules;

(b) employ any other person who is not licensed under these rules to practice or engage in practice as a certified shorthand reporter;

(c) advertise or represent himself to be a certified shorthand reporter unless he is licensed under these rules; or

(d) assume or use the title "Certified Shorthand Reporter" or the abbreviation "C.S.R." or any similar words or letters to indicate that person is a certified shorthand reporter unless he is licensed under these rules.

—(3) The following persons may perform the activities of a certified shorthand reporter subject to the state limitations without being licensed under these rules:

(a) a court reporter appointed by the courts in accordance with the provision of Title 78, Chapter 56, while acting in the official capacity of court reporter.

R156-78-6. Licensure - Licensure by Endorsement - Expiration of Licenses - Renewal:

—(1) An applicant for licensure as a certified shorthand reporter under these rules shall:

(a) submit an application prescribed by the division;

(b) pay a fee as determined by the department pursuant to Section 63-38-3(2);

(c) produce satisfactory evidence of good moral character; and

(d) submit evidence that he has passed the Registered Professional Reporter Examination of the National Shorthand Reporters Association or its equivalent.

~~(2) Applicants licensed as a certified shorthand reporter in any other state or jurisdiction may obtain licensure in the State of Utah only by complying with the provisions of section R156-78-6(1).~~

~~(3) Each license issued under these rules shall expire on December 31 of each even-numbered year.~~

~~(4) Renewal of licenses issued under these rules shall be effected in accordance with the provisions of Section 58-1-14.~~

R156-78-7. Unprofessional Conduct.

~~"Unprofessional conduct" relating to practice as a certified shorthand reporter includes:~~

~~(1) conduct unbecoming a person licensed as a certified shorthand reporter or which is detrimental to the interests of the public;~~

~~(2) willful or negligent betrayal or disclosure of confidential information about which the licensee becomes knowledgeable as a result of or incidental to his practice as a licensee under these rules;~~

~~(3) false or deceptive representation of a licensee's skills, competence, capability or resources as a certified shorthand reporter;~~

~~(4) offering, undertaking or agreeing to undertake an assignment as a certified shorthand reporter for which the licensee is not qualified, for which the licensee cannot complete the assignment in a timely manner, or for which the licensee does not have the resources to complete the assignment as agreed in a professional manner;~~

~~(5) use of fraud, deception, misrepresentation, misstatement, omission, or any unlawful or unethical means in applying for and obtaining a license under these rules;~~

~~(6) employing of another or aiding and abetting the employment of another in practice as a certified shorthand reporter when it is known or should have been known by the licensee that the person employed was not licensed under these rules;~~

~~(7) the use of any chemical, drug or alcohol in any unlawful manner or in any manner which negatively affects the ability of the licensee to competently practice as a certified shorthand reporter;~~

~~(8) impersonating another person licensed under these rules;~~

~~(9) willfully and intentionally making any false or fraudulent record in the performance of his duties as a certified shorthand reporter;~~

~~(10) any conduct contrary to the recognized standards and ethics of the profession of a certified shorthand reporter;~~

~~(11) gross incompetence in practice as a certified shorthand reporter;~~

~~(12) violation of any provision of these rules or other rules regulating the practice of shorthand reporters;~~

~~(13) conviction of a felony or any other crime which is considered by the board to represent activity detrimental to the public interest as that interest is reflected in the licensee continuing to practice as a certified shorthand reporter; or~~

~~(14) attesting to or "signing off" on the transcript of any recorded proceeding unless that proceeding was recorded by that person while physically present at the proceeding or was personally transcribed by that person from an electronically recorded process.~~

KEY: court reporting, licensing, shorthand reporter*

~~1994~~ ~~58-1-6(1)~~

~~58-1-8(1)~~



Corrections, Administration
R251-105
Applicant Qualifications for
Employment with Department of
Corrections

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21829

FILED: 02/01/1999, 16:57

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment is necessary to include new testing and background investigation requirements necessary for applicants for Department of Corrections employment.

SUMMARY OF THE RULE OR CHANGE: Suitability testing may be required for applicants. Personal financial background has been eliminated from the background investigation and a criminal records check has been added.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-46a-3, 64-13-10, and 64-13-25

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The proposed change is of a minor nature and has no impact on state budget. There is no additional impact as a result of this proposed amendment.

❖LOCAL GOVERNMENTS: The proposed change is of a minor nature and has no fiscal impact on local governments. There is no additional impact as a result of this in proposed amendment.

❖OTHER PERSONS: The proposed change is of a minor nature and has no fiscal impact on other persons. There is no additional impact as a result of this proposed amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed change is of a minor and clarifying nature and will not result in additional compliance costs for affected persons. There is no additional impact as a result of this in proposed amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no additional compliance costs.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Corrections Administration Suite 400 6100 South Fashion Boulevard Murray, UT 84107, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Pam Elliott at the above address, by phone at (801) 265-5514, by FAX at (801) 265-5726, or by Internet E-mail at crdeptdo.crdept.pelliott@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: H. L. Haun, Executive Director

R251. Corrections, Administration. R251-105. Applicant Qualifications for Employment with Department of Corrections.

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R251-105-3. General Requirements.

It is the policy of the Department that applicants for employment:

- (1) shall, for POST-certified positions, be a citizen of the United States; (2) shall, for POST-certified positions, be a minimum of 21 years of age; (3) shall, as a minimum, be the holder of a high school diploma or furnish evidence of successful completion of an examination indicating an equivalent achievement; (4) may be required to pass pre-employment testing or suitability testing depending on position requirements; (5) shall be free from any physical, emotional, or mental conditions which might adversely affect performance; (6) shall not have been convicted of a crime for which the applicant could have been imprisoned in a penitentiary of this or another state and shall not have been convicted of an offense involving dishonesty, unlawful sexual conduct, physical violence, or the unlawful use, sale or possession of a controlled substance. This rule may not apply to all positions; (7) shall, if required, become a POST-certified officer and maintain certification through successful completion of at least 40 hours of POST training per fiscal year; and (8) may undergo a background investigation which may include verification of personal history, [personal financial background], employment history and criminal records check.

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KEY: corrections, employment, prisons [1989]1999 63-46a-3 Notice of Continuation 1994 64-13-10 64-13-25



Education, Administration R277-413 Accreditation of Secondary Schools, Alternative or Special Purpose Schools

NOTICE OF PROPOSED RULE

(New) DAR FILE No.: 21823 FILED: 02/01/1999, 14:33 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish Utah-specific criteria for the accreditation of secondary alternative and special purpose schools.

SUMMARY OF THE RULE OR CHANGE: The rule provides procedures for accreditation and criteria for information to be submitted by schools seeking accreditation.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-402(1)

ANTICIPATED COST OR SAVINGS TO: THE STATE BUDGET: There are no anticipated cost or savings due to this rule because the accreditation or approval process is handled within existing budgets. LOCAL GOVERNMENTS: There are no anticipated cost or savings due to this rule because the accreditation or approval process is handled within existing budgets. OTHER PERSONS: There are no anticipated cost or savings due to this rule because these schools have previously sought accreditation or State Board approval through some process. COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because accreditation or approval process is handled within existing budgets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses--Steven O. Laing.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Education Administration 250 East 500 South Salt Lake City, UT 84111, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.

R277-413. Accreditation of Secondary Schools, Alternative or Special Purpose Schools.

R277-413-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Accreditation" means formal Board approval of a school that has met standards considered by the Board to be essential for the operation of a quality school program.

C. "State Committee" means the State Accreditation Committee, which is composed of public school principals, school district personnel, private school representatives, and USOE personnel.

D. "USOE" means the Utah State Office of Education.

E. "Accreditation Standards Annual Report (Annual Report)" means a document that explains a school's compliance with educational standards and progress provided by the school in its school improvement plan. The school improvement plan is a dynamic document that reflects changes and progress made by the school community. The Annual Report also provides definitions and criteria required by Northwest for accreditation.

F. "Northwest Association of Schools and Colleges (Northwest)" means the regional accrediting association of which Utah is a member.

G. "Secondary school" means a school encompassing grades 9-12 including public, alternative, and special purpose schools.

R277-413-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-402(1) which directs the Board to adopt rules for school accreditation, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to:

(1) specify the standards and procedures by which secondary schools shall become accredited by the Board; and

(2) allow for additional requirements, which are unique to the state of Utah to be added to the Northwest Annual Report.

R277-413-3. Accreditation Classifications; Reports.

A. The Board accepts the Northwest standards as its accreditation standards for high school accreditation.

B. The Board also requires additional specific Utah standards to satisfy its accreditation requirements.

C. A school shall complete the Annual Report prepared by Northwest and USOE.

D. A school shall have a complete school evaluation and site visit at least once every six years.

E. The USOE may require on-site visits as often as necessary when it receives notice of accreditation problems, as determined by the State Committee.

F. The school's accreditation rating is recommended by the State Committee following a review of a school's Annual Report. Final approval of the rating is determined by the Board.

G. The classification ratings for accredited schools as designated by Northwest shall be:

(1) Approved: a school is classified as "approved" when it equals or exceeds the standards approved by Northwest and the Board.

(2) Approved with comment: a school is classified as "approved with comment" when it has only minor deviations from specific standards.

(3) Advised: a school is classified as "advised" when there are deviations from one or more standard(s). Schools shall also be classified as "advised" when no observable effort has been made, by the second year, to correct deviations from a standard upon which comment was made in the previous year.

(4) Warned: a school is classified as "warned" when there are substantial deviations from one or more standard(s). A "warned" classification is usually given after a school has been "advised" and the deviation persists in the next Annual Report. A school may be "dropped" after two consecutive "warned" classifications, as recommended by the State Committee to the Board.

H. An accredited school may not be dropped to a non-accredited status without first receiving a "warned" classification. Exceptions to this procedure may be made due to discrepancies between information provided on the Annual Report and data received or by observations of the State Committee.

I. If a school disagrees with the recommendation of the State Committee, it may appeal as is outlined in Northwest policies and procedures.

J. All high schools shall submit their Annual Report to the USOE by October 15.

R277-413-4. Procedures for Evaluation and Classification.

A. The evaluation of secondary schools for the purpose of accreditation and classification is a cooperative activity in which the school, the local district, the USOE, and Northwest share major responsibilities. Basic to the operation of the program is a school's self-evaluation and implementation of a school improvement plan.

B. Middle level schools' membership in Northwest is optional, but all middle level schools will complete the accreditation process.

C. A school seeking accreditation for the first time shall submit a membership application to the USOE.

(1) Upon a visit by USOE staff verifying a school's compliance with accreditation standards, the school shall then receive initial accreditation and become a "Candidate" member.

(2) Within three years of initial accreditation, a "Candidate" school shall complete a self-evaluation utilizing the National Study of School Evaluation (NSSE) document, SCHOOL IMPROVEMENT: FOCUSING ON STUDENT PERFORMANCE available from Northwest or the USOE. Following the self-evaluation, a site visit shall take place.

(3) A visiting team assigned by USOE shall be sent to the school to review the self-evaluation materials, visit classes, and talk with staff and students.

(4) The visiting team shall present its finding in the form of a written report. The report shall be sent to the school, district superintendent, and USOE.

(5) The USOE staff shall review the visiting team report with the State Committee and Northwest and recommend appropriate accreditation status to the Board.

(6) The Board is the final accrediting authority.

D. Continuing accreditation is subject to:

(1) receipt and review of annual reports by the State Committee;

(2) a new self-evaluation and site visit at least every six years; and

(3) satisfactory review by the State Committee, Northwest, and final approval by the Board.

R277-413-5. Accreditation Standards.

A. The following include Northwest standards and Utah-specific requirements. Each standard requires the school to answer a series of questions and provide information as directed.

B. Standard I - The Education Program

(1) Northwest requirements as provided in the Annual Report:

(a) Philosophy and Objectives;

(b) Administrative Policies and Practices;

(c) Program of Studies - Core Curriculum;

(d) Technology in the Curriculum;

(2) Utah-specific requirements which shall be satisfied and may be addressed under the Northwest standards:

(a) State Graduation and Credit Requirements (consistent with requirements of R277-700, The Elementary and Secondary School Core Curriculum and High School Graduation Requirements;

(i) Core Curriculum;

(ii) Assessment;

(iii) Statewide Testing.

(b) Length of School Day and School Year (consistent with requirements of R277-419, Pupil Accounting);

(c) Title IX, (which is incorporated by reference) Compliance;

(d) Instructional Materials (consistent with requirements of R277-408, Expenditures for Instructional Supplies Required in Utah Public Schools;

(e) Special Education (consistent with requirements of R277-750, Education Programs for Students with Disabilities;

(f) Accelerated Learning (consistent with requirements of R277-710, Accelerated Learning Programs.

C. Standard II - Student Personnel Services

(1) Northwest requirements as provided in the Annual Report:

(a) Special Services including school services and community Services;

(b) Program of Comprehensive Services (available for students including counselors, social workers, school nurses, psychologists, and psychiatrists);

(c) Personnel and Organization (ratios and services);

(d) Postsecondary Services;

(e) Student Conduct and Attendance;

(2) Utah-specific requirements which shall be satisfied and may be addressed under the Northwest standards:

(a) Comprehensive Guidance (consistent with requirements of R277-462, Comprehensive Guidance Program);

(b) Student Educational Occupational Plan (SEOP) (consistent with requirements of R277-462, Comprehensive Guidance Program and R277-911, Secondary Applied Technology Education);

(c) School Fees (consistent with requirements of R277-407, School Fees);

(d) Student Conduct and Attendance (consistent with Section 53A-11-901).

D. Standard III - School Plant and Equipment

(1) Northwest requirements as provided in the Annual Report:

(a) Adequacy;

(b) Function;

(c) Assurances;

(2) Utah-specific requirements which shall be satisfied and may be addressed under the Northwest standards:

(a) Emergency Preparedness Plan (consistent with requirements of R277-400, Emergency Preparedness Plan);

(b) Design, Construction, Operations, Sanitation, and Safety of Schools (consistent with requirements of R392-200, Design, Construction, Operation, Sanitation, and Safety of Schools).

E. Standard IV - Library Media Program

(1) Northwest requirements as provided in the Annual Report:

(a) Student Performance Objectives;

(b) Use of Center;

(c) Staffing;

(d) Facilities;

(e) Equipment;

(f) Collection and Alternative Resources such as bookmobiles.

(2) Utah-specific requirements which shall be satisfied and may be addressed under the Northwest standards:

F. Standard V - Records

(1) Northwest requirements as provided in the Annual Report:

(a) Safekeeping;

(b) Minimum Information;

(c) Handling of student records; and

(2) Utah-specific requirements which shall be satisfied and may be addressed under the Northwest standards:

(a) Student Records (consistent with requirements of Section 53A-13-301 (Utah Family Educational Rights and Privacy Act).

G. Standard VI - School Improvement (Northwest and Utah requirements):

A school shall submit pertinent information about its community support, school profile, school mission statement, school goals, and implementation of those goals.

H. Standard VII - Preparation of Personnel

(1) Northwest requirements as provided in the Annual Report:

(a) Preparation of Professional Personnel;

(b) Paraprofessional or Non-professional Personnel;

(c) Exceptions to the Standard Teacher Preparation;

(d) Professional Preparation Deficiency Report;

(e) Staff Development

(f) Excessive Turnover and Efficiency of Instruction;

(g) Incentive Programs for Teachers and Students; and

(2) Utah-specific requirements which shall be satisfied and may be addressed under the Northwest standards:

(a) Staff Development as required by the Board; and

(b) Professional Conduct of Staff;

(c) Career Ladder Participation (consistent with requirements of R277-526, Career Ladders in Education).

I. Standard VIII - Administration

(1) Northwest requirements as provided in the Annual Report:

(a) Responsibility and Leadership; and

(b) Administrative Staff Size.

J. Standard IX - Teacher Load

(1) Northwest requirements as provided in the Annual Report:

(a) Maximum Teacher Load; and

(b) Personnel Schedule.

K. Standard X - Student Activities

(1) Northwest requirements as provided in the Annual Report:

(a) Student Activities; and

(b) Audit for Student Activity Funds and Bond Requirements for Persons Managing Student Funds.

KEY: accreditation 1999

**Art X Sec 3
53A-1-402(1)
53A-1-401(3)**



Education, Administration

R277-519

Educator In-service Procedures and Credit

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21824

FILED: 02/01/1999, 14:33

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was amended to more accurately reflect the typical educator inservice format and to adjust for higher education's change from quarters to semesters.

SUMMARY OF THE RULE OR CHANGE: The amended rule changes definitions to reflect current inservice offerings and makes inservice credit consistent with university semester hours.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-402(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no anticipated cost or savings due to this rule because inservice participants or their employers will pay for the inservice.

❖LOCAL GOVERNMENTS: There are no anticipated costs or savings due to this rule because inservice participants or their employers will pay for the inservice.

❖OTHER PERSONS: Inservice participants or their employers will pay the cost of the inservice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any inservice costs will be borne by the inservice participants or their employers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses--Steven O. Laing.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Education
Administration
250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.

R277-519. Educator In[=]service Procedures and Credit.

R277-519-1. Definitions.

A. "USOE" means the Utah State Office of Education.

B. "In[=]service" means training in which current teachers or individuals who have previously received a standard or basic teaching certificate may participate to renew a certificate, teach in another subject area or teach at another grade level.

C. "Courses" or "workshops" means an academic experience led and evaluated by an instructor[typically conducted over the length of a post-secondary semester or quarter. It requires outside student preparation and instructor evaluation].

~~D. "Workshop" means a short and intensive academic experience conducted in a very limited time period. An experience conducted for a period of up to seven consecutive working days is a workshop. A workshop requires follow-through or outside activities and final instructor evaluation. Courses are scheduled over several weeks duration; workshops are completed within a week. Courses and workshops require outside readings or completion of other assignments or both.~~

~~[E]D. "Independent study" means an educational experience outside of [classes and workshops planned with the prior approval of the state or district in-service coordinator]courses or workshops. Independent study requires prior approval of the state or district professional development or inservice coordinator and a determination by that person of the requirements and credit warranted.~~

~~[F]E. "Conference" means [a meeting with an agenda offering a choice of subjects with minimal audience participation and for~~

~~which no preparation or homework is required]an educational event with a varied agenda offering a choice of sessions.~~

~~[—G. "Improvement unit" means a unit of recertification credit based upon the amount of time spent in an appropriate education activity.]~~

R277-519-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-402(1)(a) which allows the Board to make rules regarding the qualifications of personnel providing direct student services and the certification of educators, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to establish definitions and standards for in[=]service instruction especially as it relates to teacher certification.

R277-519-3. General In[=]service Requirements.

A. Proposals for in[=]service classes shall be approved at the district level and shall include:

- (1) a descriptive outline of the class;
- (2) a schedule of meeting dates and times; and
- (3) a professional vita of the instructor(s).

B. Approval of in[=]service credit may be sought by:

(1) written request from a private provider ~~[on a form provided by the USOE Certification Section]to the appropriate USOE subject specialist or school district~~ at least two weeks prior to the beginning date of the scheduled in[=]service, or

(2) a request through the computerized in[=]service program connected to the USOE ~~[teacher files]certification system.~~

(a) The computerized process is available in most Utah school districts and area technology centers;

(b) Such requests shall be made at least one week prior to the beginning of the scheduled in[=]service.

R277-519-4. In[=]service Credit.

A. ~~[In-service c]~~Credit is available in half-credit units, beginning with one-half credit and up to ~~[five]three~~ credits per educational experience.

B. Upon completion of the in[=]service experience, credit shall be awarded ~~[by only one of two methods]as follows:~~

(1) ~~[If the original in-service request was made in writing, credit shall be given to participants through Certificates of Completion:~~

~~—(a)—Sponsor submits an alphabetized list of participants' names and social security numbers to [the USOE Certification Section]a school district, the subject specific USOE section, or designated educational agency;~~

~~[(b) Blank Certificates of Completion shall be sent to the sponsor, who shall complete and mail the certificates to participants; or~~

~~] (2) [If the request was made by computer,]Subject specific USOE sections, district in[=]service coordinators, [and]or designated educational agencies shall enter the names and social security numbers of the in[=]service participant on the computer listing screen. This information shall then be transferred by the USOE Certification Section to the individuals' certification files.~~

(3) Certificates of Completion may be issued by individual school districts for teacher use, but such certificates shall not be honored by the USOE Certification Section as verification of in[=]service completion.

C. Credit for Specific In[=]service Experiences

(1) Courses and workshops:~~[—on the quarter system, ten classroom hours equal one credit.]~~ On the semester system, seven to thirteen contact hours equals one-half credit, fourteen to twenty contact classroom hours equal one credit~~[—or one and one-half credits on the quarter system].~~

~~[(2) Workshops: on the quarter system, ten workshop hours equal one credit hour. On the semester system, fourteen workshop hours equal one credit or one and one-half credits on the quarter system.]~~

~~[(3)]2 Independent study: [thirty]forty two hours equal one credit.~~

~~[(4)]3 Conferences: no specific credit awarded unless a conference could also satisfy the criteria for a workshop or independent study. If so, credit may be issued upon prior approval by the USOE Certification Section of the experience.~~

~~[(4) Consistent with R277-519-4A, inservice credit is available in half-credit units.~~

~~[(D. Improvement units as defined in Subsection 1 may not, as of December 1, 1991, be used for recertification credit.]~~

KEY: teacher certification, professional competency
199[2]9

Notice of Continuation April 15, 1997

Art X Sec 3

53A-1-402(1)(a)

53A-1-401(3)



Education, Administration

R277-702

Procedures for the Utah General Educational Development Certificate

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21825

FILED: 02/01/1999, 14:33

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was changed to eliminate the residency requirement and to eliminate the employer signature requirement.

SUMMARY OF THE RULE OR CHANGE: The amended rule removes some unnecessary requirements for General Educational Development (GED) test applicants.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-402(1)(b)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no anticipated cost or savings due to this rule because the changes are minor and costs are absorbed within existing budgets.

❖LOCAL GOVERNMENTS: There are no anticipated cost or savings due to this rule because the changes are minor and costs are absorbed within existing budgets.

❖OTHER PERSONS: There are no anticipated cost or savings due to this rule because the changes are minor, costs are absorbed within existing budgets and GED applicants have previously paid for the exam.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because changes are minor and applicants have previously paid for the exam.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses--Steven O. Laing.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Education Administration
250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.

R277-702. Procedures for the Utah General Educational Development Certificate.

R277-702-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "GED Test" means the General Educational Development Test developed by the American Council on Education.

C. "Utah General Educational Development Certificate" means a certificate issued by the Board acknowledging competency on the part of the certificate holder in the GED test areas [~~tested by GED Test~~].

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R277-702-3. Eligibility for GED Testing.

A. Admission to a GED Test requires the following:

(1) that the applicant be at least 18 years of age and the applicant's graduating class has graduated; or

(2) that if the applicant is 17 or 18 years of age and the applicant's graduating class has not graduated, the GED [F]testing [C]center requires the following:

(a) a letter from the school district within which the applicant resides indicating the applicant is not regularly enrolled in school; and

(b) a letter from the applicant's parent or guardian authorizing the test (applicant age 18, or presenting a marriage license, is exempt from this requirement) [~~and~~].

[~~(c) a letter from an employer or educational institution indicating its employment or acceptance of the applicant after passing the GED Test.~~]

R277-702-4. Administrative Procedures and Standards for Testing and Certification.

A. The Board contracts with the General Educational Testing Service[s] of the American Council on Education to administer the GED testing program in the state. The Board may contract with [~~local~~] educational institutions within the state to administer the tests and provide related testing services. The number and location of the institutions designated as testing centers is determined in a manner that ensures that the test is reasonably accessible to potential applicants. Testing centers must meet the GED [t]Testing [s]Service requirements in the GED Examiner's Manual.

B. Persons desiring to take a GED Test must complete an application available from any official GED [F]testing [C]center of the Board and be eligible to take the GED Test under Subsection 3.

C. Persons desiring to obtain a Utah General Educational Development Certificate shall [~~must~~]:

~~(1) complete an application for the certificate available from the Utah State Office of Education;~~

~~(2) obtain a standard score of at least 40 on each of the five test components of the GED Test and obtain an overall average standard score of 45 on the five tests combined [;].~~

[~~(3) be a resident of the state, be employed on a regular basis in the state, or be assigned by military authority to a station in the state; and~~

~~(4) meet Utah and GED testing eligibility.]~~

R277-702-5. Fee.

A. The Board, or its designee, shall adopt uniform fees for the General Educational Development Certificate and uniform forms, deadlines, and accounting procedures to administer this program.

B. A GED testing center, after consultation with the Board or its designee, shall adopt fees and forms for its GED [F]testing[services].

R277-702-6. Official Transcripts.

Test scores shall be accepted by the Board when original scores are reported by:

A. Board-approved GED testing centers;

B. Transcript [S]service of the Defense Activity for Non-Traditional Educational Support (DANTES);

C. Veterans Administration hospitals and centers; or

D. [~~the~~]GED Testing Service.

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KEY: adult education, educational testing, student competency
19[87]99 53A-1-402(1)(b)
Notice of Continuation January 14, 1998 53A-1-401(3)

◆ ————— ◆

Education, Administration R277-733

Adult Basic Skills and Adult High School Programs

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 21826
 FILED: 02/01/1999, 14:33
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was amended to better comply with federal adult education requirements for which funding is available.

SUMMARY OF THE RULE OR CHANGE: The amended rule changes definitions to make the rule consistent with criteria for federally funded adult education programs and to reflect a changing adult education curriculum.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-402(1)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated cost or savings due to this rule because the costs are absorbed within existing budgets or fees are paid by participants.

❖ **LOCAL GOVERNMENTS:** There are no anticipated cost or savings due to this rule because the costs are absorbed within existing budgets or fees are paid by participants.

❖ **OTHER PERSONS:** Most of the costs associated with this rule are covered by state and federal funds. Any remaining costs, which would be minimal, are borne by the program participants.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Most of the costs associated with this rule are covered by state and federal funds. Any remaining costs, which would be minimal, are borne by the program participants.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses--Steven O. Laing.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Education
 Administration
 250 East 500 South
 Salt Lake City, UT 84111, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

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THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.

R277-733. Adult Basic [Skills] Education and Adult High School Completion Programs.

R277-733-1. Definitions.

A. "Adult education" means instruction and educational services below the college level for adults who lack:

(1) basic education skills sufficient to enable them to function effectively in society as measured by performance below the ninth grade level on standardized achievement tests; or

(2) a certificate of graduation from a school providing the secondary education of levels nine through twelve.

B. "Board" means the Utah State Board of Education.

C. "Adult basic education" means a program funded through the state using state and federal funds to provide instruction for adults whose inability to compute or speak, read, or write the English language below the ninth grade level substantially impairs their ability to find or retain employment commensurate with their real ability. The instruction is designed to help adults by:

(1) increasing their independence;

(2) improving their ability to benefit from occupational training;

(3) increasing opportunities for more productive and profitable employment; and

(4) making them better able to meet adult responsibilities.

D. "Adult high school education" means a program funded with state funds to provide instruction in Board approved subjects which leads to a high school diploma for adults [18 years of age and over who do not hold high school diplomas].

E. "Adult" means a person 18 years of age or over. [~~Persons 16 to 18 years of age who participate in the adult education program are counted in the regular school program; the funds generated by those students are credited to the adult education program.~~]

F. "Eligible adult education student" means a person who is a legal resident of the United States, makes his true and permanent home in Utah, and:

(1) is 17 years of age or older, and whose high school class has graduated;

(2) is under 18 years of age who is married; or

(3) has been adjudicated as an adult.

G. "Other eligible adult education student" means persons 16 to 18 years of age whose high school class has not graduated and are counted in the regular school program; the funds generated by those students are credited to the adult education program.

H. "Career option cluster" means a group of courses identified for university entry or technical/college entry not to exceed 10.5 credit hours.

I. "University entry option cluster" means a group of courses that have an academic focus and do not exceed 10.5 credit hours.

J. "Technical/college entry option cluster" means a group of courses that has a technical training focus, such as cabinetry, automotive, cosmetology, and does not exceed 10.5 credit hours.

K. "Training cluster" means a group of courses identified in a student's student educational/occupational plan as directly related to a student's specific job training.

L. "Tuition" means the base cost of providing services to the adult education student.

M. "Fee" means any charge, deposit, rental, or other mandatory payment, however designated, whether in the form of money or goods. Admission fees, transportation charges, and similar payments to third parties are fees if the charges are made in connection with an activity or function sponsored by or through a school. All fees are subject to approval by the local school board of education.

N. "Consumable items" means student workbooks, student packets, computer disks, pencils, papers, notebooks, and other similar personal items over which a student retains ownership during the course of study.

O. "Pre-level I" means grade content levels 0-2.

P. "Level I" means grade content levels 3-8.

Q. "Level II" means grade content levels 9-12.

[F]R. "USOE" means the Utah State Office of Education.

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R277-733-3. Federal Adult Education Act.

The Board adopts 20 U.S.C. 1201 et seq., hereby incorporated by reference, and the related current state plan [submitted]required under that statute, as the standards and procedures governing the federally-funded portion of its adult education program, available from the USOE Adult Education Section.

R277-733-4. Program Standards.

A. A written student educational/occupational plan based upon an analysis of the student's goals and objectives, prior academic achievement, and work experience shall be developed for each adult education student and signed by the student and a [qualified]designated local school official.

B. Local adult education programs shall make reasonable efforts to inform prospective students of the availability of the programs and provide enrollment information widely.

C. Only courses identified in Section [6]7 qualify for adult education funds. Only 25 percent of an adult education student's credits toward graduation may be electives.

D. Local adult education programs shall comply with state and federal requirements and Board [policies and]rules. The USOE shall evaluate local programs to determine compliance.

R277-733-5. Fiscal Procedures.

A. State funds appropriated for adult education are allocated in accordance with Section 53A-17a-119.

B. No school district shall receive less than [their]its [pro]portion of a six percent base amount of the appropriation if:

(1) instructional services approved by the USOE have been provided to eligible adult students during the preceding fiscal year; or

(2) the district is preparing to offer such services--such a preparation period may not exceed two years.

C. Lapsing and nonlapsing funds

(1) Funds appropriated for adult basic and adult high school programs are subject to Board accounting, auditing, and budgeting rules.

(2) State adult basic and adult high school funds which are allocated to local adult education programs and are not expended in a fiscal year may be carried over to the next fiscal year with approval by the USOE[Director of Adult Education]. These funds may be considered in determining the [next fiscal year's allocation]district's allocation for the next fiscal year.

(3) Federal adult education funds shall lapse after July 11 of each year.

D. The USOE shall develop uniform forms, deadlines, program reporting and accounting procedures, and guidelines to govern the state and federal adult basic skills and adult high school programs. The "Adult Education Guidelines for Fiscal, Student, and Program Accounting and Reporting" manual, February, 1995, includes these forms, procedures and guidelines and is available [through]from the USOE[Director of Adult Education].

R277-733-6. Adult Education Pupil Accounting.

A. A student under [eighteen]19 years of age who has not graduated and who is a resident of the district, may, with approval under the state administered Adult Education [Standards]Program, enroll in the Adult Basic and Adult High School Completion Program and generate regular state WPU's at the rate of 990 clock hours of membership per one weighted pupil unit per year, 1 F.T.E. on a yearly basis. The clock hours of students enrolled part-time must be prorated.

B. A student [eighteen]17 years of age or over, without a high school diploma but whose high school class has graduated[who has not graduated], who [is domiciled]resides in the state of Utah, and who intends to graduate from high school, may[with approval under the state administered Adult Education Standards,] enroll in the State Adult High School Completion Program, [and attend up to 990 clock hours of membership per year, 1 F.T.E. on a yearly basis. Weighted pupil units are generated for Adult High School Completion students at the rate of 72 days or 396 clock hours of membership per WPU.] Student attendance up to 990 clock hours of membership is equivalent to 1 F.T.E. per year.

(1) The clock hours of students enrolled part-time [must]shall be prorated.

(2) As an alternative, equivalent weighted pupil units may be generated for competencies mastered on the basis of prior authorization of a district plan by the [Adult Education and]USOE[School Finance and Business Sections].

(3) The ten-day membership rule, defined in Section R277-419-1[Q]P, for Adult High School Completion students, is 10 clock hours.

R277-733-7. Adult Basic Education and Adult High School Education Curriculum.

A. Adult basic education shall consist of the following prerequisite courses to subsection R277-733-7B below:

(1) Pre-level I: Pre-Literacy:

(a) listening;

(b) speaking;

(c) cultural orientation.

(2) Level I: Literacy Courses:

(a) reading;

(b) writing;

(c) computation;

(d) information technology.

~~[A]B.~~ ~~[In order to earn an a]~~Adult high school completion~~[diploma, an adult student]~~ shall satisfy Level II course content requirements ~~[and earn]~~with a minimum of 24 credits as provided below:

~~[(1) Pre-literacy Courses. The following are required pre-requisite courses to Subsections (2), (3), and (4) below:~~

~~—(a) listening;~~

~~—(b) speaking;~~

~~—(c) cultural orientation.~~

~~—(2) Literacy Courses. Three units of credit required from these courses:~~

~~—(a) reading: 1.0;~~

~~—(b) writing: 1.0;~~

~~—(c) computation: 1.0;~~

~~—(d) information technology: .5.]~~

~~[(3)]1~~ Adult High School General Core Courses: ~~[10.5]~~13.5 units of credit required:

(a) English: 3.0;

(b) mathematics: 2.0, elementary algebra or above;

(c) science: 2.0, with a maximum of one credit in at least two of the following areas: (1)chemistry; (2) biological science; (3) earth science; (4) physics;

(d) social studies: 3.0, 1.0 in United States history or American government; .5 in geography; .5 in world studies; 1.0 in elective social studies;

(e) information technology~~[(if not taken at the literacy level)]~~: .5;

(f) applied technology: 1.0;

(g) fine arts: 1.0;

(h) healthy life styles: 1.0.

~~[(4)]2~~ Adult High School Career Option[s] Clusters: 10.5 additional units of credit ~~[are required from one of the following career options clusters or from among the various career options clusters below:]~~shall be identified by the student education occupational plan with a five-credit concentration in either the technical college option cluster or the university entry option cluster, as noted below:

(a) ~~[community/home/coping cluster;~~

~~—(i) consumer economics: 1.0;~~

~~—(ii) occupational knowledge: 1.0;~~

~~—(iii) health: 1.0;~~

~~—(iv) community resources: 1.0;~~

~~—(v) government and law: 1.0;~~

~~—(vi) electives: 5.5.~~

~~—(b) college]~~university entry option cluster:

(i) foreign language/academic elective~~[(if required by college)]~~: 2.0;

(ii) mathematics: 1.0, intermediate algebra or above;

(iii) English: 1.0;

(iv) science: 1.0;

(v) ~~[healthy lifestyles (at student's discretion): 2.0;~~

~~—(vi) art (at student's discretion): 1.5;~~

~~—(vii) electives: 5.5[or 7.5, depending upon student's discretionary choices].~~

~~[(e)]b~~ technical/~~[vocational/job]~~college entry option cluster:~~[Applied technology courses consistent with student's SEOP: 10.5:]~~

(i) training cluster: 3.0;

(ii) career preparation: 2.0.;

(iii) electives: 5.5.

~~[B]C.~~ Individual programs may require additional credits, but they shall be offered at no expense to the adult student or to the state or federal adult basic skills and adult high school programs.

~~[E]D.~~ Courses may be completed on a demonstrated performance basis. Assessment of completion of course requirements is the responsibility of the local program.

~~[D]E.~~ All classes leading to a high school diploma shall meet applicable Board standards.

R277-733-8. Adult Basic and State High School Education Programs--Tuition and Fees.

A. Any adult may enroll in an adult education class as specified in Section 53A-15-404.

B. Tuition and fees may not be charged for pre-literacy~~[-]~~or literacy[-, and adult high school general core] courses.

C. Tuition may not be charged for adult high school general core courses.

~~[E]D.~~ Tuition may ~~[not]~~be charged for career option[s] cluster[s] courses, ~~[subject to funds]~~when adequate state or local funds are not available.

~~[D]E.~~ Fees may be charged for consumable and nonconsumable items necessary for adult high school general core courses, career option[s] cluster[s] courses, [subject to funds available]and adult high school general core courses, consistent with the definitions under R277-733-1G and R277-733-1H.

~~[E]E.~~ To qualify for free adult high school completion course work beyond the general core, a student shall declare his intent to graduate from high school.

R277-733-9. Allocation of Adult Education Funds.

Adult education funds shall be allocated to school districts as follows:

(1) Adult basic ~~[skills]~~education formula (levels 0 through 8):

(a) ~~[b)]~~Base amount - 10 percent of appropriation to be distributed equally to each district;

(b) Latest official census data - 45 percent of appropriation determined by the following:

(i) individuals 18 years of age and older who speak a language other than English at home;

(ii) individuals 18 years of age and older with less than a ninth grade education.

(c) Enrollees - 20 percent of appropriation determined by the following:

(i) enrollees in English as a second language (ESL) courses (levels 0 through 2);

(ii) enrollees in adult basic education (ABE) courses (levels ~~[1]~~3 through 8).

(d) Student outcomes - 25 percent of appropriation shall be determined from among the following:

(i) number of clock hours of student attendance;

- (ii) number of jobs obtained by students;
- (iii) number of students that obtained a better job or salary increase;
- (iv) number of students removed from welfare;
- (v) number of students who completed English as a second language (ESL) and adult basic education (ABE) levels, or both;
- (vi) number of students who entered ~~[another]~~ a higher education/training program as approved by the USOE;
- (vii) number of credits awarded to students;
- (2) Adult high school allocation formula (levels 9 through 12):
 - (a) Six percent of the allocation ~~[is]~~ shall be distributed equally to the districts as a base.
 - (b) Of the amount remaining following distribution of the base amount, 50 percent shall be distributed to school districts according to each district's percentage of ungraduated adults determined by the latest official census; and
 - (c) 50 percent shall be distributed to school districts as determined by student participation as follows:
 - (i) enrollees in adult high school completion (levels 9 through 12) - 12.5 percent;
 - (ii) units of credit ~~[awarded]~~ earned through participation in approved adult high school completion courses - 12.5 percent;
 - (iii) high school diplomas awarded - 12.5 percent;
 - (iv) clock hours of student attendance - 12.5 percent.

KEY: adult education

~~[July 27, 1995]~~ **1999**

Notice of Continuation October 20, 1997

Art X Sec 3

53A-15-401

53A-1-402(1)

53A-1-401(3)

53A-15-404

53A-12-101



**Health, Health Systems Improvement,
 Health Facility Licensure
 R432-100-23
 Blood Services**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21796

FILED: 01/20/1999, 14:53

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The current rule requires either Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or American Association of Blood Banks (AABB) accreditation for hospital transfusion centers. This amendment allows hospitals to maintain Clinical Laboratory Improvement Amendments of 1988 (CLIA) certification or accreditation from any organization approved by Health Care Finance Administration (HCFA) for transfusion centers.

SUMMARY OF THE RULE OR CHANGE: Language is added to Subsection R432-100-23(3)(b) to permit hospitals to maintain CLIA certification or HCFA approved accreditation for hospital transfusion centers in lieu of JCAHO or AABB accreditation. Subsection R432-100-23(4) adds the requirement to have the current CLIA certification available for Department review.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The proposed amended rule imposes no anticipated aggregate cost or savings to the Department as the Department representatives will review the CLIA or College of American Pathology (CAP) report in the same manner that JCAHO or AABB reports are reviewed for compliance.

❖LOCAL GOVERNMENTS: This amended rule imposes no cost or savings to local governments as enforcement of this rule does not apply to local governments.

❖OTHER PERSONS: This amendment will result in savings to providers as some hospitals may meet the requirement through CLIA or CAP rather than through costly JCAHO or AABB accreditation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be some compliance cost to the Department to print and distribute the amended rule to the 39 licensed acute hospitals and other interested parties.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be some compliance cost to the Department to print and distribute the amended rule to the 39 licensed acute hospitals and other interested parties.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health
 Health Systems Improvement,
 Health Facility Licensure
 Cannon Health Building
 288 North 1460 West
 PO Box 142003
 Salt Lake City, UT 84114-2003, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or by Internet E-mail at dwynkoop@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: Rod L. Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

R432-100. General Hospital Standards.

R432-100-23. Blood Services.

(1) Hospital blood services are defined as follows:

(a) A "donor center" means a facility that procures, prepares, processes, stores and transports blood and blood components.

(b) A "transfusion service" means a facility that stores, determines compatibility, transfuses blood and blood components, and monitors transfused patients for any ill effect.

(c) A "blood bank" means a facility that combines the functions of a donor center and transfusion service within the same facility.

(2) The hospital blood service shall establish and maintain an appropriate blood inventory in the hospital at all times, have immediate access to community blood services or other institutions, or have an up-to-date list of donors, equipment and trained personnel to draw and process blood.

(a) Blood or blood components must be collected, stored, and handled in such manner that they retain potency and safety.

(b) Blood or blood components must be properly processed, tested, and labeled.

(3) If the hospital operates a donor center, transfusion service or a blood bank the donor center, transfusion service, or blood bank must be accredited.

(a) Hospital blood banks and donor centers must be accredited by the Food and Drug Administration (FDA).

(b) Hospital transfusion centers must be certified by the Health Care Financing Administration to meet Clinical Laboratory Improvement Amendments of 1988 (CLIA), or any accrediting organization approved by the Health Care Financing Administration [~~accredited by either the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the American Association of Blood Banks (AABB);~~]

(4) Results of the accrediting organization survey, or current CLIA certification must be available for Department review.

KEY: health facilities

~~[October 1, 1998]~~1999

26-21-5

Notice of Continuation December 15, 1997

26-21-2.1

26-21-20



**Health, Health Systems Improvement,
Health Facility Licensure**

R432-149

Intermediate Care Facility

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 21797

FILED: 01/20/1999, 14:53

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed as it is now redundant to the amended and reenacted R432-150 Nursing Care Facility rule. Intermediate care is included in R432-150 as a level of care available to licensed nursing care facilities that are subject to the requirements of R432-150.

(DAR Note: The repeal and reenact of R432-150 is under DAR No. 21752 in the January 15, 1999, issue of the *Utah State Bulletin*.)

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There will be some savings to the Bureau by eliminating the costs associated with maintaining and distributing this rule.

❖LOCAL GOVERNMENTS: This rule does not cause or result in any new changes in existing activities or duties for local government.

❖OTHER PERSONS: There should be minimal aggregate cost or savings to providers as the elimination of this rule requires currently licensed intermediate care providers to comply with the intermediate level of care requirements that have been incorporated into R432-150.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be some compliance costs to the Department to print, copy, and send the new R432-150 rule along with a notice of the repeal of R432-149 to the sixteen currently licensed intermediate care providers. There will be some compliance costs to providers to revise policies and procedures and to provide inservice training to staff on the change of rule categories.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact on business--Rod Betit.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health
Health Systems Improvement,
Health Facility Licensure
Cannon Health Building
288 North 1460 West
PO Box 142003
Salt Lake City, UT 84114-2003, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or by Internet E-mail at dwynkoop@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: Rod L. Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

[R432-149. Intermediate Care Facility.]

R432-149-1. Legal Authority:

— This rule is adopted pursuant to Title 26, Chapter 21.

R432-149-2. Purpose:

— The purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure rules. This rule sets standards for the operation of Intermediate Care Nursing Facilities:

R432-149-3. General Provisions:

— (1) Compliance:

— All intermediate nursing care facilities shall be in full compliance at the time of licensure:

— (2) Each facility shall comply with this rule, applicable sections of R432-150 and their own adopted policies and procedures:

— (3) All facilities shall comply with the most restrictive standard. (In addition Medicare and Medicaid certified facilities must comply with Title XVIII and Title XIX regulations.)

R432-149-4. Definitions:

— (1) See common definitions in R432-1-3:

— (2) See definitions R432-150-5:

R432-149-5. Scope of Services:

— (1) Intermediate Care Facility:

— An intermediate care facility (ICF) shall provide 24-hour inpatient care to residents who need licensed nursing supervision and supportive care, but who do not require continuous nursing care:

— (a) The facility shall provide at least the following:

— (i) Twenty-four hour nursing staff coverage:

— (A) In facilities with 35 beds or more, there shall be 16 hours of licensed nurse coverage of which eight hours must be on the day shift:

— (B) In facilities with 34 beds or less, there shall be eight hours of licensed nurse coverage on the day shift (see R432-149-23(6)).

— (ii) Provision for medical supervision;

— (iii) Provision for dietary services;

— (iv) Provision for social services;

— (v) Provision for recreational therapy:

— (b) The following services shall be provided as required in the resident care plan:

— (i) physical therapy;

— (ii) occupational therapy;

— (iii) speech therapy;

— (iv) respiratory therapy; and

— (v) other therapies as required:

— (2) Hospice Services:

— (a) See R432-750 for eligibility requirements:

— (b) Nursing care facilities are not required to obtain a Hospice license, but shall comply with the following requirements:

— (i) if, during the care planning process for a terminally ill resident, bereavement services, clergy services, hospice counseling services, or volunteer services are determined to be appropriate under a hospice program of care, the facility shall provide the identified services in accordance with the applicable requirements of R432-750-14;

— (ii) facility staff responsible for delivering the identified service shall be properly oriented and trained in the hospice concept and philosophy of care and the proper performance of assigned duties:

— (3) Intermediate nursing care facilities may provide respite services which shall comply with the following requirements:

— (a) The purpose of respite is to provide intermittent, time limited care to give primary caretakers relief from the demands of caring for a person:

— (b) Respite services may be provided at an hourly rate or daily rate, but shall not exceed 14 days for any single respite stay. Stays which exceed 14 days shall be considered a nursing facility admission, and shall be subject to the admission requirements of R432-149:

— (c) The facility shall coordinate the delivery of respite services with the recipient of services, case manager, if one exists, and the family member or primary caretaker:

— (d) The facility shall document the person's response to the respite placement and coordinate with all provider agencies to ensure an uninterrupted service delivery program:

— (e) The facility must complete the following:

— (i) A Level I Preadmission Screening upon the persons admission for respite services:

— (ii) A service agreement to serve as the plan of care. The service agreement shall identify the prescribed medications, physician treatment orders, need for assistance for activities of daily living and diet orders:

— (f) The facility shall have written policies and procedures available to staff regarding the respite care clients which include:

— (i) Medication administration;

— (ii) Notification of a responsible party in the case of an emergency;

— (iii) Service agreement and admission criteria;

— (iv) Behavior management interventions;

— (v) Philosophy of respite services;

— (vi) Post-service summary;

— (vii) Training and in-service requirement for employees; and

— (viii) Handling personal funds:

— (g) Persons receiving respite services shall be provided a copy of the Resident Rights documents upon admission:

— (h) The facility shall maintain a record for each person receiving respite services which includes:

— (i) Retention and storage of records shall comply with R432-150-27(2):

— (ii) Confidentiality and release of information shall comply with R432-150-27(3):

— (iii) The record shall contain the following:

— (A) Service agreement;

— (B) Demographic information and resident identification data;

— (C) Nursing notes;

- (D) Physician treatment orders;
- (E) Records made by staff regarding daily care of the person in service;
- (F) Accident and injury reports;
- (G) Post-service summary.
- (i) If a person has an advanced directive, a copy shall be filed in the record and staff informed.

R432-149-6. Licensure:

- (1) See R432-2. License Required.
- (2) R432-150-7(2).

R432-149-7. Construction:

- Refer to R432-5, Nursing Facility Construction.

R432-149-8. Licensee:

- (1) Each facility shall be operated by a licensee.
- (2) Duties and Responsibilities:
 - (a) The licensee shall be responsible for compliance with Utah law and licensure requirements and for the organization, management, operation, and control of the facility.
 - (b) Responsibilities shall include the following:
 - (i) Comply with all federal, state and local laws, rules and regulations;
 - (ii) Adopt and institute bylaws, policies and procedures relative to the general operation of the facility including the health care of the residents and the protection of their rights;
 - (iii) Adopt a policy that states the facility shall not discriminate on the basis of race, color, sex, religion, ancestry or national origin in accordance with Section 13-7-1;
 - (iv) Appoint, in writing, a qualified administrator, licensed pursuant to Title 58, Chapter 15;
 - (v) Secure and update contracts for professional and other services;
 - (vi) Receive and respond to the annual inspection by the Department.

R432-149-9. Administrator:

- (1) Qualifications:
 - (a) The administrator shall be licensed as a health facility administrator by the Utah Department of Commerce pursuant to Title 58, Chapter 15.
 - (b) The administrator's license shall be posted in a place readily visible to the public.
 - (c) The administrator may supervise no more than one nursing care facility.
 - (d) The administrator shall have sufficient freedom from other responsibilities to permit attention to the management and administration of the facility.
 - (e) The administrator shall designate, in writing, the name and title of the person who shall act as administrator in any temporary absence of the administrator. This person shall have the authority and freedom to act in the best interests of resident safety and well-being. It is not the intent of this paragraph to permit an unlicensed de facto administrator to supplant or replace the designated, licensed administrator.
- (2) The administrator's responsibilities include those found in R432-150-26(3):

R432-149-10. Medical Director:

- (1) Medical Director or Advisory Physician:
 - The administrator shall retain by formal agreement a licensed physician to serve as medical director or advisory physician according to resident and facility need.
- (2) Responsibilities:
 - The medical director or advisory physician shall have responsibility for the following:
 - (a) Develop or review written resident care policies and procedures including the delineation of responsibilities of attending physicians;
 - (b) Review resident care policies and procedures annually with the administrator;
 - (c) Serve as a liaison between resident physician and the administrator;
 - (d) Serve on the Infection Control Committee, Pharmacy Committee, Resident Care Policy Committee, and others as designated;
 - (e) Review incident and accident reports at the request of the administrator to identify health hazards to residents and employees;
 - (f) Act as consultant to the director of nursing service or the health services supervisor in matters relating to resident care policies.

R432-149-11. Staff and Personnel:

- (1) Organization:
 - The administrator shall employ personnel who are able and competent to perform their respective duties, services, and functions.
- (2) Qualifications and Orientation:
 - (a) The administrator, director of nursing, and department supervisors shall develop job descriptions for each position including job title, job summary, responsibilities, qualifications, required skills and licenses, and physical requirements.
 - (b) Periodic employee performance evaluations shall be documented.
 - (c) All personnel shall have access to facility policy and procedure manuals and other information necessary to effectively perform duties and carry out responsibilities.
 - (d) All personnel shall be licensed, certified or registered as required by the Utah Department of Commerce. A copy of the license, certification or registration shall be maintained for Department review.
 - (e) Failure to ensure that staff members are licensed, registered or certified may result in sanctions to the facility license.
- (3) Health Surveillance:
 - (a) See R432-150-26(6)(a) through (c).
 - (b) All dietary and other staff who handle food shall obtain a Food Handler's Permit from the local health department.
- (4) In-service Training:
 - (a) There shall be planned and documented in-service training for all facility personnel.
 - (b) The following topics shall be addressed annually:
 - (i) Fire prevention;
 - (ii) Review and drill of emergency procedures and evacuation plan;
 - (iii) Prevention and control of infections;

- (iv) Accident prevention and safety procedures including instruction in at least the following:
 - (A) Body mechanics for all employees required to lift, turn, position, or ambulate residents; and
 - (B) Proper safety precautions when floors are wet or waxed;
 - (v) Proper bath and shower temperatures;
 - (vi) Proper safety precautions in the use of heat lamps and hot water bottles;
 - (vii) Oral hygiene;
 - (viii) Training in rehabilitative nursing for all nursing personnel (see R432-149-23(13));
 - (ix) Training in the principles of Cardiopulmonary Resuscitation (CPR) for licensed nursing personnel and others as appropriate;
 - (x) Proper use and documentation of restraints;
 - (xi) Residents' Rights;
 - (xii) Reporting suspected or observed abuse, neglect and exploitation; and
 - (xiii) Confidentiality of resident information.
- (5) Nurse Aides:
- (a) Any person who provides nursing care including nurse aides and orderlies, shall work under the supervision of an RN or LPN, shall demonstrate competency and dependability in resident care and shall be registered as a health care assistant with the Utah Department of Commerce.
 - (b) Prior to employing an individual as a nurse aide, the administrator shall, by submitting the applicant's name and other identifying information to the Department of Education's statewide nurse aide registry, determine that a verified report of resident abuse, neglect, or exploitation by that person has not been recorded. If such a verified report exists, the applicant shall not be employed.

R432-149-12. Smoking Policy:

- (1) Smoking shall comply with Title 26, Chapter 38 the "Utah Indoor Clean Air Act" and the rules adopted there under and Section 31-4.4 of the 1991 Life Safety Code.
- (2) Residents, who were admitted to the facility prior to January 1, 1995, shall be permitted to smoke only where proper facilities are provided:

R432-149-13. Contracts and Agreements:

- (1) Contracts:
 - (a) The licensee shall secure and update contracts for required professional services not provided directly by the facility.
 - (b) Contracts shall document the following:
 - (i) The effective and expiration date of contract;
 - (ii) A description of goods or services provided by the contractor to the facility;
 - (iii) A statement that the contractor shall conform to the standards required by Utah law or rules;
 - (iv) A provision to terminate the contract with advance notice;
 - (v) The financial terms of the contract;
 - (vi) A copy of the business or professional license of the contractor;
 - (vii) A provision to report findings, observations, and recommendations to the administrator on a regular basis.
 - (c) Contracts shall be signed and dated and maintained for review by the Department.
- (2) Transfer Agreements:

- (a) The licensee shall maintain, where appropriate, a written transfer agreement with one or more hospitals or nearby health facilities to facilitate the transfer of residents and essential resident information:
 - (b) The transfer agreement shall include provisions for:
 - (i) Criteria for transfer;
 - (ii) Appropriate methods of transfer;
 - (iii) Transfer of information needed for proper care and treatment of the resident transferred;
 - (iv) Security and accountability of personal property of the resident transferred;
 - (v) Proper notification of hospital and responsible person before transfer;
 - (vi) The facility responsible for resident care in the process of transfer;
 - (vii) Resident confidentiality.

R432-149-14. Quality Assurance:

- (1) The administrator shall monitor the quality of services offered by the facility through the formation of a committee or committees that address infection control, pharmacy, resident care, and safety:
 - (a) Composition of the committee or committees shall conform to the requirements in R432-149-14.
 - (b) The committee or committees shall meet at least quarterly and keep minutes of the proceedings.
 - (c) The minutes shall be available for review by the Department.
- (2) See R432-150-29.
- (3) Resident Care Policy Committee:
 - (a) The Resident Care Policy Committee shall include the administrator, medical director or advisory physician and director of nursing service:
 - (b) Representatives from each service offered by the facility shall be available as consultants.
 - (c) The Committee shall:
 - (i) Review the facility's resident care policies at least annually, and make recommendations to the medical director/advisory physician;
 - (ii) Review and respond to recommendations of other facility quality assurance committees to improve resident care.
- (4) Safety Committee:
 - (a) The Safety Committee shall include the administrator, director of nursing services, head housekeeper, chief of facility maintenance, and others as designated by facility policy:
 - (b) The Committee shall:
 - (i) Review all incident and accident reports and recommend changes to the administrator to prevent or reduce their reoccurrence;
 - (ii) Review facility safety policies and procedures, at least annually, and make recommendations;
 - (iii) Establish a procedure to inspect the facility periodically for hazards. An inspection report shall be filed with the Safety Committee.

R432-149-15. Infection Control:

- See R432-150-25.

R432-149-16. Pharmacy Services:

- See R432-150-24.

R432-149-17. Emergency and Disaster.

- (1) General Provisions:
 - (a) The facility shall be responsible to assure the safety and well-being of their residents and make provisions for a safe environment in the event of an emergency or disaster.
 - (b) An emergency or disaster may include utility interruption (gas, water, sewer, fuel or electricity), explosion, fire, earthquake, bomb threat, flood, windstorm, epidemic, and injury.
- (2) See R432-150-28.
- (3) Emergency Plan:
 - (a) The facility's emergency plan shall delineate:
 - (i) The person or persons with decision-making authority for fiscal, medical, and personnel management;
 - (ii) On-hand personnel, equipment, and supplies and how to acquire additional help, supplies, and equipment after an emergency or disaster;
 - (iii) Assignment of personnel to specific tasks during an emergency;
 - (iv) Methods of communicating with local emergency agencies, authorities, and other appropriate individuals;
 - (v) The individuals who shall be notified in an emergency in order of priority. Telephone numbers shall be accessible to staff at each nurses' station;
 - (vi) Method of transporting and evacuating residents and staff to other locations;
 - (vii) Conversion of the facility for emergency use.
 - (b) There shall be documentation of emergency events and responses and a record of residents and staff evacuated from the facility to another location. Any resident emergency shall be documented in the resident's record.
 - (c) Simulated disaster drills shall be held semi-annually for all staff, in addition to fire drills.
 - (d) There shall be regular in-service training on disaster preparedness for all staff.
- (4) Fire Emergencies:
 - (a) The licensee and administrator shall develop a written fire emergency and evacuation plan in consultation with qualified fire safety personnel.
 - (b) An evacuation plan delineating evacuation routes, location of fire alarm boxes, fire extinguishers, and emergency telephone numbers of the local fire department shall be posted in exit access ways throughout the facility.
 - (c) The written fire or emergency plan shall include fire containment procedures and how to use the facility alarm systems and signals.
 - (d) At least 12 fire drills shall be held each year, one drill per shift per quarter. The actual evacuation of residents during a drill is optional.

R432-149-18. Resident Rights.

- (1) Written residents' rights shall be established, posted in areas accessible to residents, and made available to the resident, and the guardian, or responsible party.
- (2) A copy of the residents' rights document shall be available to the public and the Department upon request.
- (3) The facility shall ensure that each resident admitted to the facility has the right to:

- (a) Be informed, prior to or at the time of admission and during his stay, of residents' rights and of all rules and regulations governing resident conduct (see R432-150-9(1)(a) through (c).
- (b) Be informed, prior to or at the time of admission and during stay, of services available in the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate or not covered under Titles XVIII or XIX of the Social Security Act.
- (c) Be informed by a physician or practitioner his total health status, including:
 - (i) his medical condition, unless medically contraindicated;
 - (ii) See R432-150-9(4)(a) through (c);
- (d) Be transferred or discharged only for medical reasons, or personal welfare or that of other residents, or for nonpayment for the stay, and to be given reasonable advance notice to ensure orderly transfer or discharge; such actions shall be documented in the person's health record;
- (e) Be encouraged and assisted throughout the period of stay to exercise his rights as a resident and as a citizen, and to voice grievances and recommend changes in policies and services to facility staff and outside representatives of personal choice, free from restraint, interference, coercion, discrimination, or reprisal;
- (f) Manage personal financial affairs, or to be given at least a quarterly accounting of financial transactions made on his behalf should the facility accept his written delegation of this responsibility;
- (g) Be free from mental and physical abuse, and to be free from chemical and physical restraints except as authorized in writing by a physician or practitioner for a specified and limited period of time, or when necessary to protect the resident from injury to himself or to others;
- (h) Be assured confidential treatment of personal and medical records and to approve or refuse their release to any individual outside the facility, except in the case of transfer to another health facility, or as required by law or third party payment contract;
- (i) Be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs;
- (j) Not be required to perform services for the facility that are not included for therapeutic purposes in the plan of care;
- (k) Associate and communicate privately with persons of choice, and to send and receive personal mail unopened;
- (l) Meet with social, religious, and community groups and participate in activities at his discretion;
- (m) Retain and use his personal clothing and possessions as space permits, unless to do so would infringe upon rights of other residents;
- (n) If married, to be assured privacy for visits by the spouse and if both are residents in the facility, to be permitted to share a room;
- (o) Have members of the clergy admitted at the request of the resident or person responsible at any time;
- (p) Allow relatives or responsible persons to visit critically ill residents at any time;
- (q) Be allowed privacy for visits with family, friends, clergy, social workers or for professional or business purposes; and
- (r) Have access to telephones both to make and receive confidential calls;

— (4) Safeguards for Residents' Monies and Valuables:
 — Each facility to whom a resident's money or valuables have been entrusted according to R432-149-18(2)(f) shall comply with the following:

— (a) No licensee or facility staff shall use residents' monies or valuables as his own or mingle them with his own. Residents' monies and valuables shall be separated and intact and free from any liability that the licensee incurs in the use of his own or the institution's funds and valuables.

— (b) Each licensee shall maintain adequate safeguards and accurate records of residents' monies and valuables entrusted to the licensee's care:

— (i) Records of residents' monies which are maintained as a drawing account shall include a control account for all receipts and expenditures, an account for each resident and supporting vouchers filed in chronological order.

— (ii) Each account shall be kept current with columns for debits, credits, and balance:

— (iii) Records of residents' monies and other valuables entrusted to the licensee for safekeeping shall include a copy of the receipt furnished to the resident or to the person responsible for the resident:

— (c) Residents' monies not kept in the facility shall be deposited within five days of receipt of such funds in an interest-bearing account in a local bank or savings and loan association authorized to do business in Utah, the deposits of which shall be insured:

— (d) A person, firm, partnership, association or corporation which is licensed to operate more than one health facility shall maintain a separate account for each such facility and shall not commingle resident funds from one facility with another.

— (e) When the amount of residents' money entrusted to a licensee exceeds \$150, all money in excess of \$150 shall be deposited in an interest-bearing account as specified in R432-149-18(4)(c) and (d):

— (f) When a resident is discharged, all money and valuables of that resident which have been entrusted to the licensee shall be surrendered to the resident in exchange for a signed receipt. Money and valuables kept within the facility shall be surrendered upon demand and those kept in an interest-bearing account shall be made available within three working days:

— (g) Within 30 days following the death of a resident, except in a coroner or medical examiner case, all money and valuables of that resident which have been entrusted to the licensee shall be surrendered to the person responsible for the resident or to the executor or the administrator of the estate in exchange for a signed receipt. When a resident dies without a representative or known heirs, immediate written notice thereof shall be given by the facility to the State Medical Examiner and the registrar of the local probate court and a copy of said notice shall be filed with the Department.

R432-149-19. Admission and Discharge:

— Each facility shall develop written admission and discharge policies that shall be available to the public upon request:

— (1) Admission Policies:

— (a) Residents shall be accepted for treatment and care only if the facility is properly licensed for the treatment required and has the staff and resources to meet the medical, physical, and emotional needs of the resident:

— (b) Residents shall be admitted by, and remain under the care of, a physician or individual licensed to prescribe care for the resident:

— (i) There shall be a written physician order or a documented telephone order for admission and care of the resident at the time of admission:

— (ii) A resident shall be assessed within seven days of admission. Admission policies shall define the assessment process including identifying the resident's medical, nursing, social, physical, and emotional needs:

— (c) A physical examination shall be performed, in accordance with R432-149-22(5)(a), by the attending physician or by an individual licensed and so authorized:

— (d) Upon admission, a brief narrative of the resident's condition including temperature, pulse, respiration, blood pressure, and weight shall be documented. The admission record shall be completed according to R432-150-27:

— (e) The resident shall be informed of his rights as a resident. A written copy of the facility's residents' rights shall be explained and given to the resident. If the resident is unable to comprehend these rights a written copy shall be given to the guardian or responsible party. The whole process shall be documented in the resident's record:

— (2) Discharge Policies:

— (a) The resident shall be discharged when the facility is no longer able to meet the resident's needs:

— (b) There shall be a physician's order for resident discharge by the physician or practitioner. In cases of discharge against medical advice, the attending physician or practitioner shall be contacted and the response documented:

— (c) Discharge planning shall be coordinated with the resident, family and other appropriate parties or agencies who are able to meet the resident's needs:

— (d) The resident shall have 30 days advance notice of discharge except in cases of medical emergency:

— (e) A discharge summary containing a brief narrative of the resident's diagnoses, course of treatment, conditions, and final disposition shall be documented in the medical record:

R432-149-20. Pets in Long-Term Care Facility:

— See R432-150-30:

R432-149-21. Volunteers:

— (1) Volunteers may be utilized in the daily activities of the facility but shall not be included in the facility's staffing plan in lieu of facility employees:

— (2) Volunteers shall be supervised and familiar with resident's rights and the facility's policies and procedures:

— (3) Volunteers who provide personal care to residents shall be screened and under the direct supervision of a qualified employee:

R432-149-22. Physician Services:

— (1) General Requirements:

— (a) Each resident in need of medical services shall be under the care of a physician or practitioner licensed to practice in Utah:

— (b) Each resident shall be permitted to choose a personal physician or medical practitioner:

— (c) Upon admission, each resident shall have orders from a personal physician or licensed practitioner for treatment and care.

— (2) Physician Responsibilities:

— (a) Each resident shall have a medical history and pertinent physical examination signed and dated by the attending physician or individual authorized and licensed to sign.

— (i) Physical examinations for residents requiring intermediate level care shall be completed 30 days before or seven days after admission.

— (ii) For residents admitted to the facility directly from a hospital, the hospital's record of history and physical examination may be substituted for R432-149-22(5)(a).

— (b) A physician or licensed practitioner shall evaluate each resident at least once during the first 60 days of residency;

— (c) Subsequently, the attending physician or licensed practitioner shall examine the resident whenever necessary but at least every other month, at approximately 60 day intervals, unless the physician or practitioner documents in the resident record why the resident does not need to be examined this frequently.

— (d) Physician and practitioner visits and evaluations shall be documented in the resident's record.

— (e) The physician or practitioner shall renew medication and treatment orders at least quarterly for intermediate residents.

— (3) Policies and Procedures:

— There shall be policies and procedures that provide for:

— (a) Access to physician and practitioner services in case of medical emergency;

— (b) Names and telephone numbers of on-call physicians and practitioners at each nurses' station;

— (c) Alternate physician or practitioner coverage and documentation when the attending physician is not available;

— (d) Re-evaluation of the resident and review of care and treatment orders when there is a change of attending physician or practitioner. This shall be completed within 15 days of such change.

— (4) Non-Physician Practitioners:

— The following professionals may render medical services to residents in the facility, as permitted by state law:

— (a) Nurse practitioners licensed to practice in Utah;

— (b) Physician assistants working under the responsibility and supervision of a physician licensed in Utah and performing only those selected diagnostic and therapeutic tasks identified in Section 58-12-77.

— (5) Physician Orders:

— (a) The following items shall be part of the treatment record and shall be signed and dated by a physician or practitioner:

— (i) Admission orders for a resident admitted to an intermediate care facility;

— (ii) Medication, treatment, therapy, laboratory, and diet orders;

— (iii) History and physical examinations;

— (iv) Discharge orders;

— (v) Progress notes;

— (vi) Discharge summary;

— (vii) All telephone orders shall be recorded immediately in the residents record and shall include date and time of order and the receiver's signature and title. The order shall be countersigned and dated within 15 days by the person who prescribed the order.

— (b) The attending physician shall complete the resident's medical record within 30 days of the resident's discharge, transfer, or death.

R432-149-23. Nursing Services.

— (1) Organization:

— (a) Each facility shall provide nursing services commensurate with the needs of the residents served:

— (b) All nursing personnel shall maintain current Utah licenses to practice nursing:

— (2) Direction - Intermediate Care Facility:

— (a) The administrator of each intermediate care facility shall employ and designate, in writing, a health-services supervisor who shall work generally full-time on the day shift:

— (i) The health-services supervisor may be either a registered nurse or a licensed practical nurse. Facilities with more than 60 residents or who have an intense resident care requirements shall have an experienced registered nurse for the position:

— (ii) Facilities who employ a licensed practical nurse as the health-services supervisor shall retain, by written contract, a registered nurse consultant who shall meet regularly with the health-services supervisor:

— (b) When a health-services supervisor serves a dual role as the administrator of a facility of 35 or more beds, a licensed nurse shall be employed to relieve the health-services supervisor of direct nursing responsibilities:

— (c) The health-services supervisor shall designate, in writing, a licensed nurse to be in charge during any temporary absence of the health-services supervisor:

— (3) Responsibilities of Director of Nursing Services or the Health-Services Supervisor:

— The director of nursing services or the health-services supervisor shall be responsible to ensure that the following duties are carried out:

— (a) Implement physicians' orders;

— (b) Plan and direct the delivery of nursing care, services, treatments, procedures, and other services to assure that each resident's needs are met;

— (c) Review each resident's health care needs, orders for care and treatment, and incorporate these into a resident care plan;

— (d) Review the medication system for completeness of information, accuracy in the transcription of physician's orders, and adherence to stop-order policies;

— (e) Instruct nursing staff on the legal requirements of charting and ensure that nurse's notes describe the care rendered and include the resident's response;

— (f) Supervise nursing staff to assure they perform restorative measures in their daily care of residents;

— (g) Teach and coordinate rehabilitative nursing to promote and maintain optimal physical and mental functioning of the resident in accordance with the resident-care plan;

— (h) Inform the administrator and attending physician of significant changes in the resident's health status;

— (i) Plan with the physician, family, and health-related agencies for the care of the resident upon discharge;

— (j) Develop, with the administrator, a nursing services procedure manual including all procedures practiced in the facility;

- (k) Coordinate resident services through quality assurance and resident care review committees;
 - (l) Respond to the pharmacist's monthly medication report (see R432-149-16);
 - (m) Assign a number of qualified supervisory and supportive nurses and aides throughout a 24-hour period to assure that the health needs of residents are met;
 - (n) Develop written job descriptions for all levels of nursing personnel and orient all new nursing personnel to the facility, and their duties and responsibilities;
 - (o) Complete written performance evaluations for each member of the nursing staff at least annually. Documentation of the evaluation shall be available for Department review;
 - (p) Plan and conduct documented training programs for nursing staff.
- (4) Responsibilities of Nurse Consultants to the LPN Health Services Supervisor in Intermediate Care Facilities:
- (a) The registered nurse consultant shall have responsibilities clearly outlined in the written agreement with the facility.
 - (b) The registered nurse consultant shall provide consultation based on the facility's licensed bed capacity as follows:

TABLE 1
REGISTERED NURSE CONSULTATION

Number of Beds	Hours of Required RN Consultation
1-34	4 hours per month
35 and over	4 hours per week

- (c) Each consultation visit shall be documented.
 - (d) Consultants shall provide assistance in at least the following:
 - (i) Assist in the development and annual review of nursing policies and procedures;
 - (ii) Review and evaluate health services to ensure that resident needs are met;
 - (iii) Assist in the development and review of resident care and habilitation plans as appropriate.
- (5) Nursing Staff Hours:
- (a) There shall be trained nursing staff to meet resident care needs:
 - (i) An intermediate care facility with 35 beds or more shall provide at least 16 hours of licensed nurse coverage seven days a week. There shall be eight hours of licensed nurse coverage on the day shift. Licensed nurses shall administer prescribed medications and treatments as ordered;
 - (ii) An intermediate care facility with 34 beds or less shall provide eight hours of licensed nurse coverage seven days a week on the day shift. The following shall also apply:
 - (A) The facility shall be staffed according to the standards outlined in R432-149-23(6);
 - (B) All prescribed medications shall be administered by licensed personnel;
 - (C) A licensed nurse shall be available or on-call to respond to an emergency;
 - (D) If the health services supervisor is a licensed practical nurse, the nurse consultant shall be contacted within seven days of a new admission, to perform the initial assessment;
 - (b) Schedules shall be maintained to indicate the hours worked in each unit by regular and relief RNs, LPNs, and Aides.

- The facility shall retain staff schedules and payroll records for at least a 12-month period for Department review.
- (6) Required Hours of Nursing Care:
 - (a) The facility shall provide the nursing care required by each resident. Aides performing housekeeping, dietary or other functions shall maintain time records reflecting the time spent in nursing care and other tasks. The time spent in other tasks shall not be counted in the nursing or direct care staffing ratios;
 - (b) The following table indicates the minimum acceptable hours of nursing care per resident. Additional staff may be necessary to ensure there is adequate coverage in the event of staff illness or turnover or sudden increase in resident population or similar events:

TABLE 2
HOURS OF NURSING CARE PER INTERMEDIATE LEVEL RESIDENT

Type of Resident	Total Nursing Hours per resident per 24 hrs. (RN + LPN + Aide).	Licensed Nursing Hours per resident per 24 hrs. (RN + LPN only).
INTERMEDIATE	2.0 (120 minutes)	20% (24 minutes) (a)

- (a) May not include director of nursing or health services supervisor in a facility with a resident census over 60.
- (7) Nursing Services:
- (a) The nursing services procedures manual shall be reviewed and updated annually by the director of nursing services or the health services supervisor and shall be accessible to all nursing staff and available for review by the Department;
 - (b) The manual shall address the following procedures:
 - (i) Bathing;
 - (ii) Positioning;
 - (iii) Enema administration;
 - (iv) Decubitus care;
 - (v) Bed making;
 - (vi) Infection Control, including handwashing, staff illness, and isolation procedures in resident rooms, and laundry;
 - (vii) Urine testing;
 - (viii) Laboratory requisitions;
 - (ix) Telephone orders;
 - (x) Charting;
 - (xi) Rehabilitative nursing;
 - (xii) Resident diets and feeding;
 - (xiii) Oral hygiene and denture care;
 - (xiv) Medication administration (by licensed nurses or physicians only);
 - (xv) Oral suctioning (by licensed nurses or physicians only);
 - (xvi) Tube feeding (by licensed nurses or physicians only);
 - (xvii) Tracheotomy care (by licensed nurses, physicians or appropriately trained personnel such as respiratory therapists only);
 - (xviii) Naso-gastric tube insertion and care (by registered nurses, LPNs, with appropriate training, or physicians only);
 - (xix) Intravenous (IV) therapy, (by registered nurses, LPNs, with appropriate training, or physicians only) if offered by facility;
- (8) General Resident Care Policies:
- (a) Each resident shall be treated as an individual with dignity and respect in accordance with Residents' Rights (R432-149-18). Each facility shall develop and implement resident care policies to

be reviewed annually by the director of nursing services or by the health-services supervisor.

—(b) These policies shall address at least the following:

—(i) Each resident, upon admission, shall be oriented to the facility, services, and staff.

—(ii) A narrative of the resident's condition including temperature, pulse, respiration, blood pressure, weight, and height shall be recorded in the resident's health record upon admission. Thereafter, the resident's weight and vital signs shall be taken and recorded as ordered by the attending physician or as established by the nursing care plan.

—(iii) Each resident shall receive care to ensure good personal hygiene. This care shall include bathing, oral hygiene, shampoo and hair care, shaving or beard trimming, finger and toe nail care.

—(iv) Each resident shall be encouraged or assisted to achieve and maintain the highest level of functioning and independence. This shall include teaching residents self-care, assisting residents to adjust to their disabilities, prosthetic devices, and directing residents in prescribed therapy exercises.

—(v) Each resident shall receive preventive care and treatment for decubiti, contractures, and deformities.

—(vi) Each resident shall receive good nutrition and adequate fluids for hydration:

—(A) All residents shall have ready access to water and drinking utensils:

—(B) Residents unable to feed themselves shall be fed in a prompt orderly manner:

—(C) Residents shall be supplied with special eating and drinking utensils as needed.

—(vii) Visual privacy shall be provided for each resident during treatments and personal care:

—(viii) Resident call lights and signals shall be answered promptly:

—(ix) Humidifier bottles on oxygen equipment shall be maintained in an aseptic manner:

—(9) Resident Care Plans:

—(a) A written care plan coordinated with nursing and other services shall be initiated for each resident upon admission which conforms to 42 CFR 483.20 Resident Assessment, 1993 edition:

—(b) The resident care plan shall include the following information:

—(i) Name, age, and sex of resident;

—(ii) Admitting diagnosis and related problems;

—(iii) The name of attending physician or practitioner;

—(iv) Date of admission:

—(c) The resident care plan shall outline the course of treatment for the resident including:

—(i) Measurable objectives and goals of treatment, time frames for accomplishment or reevaluation, and the professional discipline responsible for each element of care;

—(ii) Diet needs;

—(iii) A discharge plan:

—(d) The resident care plan shall be developed, reviewed, and revised, through resident care conferences with all professionals involved in the resident's care. Such conferences shall be documented:

—(i) The initial resident care plan shall be developed from admission orders and other information obtained at, or prior to,

admission. The physician's admission orders shall be implemented at the time of admission:

—(ii) The resident care plan shall be completed within seven days of admission:

—(iii) The resident care plan shall be reviewed and revised as required by the resident's condition but at least quarterly (at approximately 90-day intervals) for residents:

—(e) Each resident's care shall be given in accordance with the resident care plan:

—(f) The resident care plan shall be available to all personnel who provide care for the resident:

—(g) The resident and his family or responsible party shall be required to participate in the development and review of the plan of care:

—(h) Upon transfer or discharge of the resident, relevant information from the resident care plan shall be available to the receiving institution or agency:

—(i) Each month, at approximately 30-day intervals, a licensed nurse shall document in the resident's record a summary of the resident's condition based on the needs identified in the resident's care plan:

—(10) Notification of Physician:

—(a) The attending physician or practitioner shall be notified promptly upon:

—(i) Admission of resident;

—(ii) A sudden or marked adverse change in the resident's signs, symptoms, or behavior;

—(iii) Any significant weight change in a 30-day period, unless the resident's physician stipulates another parameter in writing;

—(iv) Any adverse response or reaction by a resident to a medication or treatment;

—(v) Any error in medication administration or treatment;

—(vi) Discovery of a decubitus ulcer, the beginning of treatment for decubitus ulcer, and if treatment is not effective:

—(b) The physician or practitioner shall be notified if the facility is unable to obtain or administer drugs, equipment, supplies, or services promptly as prescribed. If the attending physician, practitioner, or designee is not readily available, emergency medical care shall be provided. The telephone numbers of the emergency care physician or practitioner shall be posted at nurses' stations:

—(c) All attempts to notify physicians shall be noted in the resident's health record including the time and method of communication and the name of the person acknowledging contact, if any:

—(11) Notification of Family:

—(a) The person in charge shall promptly notify the resident's family or guardian of an injury or adverse change in the resident's condition after the first attempt to notify the physician:

—(b) This notification shall be documented in the resident record:

—(12) Measures to Reduce Incontinence:

—(a) Measures shall be implemented to prevent and reduce incontinence for each resident:

—(b) There shall be a written assessment by a licensed nurse to determine the resident's ability to participate in a bowel and bladder management program:

—(i) An individualized plan for each incontinent resident shall be established and implemented within two weeks of the initial assessment:

— (ii) The individualized plan shall become a part of the resident care plan.

— (c) During the resident's first month in the bowel and bladder management program, a licensed nurse shall evaluate the resident's performance weekly. This information shall be recorded in the resident's record.

— (d) Fluid intake and output shall be recorded for each resident receiving IV therapy and for other residents as ordered by the physician or Director of Nursing Services. IV therapy is not permitted in Intermediate Care Nursing Facilities.

— (i) Intake and output records shall be evaluated at least weekly and each evaluation shall be included in the resident's record;

— (ii) Intake and output orders shall be evaluated periodically.

— (13) Rehabilitative Nursing:

— (a) Nursing personnel shall be trained in rehabilitative nursing. Rehabilitative nursing services shall be performed daily for residents who require such services and documented in the resident's record.

— (b) Rehabilitative services shall be provided to maintain function or to improve the resident's ability to carry out the activities of daily living, services may include at least the following:

— (i) Turning and positioning residents;

— (ii) Assisting residents to ambulate;

— (iii) Improving residents range of motion;

— (iv) Restorative feeding;

— (v) Bowel and bladder retraining;

— (vi) Teaching residents self care;

— (vii) Teaching residents transfer skills;

— (viii) Teaching residents self-administration of medications;

— (ix) Taking measures to prevent secondary disabilities such as contractures and decubitus ulcers.

— (14) Administration of Medication and Treatments:

— (a) No medication or treatment shall be administered except on the order of a person lawfully authorized to give such order.

— (b) Medications and treatments shall be administered as prescribed and according to facility policy.

— (c) All medications and treatments shall be administered by licensed medical or licensed nursing personnel.

— (d) Monitoring of vital signs and other observations done in conjunction with the administration of medication shall be done as ordered by the physician or practitioner and as indicated by accepted professional practice.

— (e) Preparation of doses for more than one scheduled administration time shall not be permitted.

— (f) Medication shall be administered when ordered or as soon thereafter as possible but no more than two hours after dose has been prepared. Medication shall be administered by the same person who prepared the dose for administration.

— (g) Residents shall be identified prior to the administration of any drug or treatment.

— (h) No medication shall be used for any resident other than the resident for whom it was prescribed.

— (i) All nursing personnel shall comply with the provisions for administration of medication according to standards and ethics of the professions.

R432-149-24. Restraint and Behavior Management Policy:

— See R432-150-11.

R432-149-25. Equipment:

— (1) The facility shall provide equipment in good working order to meet the needs of residents. Disposable and single-use items shall be properly disposed of after use.

— (2) Nursing equipment shall include at least the following:

— (a) Self-help ambulation devices such as wheel chairs, walkers, and other devices for temporary or emergency use. Facility policy may require that residents obtain their own equipment for long-term use;

— (b) Blood pressure apparatus and stethoscopes;

— (c) Thermometers;

— (d) Weight scales to weigh all residents;

— (e) Bedpans, urinals, and equipment to clean them;

— (f) Water pitchers, drinking glasses, and resident gowns;

— (g) Catheter equipment (sterile catheters, syringes, irrigating solutions);

— (h) Drug service trays or mobile medication carts;

— (i) Emergency oxygen including equipment for its administration;

— (j) Emesis basins;

— (k) Linens including sheets, blankets, bath towels, and washcloths for not less than three complete changes of the facility's licensed bed capacity. There shall be a bedspread for each resident bed;

— (l) Personal items including toothbrush, comb, hair brush, soap for bathing and showering, denture cups, shaving apparatus, and shampoo;

— (m) An individual chart for each resident;

— (n) Flashlights;

— (o) Gloves (sterile and unsterile);

— (p) Ice bags;

— (q) Intravenous therapy supplies, if such service is provided.

R432-149-26. Dietary Services:

— See R432-150-20.

R432-149-27. Social Services:

— (1) The facility shall make provision for social services which assist staff, residents, and residents' families to understand and cope with the residents' social, emotional, and related health problems.

— (2) See R432-150-15.

R432-149-28. Recreation and Activity Services:

— (1) In each facility, there shall be an organized activity program for individual residents and groups of residents.

— (2) Participation:

— (a) Residents may be encouraged but not required to participate in recreational activities.

— (b) The physician shall indicate in the resident record if participation in recreational activities is contraindicated by the resident's medical condition.

R432-149-29. Laboratory Services:

— (1) The facility shall make provision for laboratory services (See R432-150-26(11)).

— (2) If the facility provides its own laboratory service, these services shall comply with R432-100-26, Laboratory and Pathology Services in the General Hospital Facility Rules.

— (3) Construction and equipment standards shall conform with R432-5.

— (4) If the facility does not provide laboratory services directly, provision shall be made for such services:

— (a) The facility shall have a written agreement with a provider which documents services to be provided:

— (b) Reports or results shall be reported promptly to the attending physician and documented in the resident's medical record:

— (c) The facility shall make provision for the transportation of the resident for tests or services:

— (d) The facility shall provide trained personnel and space for tests and treatment as set forth in the agreement.

R432-149-30. Radiology Services:

— (1) If the facility provides its own radiology services, these shall comply with R432-100-29 Radiology Services in the General Hospital Facility Rules:

— (2) Construction and equipment standards shall conform with R432-4:

— (3) If the facility does not provide laboratory services directly, provision shall be made for such services:

— (a) The facility shall have a written agreement with a provider which documents services to be provided:

— (b) Reports or results shall be reported promptly to the attending physician and documented in the resident's medical record:

— (c) The facility shall make provision for the transportation of the resident for tests or services:

— (d) The facility shall provide trained personnel and space for tests and treatment as set forth in the agreement.

R432-149-31. Dental Services:

— (1) The facility shall have a policy governing regular and emergency dental care for residents:

— (2) Such provisions shall include:

— (a) Development of oral hygiene policies and procedures with input from dentists;

— (b) Presentation of oral hygiene in-service programs by knowledgeable persons;

— (c) Development of referral service for those residents who do not have a personal dentist;

— (d) Arrangement for transportation to and from the dentist's office.

R432-149-32. Specialized Rehabilitative Services:

— (1) Organization:

— (a) A facility that provides specialized rehabilitative services may offer these services directly or through agreements with outside agencies or qualified therapists:

— (b) If the facility does not provide specialized rehabilitative services, the facility shall not admit nor retain residents in need of such services:

— (2) Personnel:

— (a) Specialized rehabilitative services shall be provided by qualified licensed therapists in accordance with Utah law and accepted practices:

— (b) Therapists shall offer a full-scope of services to the resident:

— (c) All therapy assistants shall be qualified and shall work under the direct supervision of the licensed therapist at all times:

— (d) Speech pathologists shall have a "Certificate of Clinical Compliance" from the American Speech and Hearing Association:

— (3) Policies and Procedures:

— (a) Services shall be provided only on the written order of an attending physician:

— (b) Safe and adequate space and equipment shall be available commensurate with the needs of the resident:

— (c) A plan of treatment shall be initiated by an attending physician and developed by the therapist in consultation with the nursing staff:

— (d) An initial progress report shall be submitted to the attending physician two weeks after treatment is begun or when specified by the physician:

— (e) The physician and therapist shall review and evaluate the plan of treatment monthly unless the physician recommends an alternate schedule in writing:

— (f) There shall be documentation in the resident record of the specialized plan of treatment.

R432-149-33. Medical Records:

— See R432-150-27.

R432-149-34. Housekeeping:

— (1) There shall be housekeeping services to maintain a clean, sanitary, and healthy environment in the facility:

— (2) If the facility contracts for housekeeping services with an outside agency, there shall be a signed and dated agreement that details all services provided. The housekeeping service shall meet all the requirements of section R432-150-16(2):

R432-149-35. Laundry Services:

— See R432-150-32.

R432-149-36. Maintenance Services:

— See R432-150-33.

KEY: health facilities

March 5, 1996 **26-21-5]**



Health, Health Systems Improvement,
Primary Care and Rural Health

R434-10

Physicians and Physician Assistants
Grant and Scholarship Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21802

FILED: 01/22/1999, 09:19

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The statutory committee and Department staff have re-reviewed all sections of the rule and have suggested changes to improve the understandability of the rule.

SUMMARY OF THE RULE OR CHANGE: The general consensus of the statutory committee and Department staff was to consolidate and streamline this rule by eliminating redundancies in the rule, combining related sections of the rule, eliminating conflicting language in the rule, and adding clarifying language to the rule. Changes to rule include: changing term designated site to eligible site to clarify; adding the names of the medical specialties that are eligible for the program; clarifying extension language; updating site determination section to remove criteria not used in determination and deleting ratios listed; and adding clarifying language of what an eligible bona fide loan is.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 9

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Cost to Utah Department of Health to revise, print, and distribute the new rules to health care providers and rural medically underserved sites throughout the state. Changes to this rule do not require an increased workload to the Department. This rule change imposes no new requirements on the state budget.

❖LOCAL GOVERNMENTS: This rule change imposes no new requirements on local governments. Changes to this rule do not require an increased workload or cost to local governments.

❖OTHER PERSONS: Changes to this rule do not require an increased workload or cost of other persons. There is an anticipated savings to rural medically underserved sites who opt to participate in this program, and long-term impact is expected due to retention of health care providers at those participating rural medically underserved sites. Normal costs for recruiting and retaining health care providers should remain the same, or lessen with time. This rule change imposes no new requirements on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with affected persons. This rule change imposes no new requirements on the state budget, local governments, or other persons. There is anticipated savings to rural medically underserved sites who opt to participate in this program, as set forth under "Other persons."

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: My comments to this rule as originally published in the November 1, 1998, *Bulletin* have not changed, except that the rewriting should make the rule more understandable and easier to administer. My original comments were: This proposed rule change results from the five-year review process. Experience with this scholarship program to increase access to quality medical care in rural areas, has shown that the changes in the rule dealing with sanctions for violating the scholarship agreement are necessary to assure the continued financial

viability of this program. Applicants are also required to have approval on the designated site, which will give the program ability to better distribute scholarship where the greatest need exists. I agree that costs to business will be minimal and are amply justified by the benefits to the program and the community.

(DAR Note: The previous amendment to R434-10 was published under DAR No. 21532 in the November 1, 1998, issue of the *Utah State Bulletin*, and is effective as of December 14, 1998.)

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health
Health Systems Improvement,
Primary Care and Rural Health
Cannon Health Building
288 North 1460 West
PO Box 142005
Salt Lake City, UT 84114-2005, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Erin L. Olsen at the above address, by phone at (801) 538-6113, by FAX at (801) 538-6387, or by Internet E-mail at elolsen@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: Rod Betit, Executive Director

**R434. Health, Health Systems Improvement, Primary Care and Rural Health Systems.
R434-10. Physicians and Physician Assistants Grant and Scholarship Program.**

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R434-10-2. Definitions.

The definitions as they appear in Section 26-9-202 apply. In addition:

- (1) "Approved Site" means an eligible ~~designated~~ site which is approved by the committee pursuant to Subsection 26-9-204 (2)(a).
- (2) "Department" means the Utah Department of Health.
- (3) "Designated health professional shortage area" means a service area designated by the Secretary of Health and Human Services as having insufficient primary care physicians.
- (4) "Eligible ~~Designated~~ Site" means a hospital or medical clinic ~~[which meets] that the committee has designated as meeting the eligibility criteria established by the committee and is in a medically underserved rural area pursuant to Subsection 26-9-202 (4).~~
- (5) "Grant" means a grant of funds under a contract to defray educational loans.

(6) "Obligated service" means service in a medical specialty needed at an approved site for a minimum of two years or a longer period to which the applicant agrees in a grant or scholarship contract.

(7) "Postgraduate training" means medical training in one of the following:

(a) a postgraduate training program in the United States accredited by the Accreditation Committee on Graduate Medical Education;

(b) a postgraduate training program in the United States accredited by the American Osteopathic Association Bureau of Professional Education;

(c) a postgraduate training program in Canada accredited by the Royal College of Physicians and Surgeons of Canada.

(8) "Physician Scholarship" means an award of money for educational expenses given to a person under a contract where the person agrees to accept the award in exchange for practicing medicine in a medical specialty needed, as determined by the committee, in an approved site following completion of postgraduate training.

(9) "Physician Assistant Scholarship" means an award of money for educational expenses given to a person under a contract where the person agrees to accept the award in exchange for practicing medicine as a physician assistant in an approved site.

R434-10-3. Physician Grant Administration.

(1) The department may provide a grant to repay loans taken for physician educational expenses.

(2) The physician grant recipient may not enter into any other similar contracts until he satisfies the obligated service described in the grant.

(3) For a physician grant recipient with a four year contract the state shall provide 20% of the grant at the completion of the first three months, 20% of the grant at the completion of year one, 20% at the completion of year two, 20% at the completion of year three, and 20% at the completion of year four.

(4) For a physician grant recipient with a three year contract the state shall provide 25% of the grant at the completion of the first three months, 25% of the grant at the completion of year one, 25% at the completion of year two, and 25% at the completion of year three.

(5) For a physician grant recipient with a two year contract the state shall provide 33% of the grant at the completion of the first three months, 33% of the grant at the completion of year one, and 34% at the completion of year two.

(6) The physician grant recipient must obtain an unrestricted license to practice as a physician in Utah before his first day of practice under the grant contract.

(7) The physician grant recipient must obtain approval from the committee prior to beginning obligated service at an eligible [~~designated~~] site.

(8) A physician grant recipient must obtain approval prior to changing the approved site where he fulfills his obligated service.

R434-10-4. Physician Assistant Grant Administration.

(1) The department may provide a grant to repay loans taken for physician assistant educational expenses.

(2) The physician assistant grant recipient may not enter into any other similar contracts until he satisfies the obligated service described in the grant.

(3) For a physician assistant grant recipient with a four year contract the state shall provide 20% of the grant at the completion of the first three months, 20% of the grant at the completion of year one, 20% at the completion of year two, 20% at the completion of year three, and 20% at the completion of year four.

(4) For a physician assistant grant recipient with a three year contract the state shall provide 25% of the grant at the completion of the first three months, 25% of the grant at the completion of year one, 25% at the completion of year two, and 25% at the completion of year three.

(5) For a physician assistant grant recipient with a two year contract the state shall provide 33% of the grant at the completion of the first three months, 33% of the grant at the completion of year one, and 34% at the completion of year two.

(6) The department may not provide a grant until the physician assistant passes the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam.

(7) The physician assistant grant recipient must obtain an unrestricted license to practice as a physician assistant in Utah before his first day of practice under the grant contract.

(8) The physician assistant grant recipient must obtain approval from the committee prior to beginning obligated service at an eligible [~~designated~~] site.

(9) A physician assistant grant recipient must obtain approval prior to changing the approved site where he fulfills his obligated service.

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R434-10-6. Physician Grant Eligibility and Selection.

(1) In selecting a physician grant recipient for a physician grant, the committee shall evaluate the applicant based on the following selection criteria:

(a) the extent to which an applicant's training is in a medical specialty needed at an eligible [~~designated~~] site;

(b) the applicant's commitment to serve in a medically underserved rural area which may be demonstrated in any of the following ways:

(i) has lived in an area with fewer than 100 persons per square mile;

(ii) has rural work or educational experience;

(iii) has work or educational experience with rural populations such as the Peace Corps, VISTA, or the Extension Service of the Department of Agriculture;

(iv) other facts or experience that the applicant can demonstrate to the committee that establishes his commitment to a rural practice.

(c) the availability of the applicant to begin service, with greater consideration being given to applicants available for service at earlier dates;

(d) the length of the applicant's proposed obligated service, with greater consideration given to applicants who agree to serve for longer periods of time;

- (e) the applicant's:
 - (i) academic standing;
 - (ii) prior professional or personal experience in medically underserved rural areas;
 - (iii) board certification or eligibility;
 - (iv) residency achievements;
 - (v) peer recommendations;
 - (vi) other facts that the applicant can demonstrate to the committee that establishes his professional competence or conduct;
- (f) the applicant's financial need;
- (g) the applicant's willingness to accept Medicare, Medicaid, or Utah Medical Assistance patients;
- (h) the applicant's willingness to provide care regardless of a patient's ability to pay;
- (i) the applicant's ability and willingness to provide care;
- (j) the applicant's achieving an early match with an eligible [~~designated~~] site.

(2) Only the following medical specialties may receive an award under this program:

- (a) anesthesiology.
- (b) general surgery.
- (c) internal medicine.
- (d) obstetrics/gynecology.
- (e) ophthalmology.
- (f) orthopedic surgery.
- (g) osteopathic general or family practice.
- (h) pediatrics.
- (i) psychiatry.
- (j) radiology.
- (k) urology.

(3) Only physicians who are available to begin practicing medicine in the state within one year from the date of application are eligible for this program.

([3]4) To be eligible for a grant, a physician:

- (a) must be a United States citizen or permanent resident;
- (b) must not have practiced medicine in rural Utah within three years prior to the date of application;
- (c) must be enrolled in or have completed postgraduate training prior to submitting an application to participate in the grant program.

R434-10-7. Physician Assistant Grant Eligibility and Selection.

(1) In selecting a physician assistant grant recipient for a physician assistant grant, the committee shall evaluate the applicant based on the following selection criteria:

- (a) the extent to which an applicant's training is needed at an eligible [~~designated~~] site;
- (b) the applicant's commitment to serve in a medically underserved rural area, which may be demonstrated in any of the following ways:
 - (i) has lived in an area with fewer than 100 persons per square mile;
 - (ii) has rural work or educational experience;
 - (iii) has work or educational experience with rural populations such as the Peace Corps, VISTA, or the Extension Service of the Department of Agriculture;
 - (iv) other facts or experience that the applicant can demonstrate to the committee that establishes his commitment to a rural practice.

(c) the availability of the applicant to begin service, with greater consideration given to applicants available for service at earlier dates;

(d) the length of the applicant's proposed obligated service, with greater consideration given to applicants who agree to serve for longer periods of time;

- (e) the applicant's:
 - (i) academic standing;
 - (ii) prior professional or personal experience in medically underserved rural areas;
 - (iii) results of the National certification exam;
 - (iv) preceptorship achievements;
 - (v) peer recommendations;
 - (vi) other facts that the applicant can demonstrate to the committee that establishes his professional competence or conduct.

(f) the applicant's financial need;

(g) the applicant's willingness to accept Medicare, Medicaid, or Utah Medical Assistance patients;

(h) the applicant's willingness to provide care regardless of a patient's ability to pay;

(i) the applicant's ability and willingness to provide care;

(j) the applicant's achieving an early match with an eligible [~~designated~~] site.

(2) Only physician assistants who are available to begin practicing medicine in the state within one year from the date of application may be eligible for this program.

(3) To be eligible for a grant, physician assistants:

- (a) must be a United States citizen or permanent resident;
- (b) must have passed the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam;
- (c) must not have practiced medicine in rural Utah within three years prior to the date of application.

R434-10-8. Extension of Grant Contract.

(1) A physician or physician assistant who has signed a grant contract for less than four years may apply on or after his first day of practice under a grant to extend his grant contract by one or two years, up to the maximum of four years total.

(2) The [~~grant contract~~]service obligation may be extended only at an [~~approved~~]eligible site.

(3) A physician or physician assistant who desires to extend his grant contract must inform the committee in writing of his interest in extending his grant contract at least six months prior to the termination of his unextended grant contract.

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R434-10-10. Physician Scholarship Administration.

(1) The department may provide physician scholarship funds to a physician scholarship recipient for a maximum of four years of medical or osteopathic school or until completion of medical or osteopathic school, whichever is shorter.

(2) For each academic year the committee may award \$12,000 to a physician scholarship recipient.

(3) The committee may pay tuition and fees directly to the medical or osteopathic school, and determine the amount and frequency of direct payments to the student.

(4) The physician scholarship recipient may not enter into a scholarship contract other than with the program established in Section 26-9-201 until the obligated service agreed upon in the state scholarship contract is satisfied.

(5) A physician scholarship recipient must work full-time, as defined by the physician scholarship recipient's employer and as specified in his contract with the department.

(6) A physician scholarship recipient must serve one year of obligated service for each year he received a scholarship under this program.

(7) The committee may cancel a scholarship at any time if it finds that the physician scholarship recipient has voluntarily or involuntarily terminated his medical or osteopathic school or postgraduate training, or it appears to be a reasonable certainty the physician scholarship recipient does not intend to practice medicine as required by statute, rules, and contract in a medically underserved rural area in the state.

(8) The physician scholarship recipient must begin postgraduate training within six months after he obtains a Doctor of Medicine or Doctor of Osteopathy degree. Postgraduate training must be continuous unless the physician scholarship recipient obtains prior approval from the director of the physician scholarship recipient's postgraduate training program and from the committee.

(9) The physician scholarship recipient must attend a minimum three year postgraduate training program.

(10) The physician scholarship recipient must obtain an unrestricted license to practice medicine in the state and begin practicing medicine for the agreed upon period of time at an approved site within six months of completion of postgraduate training.

(11) The physician scholarship recipient shall select for postgraduate training a residency in one of the following areas: family practice, general internal medicine, general pediatrics, or obstetrics/gynecology. If the physician scholarship recipient desires to choose a postgraduate training program in a medical specialty other than family practice, general internal medicine, general pediatrics, or obstetrics/gynecology, he must demonstrate the need for the medical specialty in a medically underserved rural area and obtain approval from the committee.

(12) Upon completion of postgraduate training, the physician scholarship recipient shall be responsible for finding employment at an eligible[~~designated~~] site in a medically underserved rural area of Utah.

(13) The physician scholarship recipient must obtain approval from the committee prior to beginning obligated service at an eligible[~~designated~~] site.

R434-10-11. Physician Assistant Scholarship Administration.

(1) The department may provide physician assistant scholarship funds to a physician assistant scholarship recipient for a maximum of four years for physician assistant school, or until completion of physician assistant school, whichever is shorter.

(2) For each academic year the committee may award \$12,000 to a physician assistant scholarship recipient.

(3) The committee may pay tuition and fees directly to the physician assistant school, and to determine the amount and frequency of direct payments to the student.

(4) The physician assistant scholarship recipient may not enter into a scholarship contract other than with the program established

in Section 26-9-201 until the obligated service agreed upon in the state contract is satisfied.

(5) A physician assistant scholarship recipient shall work full-time, as defined by the physician assistant scholarship recipient's employer and as specified in the contract.

(6) A physician assistant scholarship recipient must serve one year of obligated service for each year he received a scholarship under this program.

(7) The committee may cancel a scholarship at any time if it finds that the physician assistant scholarship recipient has voluntarily or involuntarily terminated his physician assistant education and training, or it appears to be a reasonable certainty the physician assistant scholarship recipient does not intend to practice medicine as a physician assistant as required by statute, rules, and contract.

(8) The physician assistant scholarship recipient must obtain a temporary physician assistant license and begin practicing medicine at an approved site for the agreed upon period of time within six months of completion of physician assistant education.

(9) The physician assistant scholarship recipient shall take the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam at the soonest date after completion of physician assistant schooling. At the soonest date after the physician assistant scholarship recipient passes this exam he shall obtain a permanent unrestricted license as a physician assistant.

(10) If the physician assistant scholarship recipient fails the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam, he must retake the exam within one year of failure of the National certification exam. If the physician assistant scholarship recipient fails the exam a second time, or fails to retake the exam, he shall be in default of the scholarship contract. The period when the temporary license is lost due to failing the exam and the physician assistant scholarship recipient is unable to practice at an approved site does not count against retiring the obligated service under the contract.

(11) Upon graduation from physician assistant schooling, the physician assistant scholarship recipient shall be responsible for finding employment at an eligible[~~designated~~] site in a medically underserved rural area of Utah.

(12) The physician assistant scholarship recipient must obtain approval from the committee prior to beginning obligated service at an eligible[~~designated~~] site.

.....

R434-10-14. Physician Scholarship Recipient Obligations.

(1) A physician scholarship recipient must maintain minimum continuous registration to maintain medical or osteopathic student status until he completes all requirements for his degree. The maximum years leading to a degree may not exceed four years, unless extended pursuant to R434-10-16.

(2) A physician scholarship recipient must attend a minimum three year postgraduate training program.

(3) A physician scholarship recipient must obtain an unrestricted license to practice as a physician in Utah prior to beginning practice at the approved site.

(4) Within six months before and not exceeding one month following completion of postgraduate training, a physician scholarship recipient shall provide to the department documented evidence from an eligible~~designated~~ site of its intent to hire him.

(5) Upon completion of postgraduate training, the physician scholarship recipient is responsible for finding employment at an eligible~~designated~~ site in a medically underserved rural area of Utah.

(6) The physician scholarship recipient must obtain approval from the committee prior to beginning obligated service at an eligible~~designated~~ site.

(7) A physician scholarship recipient must begin employment at the approved site within six months of completion of postgraduate training.

(8) A physician scholarship recipient, upon completion of postgraduate training, must demonstrate willingness to serve the underserved by:

- (a) accepting Medicare, Medicaid, or Utah Medical Assistance Program patients;
- (b) providing care regardless of patient's ability to pay;
- (c) showing ability and willingness to provide care.

(9) The minimum length of obligated service is two years, or such longer period to which the applicant and the committee agree.

(10) The physician scholarship recipient must obtain committee approval prior to changing the approved site where he fulfills his obligated service.

R434-10-15. Physician Assistant Scholarship Recipient Obligations.

(1) A physician assistant scholarship recipient must maintain minimum continuous registration to maintain physician assistant student status until he completes all requirements for his degree. The maximum years leading to a degree may not exceed four years unless extended pursuant to R434-10-16.

(2) A physician assistant scholarship recipient shall take the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam at the soonest date after completion of physician assistant schooling.

(3) Upon completion of physician assistant schooling, the physician assistant scholarship recipient is responsible for finding employment at an eligible~~designated~~ site in a medically underserved rural area of Utah

(4) The physician assistant scholarship recipient must obtain approval from the committee prior to beginning obligated service at an eligible~~designated~~ site

(5) Within three months before, and not exceeding one month following completion of physician assistant education and prior to beginning fulfillment of obligated service, a physician assistant scholarship recipient shall provide to the department documented evidence from the approved site of its intent to hire him.

(6) A physician assistant scholarship recipient, upon completion of physician assistant schooling, must demonstrate willingness to serve the underserved by:

- (a) accepting Medicare, Medicaid, or Utah Medical Assistance Program patients;
- (b) providing care regardless of patient's ability to pay;
- (c) showing ability and willingness to provide care.

(7) A physician assistant scholarship recipient must begin employment at the approved site within six months of completion of physician assistant education.

(8) The minimum length of obligated service is two years, or such longer period to which the applicant and the committee agree.

(9) The physician assistant scholarship recipient must obtain committee approval prior to changing the approved site where he fulfills his obligated service.

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R434-10-19. Eligible~~Designated~~ Site Determination.

(1) Criteria to determine an eligible~~designated~~ site include:

- (a) ~~W~~within the medically underserved rural area:
 - (i) the percentage of the population with incomes under 200% of the federal poverty level;
 - (ii) the percentage of the population 65 years of age and over;
 - (iii) the percentage of the population under 18 years of age;
 - (iv) ~~the percentage of the population that is homeless;~~
 - ~~(v) the percentage of the population that is migrant and seasonal farmworkers;~~
 - ~~(vi) the percentage of the population that has HIV/AIDS;~~
 - ~~(vii) the infant mortality rate;~~
 - (v~~iii~~) the postneonatal mortality rate~~[-]~~;

(b) ~~D~~distance to nearest physician or physician assistant and barriers to reaching the physician or physician assistant, e.g., winter driving conditions or mountainous roads~~[-]~~;

(c) ~~F~~for physician eligible~~designated~~ site determination, the ratio of population to physician medical specialty for which the site applied~~a minimum population to physician ratio in the medical specialty for which the site has applied as follows:~~

TABLE	
RATIOS FOR MEDICAL SPECIALTIES	
MEDICAL SPECIALTY	POPULATION PER PHYSICIAN
Anesthesiology	14,000
General Surgery	7,300
Internal Medicine	5,700
Obstetrics/Gynecology	9,000
Ophthalmology	20,600
Orthopedic Surgery	10,300
Osteopathic General or Family Practice	3,000
Pediatrics	7,800
Psychiatry	10,000
Radiology	15,000
Urology	34,800

(d) ~~F~~for physician assistant eligible~~designated~~ site determination, a minimum population to physician assistant ratio of one physician assistant per 1,500 persons, in addition to the number of primary care physicians at the site, the affect physician assistants may have on the practice of providers and the delivery of health care at the site~~[-]~~; and

(e) ~~E~~letters of support from a majority of practicing physicians and physician assistants in service area, county and civic leaders, hospital administrator, business leaders, local chamber of commerce, citizens, and local health departments.

(2) The committee may give preference to sites which assure in their site applications that other community physicians will continue to see their fair share of Medicaid, Medicare, and Utah Medical Assistance patients.

(3) The committee may give preference to designated health professional shortage areas requesting one of the following medical specialties:

- (a) family practice;
- (b) internal medicine;
- (c) obstetrics/gynecology;
- (d) pediatrics;
- (e) physician assistants.

(4) An eligible~~designated~~ site approved to have a grant or scholarship recipient practice there must offer a salary and benefit package competitive with salaries and benefits of other providers in the service area.

R434-10-20. Eligible Bona Fide Loans.

(1) A bona fide loan may include the following:

(a) a commercial loan made by a bank, credit union, savings and loan association, insurance company, school, or credit institution;

(b) a governmental loan made by a federal, state, county, or city agency;

(c) a loan made by another person which is documented by a notarized contract~~;~~ notarized at the time of the making of the loan; indicative of an arm's length transaction, and with competitive term and rate as other loans available to physician and physician assistant students~~;~~ or

(d) a loan that the applicant conclusively demonstrates is a bona fide loan.

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**KEY: grants, physicians, physician assistants*, scholarships*
[December 14, 1998]1999 26-9**



**Human Resource Management,
Administration**

R477-8

Working Conditions

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 21803
FILED: 01/22/1999, 12:18
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change will bring Subsection R477-8-7(6), "Early Retirement Incentive," into compliance with Section 67-19-14. This is in response to concerns from the Administrative Rules Review Committee. At the scheduled meeting on September 29,

1998, committee members decided that the current rule is outside the scope of the law because it extends benefits defined in Section 67-19-14 to all employees.

SUMMARY OF THE RULE OR CHANGE: Current language of Subsection R477-8-7(6), "Early Retirement Incentive," gives the ability to purchase additional health insurance coverage with the excess sick leave to all employees upon retirement. This change will limit this benefit just to employees who retire prior to age 60.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 67-19-6 and 67-19-14

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Agencies are affected by this amendment through the labor additive pool maintained in the Division of Finance. This pool of money is a self-funding device for the payment of leave benefits to retiring employees. Each year the Division of Finance sets rates for agencies to cover the anticipated costs. The fiscal impact of S.B. 138 was set at \$403,000 by the legislature. This change will lower this cost impact by approximately 25%.

(DAR Note: S.B. 138 is found at 1998 Utah Laws 338, and is effective as of July 1, 1998.)

❖LOCAL GOVERNMENTS: None--this rule only affects state government.

❖OTHER PERSONS: This amendment will have a cost impact on state employees of the executive branch who are eligible for retirement and older than 60. These employees will no longer have the option of using their accumulated sick leave to purchase additional health insurance or medicare supplement for themselves or a spouse. The cost of this coverage is typically more expensive than the value of the sick leave they are now allowed to use under the current rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule only affects the employees and agencies of the executive branch of state government. The cost impact per individual employee will vary greatly based on personal need and time of coverage.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the "Utah Personnel Management Act," Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules to employees of the executive branch of state government. There may be a very slight, indirect effect when there is a cost incurred by an agency and if that agency passes these on to businesses with increases in fees. This rule change has the potential to decrease agency costs, but this is hard to gauge because it is almost impossible to estimate how many hours of sick leave an employee will have accumulated at the time of retirement.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Human Resource Management

Administration
2120 State Office Building
PO Box 141531
Salt Lake City, UT 84114-1531, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Conroy Whipple at the above address, by phone at (801) 538-3067, by FAX at (801) 538-3081, or by Internet E-mail at pedhrm.cwhipple@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/03/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/1999

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

**R477. Human Resource Management, Administration.
R477-8. Working Conditions.**

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R477-8-7. Leave.

All employees who regularly work 40 hours or more per pay period, except Schedule AJ or other temporary workers, are eligible for leave benefits. Employees receive leave benefits in proportion to the number of hours they are scheduled to work. Employees shall use leave in no less than quarter hour increments.

- (1) Holiday Leave
 - (a) The following dates are designated legal holidays:
 - (i) New Years Day -- January 1
 - (ii) Human Rights Day -- third Monday of January
 - (iii) Presidents' Day -- third Monday of February
 - (iv) Memorial Day -- last Monday of May
 - (v) Independence Day -- July 4
 - (vi) Pioneer Day -- July 24
 - (vii) Labor Day -- first Monday of September
 - (viii) Columbus Day -- second Monday of October
 - (ix) Veterans' Day -- November 11
 - (x) Thanksgiving Day -- fourth Thursday of November
 - (xi) Christmas Day -- December 25
 - (xii) The Governor may also designate any other day a legal holiday.
 - (b) If a holiday falls on a Sunday, the following Monday shall be observed as a holiday. If a holiday falls on a Saturday, the preceding Friday shall be observed as a holiday.
 - (c) If an employee is required to work on an observed holiday, the employee shall receive appropriate holiday leave, or shall receive compensation for the excess hours worked.
 - (d) The following employees are eligible to receive holiday leave:
 - (i) Full-time employees shall accrue eight hours of paid holiday leave on holidays;
 - (ii) Part-time career service employees and partners in a job-shared position who work 40 hours or more per pay period shall

receive holiday leave in proportion to the hours they normally work in a pay period;

(iii) Employees working flex-time, as defined in R477-8-2, shall receive a maximum of 88 hours of holiday leave in each calendar year. If the holiday falls on a regularly scheduled day off, flex-time employees shall receive an equivalent work day off, not to exceed eight hours or shall receive compensation for the excess hours at a later date.

(e) In order to receive paid holiday leave, an employee must be in a paid status for a full scheduled work day before and after a holiday.

(2) Conditions of leave

(a) Eligible employees who work 40 or more hours per pay period shall accrue annual and sick leave in proportion to the time worked. They shall also receive funeral, holiday, and paid military leave in proportion to the time worked. Employees excluded from these are "at will" employees identified in R477-5-12.

(b) Seasonal, temporary, or part-time employees working less than 40 hours per pay period are not eligible for paid leave.

(c) Accrual rates for sick and annual leave are determined in proportion to the time worked, as outlined on the Annual and Sick Leave Accrual table available through DHRM.

(d) No employee may receive annual, sick or holiday leave before he has accrued it.

(e) Employees transferring from one agency of State service to another are entitled to transfer all accrued annual, sick, and converted sick leave to the new agency.

(f) Employees on paid leave shall continue to accrue annual and sick leave.

(g) Employees terminating or retiring from State service shall be cashed out in a lump sum for all annual leave and converted sick leave effective through the last day actually worked. Leave cannot be accrued after the last day worked. No leave-on-leave may accrue or be paid on the cashed out annual leave.

(h) No contributions to benefits may be paid on cashed out leave, other than FICA tax, except as it applies to the Early Retirement Incentive Program outlined in R477-8-(7)-(5)(b).

(3) Annual Leave

(a) Employees eligible for annual leave shall accrue leave based on the following years of State service:

- (i) Zero through five years -- four hours per pay period.
- (ii) Beginning of sixth year through ten years -- five hours per pay period.
- (iii) Beginning of eleventh year or more -- six hours per pay period.

(b) The accrual rate for employees hired on or after July 1, 1995 shall be based on all State employment in which the employee was eligible to accrue leave.

(c) Eligible employees may begin to use annual leave time after completing the equivalent of two full pay periods of employment.

(d) Agency management shall allow every employee the option to use annual leave each year for at least the amount accrued in the year. However, annual leave granted shall be approved in advance by management.

(e) Any unused accrued annual leave time in excess of 320 hours shall be forfeited at the beginning of the first full pay period of each calendar year.

(f) Department deputy directors and division directors appointed to career service exempt status positions shall be eligible for the maximum annual leave accrual rate upon their date of hire but shall not be eligible for any transfer of leave from other jurisdictions. Annual leave shall accrue at six hours per pay period for the tenure of employment in exempt positions. Other provisions of leave shall apply as defined in R477-8-7(3).

(4) Sick Leave

(a) Employees shall accrue sick leave with pay at the rate of four hours each pay period. Sick leave shall accrue without limit.

(b) Employees may begin to use accrued sick leave after completing the equivalent of at least two full pay periods of employment.

(c) Sick leave shall be granted for preventive health and dental care, maternity/paternity and adoption care, or for absence from duty because of illness, injury or temporary disability of a spouse or dependents living in the employee's home. Exceptions may be granted for other unique medical situations.

(d) Employees shall arrange for a telephone report to supervisors at the beginning of the scheduled work day they are absent because of illness or injury. Management may require reports for serious illnesses or injuries.

(e) Any application for a grant of sick leave to cover an absence which exceeds four successive working days shall be supported by administratively acceptable evidence such as a medical certificate. If there is reason to believe that an employee is abusing sick leave, a supervisor may require an employee to produce a doctor's certificate of illness regardless of the number of days on sick leave.

(f) Any absence for illness beyond the accrued sick leave credit may continue under the following provisions: an approved leave-without-pay status, not to exceed 12 months, an approved Family Medical Leave Status, or in an annual or other accrued leave status.

(g) After filing a termination notice, employees must support sick leave requests with a doctor's certificate.

(h) Employees separating from State service may not receive compensation for accrued unused sick leave unless they are retiring. However, employees who are rehired within 12 months of separation to a position which receives sick leave benefits shall have their previously accrued unused sick leave credit reinstated.

(i) Employees who are rehired within 12 months of separation to a position which receives sick leave benefits shall have their previously accrued unused sick leave credit reinstated.

(ii) Employees who retire from state service and are then rehired may not reinstate their unused sick leave credit.

(5) Converted Sick Leave

As an incentive to reduce sick leave abuse, employees may convert a portion of unused sick leave to converted sick leave.

(a) To be eligible for converted sick leave, an employee must have an accumulated balance of 144 hours of unused sick leave at the end of the last pay period of the calendar year.

(i) Forty hours are eligible for conversion in a calendar year and will be converted to converted sick leave unless the employee designates otherwise.

(ii) The number of hours used in a calendar year shall be deducted from the 40 hours eligible for conversion.

(iii) The maximum hours of converted sick leave an employee may accrue is 320.

(b) Converted sick leave may be used as annual leave, regular sick leave, or as paid-up health and life insurance at the time of retirement for employees under age 65. If an employee is 65 years of age or older at the time of retirement, converted sick leave may be used to purchase a medicare supplement.

(i) Payment for health and life insurance is the responsibility of the employing agency.

(ii) Eight hours of converted sick leave equals the amount of the premium for one month's coverage for health and life insurance.

(6) Early Retirement Incentive

Employees may be offered an early retirement incentive program, according to Section 67-19-14(2).

(a) This program is optional for each department. However, any decision whether or not to participate shall be agency-wide and shall be consistent through an entire fiscal year.

(b) If an agency decides to withdraw for the next fiscal year after initially deciding to participate in early retirement, the agency must notify all employees at least 60 days before the new fiscal year begins.

(c) Employee participation in any part of this incentive program shall be voluntary, but the decision to participate shall be made at retirement.

~~[(d) Employees retiring from state service shall have the following options with their accrued unused sick leave:~~

~~(i) A cash payment of 25 percent for their accrued unused sick leave at their current rate of pay, or transfer these monies to an approved 401(k) account sponsored by the UT State Retirement Board;~~

~~(ii) The use of any sick leave balance, after the subtraction of 25% for the cash out and a standard deduction of 480 hours, to purchase additional health and life insurance coverage and medicare supplement;~~

~~(A) The purchase rate shall be 8 hours of sick leave for each month of coverage for each person covered;~~

~~(iii) The employing department shall provide health and life insurance coverage for five years or until the employee reaches the age eligible for medicare, whichever is less;~~

~~(A) Health coverage shall be the same as carried by the employee at the time of retirement, i.e., family, two-party, or single; if the employee has no health coverage in place upon retirement, none shall be offered or provided;~~

~~(B) Life insurance provided shall be the basic \$18,000 coverage provided for all State employees;~~

~~(iv) The purchase of health and life insurance coverage for a spouse until the spouse is eligible for medicare;~~

~~(v) The purchase of low option medicare supplement for the employee;~~

~~(vi) The purchase of low option medicare supplement for the spouse.](d) The early retirement incentive for employees who retire prior to age 60, shall consist of any or all of the following:~~

~~(i) An option to receive a cash payment of 25 percent for their accrued unused sick leave at their current rate of pay, or transfer these monies to an approved 401(k) account sponsored by the Utah State Retirement Board.~~

~~(ii) The employing department shall provide health and life insurance coverage for five years.~~

~~(A) Health coverage shall be the same as carried by the employee at the time of retirement, i.e., family, two-party, or single.~~

If the employee has no health coverage in place upon retirement, none shall be offered or provided.

(B) Life insurance provided shall be the basic \$18,000 coverage provided for all State employees.

(iii) When the five years provided by the employing department is exhausted, the employee may acquire additional health insurance and if eligible, low option Medicare supplemental insurance by converting sick leave hours from his unused sick leave account for the desired coverage.

(A) Only hours in excess of 480 in the employees unused sick leave account are eligible for conversion.

(B) The employee may acquire state provided health insurance up to the age of eligibility for Medicare by converting 8 hours of unused sick leave for one month of coverage. Health coverage shall be the same as carried by the employee at the time of retirement, i.e., family, two-party, or single. If the employee has no health coverage in place upon retirement, none shall be offered or provided.

(C) At the age of eligibility for Medicare, the employee may acquire health insurance coverage for a spouse until the spouse is eligible for Medicare by converting 8 hours of unused sick leave for one month of coverage.

(D) The employee may acquire low option Medicare supplement for the employee by converting 8 hours of unused sick leave for one month of coverage and for a spouse by converting an additional 8 hours of unused sick leave for one month of coverage.

(e) The early retirement incentive for employees who retire after age 60 but prior to becoming eligible for Medicare shall consist of:

(i) An option to receive a cash payment of 25 percent for their accrued unused sick leave at their current rate of pay, or transfer these monies to an approved 401(k) account sponsored by the Utah State Retirement Board.

(ii) The employing department shall provide health and life insurance coverage for five years or until the age when the employee is eligible for Medicare, whichever comes first.

(A) Health coverage shall be the same as currently carried by the employee, i.e., family, two-party, or single. If the employee has no health coverage in place upon retirement, none shall be offered or provided.

(B) Life insurance provided shall be the basic \$18,000 coverage provided for all state employees.

(f) Employees who retire and are eligible for Medicare may receive a cash payment of 25 percent for their accrued unused sick leave at their current rate of pay, or transfer these monies to an approved 401(k) account sponsored by the Utah State Retirement Board.

(7) Workers Compensation Leave

(a) An employee may use accrued leave benefits to supplement the workers compensation benefit.

(i) The combination of leave benefit and workers compensation benefit shall not exceed the employees gross salary.

(ii) The use of accrued leave to supplement the worker compensation benefit shall be terminated if:

(A) the employee is declared medically stable by licensed medical authority; or

(B) the workers compensation fund terminates the benefit; or

(C) the employee has been absent from work for one year; or

(D) the employee refuses to accept appropriate employment offered by the state; or

(E) the employee receives Long Term Disability or Social Security Disability benefits.

(iii) The employee shall refund to the state any accrued leave paid which exceeds the employees gross salary for the period for which the benefit was received.

(b) Employees will continue to accrue state paid benefits while receiving a workers compensation time loss benefit for up to one year.

(c) Employees who file fraudulent workers compensation claims shall be disciplined according to the provisions of R477-11.

(8) Funeral Leave

Employees may receive a maximum of three days funeral leave per occurrence with pay at management's discretion to attend the funeral of a member of the immediate family. Funeral leave may not be charged against accrued sick or annual leave. One day of funeral leave is the equivalent of 8 hours.

(a) The "immediate family" means-- wife, husband, children, daughter-in-law, son-in-law, parents, grandchildren, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandparents, spouse's grandparents, step-children, and step-parents, brothers and sisters of the employee.

(9) Military Leave

One day of military leave is the equivalent of 8 hours.

(a) Employees who are members of the National Guard or Military Reserves are entitled to military leave not to exceed fifteen days per year without loss of pay, annual leave or sick leave. Employees shall be on official military orders and may not claim salary for non-working days spent in military training or for traditional weekend training.

(b) Officers and employees of the state shall be granted military leave without pay for the period of active service or duty, including travel time, Section 39-3-1.

(c) Employees are required to give notice of active military service as soon as they are notified.

(d) Upon termination from active military service, under honorable conditions, employees shall be placed in their original position or one of like seniority, status and pay. The cumulative length of time allowed for re-employment may not exceed five years. Employees are entitled to re-employment rights and benefits including increased pension and leave accrual. Persons entering military leave may elect to have payment for annual leave deferred. In order to be reemployed, employees shall present evidence of military service and leave without pay status, and:

(i) For service less than thirty-one days, return at the beginning of the next regularly scheduled work period on the first full day after release from service taking into account safe travel home plus an eight-hour rest period, or:

(ii) For service of more than thirty-one days but less than 181 days, submit an application for reemployment within fourteen days of release from service, or

(iii) For service of more than 180 days, submit an application for reemployment within ninety days of release from service.

(10) Leave of Absence Without Pay

Employees may be granted continuous leave of absence without pay for up to 12 months. Employees shall apply in writing to agency management for approval. If absence is due to FMLA,

workers compensation or long-term disability, R477-8-9 or R477-8-7(7) applies.

(a) Medical leave without pay may be granted for no more than twelve months. Medical leave may be approved if a registered health practitioner certifies that an employee is temporarily disabled.

(b) Agency management may approve leave without pay for employees even though annual or sick leave balances exist. Employees may take up to ten consecutive working days of leave without pay without affecting the leave accrual rate.

(i) Employees who receive no compensation for a complete pay period shall be responsible for payment of state provided benefit premiums, unless they are covered by the provisions under the federal Family and Medical Leave Act, in R477-8-9.

(c) Employees who return to work on or before the expiration of leave without pay, shall be placed in a position with comparable pay and seniority to their previously held position, provided the same or comparable level of duties can be performed with or without reasonable accommodation. The employee shall also be entitled to previously accrued annual and sick leave.

(d) Leave without pay for non-disability reasons may be granted only when there is an expectation that the employee will return to work.

(e) Health insurance benefits shall continue for employees on leave without pay because of work-related injuries or illnesses. Except as provided under the family and medical leave provisions, employees on leave without pay must personally continue the premiums to receive health insurance benefits.

(f) Employees who are determined eligible for the Long Term Disability Program (LTD) shall be granted up to one year of medical leave, if warranted by a medical condition.

(i) The one year medical leave begins on the last day the employee worked due to the disability. During this period and until LTD benefits begin, employees shall use sick and converted sick leave. Annual leave may be used after the employee uses all available sick and converted sick leave.

(ii) If the employee is unable to return to work and has not used all available annual leave, he shall be paid for the annual leave when the termination action is processed.

(iii) Employees determined eligible for Long Term Disability benefits, after a three month waiting period, will be eligible for health insurance benefits beginning two months after the last day worked. The health insurance benefit will continue for up to twenty-two months or until they are eligible for medicare/ medicaid, whichever occurs first.

(iv) Conditions for return from leave without pay shall include:

(A) If an employee is able to return to normal duties within one year of the last day worked, the agency shall place the employee in his previously held position or similar position in a comparable salary range.

(B) If an employee is unable to perform the essential functions of the job because of a permanent disability, the obligation to place the employee in the same position shall be set aside. The employing unit shall place the employee in the best available, vacant position for which he is qualified, if able to perform the job with or without reasonable accommodation. If the employing unit does not have an available position, the agency shall then attempt

to place the individual. The new position shall be consistent with the employee's qualifications and capabilities.

(I) For the first year, every effort shall be made to find a position as close to the salary range and function as the original position.

(II) The agency Executive Director may extend the timeline for return to work beyond one year if the employee's injury resulted in disability prohibiting the employee from performing the essential functions of the job, as defined by ADA.

(11) Jury Leave

(a) Employees are entitled to a leave of absence with full pay when, in obedience to a subpoena or direction by proper authority, they are required to:

(i) Appear as a witness as part of their position for the federal government, the State of Utah, or a political subdivision of the state, or

(ii) Serve as a witness in a grievance hearing.

(iii) Serve on a jury

(b) Employees choosing to use annual leave while on jury duty shall be entitled to keep jurors fees; otherwise, jurors fees received shall be returned to agency payroll clerks for deposit with the State Treasurer. The fees shall be deposited as a refund of expenditure in the low org. where the salary is recorded.

(c) Employees who are absent in order to litigate in matters unrelated to their position shall take leave as annual or as leave without pay.

(12) Administrative Leave

(a) Administrative leave may be granted consistent with agency policy for the following reasons:

(i) corrective action;

(ii) personal decision-making prior to discipline;

(iii) suspension with pay-- during removal from job site-- pending hearing on charges;

(iv) during management decision situations that benefit the organization;

(v) incentive awards in lieu of cash;

(vi) when no work is available due to unavoidable conditions or influences;

(vii) removal from adverse or hostile work environment situations pending management corrective action;

(viii) educational assistance;

(ix) employee assistance and fitness for duty evaluations.

(b) Agency head or designee may grant paid administrative leave for no more than ten consecutive working days per occurrence. Other conditions of administrative leave are:

(i) Administrative leave in excess of 10 consecutive working days per occurrence may be granted by written approval of the agency head.

(ii) Administrative leave taken must be documented in the employee's leave record.

(13) Disaster Relief Volunteer Leave

(a) An employee may be granted an aggregate of 15 working days or 120 work hours in any 12 month period to participate in disaster relief services for the American Red Cross. To request this leave an employee must be a certified disaster relief volunteer; and file a written request with the employing agency. The request shall include:

(i) a copy of a written request for the employee's services from an official of the American Red Cross;

- (ii) the anticipated duration of the absence;
- (iii) the type of service the employee is to provide for the American Red Cross; and
- (iv) the nature and location of the disaster where the employee's services will be provided.

(14) Furlough

(a) Agency management may furlough employees as a means of saving salary costs in lieu of reduction in force. See R477-12-3(3). Furlough plans are subject to the approval of the Executive Director, DHRM and the following conditions:

- (i) Employees accrue annual and sick leave.
- (ii) Full payment of all fringe benefits continue at agency's expense.
- (iii) Employees shall return to their positions.
- (iv) Furlough is applied equitably, e.g., to all persons in a given class, all program staff, or all staff in an organization.

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KEY: compensatory time, disability insurance, leave, vacations [December 16, 1998]1999 67-19-6 Notice of Continuation July 1, 1997



Human Services, Administration,
Administrative Services, Licensing
R501-14
Criminal Background Screening

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21821
FILED: 01/29/1999, 12:06
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule clean-up and three definitions were added for clarification.

SUMMARY OF THE RULE OR CHANGE: Definitions were added clarifying "Direct supervision," "Person associated with the licensee," and "Provider of care." Also some minor clean-up items. None of these changes alter the meaning or intent of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-2-101 through 62A-2-121, and Section 62A-4a-413

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: No cost--the size and nature of the workload has not been affected because of these changes.
- ❖LOCAL GOVERNMENTS: No cost--local government is not affected by these changes.
- ❖OTHER PERSONS: No cost--the added definitions do not change the meaning or intent of the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed changes in the rule impose no additional costs to affected persons. They are additions to the definitions for clarification and some minor rule clean-up.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule will have no fiscal impact on business. Extraneous language was deleted and three definitions were added to the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Human Services
Administration, Administrative Services,
Licensing
Room 303
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Reta Oram at the above address, by phone at (801) 538-4242, by FAX at (801) 538-4553, or by Internet E-mail at hsadmin.hsadmin2.roram@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: Reta D. Oram, Director

R501. Human Services, Administration, Administrative Services, Licensing.
R501-14. Criminal Background Screening.

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R501-14-2. Definitions.

A. "Administrative Law Judge" means an employee of the DHS who acts as an independent decision maker who considers the evidence introduced at the hearing and renders a decision based solely on that evidence and all relevant law and policy, herein referred to as ALJ.

B. "Adult" means a person 18 years of age, or older.

C. "Authorized Worker" means the director or designee of a facility or an employee of DHS regional offices.

D. "Authorized DHS Worker" means an employee of the Department of Human Services authorized to have access to OL and CBS information as determined by the Director, Office of Licensing, DHS.

E. "Bureau of Criminal Identification" means the designated state agency including "terminal agency users" of the Division of Criminal Investigation and Technical Services Division, within the Department of Public Safety, referred to as DPS, responsible to maintain criminal records in the State of Utah, herein referred to as BCI.

F. "Consumer" means an individual, i.e., client, resident, customer, etc., who receives services from a licensee.

G. "Direct supervision" means that the licensee or person associated with the licensee is never with a client without their supervisor present.

H. "Director" means the person responsible, as delegated by the governing body, for the technical and programmatic aspects of the program. This person should provide direct supervision of the day-to-day aspects of the program operation.

I. "Department of Human Services" means the State Department authorized to provide human services, including licensing, herein referred to as DHS.

J. "Department of Human Services/Criminal Background Screening Committee" means the committee designated by the Director of DHS to review criminal background information, herein referred to as DHS/CBS Committee.

K. "The Division of Child and Family Services" means the DHS Division which operates regional human service offices, herein referred to as DCFS.

L. "The Utah Department of Public Safety" means the Department with the policy making functions and regulatory and enforcement powers pertaining to public safety, herein referred to as DPS.

M. "The Division of Services for People With Disabilities" means the DHS Division responsible for providing services for people with disabilities, herein referred to as DSPD.

N. "Employee" means a person who performs services for a licensee in a paid or otherwise compensated capacity.

O. "Frequent visitor" means an adult who visits on a recurring basis in a home where home based care is provided.

P. "GRAMA" means the Government Records Access and Management Act that covers information access and privacy of provider files. Refer to UCA 63-2-101(2), Section 45, CFR 5, 1990, Part 2, Section 7 of the Social Security Act; and in the Federal Privacy Act of 1974.

Q. "Human services licensee or licensee" means a youth program, resource family home, or a facility or program that provides services, care, secure treatment, inpatient treatment, residential treatment, residential support, adult day care, day treatment, outpatient treatment, domestic violence treatment, child placing services, or social detoxification licensed by the Office of Licensing.

R. "Identifying information" means individual data including, but not limited to; name, all aliases, date of birth, social security number, and driver license, or state identification card.

S. "Members of Governing Body" means the individuals who comprise the Board of Trustees, Directors or other body who has the ultimate authority and responsibility for the conduct of the licensee.

T. "Office of Administrative Hearings" means the office in DHS which conducts hearings according to the Utah Administrative Procedures Act, herein referred to as OAH.

U. "Office of Licensing" means the office in DHS, authorized by law, to license facilities and programs, herein referred to as OL.

V. "Owner" means anyone listed in the Articles of Incorporation, Limited Partnership, etc. who has a legal interest in or legal right to the possession and to direct the affairs of the program.

W. "Person associated with the licensee" means any owner, director, member of the governing body, employee, provider of care, or volunteer of human service licensee. Also, any person 18 years of age or older who resides in a home or is a frequent visitor where home-based care is provided.

X. "Provider of care" means a person who provides direct services for licensee consumers.
[— or older]

Y. "Provider" means a public or private agency, owner, director, member of governing body, employee, volunteer, or other individual having a license to provide services to children.

Z. "Utah Computerized Criminal History Data Base" means the internal, computerized data bases maintained by BCI/DPS, herein referred to as UCCH Database.

AA. "UAPA" means the Utah Administrative Procedures Act as found in UCA 63-46b-1 through UCA 63-46b-21, herein referred to as UAPA.

BB. "Volunteer" means a person other than a parent or guardian of a child or an adult receiving care in the facility, who performs services for a licensee in a non-paid capacity.

R501-14-3. Procedure for Criminal Background Screening.

A. All proposed licensees and persons associated with the licensee who are licensed to provide services for children, shall submit a Consent and Release of Liability and Request for Background Screening form to the DHS OL for criminal background screening. Each licensee and person associated with the licensee will attach a copy of one photo identification issued by a governmental agency, either a driver license, or a state issued identification card, and their Social Security number. The Utah State governmental identification must show an address identical to the Consent and Release of Liability and Request for Background Screening form, to establish residency.

B. Persons 18 years of age or older residing in the home or frequent visitors of home based care must also comply with this requirement.

1. A licensee shall submit the identifying information to DHS for criminal background screening prior to hiring a new employee. The licensee assumes all liability if an individual is hired prior to receiving the criminal background screening approval. The licensee is also responsible for directly supervising individuals hired before receiving the required background screening approval. ~~For renewal licenses in~~ In the case of emergency hiring, a licensee shall immediately submit the identifying information to DHS for criminal background screening.

2. An application for a new license will not be approved until the criminal background screenings have been completed. For renewal licenses in case of emergency or need for immediate placement of a child, a conditional license may be issued for a maximum of thirty days to allow for the criminal background screening to be completed.

3. A licensee applying for license renewal will have thirty days prior to license expiration to submit the identifying information of all licensees and persons associated with the licensee to DHS for criminal background screening.

4. A home-based licensee applying for license renewal will have thirty days prior to license expiration to submit to DHS for criminal background screening the identifying information on all persons associated with the licensee.

C. When the OL receives the identifying information from the applicant licensee, the OL will access the UCCH Database to conduct the criminal background screening for a determination of whether or not the applicant has been convicted of any crime under the laws of the State of Utah.

D. When a licensee or person associated with a licensee has not lived in Utah for the last five consecutive years, or has unexplained gaps in work or residence record, the request for a FBI national criminal history record check will be made by OL. The licensee or person associated with the licensee shall be responsible to provide the OL with completed fingerprint cards and a cashier's check or money order for the cost of the nationwide check within 10 days after receiving the request. Licensees or persons associated with the licensee may also be required to provide the OL with a criminal history from the states they have lived in, upon request by the OL. The person associated with the licensee is responsible for all costs associated with obtaining the criminal history. The criminal history shall be provided within 90 days of the date of the OL request. For persons associated with the licensee who are citizens of foreign countries and have not lived in Utah for the last five consecutive years, the OL may accept a photo copy of both the front and back of U.S. Department of Justice Immigration and Naturalization Service resident alien card to verify the screening was accomplished prior to entry into the United States. The OL may also accept a copy of a criminal history from the country of citizenship to determine if the individual has been convicted of any crime. Either a copy of a resident alien card or criminal history from the foreign country must be submitted to the OL within 90 days after requested by the OL.

E. If a licensee or person associated with the licensee does not provide the requested information and fees within the time frames specified, their application will be denied and they will not be eligible to provide services for the program or children.

F. An applicant requesting initial licensure for a program serving children, who has lived or operated programs in Utah for less than five years, may be screened through the nationwide FBI process.

G. Licensees or persons associated with the licensee who have complied with the above requirements, may continue to work under direct supervision pending the outcome of the criminal background screening.

H. If a licensee or person associated with the licensee has an arrest record without a final disposition, including, but not limited to the following: warrant issued, plea held in abeyance, court date pending, diversion agreement, adjudication withheld, the background screening consent and release of liability will be returned to the licensee or authorized worker. The OL will not process criminal background screenings until there is a final disposition.

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R501-14-10. Expungement.

A. Licensees and persons associated with a licensee whose background screening applications have been denied due to a criminal record, may request further information or expungement of the record through the DPS BCI pursuant to UCA 77-18-2.

B. When a criminal record is expunged, the licensee or person associated with a licensee may re-apply for a background screening clearance.

C. Information regarding procedures for criminal record expungement may be obtained from BCI. The costs of expungement are the responsibility of the licensee or person associated with the licensee.

~~[hearing, or any other adjudicative proceeding as provided under the]~~

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KEY: licensing, human services
[June 16, 1998]1999

62A-2-120
62A-4a-413



Human Services, Recovery Services
R527-430
Administrative Notice of Lien-Levy
Procedures

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 21811
FILED: 01/27/1999, 17:04
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is being proposed to include other payors in addition to financial institutions and to extend lien-levy procedures to cover non-means tested lump sum payments, judgments, settlements, and lotteries, as provided in Subsections 62A-11-304.1(A) and 62A-11-304.1(B).

SUMMARY OF THE RULE OR CHANGE: Subsection 62A-11-304.1(1)(h)(l)(A) has been added to the list of statutory citations in Section R527-430-1. In Section R527-430-2, "payor" has been included with "financial institution" as an entity which may be required to release an amount to an unobligated spouse who has contested a lien-levy action. "Non-means tested lump sum payment, judgment, settlement, or lottery" has been included with "financial account" as money amounts that may be subject to release when a lien-levy is contested by an unobligated spouse. The definition of "unobligated spouse" has been expanded to include "joint-recipient of a non-means tested lump sum payment, judgment, settlement, or lottery." The "Notice of Lien-Levy, Lump Sum Payment" has been included with "Notice of Lien-Levy" in Section R527-430-4 as another notice of legal action which may be contested by the unobligated spouse. The kinds of money amounts which are subject to lien-levy and release to the unobligated spouse have also been added to that section as well as procedures for the documentation required and method for determining

the amount to release in cases involving amounts from non-means tested lump sum payments, judgments, or lotteries. Additional changes have been made in Section R527-430-4 to include "payor" with "financial institution" when referring to the notice of release ORS/CSS must give to those entities and the procedure they must follow when releasing property specified in the release as well as the remaining property.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-11-304.1

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Because the lien-levy/release of lien-levy procedures are less cumbersome and require less monitoring/follow up than the garnishment/release of garnishment procedures, there will be a commensurate cost savings to the State when the lien-levy/release of lien-levy procedures are used. Because this proposed rule extends the release of lien-levy to non-means tested lump sum payments, judgments, settlements, and lotteries, savings are expected whenever the new release procedures are applied in these areas. The estimated cost savings to the state is \$105,000 per year.

❖LOCAL GOVERNMENTS: None--administrative rules of the Office of Recovery Services do not apply to local governments.

❖OTHER PERSONS: Because the lien-levy/release of lien-levy procedures are less cumbersome than the garnishment/release of garnishment procedures, payors are expected to realize cost savings when ORS/CSS uses the release of lien-levy procedures outlined in this rule rather than the garnishment/release of garnishment procedures. The estimated savings is \$240,000 per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost for a payor affected by this proposed rule change is expected to be less than the garnishment/release of garnishment procedures because the new lien-levy procedures involve less paper work, tracking, and response than the former procedure. It is estimated that a payor will save \$40 per lien-levy action on the average.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Office of Recovery Services/Child Support Services (ORS/CSS) has been using non-wage garnishments to attach non-means tested lump sum payments, judgments, settlements, or lotteries. This procedure involves the use of several legal forms to effect attachment, information disclosure, execution of funds, and release of the action. Both ORS/CSS and the payor/garnishee must carefully monitor and follow up as the often lengthy action proceeds. The new procedures in this proposed rule will be used in conjunction with lien-levy, a more simplified and efficient attachment and collection procedure, and will save payors processing time and money. It is estimated that the combined savings for all affected businesses will be \$240,000 per year.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Human Services
Recovery Services

Fourteenth Floor, Eaton/Kenway Bldg.
515 East 100 South
PO Box 45011
Salt Lake City, UT 84145-0011, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or by Internet E-mail at hsadmin.hsorssl.c.wbraithw@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.

R527-430. Administrative Notice of Lien-Levy Procedures.

R527-430-1. Authority.

This rule establishes procedures for Notice of Lien and Levy pursuant to Subsections 62A-11-103(4), (14); 62A-11-104(9); 62A-11-304.1(1)(h)(i)(A) and (B), (1)(h)(ii), (1)(h)(iii), (1)(h)(iv), (2), (5)(b); 62A-11-304.5 (1)(b); and Section 62A-11-313.

R527-430-2. Purpose.

The purpose of this rule is to provide procedures for the Office of Recovery Services/Child Support Services (ORS/CSS) to determine the amount that a financial institution or payor should release to an unobligated spouse who jointly owns a financial account, as defined in Subsection 62A-11-103(4), or who is a joint-recipient of a non-means tested lump sum payment, judgment, settlement, or lottery, when ORS/CSS has subjected the account, non-means tested lump sum payment, judgment, settlement, or lottery to a Notice of Lien-Levy, and the unobligated spouse has contested the action.

R527-430-3. Definitions.

1. Terms used in this rule are defined in Sections 62A-11-103, 62A-11-303 and 62A-11-401.

2. In addition, "unobligated spouse" means a spouse and joint-owner of a financial account, joint-recipient of a non-means tested lump sum payment, judgment, settlement, or lottery who is not obligated under the child support order that is the basis for the action.

R527-430-4. Procedures on Joint Financial Accounts, Non-means Tested Lump Sum Payments, Judgments, Settlements, and Lotteries.

The procedures below will apply when an unobligated spouse contests a Notice of Lien-Levy or a Notice of Lien-Levy, Lump Sum Payment upon a joint financial account or payor of a non-means tested payment, judgment, settlement, or lottery.

1. The unobligated spouse must make a written request to ORS/CSS to review the action within 15 days of the date the concurrent notice of lien-levy was sent to the obligor and the unobligated spouse, pursuant to Subsection 62A-11-304.1(5)(a).

2. In cases that involve amounts from financial institutions, [F]the unobligated spouse must provide ORS/CSS with documentation of recent income and/or documentation of the sources of deposits made to the financial account. Examples of income documentation include: copies of tax returns for the prior year with W-2's attached; or, copies of two or more recent pay records. Examples of documentation of deposits to a financial account include: receipts or statements which show the sources of deposits made to the financial institution for the current month and one or more prior months. In cases that involve amounts from a non-means tested lump sum payment, judgment, settlement, or lottery, the unobligated spouse must provide ORS/CSS with documentation of the settlement percentage that each recipient should receive. Examples of payment documentation include: written verification from the insurance company or other payor, a copy of the payment or settlement agreement, and/or a copy of a signed judgment.

3. ORS/CSS will determine the amount that the financial institution should release to the unobligated spouse based upon the proportionate share of the income earned by the unobligated spouse, or the proportionate share of deposits made to the financial account by the unobligated spouse, or a combination of the two methods. In cases that involve amounts from a non-means tested lump sum payment, judgment, settlement, or lottery, ORS/CSS will determine the amount that the payor should release to the unobligated spouse based upon the validity of the documentation provided to ORS/CSS.

4. If it is determined that a portion of the property should be released to the unobligated spouse, ORS/CSS will notify the financial institution or payor pursuant to Subsection 62A-11-304.1(5)(b).

5. Upon receipt of a notice of release from ORS/CSS, the financial institution or payor shall release the property that is specified in the notice of release, but continue to secure the remaining property from unauthorized transfer or disposition until 21 days after the date the original Notice of Lien-Levy was sent, at which time the financial institution or payor shall surrender the remaining property to ORS/CSS pursuant to Subsection 62A-11-304.1(5)(b).

KEY: child support
[February 5, 1998]1999

62A-11-304.1



Natural Resources, Wildlife Resources
R657-27
 License Agent Procedures

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 21827
 FILED: 02/01/1999, 16:12
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To provide clarification of the requirements for a wildlife license agent when selling wildlife documents or big game permits for the division.

SUMMARY OF THE RULE OR CHANGE: This amendment provides definitions for the "License Agent Authorization" and the "Big Game Permit Sales Agreement"; provides a violation provision if wildlife documents or big game permits are sold in violation of the License Agent Authorization or the Big Game Permit Sales Agreement, respectively; and makes other changes for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-19-15

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The Division of Wildlife Resources (DWR) determines that this rule will not create any cost or savings impact to the state budget or the DWR's budget. This change provides the DWR with an avenue to ensure enforcement of the License Agent Authorization and Big Game Permit Sales Agreement.

❖**LOCAL GOVERNMENTS:** None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖**OTHER PERSONS:** No impact--these amendments do not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No impact--this rule does not impose any cost requirements or burdens on persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not create an impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Natural Resources
 Wildlife Resources
 Suite 2110
 1594 West North Temple
 PO Box 146301
 Salt Lake City, UT 84114-6301, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdrwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: John Kimball, Director

**R657. Natural Resources, Wildlife Resources.
R657-27. License Agent Procedures.**

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R657-27-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
 - (a) "Application" means a written request to be authorized by the division to sell wildlife documents.
 - (b) "Big Game Permit Sales Agreement" means a supplemental agreement to the License Agent Authorization allowing a license agent to sell big game hunting permits.
 - (c) "License agent" means a person authorized by the division to sell wildlife documents.
 - (d) "License Agent Authorization" means an agreement between the division and a license agent, allowing a license agent to sell wildlife documents.
 - (e)(f) "Presiding officer" means the director of the division or the director's designee.
 - (f)(g) "Remuneration" means money that a license agent receives for each wildlife document sold as provided in Subsection 23-19-15(1).
 - (g)(h) "Wildlife documents" means licenses, permits, tags, Wildlife Habitat Authorizations and Heritage Certificates.

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R657-27-11. Revocation of License Agent Authorization.

- (1) The presiding officer may revoke a license agent authorization pursuant to Chapter 46b, Title 63, Utah Administrative Procedures Act, if the presiding officer determines that the agent or the agent's employee violated:
 - (a) the terms of the license agent authorization;
 - (b) the terms of the Big Game Permit Sales Agreement;
 - (c) any provision of ~~[title]~~Title 23, Wildlife Resources Code;
 or
 - (d) any rule promulgated under ~~[title]~~Title 23, Wildlife Resources Code.
- (2) The presiding officer may hold a hearing to determine matters relating to the license agent revocation if the license agent makes a written request for a hearing within 10 days after the notice of agency action is issued.

R657-27-12. Termination of Authorization by the License Agent.

- (1) A license agent may terminate a license agent authorization by submitting a written request to the Licensing Section in the Salt Lake Office.
- (2) Any request for termination shall state the requested date of termination.
- (3) On or before the effective date of termination the license agent shall:
 - (a) discontinue selling wildlife ~~[documents]~~documents;
 - (b) return all unsold wildlife documents to the division; and

- (c) return to the division any signs, proclamations or other information provided by the division.
- (4) On or before the 10th day of the month following the date of termination the license agent shall remit payment for all wildlife documents minus remuneration to the division.

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R657-27-14. Violation.

- (1) It is unlawful for a license agent to sell:
 - (a) any wildlife documents in violation of the License Agent Authorization; or
 - (b) any big game permits in violation of the Big Game Permit Sales Agreement.

KEY: licensing, wildlife, wildlife law, rules and procedures
~~[June 3, 1997]~~1999 23-19-15
Notice of Continuation April 11, 1997



Public Service Commission,
Administration
R746-320
Uniform Rules Governing Natural Gas
Service by Gas Utilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21798
FILED: 01/20/1999, 17:00
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To incorporate changes proposed by interested persons in response to a Commission invitation for comments. The changes remove definitions which are no longer used in the rule and update references. The changes also add provisions that address billing adjustments in situations where prior bills rendered did not correctly reflect the customer's actual service usage. These new provisions are modeled after similar, existing provisions which are applicable to electric service.

SUMMARY OF THE RULE OR CHANGE: The changes remove definitions which are not used in the existing rule. Other changes add provisions that govern how and when billing adjustments may be made to correctly bill a customer for services actually consumed that differ from the amounts reflected in past bills; both under and over usage. (Note: Please refer to: Docket No. 98-R320-01 when submitting comments to the Commission.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-3-1, 54-3-2, 54-4-1, and 54-4-18

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 18 CFR 216, 18 CFR 225, 49 CFR 192.353, 49 CFR 192.355, 49 CFR 192.357, 49 CFR 192.625, and 49 CFR 192.741, April 1, 1994 edition.

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None are expected as there is no change in state government agency activities.
- ❖LOCAL GOVERNMENTS: None are expected as there is no change in local government agency activities.
- ❖OTHER PERSONS: Estimated to be less than \$1,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be a need to update or change customer service representatives' and account collection employees' manuals to provide information or otherwise inform them so that company billing activities are consistent with the proposed provisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes are very similar to actual practice of natural gas utilities operating in the State. Implementation costs are expected to be minimal; less than \$1,000 for the two companies that would be affected. The limitations contained in the proposed changes may be of different duration than current practice. These limitations may reduce the revenues collected by a natural gas company for past, undercollected service. This is offset by customer savings for those customers who have complained that current practice disadvantages them by permitting collection efforts for periods longer than is reasonably expected to retain their records showing payment. The limitation period is based on the Utah Code statute of limitations period for similar contracts or business dealings. The Public Service Commission considers a natural gas utility's unpaid or bad debt costs and allows a reasonable level to be included and recovered in the rates paid by paying customers.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or by Internet E-mail at pupsc.bstroud@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.

R746-320. Uniform Rules Governing Natural Gas Service[by Gas Utilities].

R746-320-1. General Provisions.

A. Scope and Applicability -- ~~Th[e following rules apply]~~ is rule applies to the methods and conditions of service ~~[employ]~~ used by utilities furnishing natural gas service in Utah. These rules supersede any conflicting provisions contained in tariffs of natural gas utilities subject to Commission jurisdiction. A utility may petition the Commission for an exemption from specified portions of these rules in accordance with R746-100-16, Deviation from Rules.

B. Definitions --

1. "British Thermal Unit" or "BTU" means the quantity of heat ~~[requir]~~ needed to raise the temperature of one pound of water one degree Fahrenheit.

2. "CFR" means the Code of Federal Regulations, ~~[1994]~~ April 1, 1994 edition.

3. "Commission" means the Public Service Commission of Utah.

4. "Cubic Foot" means:

a. when gas is supplied and metered to customers at the standard delivery pressure, as defined in Subsection R746-320-2(G)~~[hereafter]~~, the volume of gas which, at the temperature and pressure existing in the meter, occupies one cubic foot;

b. when gas is supplied to customers through positive displacement meters at other than standard delivery pressure, the volume of gas which occupies one cubic foot after applying a suitable correction factor to simulate delivery and metering at standard delivery pressure; the correction factor shall include allowance for gas temperature when it is reasonably practical to determine ~~[the same]~~ that factor;

c. when gas is supplied through other meters, the volume of gas which occupies one cubic foot at a temperature of 60 degrees Fahrenheit and at absolute pressure as provided in utility tariff rates or regulations approved by this Commission.

5. ~~["Cubic Foot, Standard" or "Standard Cubic Foot" means the volume of gas occupying one cubic foot, on a dry basis, at a temperature of 60 degrees Fahrenheit, and under a pressure equivalent to 30 inches of mercury, the mercury being at a temperature of 32 degrees Fahrenheit and under standard gravity.~~

~~6.]~~ "Customer" means a person, firm, partnership, company, corporation, organization, or governmental agency supplied with gas by a gas utility subject to Commission jurisdiction.

~~[7]~~ 6. "Customer Meter" means the device used to measure the volume of gas transferred from a gas utility to a customer.

~~[8.]~~ 8. "FERC" means the Federal Energy Regulatory Commission.

~~9]~~ 7. "[Gas-]Main" means a distribution line that is designed to serve as a common source of supply for more than one service line. The term does not include service lines.

~~[10]~~ 8. "Service Line" means a distribution line that transports gas from a common source of supply to:

a. a customer meter or the connection to a customer's piping, whichever is farther downstream, or

b. the connection to a customer's piping if there is no customer meter.

[+1]9. "Therm" means a unit of heating value equalling 100,000 BTU.

[+2]10. "Utility" means a gas corporation as defined in Section 54-2-1.

R746-320-2. Quality Control Equipment, Standards, Records and Reports.

A. Testing Equipment and Facilities --

1. Utilities shall own and maintain or have access to the testing equipment necessary to make Commission-required tests of the gas sold by the utilities. The Commission may approve arrangements for individual utilities to have their testing done by another utility or competent party.

2. Utilities shall properly maintain testing equipment which shall be subject to Commission inspection. The Commission may inspect the testing equipment at reasonable times.

3. Utilities shall locate and use testing equipment so as to ensure that gas samples taken are fairly representative of the gas being distributed in the portion of the system being tested.

B. Heating Value --

1. Utilities shall file with the Commission, as part of their tariffs, the range within which the average heating value per unit of gas to be sold will fall.

2. Utilities shall maintain the heating value established in their tariffs and in so doing shall regulate the chemical composition and specific gravity of the gas so as to maintain satisfactory combustion in customers' appliances without repeated adjustment of the burners.

3. When utilities distribute supplemental or substitute gas, they shall ensure that it performs satisfactorily regardless of heating value.

C. Heating Value Tests, Records, and Reports --

1. Utilities shall make sufficient tests, or have access to tests made by their suppliers, to accurately determine the heating value of the gas sold.

2. Tests shall be made at a location, or locations, which will ensure the samples taken fairly represent the gas being furnished to the utilities and their customers. [~~AH-t~~]Test reports shall be available for review when requested by the Commission.

D. BTU Measurement Equipment --

1. Utilities shall maintain or have access to an approved type calorimeter in an adequate testing station as specified in Subsection R746-320-2(C)(1)[~~above~~]. Utilities may use an approved recording calorimeter which shall be checked at least once each month with an approved standard calorimeter or against a standard gas.

2. Both calorimeter and method of testing shall be subject to Commission inspection.

3. Utilities may use BTU measuring equipment other than calorimeters upon petition to and approval by the Commission.

E. Gas Odor -- Gas supplied to customers shall be odorized in accordance with 49 CFR 192.625, which is incorporated by this reference.

F. Purity of Gas -- Gas supplied to customers shall contain no more than 75 to 80 parts per million of total sulfur. Gas shall be free of water and hydrocarbons in liquid form at the temperature and pressure at which the gas is delivered.

G. Standard Delivery Pressure -- Standard Delivery Pressure shall be four ounces above local atmospheric pressure. Maximum

and minimum low pressure delivery pressures shall conform to 49 CFR 192.623, which is incorporated by reference.

H. Pressure Testing and Maintenance of Standards --

1. Utilities shall make every reasonable effort to maintain adequate gas pressure. Utilities shall make determinations and keep records of pressures adequate to enable the utilities at all times to have accurate current knowledge of the pressure existing in their distribution systems. Pressure records shall be properly identified, dated, and filed in the utilities' records.

2. Utilities shall periodically test and maintain the accuracy of [~~ah~~]any recording pressure gauges.

3. Pressure limiting and regulator stations shall comply with 49 CFR 192.741, which is incorporated by this reference.

R746-320-3. Use, Location, and Accuracy Tests of Meters.

A. Use of Meters -- Gas sold by utilities shall be metered through approved meters except in case of emergency, or when otherwise authorized by the Commission as provided in R746-100-16, Deviation from Rules. Meters shall bear an identifying number and shall be plainly marked to [~~indicate~~]show the units of the meter index. When gas is delivered at higher than standard pressure, the contract, rate schedule, or gas bill shall specify the method to be used to correct the gas volume to standard pressure.

B. Meter Location -- Meters may be located either inside or outside of buildings. The locations selected by utilities and provided by customers shall be convenient for inspection and reading of the meters and shall comply with 49 CFR 192.355, 192.357, incorporated by reference.

C. Meter Accuracy at Installation -- New meters and reinstalled meters shall be no more than one percent fast or two percent slow.

D. Initial Tests of Meters -- Meters shall be tested and meet the foregoing accuracy limits before installation. [~~At the time~~]When meters are placed into service, the meter index reading shall be recorded.

E. Periodic Tests of Meters --

1. Utilities shall adopt schedules for periodic tests and repairs of positive displacement meters. Utilities shall keep records of accuracy of meters periodically tested and shall analyze the records to determine meter service life for purposes of adjusting the periods for testing and servicing meters.

2. Unless a time extension or a statistical sampling method is approved by the Commission, meter test intervals for displacement meters of the following rated capacities shall not exceed the following:

TABLE	
a. To 300 cu. ft./hr	10 yrs
b. 300 to 600 cu. ft./hr	5 yrs
c. 600 to 1,500 cu. ft./hr	3 yrs
d. Over 1,500 cu. ft./hr	2 yrs
e. Orifice Meters, inspected and checked for accuracy	1 yr

F. Meter Tests by Request --

1. Upon written request, utilities shall test a customer's meter promptly. If a meter has been tested within 12 months preceding the date of the request, the utility concerned may require the customer to make a deposit to defray the costs of the test. If the meter is found to be more than three percent inaccurate, either over

or under, the deposit shall be refunded; otherwise the deposit may be ~~retained~~ processed by the utility as a service charge. The deposit shall not exceed the estimated cost of performing the test.

2. The customer shall be entitled to observe the test and the utility shall forward a copy of the written report of the test to the customer.

G. Referee Meter Tests -- If there is a dispute over a test, the customer concerned may request a referee test in writing. The Commission may require the deposit of a testing fee in connection with a referee test to defray costs of the test. Upon filing of the request and receipt of the deposit, if ~~require~~ needed, the Commission shall notify the utility and the utility shall not remove the meter until the Commission so instructs. The meter shall be tested in the presence of the Commission's representative, and if the meter is found to be more than three percent inaccurate, the customer's deposit may be refunded; otherwise it may be ~~retained~~ kept.

H. ~~Adjustment of Bills for Meter Error~~ Billing Adjustments for Meter Variance --

1. If a meter tested pursuant to Subsections R746-320-3(E) and (F) is more than three percent fast, there shall be refunded to the customer the amount billed in error for one-half the period since the last test. The one-half period shall not exceed six months.

2. If a meter tested pursuant to Subsections R746-320-(E) and (F) is more than three percent slow, the utility may bill the customer in an amount equal to the unbilled error for one-half the period since the last test, ~~said~~ that one-half period shall not exceed six months.

3. ~~In the event of~~ When there is a nonregister meter, customer may be billed on an estimate based on previous bills for similar usage. The estimated period shall not exceed three months.

4. ~~In the event of~~ When there is unauthorized use, the customer may be billed on a reasonable estimate of the gas consumed.

I. Standard Meter Test Methods -- Meter tests shall be made by trained personnel using approved methods and testing equipment. The methods and apparatus recommended in the Gas Displacement Standard, Second Edition 1985, published by the American Gas Association and incorporated by this reference, may be used to satisfy this rule.

J. Meter Testing Equipment -- Utilities shall own and maintain, or have access to, at least one five-cubic-foot prover of an approved type, as well as other equipment necessary to test meters. Meter testing equipment shall be installed in a meter testing station designed for that purpose.

K. Records of Meter Tests -- Utilities shall record the original data of meter tests on standard forms and preserve the ~~same~~ data until the next time meters are tested.

L. Meter Records -- Utilities shall keep permanent records of their meters. Utilities shall start a record for each meter ~~at the time of~~ when purchased and include the date of purchase, identification number, manufacturer's name, type, and rating. Utilities shall keep records of ~~all~~ any tests, adjustments, and repairs. Utilities shall keep records of meter readings when the meters are installed or removed from service together with the addresses of customers served. The meter records shall be systematically kept and filed until the meters are retired.

R746-320-5. Design, Construction, and Operation of Plant.

A. Generally --

1. Facilities owned or operated by utilities and used in furnishing gas shall be designed, constructed, maintained and operated so as to ~~render~~ provide adequate and continuous service. Utilities shall, at all times, use every reasonable effort to protect the public from danger and shall exercise due care to reduce the hazards to which employees, customers, and others may be subjected from their equipment and facilities.

2. Utilities shall use accepted good practice of the gas industry, but in no event shall those practices be construed to require less than required by this rule, R746-409, Pipeline Safety in Utah, Chapter 13 of Title 54, and the federal Natural Gas Pipeline Safety Act, 49 U.S.C. Section 1671 et seq.

B. Regulators -- If the gas pressure maintained in a customer's service line exceeds the standard delivery pressure, the utility concerned shall install an approved service regulator on the service line on the customer's premises. The regulator shall be set to deliver gas within the established delivery pressure range and shall have a vent piped to the outdoors if the regulator is located within a building. If pressure in the service line exceeds 100 p.s.i.g., a primary regulator, in addition, shall be installed on the service line outside the building. Regulators shall not be required for service of industrial or commercial customers served through high pressure meters.

C. Main Extensions -- Utilities shall adopt, with Commission approval, uniform rules and regulations governing main extensions.

D. Installation and Maintenance of Service Lines and Meters --

1. Utilities shall furnish, install and maintain, free of charge, a gas service line from the gas main adjacent to customers' premises to the customers' property lines or curbs, except that utilities shall not be required to install the piping on the outlet side of meters.

2. Customers may be required by utilities to install or pay in full or in part for gas service lines from property lines to customers' buildings in accordance with approved tariffs.

3. Service lines and meters shall be owned and maintained by utilities.

E. Service Lines for Temporary Service --

1. Utilities may ~~render~~ provide temporary service to customers and may require the customers to bear ~~all~~ any costs, in excess of any salvage value realized, of installing and removing service lines.

2. Temporary service shall be ~~deem~~ considered ~~to be~~ service provided for emergency or short-term use, as specified in approved tariffs, or service for speculative operations or those of questionable permanency.

F. Gas Service Line Valves --

1. New gas service lines, entering customers' buildings, which are operating at a pressure greater than 10 p.s.i.g., and other service lines two inches or larger, I.P.S., shall be equipped with a gas service line valve located on the service line outside buildings served. If a service line valve is underground, it shall be located in a durable curb box at an easily-accessible location. The top of the curb box shall be at ground level and shall be kept visible by the customer.

2. Service lines shall be equipped with a gas service line valve near the meter. If a service line is not equipped with an outside shut-off, the inside shut-off shall be a type which can be sealed in the off position.

R746-320-6. Records.

A. Maps and Records --

1. Utilities shall keep suitable maps or records to show size, location, character, and date of installation of major plant items.

2. Upon Commission request, and in form specified by or satisfactory to the Commission, utilities shall file adequate descriptions or maps showing the location of facilities.

B. Operating Records --

1. Utilities shall keep appropriate operating records for use in statistical and analytical studies for regulatory purposes.

2. Operating records shall be subject to Commission inspection at reasonable times.

C. Availability of Records -- Utilities shall keep ~~any~~ records made mandatory by these rules at the utilities' offices in Utah. Commission representatives may inspect mandatory records at reasonable times and in a reasonable manner during normal operating hours.

D. Reports to the Commission -- Utilities shall furnish to the Commission, at times and in form designated by the Commission, the results of required tests and summaries of mandatory records. At Commission request, utilities shall also furnish the Commission with information concerning facilities or operations.

E. Preservation of Records -- The Commission adopts the standards of 18 CFR 225, incorporated by reference, to govern the preservation of records of natural gas utilities subject to the jurisdiction of the Commission.

R746-320-7. Accounting.

A. Uniform System of Accounts -- The Commission adopts 18 CFR 201, incorporated by this reference, as the uniform system of accounts for gas utilities subject to Commission jurisdiction. Utilities shall ~~employ and adhere to~~ use this system.

B. Uniform List of Retirement Units of Property -- The Commission adopts 18 CFR 216, incorporated by this reference, as the schedule to be used in conjunction with the uniform system of accounts in accounting for additions to and retirements of gas plant. Utilities subject to Commission jurisdiction shall ~~employ and adhere to~~ use this schedule.

R746-320-8. Billing Adjustments.

A. Definitions -

1. A "backbill" is that portion of a bill, other than a levelized bill, which represents charges not previously billed for service that was actually delivered to the customer before the current billing cycle.

2. A "catch-up bill" is a bill based on an actual reading provided after one or more bills based on estimated or customer readings. A catch-up bill which exceeds by 50 percent or more the bill that would have been provided under a utility's standard estimation program is presumed to be a backbill.

B. Notice - Each backbill shall contain a written explanation of the reason for the backbill that shall be sufficiently detailed to

apprise the customer of the circumstances, error or condition that caused the underbilling, and, if the backbill covers more than a 24-month period, a statement setting forth the reasons the utility did not limit the backbill under Subsection R746-320-8(D).

C. Limitations on Providing a Backbill - A utility shall not provide a backbill more than three months after the utility actually became aware of the circumstance, error, or condition that caused the underbilling. This limitation does not apply to fraud and theft of service situations.

D. Limitations of the Period for Backbilling -

1. A utility shall not bill a customer for service provided more than 24 months before the utility actually became aware of the circumstance, error, or condition that caused the underbilling or that the original billing was incorrect. In the case of a switched meter condition, the period covered by the backbill may not exceed six months.

2. When there is customer fraud, the utility shall estimate a bill for the period over which the fraud was perpetrated. The time limitations of Subsection R746-320-8(D)(1) do not apply to customer fraud situations.

3. In the case of a backbill for Utah sales taxes not previously billed, the period covered by the backbill shall not exceed the period for which the utility is assessed a sales tax deficiency.

E. Payment Period and Interest - A utility shall permit the customer to make arrangements to pay a backbill without interest over a time period at least equal in length to the time period over which the backbill was assessed. However, interest will be assessed at the rate applied to past due accounts on amounts not timely paid in accordance with the established arrangements. If the utility has demonstrated that the customer knew or reasonably should have known that the original billing was incorrect or in the case where there has been fraud or theft, interest will be assessed from the time the original payment was due.

R746-320-9. Overbilling.

A. Standards and Criteria for Overbilling - Billing under the following conditions constitutes overbilling:

1. a meter registering more than three percent fast, or a defective meter;

2. use of an incorrect heat value multiplier;

3. incorrect service classification, if the information supplied by the customer was not erroneous or deficient;

4. billing based on a switched meter condition where the customer is billed on the incorrect meter;

5. meter turnover, or billing for a complete revolution of a meter which did not occur;

6. a delay in refunding payment to a customer pursuant to rules providing for refunds for line extensions;

7. incorrect meter reading or recording by the utility; and

8. incorrect estimated demand billings by the utility.

B. Interest Rate -

1. A utility shall provide interest on customer payments for overbilling. The interest rate shall be the greater of the interest rate paid by a utility on customer deposits, or the interest rate charged by a utility for late payments.

2. Interest shall be paid from the date when the customer overpayment is made, until the date when the overpayment is refunded. Interest shall be compounded during the overpayment period.

C. Limitations -

1. A utility shall not be required to pay interest on overpayments if offsetting billing adjustments are made during the next full billing cycle after the receipt of the overpayment.

2. The utility shall be required to offer refunds, in lieu of credit, only when the amount of the overpayment exceeds \$50 or the sum of two average month's bills, whichever is less. However, the utility shall not be required to offer a refund to a customer having a balance owing to the utility, unless the refund would result in a credit balance in favor of the customer.

3. If a customer is given a credit for an overpayment, interest will accrue only up to the time at which the first credit is made, when credits are applied over two or more bills.

4. A utility shall not be required to make a refund of, or give a credit for, overpayments which occurred more than 24 months before the customer submitted a complaint to the utility or the Commission, or the utility actually became aware of an incorrect billing which resulted in an overpayment. An exception to the 24 month limitation period applies when the overbilling can be shown to be due to some cause, the date of which can be fixed. In this instance the overcharge shall be computed back to that date and the entire overcharge shall be refunded.

5. When a utility can demonstrate before the Commission that a customer knew or reasonably should have known an overpayment to be incorrect, a utility shall not be required to pay interest on the overpayment.

6. Utilities shall not be required to pay interest on overpayment credits or refunds which were made before the effective date of this rule provision.

7. Disputes regarding the level or terms of the refund or credit are subject to the informal and formal review procedures of the Utah Public Service Commission.

KEY: rules and procedures, public utilities, utility service shutoff

[1993]1999 54-2-1
Notice of Continuation December 8, 1997 54-4-1
54-4-7
54-4-18
54-4-23



Regents (Board of), Salt Lake Community College
R784-1
Government Records Access and Management Act Rules

NOTICE OF PROPOSED RULE

(New)
DAR FILE No.: 21820
FILED: 01/29/1999, 11:35
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This puts the rule back into place after it expired and was removed from the Utah Administrative Code for noncompliance with the five-year process, see Section 63-46a-9.

SUMMARY OF THE RULE OR CHANGE: Provide procedures for access to government records for Salt Lake Community College.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-2-204 and 63-2-904

ANTICIPATED COST OR SAVINGS TO:

THE STATE BUDGET: Minimal impact on state budget and local government because agencies are charged only the direct cost of filling the request, such as research (if any) and copying costs.

LOCAL GOVERNMENTS: Minimal impact on state budget and local government because agencies are charged only the direct cost of filling the request, such as research (if any) and copying costs.

OTHER PERSONS: Impact on other persons would vary greatly depending upon the request made and the time required to research it. Costs would be direct costs only, including copying costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs per individual request are very small. During fiscal year 1997-98, we processed 47 requests and the total charged was only \$69.90.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The impact of this rule on businesses is to minimize the fiscal impact of obtaining information from the College by providing an efficient, direct-cost-only process whereby requested records can be provided in a timely manner--Richard Rhodes, Business Service Vice President.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Regents (Board of)
Salt Lake Community College
AD 050
4600 South Redwood Road
PO Box 30808
Salt Lake City, UT 84130, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nancy Sanchez at the above address, by phone at (801) 957-4041, by FAX at (801) 957-4444, or by Internet E-mail at sanchena@slcc.edu.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: Nancy Sanchez, Director of Administrative Services

R784. Regents (Board of), Salt Lake Community College.

R784-1. Government Records Access and Management Act Rules.

R784-1-1. Purpose.

The purpose of the following rules is to provide procedures for access to government records at Salt Lake Community College.

R784-1-2. Authority.

The authority for the following rule is Section 63-2-204 and Section 63-2-904 of the Government Access and Management Act (GRAMA), effective July 1, 1992.

R784-1-3. Allocation of Responsibility Within Entity.

Salt Lake Community College (including all campuses, centers, satellites and locations) shall be considered a single governmental entity and the President of Salt Lake Community College shall be considered the head.

R784-1-4. Requests for Access.

(a) Requests for access to government records of Salt Lake Community College should be written and made to the Office of Administrative Services in the Administration Building room 050. Response to a request submitted to other persons within Salt Lake Community College may be delayed.

(b) Students requesting their own records and employees requesting their own official personnel file are exempted from using the written request outlined in this document.

(c) Any appeals of denied requests will be reviewed by an Appeals Officer. Requests for appeal should be written and made to the Assistant to the President in the Administration Building room 104. See Subsections 63-2-204(2) and 63-2-204(6).

R784-1-5. Fees.

A fee schedule for the direct and indirect costs of duplicating or compiling a record may be obtained from Salt Lake Community College by contacting the Office of Administrative Services in the Administration Building room 050. Salt Lake Community College may require payment of past fees and future estimated fees before beginning to process a request if fees are expected to exceed \$50.00, or if the requester has not paid fees from previous requests.

R784-1-6. Waiver of Fees.

Fees for duplication and compilation of a record may be waived under certain circumstances described in Subsection 63-2-203(3). Requests for this waiver of fees may be made to the Office of Administrative Services in the Administration Building room 050.

R784-1-7. Request for Access for Research Purposes.

Access to private or controlled records for research purposes is allowed by Subsection 63-2-202(8). Requests for access to such records for research purposes may be made to the Office of Administrative Services in the Administration Building room 050.

R784-1-8. Requests for Intellectual Property Records.

Materials, to which Salt Lake Community College owns the intellectual property rights, may be duplicated and distributed in accordance with Subsection 63-2-201(10). Decisions with regard to these rights will be made by the Office of Administrative Services in the Administration Building room 050. Any questions regarding the duplication and distribution of such materials should be addressed to that office.

R784-1-9. Requests to Amend a Record.

An individual may contest the accuracy or completeness of a document pertaining to him/her pursuant to Section 63-2-603. Such request should be made to the Office of Administrative Services in the Administration Building room 050.

R784-1-10. Appeals of Request to Amend a Record.

Appeals of requests to amend a record shall be handled as informal hearings under the Utah Administrative Procedures Act.

R784-1-11. Time Period Under GRAMA.

All written requests made to the Office of Administrative Services will be responded to according to the time periods specified under GRAMA 63-2-204. Response to a request submitted to other persons within Salt Lake Community College may be delayed.

R784-1-12. Forms.

(a) The forms described as follows shall be completed by requester in connection with records requests.

(1) SLCC GRAMA Request for Records form is for use by all entities requesting records from SLCC. This form is intended to assist entities, who request records, to comply with the requirements of Section 63-2-204(1) regarding the contents of a request.

**KEY: GRAMA, SLCC
1999**

**Section 63-2-204
Section 63-2-904**

◆ ————— ◆

Transportation, Motor Carrier, Ports of
Entry
R912-4
Limitation of Special Permit Vehicles in
Provo Canyon. Legal and Permitted
Vehicles

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 21819

FILED: 01/29/1999, 11:30

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule has been determined to be a permit condition and has been covered under permit conditions in Section 72-7-406.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-1-201

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None--this rule is currently covered under Section 72-7-406 which states the Department will approve the route of any permitted vehicle.
- ❖LOCAL GOVERNMENTS: None--this rule is currently covered under Section 72-7-406 which states the Department will approve the route of any permitted vehicle.
- ❖OTHER PERSONS: None--this rule is currently covered under Section 72-7-406 which states the Department will approve the route of any permitted vehicle.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--this rule is currently covered under Section 72-7-406 which states the Department will approve the route of any permitted vehicle.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Transportation
 Motor Carrier, Ports of Entry
 Calvin Rampton
 4501 South 2700 West
 Box 148240
 Salt Lake City, UT 84114-8240, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Tamy L. Scott at the above address, by phone at (801) 965-4752, by FAX at (801) 965-4847, or by Internet E-mail at tscott@dot.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: Tamy L. Scott, Transportation Safety Investigator

R912. Transportation, Motor Carrier, Ports-of-Entry.
~~[R912-4. Limitation of Special Permit Vehicles in Provo Canyon. Legal and Permitted Vehicles.~~
~~R912-4-1. Exception to R912-1-5(1)(3):~~

— An exception to the Utah Regulations for Legal and Permitted Vehicles for operators, drivers and enforcement officers, forbids issuance of special permits in all classes for the operation of oversize or overweight vehicles along US-189 between Wallsburg

Junction in Wasatch County and Olmstead in Utah County. These restrictions shall not apply to vehicles engaged in public works projects transporting materials to or from said projects located between the Wallsburg Junction and Olmstead.

~~KEY: permits, safety regulation, oversize/overweight trucks*~~
~~1987 27-12-7~~
~~Notice of Continuation January 12, 1998 63-49-12~~
~~27-12-145 through 157]~~



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public 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.

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 (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (•••••) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends March 17, 1999. At its option, the agency may hold public hearings.

From the end of the waiting period through June 15, 1999, the agency may notify the Division 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 this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Public Safety, Driver License
R708-2
Commercial Driver Training Schools

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 21579
FILED: 01/21/1999, 17:31
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Because of the input the Division of Driver License had received from written comments and from the public hearing, additional changes need to be made to the proposed rule.

SUMMARY OF THE RULE OR CHANGE: In Subsection R708-2-3(13), the definition "Institution of higher learning" was changed to "Higher education." Also added the "Utah State Board of Regents" to the definitions. In Subsection R708-2-10(1), the requirement that students under 18 years of age have to meet or exceed 30 hours of classroom instruction was removed. With the change, all students regardless of age will be required to meet the current standard of 18 hours of classroom instruction. Keeping the 18 hours of classroom instruction instead of changing to 30 hours will allow Commercial Driver Education Schools to continue providing services that may not have been possible with the 30-hour requirement. In Subsection R708-2-10(2)(b), some of the words to clarify what it means to drive under hazardous conditions were changed.

(DAR Note: The original proposed repeal and reenact upon which this change in proposed rule is based was published in the November 15, 1998, issue of the Utah State Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-505

ANTICIPATED COST OR SAVINGS TO:

THE STATE BUDGET: Changing the 30-hour classroom requirement to 18 hours will not result in additional costs or savings to the division because the change in classroom hours does not change how the division regulates the schools. The division is only responsible for approving home study courses, not regulating them. As a result there will be no cost impact on the division.

LOCAL GOVERNMENTS: Local governments are not involved in the regulation of commercial driver licenses, and so will see no fiscal impact from the rule.

OTHER PERSONS: (a) The rule will decrease costs for those commercial driver training schools if they choose to select the extended learning option because such schools will not have to pay as much for instructor salaries, classroom space, utilities, and other costs associated with classroom training. (b) A cost increase may occur for those same schools to develop new workbooks, textbooks, and other forms associated with extended learning.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be some costs for schools which offer extended learning if they choose to develop and provide workbooks, textbooks, and other forms for home study. Since this is a new program we won't know what the actual costs will be for the schools until the workbooks, textbooks, and other forms are developed, evaluated, and approved. There may be a cost savings to students who take home study courses because they won't have to help pay for instructors, facilities, utilities, etc. Schools may choose to adopt existing programs such as the program Weber State University has developed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is anticipated that the cost decreases will essentially offset the cost increases under "Other persons" for commercial driver training schools that offer extended learning.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Public Safety
Driver License
Calvin Rampton Building
4501 South 2700 West
PO Box 30560
Salt Lake City, UT 84130-0560, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Vinn Roos at the above address, by phone at (801) 965-4456, by FAX at (801) 965-4496, or by Internet E-mail at vroos@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/1999

AUTHORIZED BY: David A. Beach, Director

R708. Public Safety, Driver License.
R708-2. Commercial Driver Training Schools.

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R708-2-3. Definitions.

(1) "Behind-the-wheel instruction" means instruction a student receives while driving a commercial driver training vehicle.

(2) "Branch office" means an approved location where the business of the driver training school is conducted other than the principal place of business.

(3) "Classroom instruction" means that part of the driver training course which takes place in a classroom and which utilizes effective teaching methods such as lecture, discussion, and audio-visual aids.

(4) "Commercial driver training school" or "school" means a business enterprise conducted by an individual, association, partnership, or corporation for the education and training of persons, either practically or theoretically, or both, to drive motor vehicles, including motorcycles, and to prepare an applicant for an examination given by the state for a license or learner permit, and charging a consideration or tuition for those services.

(5) "Commercial driver training vehicle" means a motor vehicle equipped with a second functioning foot brake and inside and outside mirrors which are positioned for use by the instructor for the purpose of observing rearward.

(6) "Commissioner" means the Commissioner of the Department of Public Safety.

(7) "Corporation" means a business incorporated under the laws of a state or other jurisdiction.

(8) "Department" means the Department of Public Safety.

(9) "Division" means the Driver License Division.

(10) "Driver training" means behind the wheel instruction, extended learning, observation time, and classroom instruction provided by a driver training school for the purpose of teaching students to safely operate motor vehicles.

(11) "Extended learning course" means a home-study course in driver education offered by a school and approved and operated under the direction of an institution of higher learning. The division must also approve the course.

(12) "Fraudulent practices" means any misrepresentation on the part of a licensee or any partner, officer, agent, or employee of a licensee tending to induce another to part with something of value or to surrender a legal right.

(13) "~~Institution of higher learning~~Higher education" means a university or college currently accredited by an appropriate accreditation agency recognized by the ~~United States Department~~U.S. Dept. of Education and the Utah State Board of Regents.

(14) "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for any school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to drive motor vehicles, including motorcycles, or preparing to take an examination for a license or learner permit, and any person who supervises the work of any other instructor.

(15) "Observation time" means the time a student is riding in the rear seat of a commercial driver training vehicle to observe the driver instructor, other student drivers, and other road users.

(16) "Partnership" means an association of two or more persons who co-own and operate a commercial driver training school.

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R708-2-10. Classroom and Behind-The-Wheel Instruction.

(1) ~~Classroom instruction for students who are under 18 years of age at the time of enrollment shall meet or exceed 30 clock hours and shall be conducted in not less than 15 separate class sessions on 15 separate days of two hours per class.~~Classroom instruction for students ~~who are 18 years of age or older at the time of enrollment~~ shall meet or exceed 18 clock hours and shall be conducted in not less than nine separate class sessions on nine separate days of two hours per class. Not more than five of the classroom hours may be

devoted to showing slides or films. Classroom instruction shall cover the following areas:

- (a) attitudes and physical characteristics of drivers;
- (b) driving laws with special emphasis on Utah law;
- (c) driving in urban, suburban, and rural areas;
- (d) driving on freeways;
- (e) maintenance of the motor vehicle;
- (f) affect of drugs and alcohol on driving;
- (g) motorcycles, bicycles, trucks, and pedestrian's in traffic;
- (h) driving skills;
- (i) affect of the motor vehicle on modern life;
- (j) Utah's motor vehicle laws regarding financial responsibility and no fault insurance, and a driver's responsibility when involved in an accident; and
- (k) suspension or revocation of a driver license.

(2) Behind-the-wheel instruction shall include a minimum of six clock hours of instruction in a dual-control vehicle with a licensed instructor. Each student will be limited to a maximum of two hours of behind-the-wheel instruction per day. The front seat of the vehicle shall be occupied by the instructor and no more than one student. Under no circumstances shall there be more than five individuals in the vehicle.

(a) Behind-the-wheel instruction shall include instructor demonstrations and student practice in using vehicle controls to start, shift gears, make right and left turns, stop, backup, and park. This instruction shall begin under relatively simple conditions and progress until the student has acquired reasonable skill in operating the vehicle under varying traffic conditions.

(b) Students shall receive experience in driving on urban streets, open highways, and freeways. Behind the wheel instruction ~~must~~shall include the ~~opportunity to drive~~experience of driving under ~~hazardous~~variable conditions which may be ~~present~~used by the instructor at different times of the day and year. Special emphasis should be given to teaching students to show courtesy to other drivers and pedestrians.

(c) Students shall receive a minimum of six clock hours of observation time. This instruction shall be obtained while the student is in the rear seat of the vehicle and may not exceed two hours per day. Students observing from the rear seat, as well as the student driver, should benefit from time in the vehicle. The instructor's role is not merely to provide driving experience for the student behind-the-wheel, but to make the vehicle a practical classroom on wheels where all students may learn about the problems which face a driver and the appropriate solution to such problems.

(3) Instructors shall screen students for visual acuity and physical or emotional conditions which may compromise public safety before allowing students to participate in behind-the-wheel instruction.

(a) Students must have 20/40 visual acuity or better in each eye and a visual field of 120 degrees in each eye. Students with less than the required visual acuity and/or visual field in each eye shall be referred to the division for further consideration.

(b) Students must answer all questions on a health questionnaire approved by the Driver License Medical Advisory Board and sign a statement of affirmation of truth. Students indicating a physical or emotional condition on the questionnaire shall be referred to the division for further consideration. Health questionnaires shall be provided by the division.

(4) Commercial driver training schools shall provide each student a copy of the current Utah Driver Handbook. The handbook shall not be used as the sole text of the course, but as an essential aid when Utah traffic laws are studied. Handbooks may be obtained by the schools from the division.

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R708-2-12. Extended Learning Course.

(1) A commercial driver training school may offer an extended learning course of instruction as a substitute for the classroom instruction set forth in Section 10 of this rule provided such course is approved by an institution of higher learning and the division.

(2) An extended learning course must be operated under the direction of an institution of higher learning. The institution of higher learning shall notify the division in writing when it has approved a school's extended learning course. The institution of higher learning will monitor any extended learning course approved by them to ensure the course is run as originally planned. They will notify the division of any substantive changes in the course as well as their approval of such changes. An institution of higher learning can approve the extended learning course of more than one school.

(3) An extended learning course shall consist at a minimum of a text, a workbook, and a 50 question competency test which addresses the subjects described in Section 10 of this rule.

(a) All materials, including texts, workbooks, and tests, used in the course must be submitted by the school to the division for approval.

(b) The average study time required to complete the workbook exercises must meet or exceed 30 clock hours ~~for students who are under 18 years of age at the time of enrollment, or 18 clock hours for students who are 18 years old or older at the time of enrollment~~.

(c) An extended learning student must complete all workbook exercises.

(d) An extended learning student must pass the 50 question written competency test at 80% or better. Testing shall occur under the following conditions:

- (i) the test shall be taken at the school;
- (ii) testing procedures shall be monitored by a licenced instructor;
- (iii) the test shall be completed by the student without any outside help;
- (iv) the school shall maintain at least three separate 50 question competency tests created from a test pool of at least 200 questions;
- (v) the extended learning student will be given a minimum of three opportunities to pass the test. After each failure the school will provide the student with additional instruction to assist the student to pass the next test;
- (vi) the original fees for the course must include the three opportunities to pass the test and any additional instruction that is required;
- (vii) an extended learning student must pass the test in order to complete driver training; and
- (viii) the school will maintain for three years records of all tests administered by the school. Test records shall include the results of all tests taken by every student.

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R708-2-23. Grounds for Cancellation, Revocation or Refusal to Issue or Renew Instructor License or School License.

(1) Following a proper hearing, the division may cancel, revoke or refuse to renew a license for either an instructor or a school. The division may also refuse to issue a license for an instructor or a school. A license may be canceled, revoked or refused for renewal for any of the following reasons:

- (a) failure to comply with any of the provisions of Title 53, Chapter 3, Part 5;
- (b) failure to comply with any of the provisions of this rule;
- (c) providing false information in an application or form required by the division;
- (d) commission of a violation of Section 7(1)(d) of this rule pertaining to moving violations or chargeable accident that results in a suspension or revocation of one's driver license;
- (e) failure to permit the division or its representatives to inspect the school, classrooms, records, or vehicles used in the instruction of the school's students;
- (f) conviction of any crime involving violence, dishonesty, deceit, indecency, degeneracy, drug or alcohol abuse, fraud, or moral turpitude;
- (g) conviction of any fraudulent acts or practices by any partner, officer, agent or employee in relation to the business conducted under the license; or
- (h) failure to appear for a hearing on any of the above charges; and
- (i) violation of any of the provisions of this rule.

(2) Any licensee who has had a license canceled or revoked shall not be eligible to reapply for a license until six months have elapsed since the date of the cancellation or revocation. In addition to the other fees provided for in section 4(2),the licensee shall be required to pay a \$25.00 reinstatement fee to the division at the time of application for reinstatement.

(3) Any proceeding to cancel, revoke or refuse to issue or renew a school or instructor license is hereby designated as an informal adjudicative proceeding under the Utah Administrative Procedures Act, Section 63-46b-4.

(4) The following procedures will govern informal adjudicative proceedings:

- (a) Action by the division to cancel, revoke or refuse to issue or renew a license will be commenced by the division by the issuance of a notice of agency action. The notice of agency action will comply with the provisions of Section 63-46b-3.
- (b) No response is required to the notice of agency action.
- (c) An opportunity for a hearing will be granted on a cancellation, revocation or refusal to issue or renew a license.
- (d) The licensee or applicant will receive written notice of the hearing at least ten days prior to the date of the hearing.
- (e) No discovery, either compulsory or voluntary, will be permitted prior to the hearing except that all parties shall have access to information contained in the division's files, and to investigatory information and materials not restricted by law.
- (f) The hearing shall be conducted by an individual designated by the division.

(g) Within twenty days after the close of the hearing or after the failure of a party to appear for the hearing, the individual conducting the hearing shall issue a written decision which shall constitute final agency action. The written decision shall state the decision, the reason for the decision, notice of right to request reconsideration under Section 63-46b-13, notice of right of judicial review under Section 63-46b-15, and the time limits for filing an appeal to the appropriate district court.

KEY: driver education, schools, rules and procedures
1999 **53-3-505**
Notice of Continuation December 3, 1997



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 responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1996).

Corrections, Administration
R251-105
Applicant Qualifications for
Employment with Department of
Corrections

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 21828
FILED: 02/01/1999, 16:57
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 64-13-10 - implied authority to hire persons qualified to accomplish the Department of Correction's purpose of maintaining safe facilities. Section 64-13-25 - establish minimum standards for the organization and safe and professional operation of its programs. Section 63-46a-3 - implied authority to make rules that affect the public.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The public needs to be made aware of requirements for applicants for employment with the Department of Corrections.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Corrections
Administration
Suite 400
6100 South Fashion Blvd.

Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Pam Elliott at the above address, by phone at (801) 265-5514, by FAX at (801) 265-5726, or Internet E-mail at crdeptdo.crdept.pelliott@email.state.ut.us.

AUTHORIZED BY: H. L. Haun, Executive Director

EFFECTIVE: 02/01/1999

Environmental Quality, Radiation
Control

R313-21
General Licenses

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 21805
FILED: 01/25/1999, 12:35
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-1-106(1) created the Radiation Control Board within the Department of Environmental Quality. Subsection 19-3-104(3) provided that the Board may make rules necessary for controlling exposure to sources of radiation that constitute a significant health hazard and to meet the requirements of federal law relating to radiation control.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This has not

been a controversial rule. Review by the Division of Radiation Control recommends continuation of this rule. No other comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes "general licenses" for the possession and use of radioactive material contained in certain devices and a "general license" for ownership of radioactive material. The rule provides for protection of the public health and safety by controlling the receipt, acquisition, possession, and use of radioactive material in the specified circumstances. The rule is also needed to meet the requirements of federal law relating to radiation control. No opposing comments have been received.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Radiation Control
State of Utah Office Park, Bldg. 2
168 North 1950 West
PO Box 144850
Salt Lake City, UT 84114-4850, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Jones at the above address, by phone at (801) 536-4250, by FAX at (801) 536-4250, or Internet E-mail at cjones@deq.state.ut.us.

AUTHORIZED BY: William J. Sinclair, Executive Secretary

EFFECTIVE: 01/25/1999



**Environmental Quality, Radiation Control
R313-30
Therapeutic Radiation Machines**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21806
FILED: 01/25/1999, 12:35
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-1-106(1) created the Radiation Control Board within the Department of Environmental Quality. Subsection 19-3-104(3) provided that the Board may make rules necessary for

controlling exposure to sources of radiation that constitute a significant health hazard and to meet the requirements of federal law relating to radiation control.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This is the first five-year review of this rule. It has not been a controversial rule. Members of the public were very much involved with the writing of this rule and offered comments for improvement. A review by the Division of Radiation Control recommends continuation of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes the requirements a "registrant" must meet for use of X ray or electron-producing equipment for radiation therapy on humans. The rule establishes the technical requirements for the radiation machines, the radiation shielding and safety design requirements, and the general requirements for facilities using therapeutic radiation machines. No opposing comments have been received.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Radiation Control
State of Utah Office Park, Bldg. 2
168 North 1950 West
PO Box 144850
Salt Lake City, UT 84114-4850, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Jones at the above address, by phone at (801) 536-4250, by FAX at (801) 536-4250, or Internet E-mail at cjones@deq.state.ut.us.

AUTHORIZED BY: William J. Sinclair, Executive Secretary

EFFECTIVE: 01/25/1999



**Environmental Quality, Radiation Control
R313-38
Radiation Safety Requirements for Wireline Service Operation and Subsurface Tracer Studies**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21807
FILED: 01/25/1999, 12:35
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-1-106(1) created the Radiation Control Board within the Department of Environmental Quality. Subsection 19-3-104(3) provided that the Board may make rules necessary for controlling exposure to sources of radiation that constitute a significant health hazard and to meet the requirements of federal law relating to radiation control.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This has not been a controversial rule. Review by the Division of Radiation Control recommends continuation of this rule. No other comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes the radiation safety requirements for persons who use radioactive sources to obtain information about an oil, gas, or mineral well or to obtain information about adjacent geological formations. The rule is also needed to meet the requirements of federal law relating to radiation control. There have not been any comments received which were in opposition to the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
 Radiation Control
 State of Utah Office Park, Bldg. 2
 168 North 1950 West
 PO Box 144850
 Salt Lake City, UT 84114-4850, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Craig Jones at the above address, by phone at (801) 536-4250, by FAX at (801) 536-4250, or Internet E-mail at cjones@deq.state.ut.us.

AUTHORIZED BY: William J. Sinclair, Executive Secretary

EFFECTIVE: 01/25/1999



Health, Health Systems Improvement,
 Health Facility Licensure
R432-1
 General Health Care Facility Rules

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 21795
 FILED: 01/20/1999, 14:44
 RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The "General Health Care Facility Rules" include definitions that apply to all of the licensed rule categories. Without the authority provided, definitions for terminology used in the health care facility rules would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule with the changes identified. The Health Facility Committee has reviewed the rule and supports the rule with the changes.

(DAR Note: The changes that were made to R432-1 were contained in an amendment which was published under DAR No. 21527 in the November 1, 1998, issue of the *Utah State Bulletin*, and is effective as of December 14, 1998.)

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health
 Health Systems Improvement,
 Health Facility Licensure
 Cannon Health Building
 288 North 1460 West
 PO Box 142003
 Salt Lake City, UT 84114-2003, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@doh.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 01/20/1999



Health, Health Systems Improvement,
Health Facility Licensure

R432-4

General Construction

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21815
FILED: 01/29/1999, 10:17
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The "General Construction" rule adopts the current codes and architectural guidelines for construction of health care facilities. Without the authority provided, standards for constructing a health care facility would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received regarding this rule. The Health Facility Committee established a sub-committee to complete the five-year review and consensus was reached with architects and health care facility owners.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule with the changes identified. The Health Facility Committee has reviewed the rule and supports the rule with amendments that will be filed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health
Health Systems Improvement,
Health Facility Licensure
Cannon Health Building
288 North 1460 West
PO Box 142003
Salt Lake City, UT 84114-2003, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@doh.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 01/29/1999



Health, Health Systems Improvement,
Health Facility Licensure

R432-5

Nursing Facility Construction

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21816
FILED: 01/29/1999, 10:17
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The "Nursing Facility Construction" rule adopts the current codes and architectural guidelines for construction of nursing care facilities. Without the authority provided, standards for constructing a nursing care facility would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Health Facility Committee established a sub-committee to complete the five-year review and consensus was reached with architects and nursing care facility owners. The rule will be amended to adopt updated codes and architectural guidelines.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule with the changes identified. The Health Facility Committee has reviewed the rule and supports the rule with an amendment that will be filed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health
Health Systems Improvement,
Health Facility Licensure
Cannon Health Building
288 North 1460 West
PO Box 142003
Salt Lake City, UT 84114-2003, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@doh.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 01/29/1999



Health, Health Systems Improvement,
Health Facility Licensure
R432-6
Assisted Living Facility General
Construction

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 21817
FILED: 01/29/1999, 10:17
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The "Assisted Living Facility General Construction" rule adopts the current codes and architectural guidelines for construction of Assisted Living Facilities. Without the authority provided, standards for constructing an Assisted Living Type I or II facility would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: S.B. 153 modified Title 26, Chapter 21, by eliminating the Residential Care Facility Classification of R432-6. With this repeal, R432-6 and R432-15 construction rules were repealed and a new R432-6 became effective September 14, 1998. An important sentence relating to accommodations for the disabled was left out of the revised R432-6, however, the rule has since been amended. The Health Facility Committee established a sub-committee to complete the five-year review and consensus was reached with architects and assisted living care facility owners.

(DAR Note: S.B. 153 is found at 1998 Utah Laws 192, and is effective as of July 1, 1998.)

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule with the changes

identified. The Health Facility Committee has reviewed the rule and supports the rule with the recent amendment. **(DAR Note:** The recent amendment to R432-6 was published under DAR No. 21700 in the December 15, 1998, issue of the *Utah State Bulletin*, and is effective as of January 29, 1999.)

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health
Health Systems Improvement,
Health Facility Licensure
Cannon Health Building
288 North 1460 West
PO Box 142003
Salt Lake City, UT 84114-2003, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@doh.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 01/29/1999



Health, Health Systems Improvement,
Health Facility Licensure
R432-149
Intermediate Care Facility

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 21818
FILED: 01/29/1999, 10:17
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The "Intermediate Care Facility" rule includes the standards for operation of a nursing care facility which provides intermediate services to patients 24 hours per day.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Comments have been received from the provider industry and the rule will be repealed effective March 18, 1999. The level of

intermediate services provided in a nursing care facility will be included in the amended R432-150 rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to repeal the rule and include the definition of intermediate care in the R432-150 Nursing Care Facility rule. The Health Facility Committee has reviewed the justification to repeal rule and supports the repeal of the rule. (DAR Note: The proposed repeal for R432-149 is under DAR No. 21797 in this *Bulletin*.)

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health
 Health Systems Improvement,
 Health Facility Licensure
 Cannon Health Building
 288 North 1460 West
 PO Box 142003
 Salt Lake City, UT 84114-2003, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@doh.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 01/29/1999



Human Services, Recovery Services
R527-210
 Guidelines for Setting Child Support
 Awards

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21809
 FILED: 01/26/1999, 12:11
 RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section R527-210-1, "Awarding Tax Exemption for Dependent Children," is authorized under Section 78-45-7.21 which went into effect on July 1, 1994. The statute authorizes the awarding of a tax exemption for dependent children in final administrative orders. The rule provides the definition of final administrative order for tax exemption purposes. Section R527-210-2,

"Reduction for Extended Visitation," is authorized under Section 78-45-7.11. The statute requires that child support orders provide for a 50% reduction of child support for each child during a period of extended visitation which was ordered by the court or agreed upon in writing by the parties. The statute also specifies that any agreement between the parties for reduction of child support during extended visitation, must be approved by the administrative agency if the child is a recipient of cash assistance. The rule makes it clear that the Office of Recovery Services will reduce child support for extended visitation under the conditions that the extended visitation is provided for in an order and is actually taken, but will not reduce the support award when the order does not specifically provide for the extended visitation reduction and the child is a recipient of cash assistance. Section R527-210-3, "Accountability of Support Provided to Benefit Child," is authorized under Section 78-45-7.20 which allows an agency to establish administrative orders for current child support that require the obligee to provide the obligor an accounting of amounts that have been provided for the benefit of the child. The rule makes it clear that the Office of Recovery Services may include such a requirement in an administrative order at the time it is issued if the obligor has petitioned for it and does not owe any past-due child support. Section 62A-11-304.2, which deals with issuance or modification of an administrative order, applies generally to R527-210 which gives specific instructions that apply to establishment of an administrative order.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: All of the statutes which authorize this rule are in effect and the rule provides essential direction for Office of Recovery Services personnel in dealing with the recurrent issues of awarding tax exemptions, reducing child support for extended visitation, and obligee responsibility for providing support payment accounting to the obligor. The rule also continues to be an important source of information for attorneys, custodial parents, and non-custodial parents who are concerned with these issues as they relate to specific child support cases and individual rights and responsibilities.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Human Services
 Recovery Services
 Fourteenth Floor, Eaton/Kenway Bldg.
 515 East 100 South
 PO Box 45011
 Salt Lake City, UT 84145-0011, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or Internet E-mail at hsdadmin.hsorsslc.wbraithw@email.state.ut.us.

AUTHORIZED BY: Emma Chacon, Director

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 01/26/1999

EFFECTIVE: 01/22/1999



Insurance, Administration
R590-160
Administrative Proceedings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21804
FILED: 01/22/1999, 16:53
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3)(a) gives the Department authority to make rules to implement the provisions of Title 31A. Subsection 63-46b-1(6) allows an agency to enact rules to implement the Administrative Procedures Act. Subsection 63-46b-5(1) requires that if an agency adopts an informal adjudicative proceeding, which we have done, they must, by rule, prescribe procedures for the informal adjudicative proceeding. Section R590-160-7 of the rule applies to informal proceedings.

End of the Five-Year Notices of Review and Statements of Continuation

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary that the Department outline the rules governing the designation and conduct of adjudicative proceedings before the insurance commissioner or his designee so that all parties involved in the proceedings will know what is expected of them and how to present their case.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Insurance
Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or Internet E-mail at idmain.jwhitby@state.ut.us

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (*Utah Code* Section 63-46a-9 (1996)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by *Utah Code* Subsection 63-46a-9(4) and (5) (1996).

Commerce

Occupational and Professional Licensing

No. 21814 (filed 01/28/99 at 2:57 p.m.): R156-78. Rules of the Certified Shorthand Reporters Licensing Board.

Enacted: 08/14/89 (No. 9944 CPR, filed 06/29/89 at 3:35 p.m., published 07/15/89)

Five Year Review: 03/15/94 (No. 16068, filed 03/01/94 at 10:15 a.m., published 03/15/94)

Extended Due Date: July 13, 1999

(DAR Note: A proposed repeal of this rule is published in this issue of the *Utah State Bulletin* under DAR No. 21813.)

End of the Notices of Five-Year Review Extensions

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 21687 (AMD): R414-29. Client Review/Education and Restriction Policy.
Published: December 15, 1998
Effective: January 21, 1999

Health Systems Improvement, Emergency Medical Services

No. 21688 (AMD): R426-2. Air Medical Service Rules.
Published: December 15, 1998
Effective: January 22, 1999

No. 21694 (AMD): R426-3. Utah Mobile Paramedic Rules.
Published: December 15, 1998
Effective: January 22, 1999

No. 21695 (AMD): R426-4. Emergency Medical Dispatcher Rules.
Published: December 15, 1998
Effective: January 22, 1999

Health Systems Improvement, Health Facility Licensure

No. 21700 (AMD): R432-6. Assisted Living Facility General Construction.
Published: December 15, 1998
Effective: January 29, 1999

No. 21528 (REP): R432-250. Residential Health Care Facilities.
Published: November 1, 1998
Effective: January 20, 1999

No. 21722 (R&R): R432-270. Assisted Living Facilities.
Published: December 15, 1998
Effective: January 29, 1999

Human Services

Child and Family Services

No. 21465 (AMD): R512-25. Child Protective Services Notification and Due Process.
Published: October 1, 1998
Effective: January 21, 1999

Labor Commission

Safety

No. 21454 (AMD): R616-3. Elevator Rules.
Published: October 1, 1998
Effective: January 28, 1999

Workforce Services

Employment Development

No. 21705 (AMD): R986-413. Program Standards.
Published: December 15, 1998
Effective: January 20, 1999

No. 21581 (AMD): R986-414. Income.
Published: November 15, 1998
Effective: January 20, 1999

No. 21582 (AMD): R986-417. Documentation.
Published: November 15, 1998
Effective: January 20, 1999

No. 21706 (AMD): R986-419. Income Limits.
Published: December 15, 1998
Effective: January 20, 1999

No. 21707 (AMD): R986-420. Maximum Allotments.
Published: December 15, 1998
Effective: January 20, 1999

No. 21585 (AMD): R986-421. Demonstration Programs.
Published: November 15, 1998
Effective: January 20, 1999

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 1999, including notices of effective date received through February 1, 1999, the effective dates of which are no later than February 15, 1999. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.state.ut.us/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
AGRICULTURE AND FOOD					
<u>Plant Industry</u>					
R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	21701	AMD	01/15/99	98-24/8
CORRECTIONS					
<u>Administration</u>					
R251-105	Applicant Qualifications for Employment with Department of Corrections	21828	5YR	02/01/99	99-4/65
EDUCATION					
<u>Administration</u>					
R277-437	Student Enrollment Options	21677	NEW	01/05/99	98-23/4
R277-470	Distribution of Funds for Charter Schools	21773	NSC	01/27/99	Not Printed
R277-735	Standards and Procedures for Corrections Education Programs Serving Inmates of the Utah Department of Corrections	21678	NEW	01/05/99	98-23/6

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Applied Technology Education (Board for), Rehabilitation</u>					
R280-201	USOR ADA Complaint Procedure	21679	NEW	01/05/99	98-23/8
R280-202	USOR Procedures for Individuals with the Most Severe Disabilities	21680	NEW	01/05/99	98-23/10
ENVIRONMENTAL QUALITY					
<u>Air Quality</u>					
R307-101-2	Definitions	21588	AMD	01/07/99	98-22/49
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	21595	AMD	01/07/99	98-22/66
R307-302-2	No-Burn Periods for PM10	21570	AMD	01/07/99	98-22/67
R307-415-3	Definitions	21589	AMD	01/07/99	98-22/68
<u>Drinking Water</u>					
R309-104	Monitoring, Reporting and Public Notification	21553	AMD	01/15/99	98-21/16
R309-113	Drinking Water Source Protection	21554	AMD	01/15/99	98-21/20
<u>Radiation Control</u>					
R313-16	General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines	21535	AMD	01/15/99	98-21/27
R313-21	General Licenses	21805	5YR	01/25/99	99-4/65
R313-30	Therapeutic Radiation Machines	21806	5YR	01/25/99	99-4/66
R313-38	Radiation Safety Requirements for Wireline Service Operation and Subsurface Tracer Studies	21807	5YR	01/25/99	99-4/66
<u>Solid and Hazardous Waste</u>					
R315-304	Industrial Solid Waste Landfill Requirements	21439	AMD	see CPR	98-19/50
R315-304	Industrial Solid Waste Landfill Requirements	21439	CPR	01/05/99	98-23/45
R315-304-1	Applicability	21772	NSC	01/05/99	Not Printed
HEALTH					
<u>Children's Health Insurance Program</u>					
R382-10	Eligibility	21669	AMD	01/07/99	98-23/12
<u>Health Care Financing</u>					
R410-14	Division of Health Care Financing Administrative Hearing Procedures for Medicaid/UMAP Applicants, Recipients and Providers, and Non-Medicaid/UMAP Nursing Home Residents as per "OBRA" Preadmission Screening and Annual Resident Review (PASARR) Determinations/Resident Rights Requirements	21668	AMD	01/07/99	98-23/14
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-29	Client Review/Education and Restriction Policy	21687	AMD	01/21/99	98-24/50
R414-303	Coverage Groups	21529	AMD	01/05/99	98-21/31

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-1-8	Maximum Licensed Services Transportation Rates and Charges	21649	AMD	01/07/99	98-23/22
R426-2	Air Medical Service Rules	21688	AMD	01/22/99	98-24/59
R426-3	Utah Mobile Paramedic Rules	21694	AMD	01/22/99	98-24/61
R426-4	Emergency Medical Dispatcher Rules	21695	AMD	01/22/99	98-24/67
<u>Health Systems Improvement, Health Facility Licensure</u>					
R432-1	General Health Care Facility Rules	21795	5YR	01/20/99	99-4/67
R432-2	General Licensing Provisions	21775	5YR	01/11/99	99-3/68
R432-3	General Health Care Facility Rules Inspection and Enforcement	21776	5YR	01/11/99	99-3/68
R432-4	General Construction	21815	5YR	01/29/99	99-4/68
R432-5	Nursing Facility Construction	21816	5YR	01/29/99	99-4/68
R432-6	Assisted Living Facility General Construction	21700	AMD	01/29/99	98-24/69
R432-6	Assisted Living Facility General Construction	21817	5YR	01/29/99	99-4/69
R432-149	Intermediate Care Facility	21818	5YR	01/29/99	99-4/69
R432-250	Residential Health Care Facilities	21528	REP	01/20/99	98-21/42
R432-270	Assisted Living Facilities	21722	R&R	01/29/99	98-24/70
R432-300	Residential Health Care Facility - Limited Capacity - Type N	21561	R&R	01/11/99	98-22/73
R432-650	End Stage Renal Disease Facility Rules	21562	AMD	01/11/99	98-22/82
<u>Health Systems Improvement, Primary Care and Rural Health</u>					
R434-20	Special Population Health Care Provider Financial Assistance Program	21666	NEW	01/07/99	98-23/26
HUMAN SERVICES					
<u>Administration, Administrative Services, Licensing</u>					
R501-1	General Provisions	21768	NSC	01/27/99	Not Printed
<u>Child and Family Services</u>					
R512-25	Child Protective Services Notification and Due Process	21465	AMD	01/21/99	98-19/78
<u>Recovery Services</u>					
R527-200	Administrative Procedures	21675	AMD	01/04/99	98-23/33
R527-210	Guidelines for Setting Child Support Awards	21809	5YR	01/26/99	99-4/70
R527-210	Guidelines for Setting Child Support Awards	21810	NSC	01/27/99	Not Printed
R527-378	Garnishment of Social Security Benefits	21726	AMD	01/15/99	98-24/90
INSURANCE					
<u>Administration</u>					
R590-160	Administrative Proceedings	21804	5YR	01/22/99	99-4/71

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
LABOR COMMISSION					
<u>Safety</u>					
R616-3	Elevator Rules	21454	AMD	01/28/99	98-19/84
NATURAL RESOURCES					
<u>Forestry, Fire and State Lands</u>					
R652-70-2300	Management of Bear Lake Sovereign Lands	21672	AMD	01/14/99	98-23/36
<u>Wildlife Resources</u>					
R657-5	Taking Big Game	21717	AMD	01/15/99	98-24/96
R657-38	Dedicated Hunter Program	21719	AMD	01/15/99	98-24/107
R657-42	Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits	21720	AMD	01/15/99	98-24/109
R657-43	Landowner Permits	21721	AMD	01/15/99	98-24/110
PUBLIC SAFETY					
<u>Fire Marshal</u>					
R710-1	Concerns Servicing Portable Fire Extinguishers	21708	AMD	01/15/99	98-24/112
R710-3	Assisted Living Facilities	21709	AMD	01/15/99	98-24/116
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	21710	AMD	01/15/99	98-24/117
PUBLIC SERVICE COMMISSION					
<u>Administration</u>					
R746-365	Intercarrier Service Quality	20997	NEW	see CPR	98-9/50
R746-365	Intercarrier Service Quality	20997	CPR	01/13/99	98-18/39
R746-365	Intercarrier Service Quality	21774	NSC	01/15/99	Not Printed
REGENTS (BOARD OF)					
<u>Administration</u>					
R765-607	Utah Higher Education Tuition Assistance Program	21673	NEW	01/04/99	98-23/38
R765-607	Utah Higher Education Tuition Assistance Program	21771	NSC	01/27/99	Not Printed
R765-685	Utah Educational Savings Plan Trust	21674	AMD	01/04/99	98-23/40
TAX COMMISSION					
<u>Property Tax</u>					
R884-24P-52	Criteria for Determining Primary Residence Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-103	21326	AMD	see CPR	98-16/58
R884-24P-52	Criteria for Determining Primary Residence Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-103	21326	CPR	01/12/99	98-23/46
R884-24P-53	1999 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515	21777	EMR	01/12/99	99-3/64

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
TRANSPORTATION					
<u>Motor Carrier, Ports of Entry</u>					
R912-3	Restriction of Truck Traffic on SR-128. Legal and Permitted Vehicles	21799	NSC	01/27/99	Not Printed
R912-8	Minimum Tire, Axle and Suspension Ratings for Heavy Vehicles and the Use of Retractable or Variable Load Suspension Axles in Utah	21800	NSC	01/27/99	Not Printed
R912-76	Single Tire Configuration	21801	NSC	01/27/99	Not Printed
WORKFORCE SERVICES					
<u>Employment Development</u>					
R986-413	Program Standards	21705	AMD	01/20/99	98-24/122
R986-414	Income	21581	AMD	01/20/99	98-22/133
R986-417	Documentation	21582	AMD	01/20/99	98-22/134
R986-419	Income Limits	21706	AMD	01/20/99	98-24/124
R986-420	Maximum Allotments	21707	AMD	01/20/99	98-24/125
R986-421	Demonstration Programs	21585	AMD	01/20/99	98-22/136

RULES INDEX - BY KEYWORD (SUBJECT)

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5YR = Five-Year Review	
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KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>ADMINISTRATIVE LAW</u>					
Human Services, Recovery Services	21675	R527-200	AMD	01/04/99	98-23/33
<u>ADMINISTRATIVE PROCEDURE</u>					
Environmental Quality, Drinking Water	21553	R309-104	AMD	01/15/99	98-21/16
Natural Resources; Forestry, Fire and State Lands	21672	R652-70-2300	AMD	01/14/99	98-23/36
<u>ADMINISTRATIVE RESPONSIBILITY</u>					
Environmental Quality, Radiation Control	21807	R313-38	5YR	01/25/99	99-4/66
<u>AIR POLLUTION</u>					
Environmental Quality, Air Quality	21588	R307-101-2	AMD	01/07/99	98-22/49
	21595	R307-221	AMD	01/07/99	98-22/66

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	21570	R307-302-2	AMD	01/07/99	98-22/67
	21589	R307-415-3	AMD	01/07/99	98-22/68
<u>APPRAISAL</u>					
Tax Commission, Property Tax	21777	R884-24P-53	EMR	01/12/99	99-3/64
<u>ASSISTED LIVING FACILITIES</u>					
Public Safety, Fire Marshal	21709	R710-3	AMD	01/15/99	98-24/116
<u>BENEFITS</u>					
Workforce Services, Employment Development	21582	R986-417	AMD	01/20/99	98-22/134
<u>BIG GAME SEASONS</u>					
Natural Resources, Wildlife Resources	21717	R657-5	AMD	01/15/99	98-24/96
	21721	R657-43	AMD	01/15/99	98-24/110
<u>CERTIFICATION</u>					
Labor Commission, Safety	21454	R616-3	AMD	01/28/99	98-19/84
<u>CHARTER SCHOOLS</u>					
Education, Administration	21773	R277-470	NSC	01/27/99	Not Printed
<u>CHILD ABUSE</u>					
Human Services, Child and Family Services	21465	R512-25	AMD	01/21/99	98-19/78
<u>CHILDREN'S HEALTH BENEFITS</u>					
Health, Children's Health Insurance Program	21669	R382-10	AMD	01/07/99	98-23/12
<u>CHILD SUPPORT</u>					
Human Services, Recovery Services	21675	R527-200	AMD	01/04/99	98-23/33
	21809	R527-210	5YR	01/26/99	99-4/70
	21810	R527-210	NSC	01/27/99	Not Printed
	21726	R527-378	AMD	01/15/99	98-24/90
<u>CHILD WELFARE</u>					
Human Services, Child and Family Services	21465	R512-25	AMD	01/21/99	98-19/78
<u>COMPLAINTS</u>					
Education, Applied Technology Education (Board for), Rehabilitation	21679	R280-201	NEW	01/05/99	98-23/8
<u>CORRECTIONS</u>					
Corrections, Administration	21828	R251-105	5YR	02/01/99	99-4/65
<u>COVERAGE GROUPS</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	21529	R414-303	AMD	01/05/99	98-21/31
<u>CUSTODY</u>					
Education, Administration	21678	R277-735	NEW	01/05/99	98-23/6
<u>DEFINITIONS</u>					
Environmental Quality, Air Quality	21588	R307-101-2	AMD	01/07/99	98-22/49
<u>DEMONSTRATION</u>					
Workforce Services, Employment Development	21585	R986-421	AMD	01/20/99	98-22/136

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<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>DISABLED PERSONS</u>					
Education, Applied Technology Education (Board for), Rehabilitation	21679	R280-201	NEW	01/05/99	98-23/8
	21680	R280-202	NEW	01/05/99	98-23/10
<u>DRINKING WATER</u>					
Environmental Quality, Drinking Water	21553	R309-104	AMD	01/15/99	98-21/16
	21554	R309-113	AMD	01/15/99	98-21/20
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	21688	R426-2	AMD	01/22/99	98-24/59
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	21695	R426-4	AMD	01/22/99	98-24/67
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	21775	R432-2	5YR	01/11/99	99-3/68
	21776	R432-3	5YR	01/11/99	99-3/68
	21815	R432-4	5YR	01/29/99	99-4/68
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	21700	R432-6	AMD	01/29/99	98-24/69
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	21528	R432-250	REP	01/20/99	98-21/42
	21722	R432-270	R&R	01/29/99	98-24/70
	21561	R432-300	R&R	01/11/99	98-22/73
	21562	R432-650	AMD	01/11/99	98-22/82
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	21771	R765-607	NSC	01/27/99	Not Printed
	21674	R765-685	AMD	01/04/99	98-23/40
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